MUNICIPAL CODE

VILLAGE OF YORKVILLE

(Last Update No. 2026-05; June 2026)

VILLAGE OF YORKVILLE

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Chapter 1

GENERAL PROVISIONS

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Article I. In General

General Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters shall constitute and be designated the "Code of Ordinances, Village of Yorkville, Wisconsin" and may be cited as the "Yorkville Code."

State law reference— Authority of village to adopt a code of ordinances, Wis. Stats. § 66.0103.

Sec. 1-2. Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances unless the context requires otherwise:

Acts of agents. When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

Code. The term "Code" shall mean the Code of Ordinances, Village of Yorkville, Wisconsin.

County. The term "county" shall mean Racine County, Wisconsin.

Delegation of authority. A provision that authorizes or requires a village officer or village employee to perform an act or make a decision and/or authorizes such officer or employee to act or make a decision through subordinates.

Gender. A word importing the masculine gender only shall extend and be applied to females, firms, partnerships and corporations as well as to males.
State law reference— Similar provisions, Wis. Stats. § 990.001(2).

May. The term "may" is to be construed as being permissive and not mandatory.

Month. The term "month" shall mean a calendar month unless otherwise expressed. State law reference— Similar provisions, Wis. Stats. § 990.01(21).

Number. A word importing the singular may extend and be applied to the plural as well as to the singular number and vice versa.
State law reference— Similar provisions, Wis. Stats. § 990.001(1).

Oath. The term "oath" shall be construed to include an affirmation in all cases where by law an affirmation may be substituted for an oath, and in such cases, the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."
State law reference— Similar provisions, Wis. Stats. § 990.01(24).

Officers, departments, boards, commissions or employees, etc. Whenever reference is made to officers, departments, boards, commissions or employees, etc., is referred to by title, such

reference shall be construed as if followed by the words "of the Village of Yorkville, Wisconsin."

Owner. The term "owner," when applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or part of such building or land.

Person. The term "person" shall mean any human being, any governmental or political subdivision or public agency, any public or private corporation, any partnership, any firm, association or other organization, joint stock company, joint adventure, any receiver, executor, trustee, conservator, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.
State law reference— Similar provisions, Wis. Stats. § 990.01(26).

Personal property. The term "personal property" shall mean any property other than real property.
State law reference— Similar provisions, Wis. Stats. § 990.01(27).

Property. The term "property" includes real property and personal property.

Real property. The term "real property" includes land, tenements and hereditaments and all rights thereto and interests therein.
State law reference— Similar provisions, Wis. Stat. § 990.01(35).

Shall. The term "shall" shall be construed as being mandatory.

Sidewalk. The term "sidewalk" shall mean any portion of a street between the curbline or lateral line of the roadway and the adjacent property line intended for pedestrian use.

Signature or subscription by mark. The terms "signature" or subscription include a mark when the signer or subscriber cannot write. In such situations, a witness who writes his name near such person's name shall write such person's name near the mark.
Similar provisions, Wis. Stat. § 990.01(38).

State. The term "state" shall mean the State of Wisconsin.

Street. The term "street" shall mean the entire width of a way held by the village in fee or by easement or dedication that has a part open for public use for vehicular travel. The term "street" does not include a designated state or federal highway or road or a designated county road.
State law reference— Similar provisions, Wis. Stat. § 990.01(12).

Tense. Words used in the past or present tense shall also include the future as well as the past and present.

Village. The term "village" shall mean the Village of Yorkville, Wisconsin.

Village board. The term "village board" shall mean the village board of the Village of Yorkville, Wisconsin.

Wisconsin Statutes. All references to "Wisconsin Statutes" and "Wis. Stat." shall mean and refer to the latest edition or supplement of the Wisconsin Statutes.

Written or in writing. The terms "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.
State law reference— Similar provisions, Wis. Stat. § 990.01(48).
(Code 1982, § 25.01)
State law reference— Definitions and rules of construction, Wis. Stat. §§ 990.001, 990.01.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any such sections, including the catchlines, are amended or reenacted.
State law reference— Headings of statutes, Wis. Stat. § 990.001(6).

Sec. 1-4. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

Sec. 1-5. References to chapters or sections.

All references to chapters or sections are to the chapters or sections of this Code unless otherwise specified.

Sec. 1-6. References and editor's notes.

The references and editor's notes, appearing after sections or subsections throughout the Code are not intended to have any legal effect, but are merely intended to assist the user of the Code.

Sec. 1-7. Continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same legislation previously adopted by the village relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

Sec. 1-8. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed or cause of action arising under the ordinance repealed.
State law reference— Effect of repeals, Wis. Stat. § 990.03.

Sec. 1-9. Certain ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

(1) Any offense or act committed or done, or any penalty or forfeiture incurred, before the effective date of this Code;

(2) Any ordinance promising or guaranteeing the payment of money for the village or authorizing the issue of any bonds of the village or any evidence of the village's indebtedness;

(3) Any contract, right, agreement, lease, deed or other instrument or obligation assumed by the village;

(4) Any administrative ordinances of the village not in conflict or inconsistent with this Code;

(5) Any right or franchise granted by any ordinance;

(6) Any ordinance dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street or public way or public grounds and parks and other public places;

(7) The ordinance adopting the budget or any appropriation ordinance;

(8) Any ordinance levying or imposing taxes or special assessments;

(9) Any ordinance prescribing through streets, parking and traffic regulations, speed limits, one-way traffic, limitations on load of vehicles or loading zones;

(10) Any ordinance regarding contracts and purchases with or without bids;

(11) Any ordinance establishing and prescribing the street grades of any street curblines or bulkhead lines or width of sidewalks or streets;

(12) Any ordinance providing for local improvements and assessments for such improvements;

(13) Any ordinance regarding plats, land divisions or subdivisions;

(14) Any ordinance annexing territory or excluding territory or any ordinance amending the boundaries of the village;

(15) Any ordinance establishing positions, classifying positions, establishing pension or

employee benefits, setting salaries of village officers and employees or any personnel regulations or indemnifications policies, or otherwise related to employees;

(16) Any ordinance on investment and other financial policies;

(17) Any ordinance calling an election;

(18) Any ordinance relating to the acquisition of lands by the village by condemnation proceedings;

(19) Any ordinance levying a fee, rate, deposit or charge or release of persons from liability or approving claims;

(20) Any ordinance regarding lighting of streets, sidewalks and alleys, water, sewer and electric main and line construction or municipal utility regulations or construction of public works;

(21) Any ordinance adopted by reference by any section of this Code and not included herein;

(22) Any temporary or special ordinance;

(23) Any ordinance the subject of which cannot by law be repealed by the adopting ordinance.

(b) All such ordinances are recognized as continuing in full force and effect to the same extent as if published at length in this Code. All ordinances are on file in the clerk's office.

(c) This Code shall not be deemed to repeal any preamble, recital or finding of fact contained in any ordinance included herein, but all such matters shall be deemed incorporated in the sections herein derived from such respective ordinances.

Sec. 1-10. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from affected reprinted pages. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code by the village board.

(b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code being amended in the following language: "That section _____ of the Code of Ordinances, Village of Yorkville, Wisconsin, is hereby amended to read as follows: … ." The new provisions shall be set out in full.

(c) If a new section not then existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, Village of Yorkville, Wisconsin, is hereby amended by adding a section to be numbered _____, which section reads as follows: … ." The new section shall then be set out in full as desired.

(d) All provisions desired to be repealed should be repealed specially by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

State law reference— Adoption of municipal ordinances, Wis. Stat. § 66.0101.

Sec. 1-11. Supplementation of Code.

(a) By contract or by village personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the village. A supplement to this Code shall include all substantive permanent and general parts of ordinances passed by the village board or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement insofar as it is necessary to do so embody them into a unified code. For example, the person may:

(1) Organize the ordinance material into appropriate subdivisions.

(2) Provide appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.

(3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.

(4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.

(5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections _____ to_____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).

(6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code. In no case shall the codifier make any change in the meaning or effect of ordinance provisions included in the supplement or already embodied in the Code.

Sec. 1-12. Severability.

The village board declares that it is its intent to enact this Code and all provisions adopted by reference in this Code without invalid or unconstitutional provisions. The sections, subsections, paragraphs, sentences, clauses and phrases of this Code and all provisions adopted by reference in this Code are severable so that if any section, subsection, paragraph, sentence, clause and phrase of this Code, or of any provision adopted by reference in this Code, is declared unconstitutional or invalid by judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other remaining section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code.
State law reference— Severability, Wis. Stat. § 990.001(11).

Sec. 1-13. Clerk to file documents incorporated by reference.

Whenever in this Code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein and the clerk shall file, deposit and keep in his office a copy of the code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person, during the clerk's office hours, subject to such orders or regulations, which the clerk may prescribe for their preservation.

(Code 1982, § 25.03)

Sec. 1-14. Penalty provisions.

(a) *General penalty*. Except as otherwise provided, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

(1) *First offense*. Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than $5.00 nor more than $500.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.

(2) *Second offense*. Any person found guilty of violating any ordinance or part of an ordinance of this Code who has previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than $10.00 nor more than $500.00 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be

imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding six months.

(b) *Continued violations*. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the village from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(c) *Execution against defendant's property*. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the village, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

(d) *Citation method of enforcement*.

(1) *Enforcement*. The village hereby elects to use the citation method of enforcement of ordinances. The village code enforcement officer, Racine County Sheriff's Department and other village personnel charged with the responsibility of enforcing the provisions of this Code are hereby authorized to issue citations for violations of this Code, including ordinances for which a statutory counterpart exists.

(2) *Contents of citation*. The citation shall contain the following:

a. The name and address of the alleged violator.

b. Factual allegations describing the alleged violation.

c. The time and place of the offense.

d. The number and section of the ordinance violated.

e. A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.

f. The time and date at which the alleged violator may appear in court.

g. A statement which in essence informs the alleged violator:

1. That a cash deposit may be made, which deposit shall be delivered or mailed to the Village of Yorkville prior to the time of the initial court appearance.

2. That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned.

3. That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest and submitted to a forfeiture, a penalty assessment imposed by Wis. Stat. § 757.05, a jail assessment imposed by Wis. Stat. § 302.46(1), a crime laboratories and drug law enforcement

assessment imposed by Wis. Stat. § 165.755, any applicable consumer information assessment imposed by Wis. Stat. § 100.261 and any applicable domestic abuse assessment imposed by Wis. Stat. § 973.055(1) not to exceed the amount of the deposit or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.

4. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the alleged violator's arrest or consider the nonappearance to be a plea of no contest and enter judgment, or the village may commence an action to collect the forfeiture, the penalty assessment imposed by Wis. Stat. § 757.05, the jail assessment imposed by Wis. Stat. § 302.46(1), the crime laboratories and drug law enforcement assessment imposed by Wis. Stat. § 165.755, any applicable consumer information assessment imposed by Wis. Stat. § 100.261 and any applicable domestic abuse assessment imposed by Wis. Stat. § 973.055(1).

5. That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under Wis. Stat. § 800.093.

h. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under subsection (d)(2)g of this section has been read. Such statement shall be sent or brought with the cash deposit.

i. Such other information as the village deems necessary.

(3) Form of citation. The form of the citation to be used by the village is on file in the clerk ‘s office and is adopted by reference as though fully set forth in this section.

(4) Schedule of deposits.

a. A schedule of cash deposits may be established for use with citations issued under this section of the Code by adoption of a resolution by the village board according to the penalty provisions of this Code or the Wisconsin Statutes, whichever is applicable. In the absence of a scheduled or statutorily mandated deposit amount for a particular violation, the deposit amount shall be $100.00 plus applicable court costs and assessments.

b. Deposits shall be made in cash, money order or certified check to the Village of Yorkville who shall provide a receipt therefor.

(5) Procedure. Wis. Stat. § 66.0113(3) and any amendments thereto, relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

(6) Nonexclusivity.

a. Other ordinance. Adoption of this section does not preclude the village board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

b. Other remedies. The issuance of a citation under this section shall not preclude the village board or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

(Code 1982, § 25.04)

Sec. 1-15. Presumption of responsibility.

The occupant of any premises upon which a violation of any chapter or section of this Code is apparent, the owner of any object or material placed or remaining anywhere in violation of any chapter or section hereof and the occupant of any premises served by any excavation or structure illegally made or erected, shall be deemed prima facie responsible for the violation so evidenced and shall be subject to the penalty provided therefor.

(Code 1982, § 25.09)

Sec. 1-16. Liability of Village.

The village shall not assume any responsibility or liability by reason of the issuance or revocation of any license, permit or certificate under any chapter or section of this Code or by reason of approval or disapproval of any application, plans, specifications, buildings or structures; nor shall the village be liable for any damages resulting from the enforcement of this Code; and, further, in all cases where any action has been taken by any enforcement officer or duly authorized official of the village to enforce this Code, such action or act shall be considered as done in the name or on behalf of the village and accordingly, any such person so acting for the village shall not be liable for any damage that may accrue to persons or property as the result of any such act committed in the discharge of his lawful duties.

(Code 1982, § 25.10)

Chapter 2

ADMINISTRATION

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Sec. 2-396.	Reducing determination to writing.	2021-09	10/25/21
Sec. 2-397.	Request for review of determination.	2021-09	10/25/21
Sec. 2-398.	Review of determination.	2021-09	10/25/21
Sec. 2-399.	Administrative appeal.	2021-09	10/25/21
		2023-16	11/13/23
Sec. 2-400.	Hearing on administrative appeal.	2021-09	10/25/21
Sec. 2-401.	Final determination.	2021-09	10/25/21
Sec. 2-402.	Judicial review.	2021-09	10/25/21
Sec. 2-403.	Legislative review.	2021-09	10/25/21
Sec. 2-404.	Modification or waiver.	2021-09	10/25/21
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Article VIII. Municipal Court

Sec. 2-431.	Created.
Sec. 2-432.	Maintenance and operation.
Sec. 2-433.	Expenses.
Sec. 2-434.	Jurisdiction.
Sec. 2-435.	Contempt.
Sec. 2-436.	Penalties.

Article I. In General

Sec. 2-1. Penalty.

Except as otherwise provided herein, any person who shall violate any provision of this chapter, or any order, rule or regulation made under this chapter, upon conviction thereof, shall be subject to a penalty as provided in Section 1-14.

Secs. 2-2—2-30. Reserved.

Article II. Village Board

State Law reference— Village board, Wis. Stat. § 61.32 et seq.

Division 1. Generally

Sec. 2-31. Rules of procedure.

(a) Order and decorum, deliberations of the village board and decisions on all questions of order and conduct in the proceedings of village meetings shall be in accordance with the parliamentary rules contained in Robert's Rules of Order, Newly Revised, unless otherwise provided by statute or these rules. Except where a period of public comment is permitted, no person other than a member shall address the village board, except by a vote of a majority of the members present. No ordinance, resolution or other motion shall be discussed or acted upon unless it has been seconded. No motion shall be withdrawn or amended without the consent of the person making the motion and the person seconding it.

Sec. 2-32. Ordinances and resolutions.

An ordinance and/or resolution shall be introduced in writing and may, at the discretion of the village board, be acted upon at the same meeting it is introduced. Unless requested by a trustee before a final vote is taken, no ordinance need be read in full.

Sec. 2-33. Suspension of rules.

These rules or any part thereof may be temporarily suspended in connection with any matter under consideration by a recorded vote of two-thirds of the village board members present. (Code 1982, § 2.07)

Secs. 2-34—2-50. Reserved.

Division 2. Meetings

State Law reference— Open meetings law, Wis. Stat. § 19.81 et seq.

Sec. 2-51. Open meeting law requirements.

Notice of every meeting of the village board, and every board, commission and committee thereof, shall be given to the public, to those news media who have filed a written request for such notice and to the official newspaper or to a news medium likely to give notice in the area at least 24 hours prior to commencement of the meeting. If such notice is impossible or impractical, shorter notice may be given for good cause shown, but no notice shall be given less than two hours in advance of the meeting. Every public notice of a meeting shall contain the time, date, place and subject matter of the meeting.
(Code 1982, § 2.02(1))
State law reference— Notice, Wis. Stats. § 19.84.

Sec. 2-52. Regular meetings.

Regular meetings of the village board shall be held on the second and fourth Monday of each calendar month at 6:00 p.m., although the village board may adjust the frequency or scheduling of its meetings as it periodically determines to be appropriate, provided that proper notice of each meeting is given. Regular meetings falling on a legal holiday may be rescheduled, if at all, for such date and time as is determined by the village board.

Sec. 2-53. Special meetings.

Special meetings of the village board may be called by the village president or by any two village trustees by filing a written request with the clerk at least 24 hours prior to the time specified for such meeting. The clerk shall immediately notify each trustee of the time and purpose of such meeting. The notice shall be delivered to each trustee personally or left at his/her usual place of abode. The clerk shall cause an affidavit of service of such notice to be filed in his office prior to the time fixed for such special meeting. Special meetings may be scheduled without notice when all members of the village board are present or consent in writing to the holding of such special meeting. Unless all trustees are in attendance, no business shall be transacted at a special meeting except for the purpose stated in the notice thereof. (Code 1982, § 2.02(3))

Sec. 2-54. Notice of meetings.

Anything to the contrary in this article notwithstanding, no meeting shall be held unless notice thereof shall have been given as provided in Wis. Stat. § 19.84. (Code 1982, § 2.02(3))

Sec. 2-55. Place of meetings.

All meetings of the village board, including special and adjourned meetings, shall be held in the village board room unless otherwise designated by the village board. Notice of a change of place shall be posted at least 24 hours prior to the meeting. (Code 1982, § 2.02(4))

Sec. 2-56. Quorum.

A quorum is necessary for the transaction of any village board business. Three village board members shall constitute a quorum. (Code 1982, § 2.02(5))

Sec. 2-57. Meetings to be public; notice.

All meetings of the village board and subunits thereof shall be open to the public as provided in Wis. Stat. §§ 19.81—19.98. Public notice of all such meetings shall be given as provided in Wis. Stat. § 19.84. (Code 1982, § 2.02(6))

Sec. 2-58. Order of business.

The business of the village board shall be conducted in the following manner:

(1) Call to order by presiding officer.

(2) Roll call. If a quorum is not present, the meeting shall thereupon adjourn, which may be to a specified date.

(3) Consent agenda.

(4) Items removed from consent agenda.

(5) Business, including both unfinished business from previous meetings and new business, including introduction of ordinances and resolutions.

(6) Committee reports; reports of village officers; communications and other business.

(7) Public comment.

(8) Adjournment.

Sec. 2-59. Presiding officer.

(a) *Control of meeting.* The village president shall preserve order and conduct the proceedings of all meetings and hearings, whether on petition or regular or special meetings. A member of the village board may appeal from the decision of the

presiding officer; such appeal is not debatable and shall be sustained by a majority of the members present, exclusive of the presiding officer.

(b) *Absence of village president.* If the village president is absent at any meeting, the clerk shall call the meeting to order and preside until the village board selects a trustee to preside for that meeting. The clerk shall not vote on any issue before the village board.

(c) *Presiding officer to vote.* The presiding officer shall vote as a trustee on all questions properly before the village board. The presiding officer may make motions or second motions before the village board. (Code 1982, § 2.04)

Sec. 2-60. Consent agenda.

(a) *Posting.* While preparing the agenda for posting, the village clerk, subject to approval of the village president, shall determine which matters the clerk deems routine, procedural, informational, self-explanatory, and non-controversial, and that are not subject to a public hearing at the upcoming meeting of the village board. Those matters shall be listed under the heading of "Consent Agenda" on the agenda and posted as such.

(b) *Board Action.* When the matters listed under the "Consent Agenda" come before the village board for action, no separate discussion or debate on matters on the consent agenda shall be permitted. A single motion, seconded and adopted by majority vote of the board shall be sufficient to approve, adopt, enact, or otherwise favorably resolve any matter listed on the consent agenda without separate discussion thereof. Action on all consent agenda items shall be separately recorded in the meeting minutes.

(c) *Member Objection.* Any member of the village board may request removal of one or more matters from the consent agenda. No reason for the requested removal need be given by the board member. The request for removal shall be made at the time of the board meeting when the consent agenda item is reached or in writing to the clerk and president prior to the meeting. The matter shall be immediately removed from the consent agenda without discussion or debate. When an item has been removed from the consent agenda, it shall be acted upon individually, and subject to debate, with board action taken in accordance with established board procedures as contained in Section 2-58 of this chapter.

Secs. 2-61. — 2-80. Reserved.

Division 3. Committees

Sec. 2-81. Committee appointments.

The village president shall designate and appoint all members of any standing and special committees established by the village board and shall designate the committee chairpersons.

All committee appointments except designation of chairperson shall be subject to confirmation by a majority vote of the village board. (Code 1982, § 2.05(1))

Sec. 2-82. Committee reports.

Each committee shall at the next regular meeting submit a written report on all matters referred to such committee. Such report shall recommend a definite action on each item and shall be signed by a majority of the committee. Any committee may require any village officer to confer with it and supply information in connection with any matter pending before such committee. (Code 1982, § 2.05(2))

Secs. 2-83—2-110. Reserved.

Article III. Officers and Employees

(Cross reference— Any ordinance establishing positions, classifying positions, establishing pension or employee benefits, setting salaries of village officers and employees or any personnel regulations or indemnifications policies, or otherwise related to employees saved from repeal, § 1-9(15); deputy inspector of department of buildings, § 10-54; fire chief, § 26-91 et seq.; fire inspector, § 26-111 et seq.)

Sec. 2-111. Composition of village board.

(a) Pursuant to Wis. Stat. § 61.20(4), the Village Board shall be composed of the Village President and four Village Trustees.

(b) The special election for Village President and four Village Trustees shall be held on Tuesday, June 12, 2018. The election shall be “at-large” with all qualified candidates’ names placed on the ballot. The Village President candidate receiving the most votes shall be declared the winner. The top four vote-getters for the position of Village Trustee shall be declared the winners.

(c) The elected Village President and Village Trustees shall commence their terms on June 25, 2018, and they shall hold their offices until the 2019 regular spring election and the qualification of their successors. Thereafter, the Village President shall be elected at the regular spring election in odd-numbered years. For purposes of the 2019 regular spring election and creating staggered terms of office for Trustees as required by state statute, Trustees will be divided into two classes. The top two vote-getters in the 2019 regular spring election shall be designated as one class of Trustees to serve a two-year term, while the next two highest vote-getters in the 2019 regular spring election shall be designated as the other class of Trustees to serve a one-year term until the 2020 regular spring election (two-year terms thereafter).

(d) Terms shall commence on the third Tuesday of April in the year of election.

Sec. 2-112. Appointed officers—Enumerated.

The following officers of the village shall be appointed by the village president, subject to confirmation by the village board, biennially at the regular April village board meeting. The Village President shall not vote on confirmation except in case of a tie.

(1) Building inspector.

(2) Electrical inspector.

(3) Emergency government director.

(4) Plumbing inspector.

(5) Weed commissioner.

(6) Zoning administrator (as needed).

(Code 1982, § 1.02(1))

Sec. 2-113. Appointed officers—Village assessor.

The village board shall select by appointment a village assessor and such assistant assessors as the village board may, from time to time, determine. The village assessor shall be appointed on the basis of merit, experience and general qualifications, as determined by the village board, for such period as the village board shall specify, but not to exceed three years. The assistant assessors shall serve at the will of the village board. (Code 1982, § 1.02(2))

Sec. 2-114. Appointed Officers: Village Administrator, Village Clerk, Village Treasurer/Finance Director,, Village Deputy Clerk, and Village Deputy Treasurer.

(a) **Village Administrator**.

(1) Office Created. In order to provide the Village of Yorkville with a more efficient, economical, coordinated, responsible, and responsive municipal government under a system of a part-time President and part-time Trustees and at a time when Village government is becoming increasingly complex, the position of an appointed Village Administrator ("Administrator") is created.

(2) Appointment, Removal. The Administrator shall be appointed by a majority vote of the Village Board. As determined by written agreement, the Administrator shall serve at the pleasure of the Village Board or for a fixed term.

(3) Duties and Responsibilities. The Administrator shall serve as the Chief Administrative Officer of the Village of Yorkville, responsible to and under the general direction of the Village Board for proper administration of all activities

of the Village. To this end, the Administrator shall have the following powers and duties:

(i) Carry out all actions and directives of the Village Board which require administrative implementation or where the President and/or Village Board have so directed.

(ii) Be responsible for and oversee and monitor the day-to-day administration and coordination of all departments, operations, and business affairs of Village of Yorkville.

(iii) Develop budgeting procedures, prepare, and administer the annual operating and capital budgets in accordance with such guidelines as may be provided by the Village Board and in coordination with all Village officials.

(iv) Supervise the purchase of all materials, supplies, and equipment for which funds are provided in the budget.

(v) Perform the duties of personnel director, managing other Village employees in the employment, training, and evaluation of all Village personnel; recommend salary and wage rates for employees.

(vi) Prepare reports and recommendations for the Village Board, advisory boards committees and commissions on operational or policy matters before them and on any other actions necessary to improve the overall health, safety, and welfare of the Village of Yorkville.

(vii) Establish and maintain procedures to facilitate communication between citizens and Village government to assure that complaints, grievances, recommendations, and other matters receive prompt attention and to assure that all such matters are expeditiously resolved.

(viii) Promote the economic well-being and growth of the Village through public and private sector cooperation, ensuring consistency with the Village's Comprehensive Plan.

(ix) Keep informed concerning current Federal, State and County legislation and administrative rules affecting the Village and submit appropriate reports and recommendations thereon to the Board.

(4) Compensation. The compensation of the Administrator shall be fixed by the Village Board.

(b) **Village Clerk**. The position of an appointed Village Clerk ("Clerk") is hereby created.

(1) Duties. The Clerk shall have the duties as specified in §61.25 of the Wisconsin Statutes for a village clerk and any other related duties as specified by the Village Board of Trustees.

(2) Term. The Clerk shall be appointed by a majority of the Village Board of Trustees and hold office for an indefinite term.

(3) Compensation. The compensation of the Clerk shall be fixed by the Village Board.

(c) **Village Treasurer/Finance Director.** The position of an appointed Village Treasurer/Finance Director ("Treasurer/Finance Director") is hereby created.

(1) Duties. The Treasurer/Finance Director shall have the duties as specified in §61.26 of the Wisconsin Statutes for a village treasurer and any other related duties as specified by the Village Board of Trustees, including but not limited to the following:

(i) Maintain all accounting records for the Village, including, but not limited to, general ledger, accounts payable, accounts receivable.

(ii) Prepare the Village's annual tax levy, tax rolls, and tax bills; administer the Village's real estate tax collection and settlement process.

(iii) Process payroll and prepare and file quarterly and annual state and federal tax reports.

(iv) Assist with the preparation of the Village's annual operating and capital budgets, and budget administration.

(v) Coordinate the Village's annual financial audit process.

(vi) Prepare interim and annual municipal and utility financial reports.

(vii) Monitor accounting operations to ensure compliance with Governmental Accounting Standards Board (GASB)/Generally Accepted Accounting Practices (GAAP) and state regulatory standards.

(viii) Review, recommend, and implement significant internal controls over financial transactions and reporting.

(ix) Oversee the Village's investment and cash management programs.

(x) Participate in the development of short- and long-term financial management plans, policies, and goals.

(xi) Oversee the Village's debt management program; coordinate the debt issuance process and post-issuance compliance and payments.

(xii) Review and recommend revenue changes such as utility rate reviews, changes in fees, or creation of new revenue streams.

(xiii) Oversee the Village's water and wastewater utility billing processes.

(xiv) Act as the Village's purchasing agent.

(2) Term. The Treasurer/Finance Director shall be appointed by a majority of the Village Board of Trustees and hold office for an indefinite term.

(3) Compensation. The compensation of the Treasurer/Finance Director shall be fixed by the Village Board.

(d) **Village Deputy Clerk.** The position of an appointed Village Deputy Clerk ("Deputy Clerk") is hereby created.

(1) The Administrator, subject to approval by a majority of all the members of the Village Board, may in writing, appoint a Deputy Clerk who shall act under the Administrator's direction and who, during the temporary absence or disability of the Clerk or during a vacancy in such offices, shall perform the duties of Clerk. The Deputy Clerk shall receive such compensation as the Village Board shall determine.

(e) **Village Deputy Treasurer**. The position of an appointed Village Deputy Treasurer ("Deputy Treasurer") is hereby created.

(1) The Administrator, subject to approval by a majority of all the members of the Village Board, may in writing, appoint a Deputy Treasurer who shall act under the Administrator's direction and who, during the temporary absence or disability of the Treasurer or during a vacancy in such offices, shall perform the duties of Treasurer. The Deputy Treasurer shall receive such compensation as the Village Board shall determine.

Sec. 2-115. Oaths and bonds.

Elected and appointed officers shall take and file the official oath within five days after notice of their election or appointment as provided in Wis. Stat. § 61.21, and shall execute and file the official bond as required by state statutes and this Code. (Code 1982, § 1.03)

State law reference— Oath and bond, Wis. Stat. §§ 19.01, 61.21.

Sec. 2-116. Removals.

(a) *Elected officers.* Elected officers may be removed by the judge of the circuit court for cause pursuant to Wis. Stat. § 17.13(3).

(b) *Appointed officers.* Appointed officers may be removed as provided in Wis. Stat. § 17.13 (Code 1982, § 1.04)

Sec. 2-117. Vacancies.

(a) *How occurring.* Vacancies in elective and appointive positions are caused as provided in Wis. Stat. § 17.03.

(b) *How filled.* Vacancies in elective and appointive offices shall be filled as provided in Wis. Stat. § 17.24. (Code 1982, § 1.05)

Sec. 2-118. Compensation.

(a) *Elected officers*. The compensation of all elected officers shall be determined prior to the earliest filing date for nomination papers for the elected position. The compensation remains in effect throughout the term (unless changed by the village board).

(b) *Appointed officers*. The compensation of all appointed officers, including members of boards and commissions, shall be as determined by the village board, where applicable, provided salaries and compensation rates of elected officers shall not be changed during their terms of office, except as provided by statute. (Code 1982, § 1.06)

State law reference— Compensation of elected officers, Wis. Stat. § 61.193

Sec. 2-119. Receipt of gifts and gratuities.

No public officer or employee shall accept anything of value, whether in the form of a gift, service, loan or promise from any person, who, to his/her knowledge, has a direct financial interest in any transaction or official business with the village, which may tend to impair his independence of judgment or action in the performance of his/her official duties. However, it is not a conflict of interest for any public officer or employee to receive a gift or gratuity that is an unsolicited item of nominal intrinsic value, such as a meal up to Ten Dollars ($10.00) in value.

State law reference— Misconduct in office, Wis. Stat. § 946.12.

Sec. 2-120. Outside employment.

No full-time officer or employee of the village shall engage in any other remunerative employment within or without the village. However, the village board may approve such outside employment or activity if it finds that it does not interfere or conflict with such officer's or employee's ability to perform his/her duties in an efficient or unbiased manner. Violation of this section shall be grounds for removal from office of any such officer or employee. (Code 1982, § 1.08)

Sec. 2-121. Duties – Generally.

The duties of all elected or appointed officers and employees of the village shall be as prescribed by the applicable state statute pertaining to village officers and by applicable village ordinances, and such additional duties and responsibilities as established from time to time by the village board. (Code 1982, § 1.09(1))

Sec. 2-122. Duties – Village President.

The village president shall sign all ordinances, resolutions, bylaws, orders, regulations, contracts, commissions, licenses and permits adopted or authorized by the village board; provided, however, in the absence of the village president, another trustee designated by the village board may sign in the place of the village president. Licenses and permits adopted or authorized by the village board may be signed by the clerk in lieu of the village president. (Code 1982, § 1.09(3))

Sec. 2-123. Nondiscrimination.

(a) The village and its representatives shall not discriminate against or interfere with any employee on account of membership or nonmembership in any labor organization.

(b) The village and its representatives shall not discriminate with respect to any employee on the basis of age, race, creed, religion, color, disability, marital status, sex, sexual orientation, national origin, ancestry, arrest record, conviction record, or membership in the national guard, state defense force or any reserve component of the military forces of the United States or this state.
(Code 1982, § 1.10)

Secs. 2-124 —2-150. Reserved.

Article IV. Boards, Committees, Commissions

Cross reference— Emergency government committee, § 18-33; fire commission, § 26-31 et seq.

Division 1. Generally

Secs. 2-151—2-170. Reserved.

Division 2. Reserved

Sec. 2-171 – 2-200. Reserved.

Division 3. Plan Commission

State Law reference— Regional planning program, Wis. Stat. § 61.35.

Sec. 2-201. Establishment.

There is hereby established a village plan commission in accordance with Wis. Stat. §§ 61.35 and 62.23.

Sec. 2-202. Membership.

(a) *Composition generally.* The village plan commission shall consist of five members who shall be paid such amount as is determined by the village board from time to time. One member of the plan commission shall be the village president. The other members of the plan commission, whom shall be citizen members of recognized experience and qualifications, may include one village trustee. All appointments shall be made by the village president, subject to confirmation by the village board.

(b) *Presiding officer.* The members of the plan commission shall choose the presiding officer.

(c) *Secretary.* The secretary of the plan commission shall be chosen by the members of the commission.

(d) *Official oaths.* Official oaths shall be taken by all members of the plan commission in accordance with Wis. Stat. § 19.01 within ten days of receiving notice of their appointments.

(e) *Terms of citizen members.* Terms for the citizen members of the plan commission shall commence on the first week of May and be for three-year periods, except the original terms, each of which shall be for three years or less so as to stagger the terms.

Sec. 2-203. Organization.

The village plan commission shall organize and adopt rules for its own government in accordance with the provisions of this section.

(1) Meetings shall be held monthly and at the call of the village president or a majority of the full plan commission and shall be open to the public.

(2) Quorum shall be a majority of the members, but all actions, except a motion to adjourn, shall require approval of a majority of the full plan commission.

(3) Standing and special committees of the plan commission may be appointed by the village president.

(4) A written record shall be kept showing all actions taken, resolutions, findings, determinations, transactions and recommendations made, and a copy shall be filed with the clerk as a public record.

Sec. 2-204. Powers.

The village plan commission shall have such powers as may be necessary to enable it to perform its functions and duties and promote land use planning in the village. Such powers shall include the following:

(1) Employ experts and a staff and to pay for their services, supplies, equipment and such other expenses as may be necessary and proper, not to exceed the appropriations and regulations made by the village board.

(2) Make reports and recommendations relating to the plan and development of the village to public officers, agencies, utilities and other organizations and citizens.

(3) Recommend public improvement programs and financing thereof to the village board or village president.

(4) Request available information from any public officer to be furnished within a reasonable time.

(5) The plan commission, its members and employees, may enter upon any land in the performance of its functions, make examination and surveys, and place and maintain necessary monuments and marks thereon. If otherwise required by law, the plan commission may obtain warrants for such purpose.

Sec. 2-205. Duties.

The village plan commission shall have the following functions and duties:

(1) Recommend a master plan for the physical development of the village to the village board.

(2) Prepare and recommend land division regulations to the village board in accordance with Wis. Stat. § 236.45.

(3) Recommend any changes to the master plan it deems necessary or desirable and recommend any changes or amendments to the village board that it deems necessary or desirable concerning the zoning, land division and fire prevention ordinances; to cooperate with municipal or regional planning commissions and other land use planning agencies or groups to further the village planning program and to ensure harmonious and integrated planning for the village and adjoining areas.

Sec. 2-206. Referrals.

The village board or other public body or officer of the village having final authority thereon shall refer to the village plan commission, for its consideration and report before final action is taken, any matters required by law to be referred to such an agency.

Sec. 2-207. Additional powers and duties.

The village plan commission shall have all additional powers and duties granted or assigned by the village board or by village ordinances. All the powers and duties granted or assigned

by state statute to the village plan commission and by any amendments thereto are granted and assigned to the plan commission and such statutes are adopted by reference.

Secs. 2-208—2-230. Reserved.

Division 4. Board Of Review

State Law reference— Board of review, Wis. Stat. § 70.46 et seq.

Sec. 2-231. Membership and Term of the Board of Review.

(a) The Village Board of Review shall consist of a combination of five Village Residents and all the Village Trustees serving terms as defined in 2-231(b).

(1) Village Resident Members

a. Appointment and Term: Five Village Residents shall be appointed to the Board of Review by the Village Board for a term of two years.

b. Citizen Service Status: These five residents shall alternate their service as either standing members or alternate members of the Board on an annual basis, as defined in the annual composition below.

(b) Annual Composition and Service. The composition of the standing Board of Review shall rotate annually as described in (1) and (2), below.

(1) Even Years (Non-Election Years for Three Trustees). The standing Board shall consist of the following five members:

a. Three Village Trustees who are not up for reelection in that year.

b. Two Village Residents (appointed citizens).

c. The remaining three Village Residents shall serve as Alternate Members.

(2) Odd Years (Non-Election Years for Two Trustees). The standing Board shall consist of the following five members:

a. Two Village Trustees who are not up for reelection in that year.

b. Three Village Residents (appointed citizens).

c. The remaining two Village Residents shall serve as Alternate Members.

(c) Alternate Member Service. Alternate Members shall only serve on the Board when a standing member is removed from an individual case due to a conflict of interest or other disqualification. Wis. Stat. § 70.47 (6m)(c).

(d) Exclusions. No Village official, including the Village Assessor, who has direct involvement in the assessment of property shall be eligible to serve as a member or alternate member of the Board of Review.

Sec. 2-232. Duties.

The board of review shall have the duties and powers prescribed by Wis. Stat. § 70.47. (Code 1982, § 1.17(2))

Sec. 2-233. Meetings.

The hours of the board of review shall be from 5:00 p.m. to 7:00 p.m. on the second Monday of May each year, and may be adjourned from time to time as the board of review so designates. (Code 1982, § 1.17(3))

Sec. 2-234. Confidentiality.

Whenever the assessor, in the performance of the assessor's duties, requests or obtains income and expense information pursuant to Wis. Stat. § 70.47(7)(af), such income and expense information that is provided to the assessor shall be held by the assessor on a confidential basis, except, however, that the information may be revealed to and used by persons in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the assessor in performance of official duties of the assessor's office and use by the board of review in performance of its official duties); or pursuant to order of a court. Income and expense information provided to the assessor under Wis. Stat. § 70.47(7)(af), unless a court determines that it is inaccurate, is, per Wis. Stat. § 70.47(7)(af), not subject to the right of inspection and copying under Wis. Stat. § 19.35(1). (Code 1982, § 1.17(4))

Sec. 2-235. Compensation.

The members of the board of review, except members who are full-time employees or officers of the village, shall receive such compensation as shall be fixed by resolution of the village board. (Code 1982, § 1.17(5))

Sec. 2-236. Procedures and criteria for waiving board of review hearing requests.

(a) *Procedure.* Before the Board of Review (hereinafter “BOR”) can consider a request from a taxpayer or assessor, or at its own discretion, to waive the hearing of an objection, the taxpayer must first complete and file with the clerk of the BOR the following documents:

(1) A fully completed and timely Notice of Intent to appear at BOR, and

(2) A fully completed and timely Objection Form for Real Property Assessment (Form PA-115A).

If the owner fails to file the aforementioned documents as required, no hearing will be scheduled on the objection.

If the owner files the aforementioned documents as required and a request from a taxpayer or assessor, or at its own discretion, is made to waive the hearing of an objection, the BOR shall use the following criteria when making its decision.

(b) *Criteria.* The BOR may consider any or all of the following factors when deciding whether to waive the hearing:

(1) The benefits or detriments of the BOR process.

(2) The benefits or detriments of having a record for court review.

(3) Avoidance of unruly, lengthy, burdensome appeals.

(4) Ability to cross-examine the person providing the testimony.

(5) Any other factors that the BOR deems pertinent to deciding whether to waive the hearing.

Secs. 2-237 – 2-260. Reserved.

Division 5. Commission for Sewer and Water Utilities

Sec. 2-261. Commission; Composition.

The Sewer Utility District No. 1 of the Village and the Water Utility District No. 1 of the Village shall be governed by one commission called the Yorkville Sewer and Water Commission (the "Commission"). The Commission shall be comprised of five (5) members consisting of three (3) Village Board Trustees and two (2) residents of the Village, one of whom may also serve on the Village Plan Commission.

Sec. 2-262. Powers and duties.

The Commission shall take entire charge and management of such sewer and water utilities and shall have such powers as are enumerated in Wis. Stat. Sec. 66.0805. The sewer and water utilities shall remain separate utilities.

Sec. 2-263. Supervision of sewer and water utilities operations.

The Commission shall supervise the operation of the sewer and water utilities under the general control and supervision of the Village Board.

Sec. 2-264. Terms of office; expiration.

The Village President shall appoint the Village Board Trustee members, and an alternate Trustee member, subject to confirmation by the Village Board. The Village Board Trustee members and alternate shall serve a one-year term commencing May 1st. The terms of the resident members of the Commission shall be five (5) years commencing October 1st, except that of those initially appointed, one shall serve for four (4) years and one for five (5) years. The Village Board shall make the appointments of the resident members to the Commission.

Sec. 2-265. Compensation.

Sewer and Water Commissioners shall be paid such compensation as shall be provided by the Village Board from time-to-time. However, members of the Village Board shall not receive any additional compensation over and above that paid to them as members of the Village Board for serving as members of the Commission.

Sec. 2-266. Election of officers; records; expenditures and powers.

(a) *Election of officers*. The Commission shall choose from among their number a president and secretary and shall make rules for their own proceedings and for the government of Water Utility District No. 1 of the Village and the Sewer Utility District No. 1 of the Village. Proceedings and governance for each utility district shall be separately acted upon and recorded.

(b) *Records*. The Commissioners shall keep books and accounts separately for each utility district which shall be open to the public.

(c) *Expenditures; Powers*. All expenditures of each utility district shall be audited by the Commission and the Commission shall have general powers in the construction, extension, improvement and operation of each utility, subject to the general control and supervision of the Village Board.

Secs. 2-267—2-300. Reserved.

Article V. Elections

Cross reference— Any ordinance calling an election saved from repeal, § 1-9(17).
State Law reference— Elections, Wis. Stat. ch. 7.

Division 1. Generally

Sec. 2-301. Registry of electors.

(a) The clerk shall prepare, continue and revise a registry of electors and shall have control of such registry for the village pursuant to Wis. Stat. §§ 6.27—6.57.
(b) The clerk shall procure the necessary registration forms as set forth in Wis. Stat. § 6.33.

Sec. 2-302. Voting.

All the provisions of Wis. Stat. ch. 6, as such provisions pertain to any and all village elections or any elections held within the village, are hereby incorporated by reference.

Sec. 2-303. Poll hours.

The polls at every election shall be open pursuant to Wis. Stat. § 6.78. Any elector waiting to vote, whether within the polling booth or in the line outside the booth at the time the polls officially close, shall be permitted to vote.

Secs. 2-304 — 2-320. Reserved.

Division 2. Election Officials

State Law reference— Election officials, Wis. Stat. § 7.30.

Sec. 2-321. Nomination and appointment; qualifications; duties, powers and responsibilities; scheduling.

(a) *Nomination and appointment.* Election officials shall be nominated and appointed pursuant to Wis. Stat. § 7.30(4).

(b) *Qualifications.* Each election official shall meet the qualifications listed under Wis. Stat. § 7.30(2).

(c) *Duties, powers, and responsibilities.* Such election officials shall have all the powers and perform all the duties prescribed for such officers by the statutes. The clerk shall instruct each election official as to their duties, powers, and responsibilities.

(d) *Scheduling.* The clerk is authorized to select alternate officials or two sets of officials to work at different times on election day. The Clerk may establish any number of shifts for election officials and set their start and end times to ensure the polling place

is properly staffed throughout the day. The clerk may reduce the number of election officials for any given election to not less than the minimum number authorized by Wis. Stat. § 7.30(1) and as modified by the Village Board per Wis. Stat. § 7.32.

(e) *Party Balance.* In all scheduling of shifts, the Clerk shall comply with Wis. Stat. § 7.30(2) to ensure that bipartisan balance is maintained among the election officials present at any given time, according to the requirements for party representation.

Sec. 2-322. Tabulators.

Tabulators, if required, may be appointed pursuant to Wis. Stat. § 7.30(3).

Sec. 2-323. Notice of appointment and confirmation; compensation and tenure.

(a) *Notice of appointment and confirmation.* Within 5 days after appointment, the clerk shall notify each appointee of their appointment and confirmation thereof by the Village Board, informing each that they shall file an oath of office within ten days after the mailing of such notice.

(b) *Compensation and tenure.* The persons so appointed and confirmed as election officials shall receive as compensation such amounts as set from time to time by the Village Board, and shall hold office pursuant to Wis. Stat. § 7.30(6).

Sec. 2-324. Vacancies.

Vacancies in the offices of election officials shall be filled pursuant to Wis. Stat. § 7.30.

Sec. 2-325. Municipal canvass.

The municipal canvass for each election shall be conducted pursuant to Wis. Stat. § 7.53(1).

Secs. 2-326—2-350. Reserved.

Article VI. Public Records

State Law reference— Public records, Wis. Stat. § 19.21 et seq.

Sec. 2-351. 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:

Authority means any of the following village entities having custody of a village record: an office, elected officer, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.

Custodian means the officer, department head, division head, or employee of the village designated under section 2-353 or otherwise responsible by law to keep and preserve any village records or file, deposit or keep such records in his office, or is lawfully in possession or entitled to possession of such public records and who is required by this section to respond to requests for access to such records.

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

(Code 1982, § 1.30)
Cross reference— Definitions generally, § 1-2.
State law reference— Definitions, Wis. Stat. §§ 19.32, 19.33.

Sec. 2-352. Duty to maintain records.

(a) Except as provided under section 2-359, each officer and employee of the village shall safely keep and preserve all records received from his predecessor or other persons and required by law to be filed, deposited or kept in his office or which are in the lawful possession or control of an officer or employee or his deputies, or to the possession or control of which he or they may be lawfully entitled as such officers or employees.

(b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his successor all records then in his custody and the successor shall receipt therefor to the officer or employee, who shall file such receipt with the clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

(Code 1982, § 1.31)
State law reference— Custody and delivery of public records, Wis. Stat. § 19.21.

Sec. 2-353. Legal custodian.

(a) Each elected officer is the legal custodian of his records and the records of his office, but may designate a staff employee to act as legal custodian.

(b) Unless otherwise prohibited by law, the clerk or the clerk's designee shall act as legal custodian for the village board and any committees, commissions, boards or other authorities created by ordinance or resolution of the board.

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

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

(e) The legal custodian shall have full legal power to render decisions and carry out the duties of an authority under Wis. Stat. § 19.23, and this section. The designation of a legal custodian does not affect the powers and duties of an authority under this section.

(Code 1982, § 1.32)
State law reference— Custody and delivery of records, legal custodian, Wis. Stat. § 19.23.

Sec. 2-354. Public access to records.

(a) Except as provided in section 2-358, any person has a right to inspect, make or receive a copy of any record as provided in Wis. Stat. § 19.35(1).

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

(c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least 48 hours' advance notice of intent to inspect or copy.

(d) Requester inspection and copying facilities shall be comparable to those available to village employees.

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

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

(1) The cost of photocopying shall be as established from time to time by the village board, but shall not exceed actual, necessary and direct costs of reproduction.

(2) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.

(3) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audiotapes or videotapes, shall be charged.

(4) If mailing or shipping is necessary, the actual cost thereof shall also be charged.

(5) There shall be no charge for locating a record unless the actual cost therefor exceeds $50.00, in which case the actual cost shall be determined by the legal custodian and billed to the requester.

(6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds $5.00. If the requester is a prisoner, as defined in Wis. Stat. § 301.01(2), or is a person confined in a federal correctional institution located in this state, or he has failed to pay any fee that was imposed by the authority for a request made previously by that requester, the authority may require prepayment both of the amount owed for the previous request and the amount owed for the current request.

(Code 1982, § 1.33(1)—(5), (6)(a)—(f))
State law reference— Public access to village records, Wis. Stat. § 19.35(3).

Sec. 2-355. Access to records by elected and appointed officers; reduction or waiver of charges.

(a) Elected and appointed officers of the village shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.

(b) An authority may provide copies of a record without charge or at a reduced charge where he determines that waiver or reduction of the fee is in the public interest.

(Code 1982, § 1.33(6)(g), (h))

Sec. 2-356. Notice of method for obtaining information and records.

Pursuant to Wis. Stat. § 19.34 and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This section does not apply to members of the village board. (Code 1982, § 1.33(7))
State law reference— Procedure, Wis. Stat. § 19.34.

Sec. 2-357. Access procedures.

(a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Wis. Stat. § 19.37. Except as provided in this section, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under section 2-354(f)(6). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

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

(c) A request for a record may be denied as provided in section 2-358. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Wis. Stat. § 19.37(1) or upon application to the attorney general or a district attorney.

(Code 1982, § 1.34)
State law reference— Access to records, Wis. Stat. § 19.35.

Sec. 2-358. Limitations on right to access.

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

(1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law.

(2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state.

(3) The village shall make available for inspection and copying under Wis. Stat. § 19.35(1) any record produced or collected under a contract entered into by the village with a person other than an authority to the same extent as if the record were maintained by the village. This subsection does not apply to the inspection or copying of a record under Wis. Stat. § 19.35(1)(am).

(4) Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection as provided by law.

(5) A record or any portion of a record containing information qualifying as a common law trade secret.

(6) Records containing plans or specifications for any state-owned or state-leased building, structure or facility or any proposed state-owned or state-leased building, structure or facility are not subject to the right of inspection or copying under except as the department of administration otherwise provides by rule.

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

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

(1) Records obtained under official pledges of confidentiality, which were necessary and given in order to obtain the information contained in them.

(2) Records of current deliberations after a quasi-judicial hearing.

(3) Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of any village officer or employee, or the investigation of charges against a village officer or employee, unless such officer or employee consents to such disclosure.

(4) Records concerning current strategy for crime detection or prevention.

(5) Records of current deliberations or negotiations on the purchase of village property, investing of village funds or other village business whenever competitive or bargaining reasons require nondisclosure.

(6) Financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.

(7) Communications between legal counsel for the village and any officer, agent or employee of the village, when advice is being rendered concerning strategy with respect to current litigation in which the village or any of its officers,

agents or employees is or is likely to become involved, or communications which are privileged under Wis. Stat. § 905.03.

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

(Code 1982, § 1.35)

State law reference— Exempt records, Wis. Stat. §§ 19.35, 19.36.

Sec. 2-359. Retention of public records.

(a) *General Records Schedule Adopted.* The Village hereby adopts, by reference, the Wisconsin Municipal Records Schedule, pertaining to the retention and destruction of public records, and approved by the State of Wisconsin Public Records Board on August 27, 2018. A copy of the Wisconsin Municipal Records Schedule (attached as Exhibit A) will be kept on file in the Village Clerk's office, located at 925 15th Avenue, Union Grove, Wisconsin 53182, and made available for public viewing during regular office hours, 8:00 a.m. to 4:30 p.m., Monday through Friday.

(b) *Other Records.* In the event the Village creates a record not contemplated by the Wisconsin Municipal Records Schedule, the Village may, subject to the State of Wisconsin Public Records Board's prior approval, either adopt an applicable records retention schedule set forth by the State of Wisconsin Public Records Board, if available, or create its own retention schedule pertaining to the record. Otherwise, the retention period for such records shall be seven years.

(c) *Repeal.* All ordinances, or portions thereof, and resolutions, or portions thereof, in conflict with any portion of the Wisconsin Municipal Records Schedule are hereby repealed. Any approved Village retention schedule, or portion thereof, for any record not contemplated by the Wisconsin Municipal Records Schedule shall remain in full force and effect.

(d) *Effective Date.* This ordinance is effective as of the Village's receipt of the final Wisconsin Public Records Board and Wisconsin Historical Society authorization of Form PRB-002, entitled "Notification of General Records Schedule Adoption.

State law reference— Destruction of records, Wis. Stat. § 19.35(5).

Sec. 2-360. Destruction of obsolete public records.

(a) *Destruction.* The clerk may destroy records of which he is the legal custodian, and which are considered obsolete, pursuant to the Wisconsin Municipal Records Schedule approved by the State of Wisconsin Public Records Board on August 27,

2018, applicable statute, state administrative regulation, or Section 2-359 b) of this Code

(b) *Interpretation.* This section shall not be construed to authorize the destruction of any public record after a lesser period than that prescribed in the Wisconsin Municipal Records Schedule approved by the State of Wisconsin Public Records Board on August 27, 2018, applicable statute, state administrative regulation, or Section 2-359 b) of this Code.

(c) *Notice required.* The clerk shall give at least 60 days' notice to the Wisconsin Historical Society prior to the destruction of any public record for which notification is required pursuant to the Wisconsin Municipal Records Schedule approved by the State of Wisconsin Public Records Board on August 27, 2018, applicable statute, or state administrative regulation.

(d) *Destruction of taped recordings.* Notwithstanding any other provision of this section, taped recordings of a meeting of a governmental body, as defined in Wis. Stat. § 19.82(1), made for the purpose of making minutes of the meeting, may be destroyed in accordance with Wis. Stat. § 19.21(7).(Code 1982, § 1.36)

State law reference— Destruction of records, Wis. Stat. § 19.35(5).

Secs. 2-361 —2-390. Reserved.

Article VII. Administrative Review Procedure

State Law reference— Municipal administrative procedure, Wis. Stat. ch. 68.

Sec. 2-391. Review of administrative determinations.

Any person aggrieved by an administrative determination of the Village Board or a board, commission, committee, agency, officer or employee of the village or an agent acting on its behalf may have such determination reviewed as provided in this article. The remedies under this article shall not be exclusive, but an election to proceed under this article shall be an election of remedies.
(Code 1982, § 24.01)

Sec. 2-392. Determinations reviewable.

The following determinations are reviewable under this article:

(1) The grant or denial in whole or in part, after application, of an initial permit, license, right, privilege or authority, except a fermented malt beverage or intoxicating liquor license.

(2) The suspension, revocation or nonrenewal of an existing permit, license, right, privilege or authority, except as provided in section 2-393(4).

(3) The denial of a grant of money or other thing of value under a statute or ordinance prescribing conditions of eligibility for such grant.

(4) The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.

(Code 1982, § 24.02)

Sec. 2-393. Determinations not subject to review.

The following determinations are not reviewable under this article:

(1) A legislative enactment is an ordinance, resolution or adopted motion of the Village Board.

(2) Any action subject to administrative or judicial review procedures under state statutes or other provisions of this Code.

(3) The grant, denial, suspension or revocation of a fermented malt beverage license or intoxicating liquor license under Wis. Stat. ch. 125.

(4) Judgments and orders of a court.

(5) Determinations made during village labor negotiations.

(6) Determinations subject to grievance, arbitration or other procedures provided in collective bargaining agreements.

(7) Any action or determination which does not involve the constitutionally protected right of a specific person to due process in connection with the action or determination.

(Code 1982, § 24.03)

Sec. 2-394. Municipal authority defined.

The term "municipal authority" includes the Village Board, commission, committee, agency, officer, employee or agent of the village making a determination under section 2-391, and every person, committee or agency of the village authorized to make an independent review under section 2-398(b).

(Code 1982, § 24.04)

Cross reference— Definitions generally, § 1-2.

Sec. 2-395. Persons aggrieved.

A person aggrieved includes any individual, partnership, corporation, association, public or private organization, and any officer, department, board, commission or agency of the village, whose rights, duties or privileges is adversely affected by a determination of a municipal authority. No department, board, commission, agency, officer or employee of the village who is aggrieved may initiate review under this article of a determination of any other department,

board, commission, agency, officer or employee of the village, but may respond or intervene in a review proceeding under this article initiated by another.
(Code 1982, § 24.05)

Sec. 2-396. Reducing determination to writing.

If a determination subject to this article is made orally or, if in writing, does not state the reasons therefor, the municipal authority making such determination shall, upon written request of any person aggrieved by such determination made within ten days of notice of such determination, reduce the determination and the reasons therefor to writing and mail or deliver such determination and reasons to the person making the request. The determination shall be dated and shall advise such person of his right to have such determination reviewed, shall advise that such review may be taken within 30 days and shall name the office or person to whom a request for review shall be addressed. (Code 1982, § 24.06)

Sec. 2-397. Request for review of determination.

Any person aggrieved may have a written or oral determination reviewed by written request mailed or delivered to the municipal authority which made such determination within 30 days of notice to such person of such determination. The request for review shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed. If the person aggrieved is seeking a modification or waiver from any requirement of an ordinance pursuant to section 2-404, the person shall provide the information required under section 2-404(a)(2). A request for review shall be made to the officer, employee, agent, agency, committee, board, commission or body who made the determination; but failure to make such request to the proper party shall not preclude the person aggrieved from review unless such failure has caused prejudice to the municipal authority.
(Code 1982, § 24.07)

Sec. 2-398. Review of determination.

(a) *Initial determination.* If a request for review is made under section 2-397, the determination to be reviewed shall be termed an initial determination.

(b) *Who shall make review.* A review under this section may be made by the officer, employee, agent, agency, committee, board, commission or body who made the initial determination.

(c) *When to make review.* The municipal authority shall review the initial determination within 15 days of receipt of a request for review. The time for review may be extended by agreement with the person aggrieved.

(d) *Right to present evidence and argument.* The person aggrieved may file with his request for review or within the time agreed with the municipal authority written evidence and argument in support of his position with respect to the initial determination.

(e) *Decision on review.* The municipal authority may affirm, reverse or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the municipal authority's decision on review, which shall state the reasons for such decision. The decision shall advise the person aggrieved of his right to appeal the decision, shall advise that the appeal may be taken within 30 days and shall name the office or person with whom notice of appeal shall be filed. If a request has been made to grant a modification or waiver as part of a request for review of an initial determination, the person conducting the review shall conduct the same pursuant to ordinance. If it is determined that a modification or waiver may be appropriate, the employee, officer, agent, committee, or commission shall refer the matter to the Village Board and make a recommendation with respect to the request for modification and waiver.

(Code 1982, § 24.08)

Sec. 2-399. Administrative appeal.

(a) *From initial determination or decision on review.*

(1) If the person aggrieved had a hearing substantially in compliance with section 2-400 when the initial determination was made; he may elect to follow sections 2-396 through 2-398 but is not entitled to a further hearing under section 2-400 unless granted by the municipal authority. The aggrieved person may, however, seek judicial review under section 2-402.

(2) If the person aggrieved did not have a hearing substantially in compliance with section 2-400 when the initial determination was made; he shall follow sections 2-396 through 2-398 and may appeal under this section from the decision made under section 2-398.

(b) *Time within which appeal may be taken under this section.* Appeal from a decision on review under 2-398 may be taken within 30 days of notice of such decision.

(c) *How appeal may be taken.* An appeal under this section may be taken by filing with or mailing to the clerk a written notice of appeal.

(Code 1982, § 24.09)

Sec. 2-400. Hearing on administrative appeal.

(a) *Time of hearing.* The village shall provide the appellant a hearing on an appeal under section 2-399 within 30 days of receipt of the notice of appeal and shall serve the appellant with notice of such hearing by mail or personal service at least ten days before such hearing.

(b) *Conduct of hearing.* At the hearing, the appellant and the municipal authority may be represented by counsel and may present evidence and call and examine witnesses and cross examine witnesses of the other party. The person conducting the hearing shall swear such witnesses. The Village President shall appoint, without confirmation, an impartial decision-maker, who may be an officer, committee, board or commission of the village or the Village Board who did not participate in making or reviewing the initial determination, who shall make the decision on administrative appeal and who

may issue subpoenas. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the Village President to conduct the hearing and report to the decision-maker.

(c) *Record of hearing.* The person conducting the hearing or a person employed for the purpose of making a record of the hearing shall take notes of the testimony and shall mark and preserve all exhibits. The person conducting the hearing may, and upon request of the appellant shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the village.

(d) *Hearing on initial determination.* Where substantial existing rights are affected by an initial determination, the municipal authority making such determination shall, when practicable, give any person directly affected an opportunity to be heard in accordance with this section before making such determination. (Code 1982, § 24.10)

Sec. 2-401. Final determination.

(a) Within 20 days of completion of the hearing conducted under section 2-400 and the filing of briefs, if any, the decision-maker shall mail or deliver to the appellant its written determination, stating the reasons therefor and, if applicable, including any approval of a modification or waiver of an ordinance or any portion of it pursuant to section 2-404. Such determination shall be a final determination.

(b) A determination following a hearing substantially meeting the requirements of section 2-400, or a decision on review under section 2-398 following such hearing, shall be a final determination, judicial review of which may be obtained under section 2-402.

(Code 1982, § 24.11)

Sec. 2-402. Judicial review.

(a) Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within 30 days of receipt of the final determination.

(b) The record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the transcript at his expense. If the person seeking review establishes indigency to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the village; and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.

(Code 1982, § 24.12)

Sec. 2-403. Legislative review.

(a) Seeking review pursuant to this article does not preclude a person aggrieved from seeking relief to have the ordinance modified by the Village Board or any of its boards, commissions, committees or agencies which may have jurisdiction.

(b) If, in the course of legislative review under this section, a determination is modified, such modification and any evidence adduced before the Village Board, board, commission, committee or agency shall be made part of the record on review under section 2-402.

(c) The Village Board, board, commission, committee or agency conducting a legislative review under this section need not conduct the type of hearing required under section 2-400.

(Code 1982, § 24.13)

Sec. 2-404. Modification or Waiver

(a) **Authority; Application**

(1) **Authority.** Where, in the judgment of the Village Board, it would be inappropriate to apply literally the provisions of an ordinance because an exceptional circumstance exists, the Village Board may waive or modify any requirements to the extent deemed just and proper. Only the Village Board may grant a waiver or modification. If an employee, officer, agent, committee, or commission of the Village has been requested to grant a modification or waiver as part of a request for review of initial determination, the person conducting the clarification review shall conduct the same pursuant to ordinance. If it is determined that a modification or waiver may be appropriate, the employee, officer, agent, committee, or commission shall refer the matter to the Village Board and make a recommendation with respect to the request for modification and waiver.

(2) **Application.** Application for any such modification or waiver shall be made by the person aggrieved in writing as part of the request for review of initial determination, stating fully all facts relied upon in requesting the modification or waiver, and shall be supplemented with any additional data that may aid the Village Board in the analysis of the proposed modification or waiver. This application may be supplemented at any time during the review process.

(b) **Considerations.** The Village Board may consider the following factors, in addition to any other factors deemed relevant by the Village Board.

(1) Whether the request for a waiver or modification, if granted, would be consistent with the general intent of the ordinance.

(2) Whether the request for a waiver or modification, if granted, would be detrimental to the management and control of Village property, finances, highways, streets, navigable waters, and public service, or otherwise be detrimental to the health, safety, welfare and convenience of the public.

(3) Whether the request for waiver or modification, if granted, would benefit the person aggrieved in a way that is not consistent with the Village's interests.

(4) Whether, instead of granting the request for a waiver or modification, the ordinance itself should be changed to accommodate the kind of situation presented by the person aggrieved and therefor addressed under section 2-403, Legislative Review.

(5) Whether the conditions upon which the request for a modification or waiver is based are unique to the situation or property for which the modification or waiver is sought and are not applicable generally to other situations or property.

(c) **Conditions for Granting.** The Village Board shall not grant a modification or waiver to an ordinance unless it makes findings based upon the evidence presented to it in each specific case and based upon the consideration of the factors under section 2-404(b), that the granting of the modification or waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the Village. Any decision to grant a modification or waiver shall not be arbitrary, capricious, or prejudicial in nature.

(d) **Granting by the Village Board.**

(1) The Village Board, if it approves of the modification or waiver of an ordinance or any portion of it, shall do so only after a hearing under section 2-400, or in conducting a legislative review under section 2-403.

(2) Such relief shall be granted without detriment to the public good and without impairing the intent and purpose of the ordinance.

(3) A majority vote of the Village Board shall be required to grant any modification or waiver to an ordinance. The reasons why such modification or waiver was granted shall be entered as part of the record of the hearing.

(4) If the Village Board grants a modification or waiver, the Board may also order that the ordinance itself be changed to accommodate the kind of situation presented by the person aggrieved.

(e) **Past Non-Compliance Not Waived.** A waiver or modification that is granted pursuant to a written request as described in the section shall not waive any fines, forfeitures, or other penalties that may have accrued due to violations of the ordinance that took place prior to the date of administrative appeal, unless specifically stated otherwise in the decision of the Village Board.

Secs. 2-405—2-430. Reserved.

Article VIII. Municipal Court

Sec. 2-431. Created.

In accordance with Wis. Stat. § 755.01, there is created and established a joint municipal court to be designated as the Municipal Court for the Town of Dover and the Village of

Yorkville. The court shall have two branches, Branch 1-Dover and Branch 2-Yorkville. The court shall be presided over by an elected municipal judge, who shall serve for a four-year term, commencing May 1 of each odd-numbered year. The judge for the Town of Dover's existing municipal court shall serve as the judge for the joint court until the end of his current term of office. Thereafter, the electors of both municipalities shall be eligible to vote for the judge of the joint municipal court.
(Ord. No. 2004-03, § 1(1.19(1)), 9-27-2004; Ord. No. 2010-01, § 1, 12-27-2010)

Sec. 2-432. Maintenance and operation.

The municipal judge shall conduct court sessions in each branch's respective town/village hall at such times, as he shall determine, in consultation with the town/village clerk as to the availability of the town/village hall. Court sessions shall be held on the same day of the same week on a monthly basis, and at such other times that the municipal judge may designate. Except as otherwise provided by law, the procedure in municipal court shall be as set forth in Wis. Stat. ch. 800.
(Ord. No. 2004-03, § 1(1.19(2)), 9-27-2004)

Sec. 2-433. Expenses.

The Town of Dover and Village of Yorkville shall pay the reasonable expenses of the municipal court, as provided by intermunicipal agreement, and shall separately provide each branch with such support personnel as the village board deems necessary for the proper functioning of the court and each branch.
(Ord. No. 2004-03, § 1(1.19(3)), 9-27-2004)

Sec. 2-434. Jurisdiction.

(a) *Generally.* The municipal court shall have jurisdiction as provided in Wis. Stat. § 755.045 and Wis. Stat. § 755.05, and any amendments thereto.

(b) *Juveniles.* The provisions of Wis. Stat. §§ 48.19, 48.20, and Wis. Stat. §§ 938.343, 938.344 and 938.355, as incorporated in this article shall govern the operation of the municipal court and case disposition as such sections relate to juveniles who are found to be in violation of any of the town/village ordinances.

(Ord. No. 2004-03, § 1(1.19(4), (5)), 9-27-2004)

Sec. 2-435. Contempt.

(a) *Powers.* A municipal judge may punish for contempt, which is defined as:

(1) Misconduct in the presence of the court, which interferes with a court proceeding or with the administration of justice, or which impairs the respect due the court;

(2) Disobedience, resistance or obstruction of the authority, process or order of a court;

(3) Refusal as a witness to appear, be sworn or answer a question; or

(4) Refusal to produce a record, document or other object.

(b) *Procedure.* The municipal judge may hold a person in contempt following the procedure set forth in Wis. Stat. § 785.03.

(Ord. No. 2004-03, § 1(1.19(6), (7)), 9-27-2004)

Sec. 2-436. Penalties.

A municipal judge may impose forfeiture for contempt under section 2-435(b) in an amount not to exceed $50.00 or, upon nonpayment of the forfeiture and surcharges imposed under Wis. Stat. ch. 814, a jail sentence not to exceed seven days.

Chapters 3-5 RESERVED

Chapter 6

ANIMALS

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
	Article I. In General		
Sec. 6-1.	Penalties.		
Sec. 6-2.	Humane Officer.	2019-06 2023-16	11/25/19 11/13/23
Secs. 6-3. – 6-30.	Reserved.	2019-06	11/25/19
	Article II. Dogs		
	Division 1. Generally		
Sec. 6-31.	Dog running at large.		
Sec. 6-32.	Limitation on number of dogs.	01-2014	01/13/14
Sec. 6-33.	Barking dogs.	2021-13	12/13/21
Sec. 6-34.	Dognapping.	06-2014 2019-06	06/09/14 11/25/19
Secs. 6-35. – 6-50.	Reserved.		
	Division 2. Licenses		
Sec. 6-51.	Dog licenses.	06-2015 2023-16	07/13/15 11/13/23
Sec. 6-52.	Kennel license required.	01-2014 2021-13 2023-16	01/13/14 12/13/21 11/13/23
Secs. 6-53. – 6-80.	Reserved.		
	Article III. Care and Control		
	Division 1. Generally		
Sec. 6-81.	Neglected or abandoned animals; police powers.	06-2014 2019-06	06/09/14 11/25/19
Sec. 6-82.	Providing proper food and drink to confined animals.		
Sec. 6-83.	Providing proper shelter.		
Sec. 6-84.	Cruelty.		
Sec. 6-85.	Vehicle accidents.		
Sec. 6-86.	Care of horses.		
Secs. 6-87. – 6-110.	Reserved.		
Sec. 6-111.	Vaccination required.		
Sec. 6-112.	Report of biting incidents.	2021-13 2023-16	12/13/21 11/13/23
Secs. 6-113. – 6-140.	Reserved.		

Article IV. Potbellied Pigs

Sec. 6-141.	License required.		
Sec. 6-142.	License.	2023-16	11/13/23
Sec. 6-143.	License fee.	06-2015	07/13/15
		2023-16	11/13/23
Sec. 6-144.	Requirements.		
Sec. 6-145.	Exception.		
Secs. 6-146. – 6-170.	Reserved.		

Article V.
Prohibited Dangerous Animals

Sec. 6-171.	Definitions.	2019-05	08/12/19
Sec. 6-172.	Procedure for declaring a prohibited dangerous animal.	2019-05	08/12/19
Sec. 6-173.	Notice of determination of prohibited dangerous animal.	2019-05	08/12/19
Sec. 6-174.	Administrative review of a determination of prohibited dangerous animal.	2019-05	08/12/19
Sec. 6-175.	Harboring prohibited dangerous animals.	2019-05	08/12/19
Sec. 6-176.	Certain animals not to be declared dangerous.	2019-05	08/12/19
Sec. 6-177.	Display or exhibition prohibited; exceptions; keeping wild animal as pet prohibited.	2019-05	08/12/19
Sec. 6-178.	Temporary permit for care of infant native animal.	2019-05	08/12/19
Sec. 6-179.	Penalty.	2019-05	08/12/19

Article I. In General

Sec. 6-1. Penalties.

(a) Any person who violates the following sections shall, upon conviction, be subject to a forfeiture of not more than $250.00, together with the cost of prosecution, and upon default of payment be subject to further penalties, including imprisonment in the county jail, all in accordance with state statutes.

Code Section:	Subject:
6-31	Dog running at large
6-32	Limitation on number of dogs
6-33	Barking dogs
6-51, 6-52	Licenses, dog and kennel
6-85	Vehicle accidents
6-111	Rabies control
6-112	Reporting of biting incidents
6-171 – 5-175	Wild or vicious animals

(b) Any person who violates the following listed sections shall, upon conviction, be subject to a forfeiture of not more than $500.00, together with the cost of prosecution, and upon default of payment be subject to further penalties, including imprisonment in the county jail, all in accordance with state statutes.

Code Section:	Subject:
6-34	Dognapping
6-81	Animals, neglected or abandoned
6-82	Providing proper food and drink to confined animals
6-83	Providing proper shelter
6-84	Cruelty
6-86	Care of horses

(Code 1982, § 9.08(3))

Sec. 6-2. Humane Officer.

(a) *Purpose*. The purpose of this section is to establish the position of Humane Officer and authorize the Humane Officer to enforce this Chapter and issue citations for any violations within the Village of Yorkville.

(b) *Establishment, duties and powers of the Humane Officer.* The position of Humane Officer is hereby established. The Humane Officer shall have the powers and duties set forth in Wis. Stat. Chapter 173.

(c) *Appointment of the Humane Officer.* The Village Board shall appoint the Humane officer. The Humane Officer shall serve at the pleasure of the Village Board. The Village Clerk shall report the appointment and termination of the Humane Officer to the Department of Agriculture, Trade and Consumer Protection ("Department"). The Humane Officer shall have proper certification as defined by Wis. Stat. § 173.05. Failure of a Humane Officer to

obtain proper certification within the time periods required by the Department shall be grounds for termination of the appointment.

(d) *Jurisdiction.* The Humane Officer shall carry out his or her duties within the boundaries of the Village of Yorkville pursuant to Wis. Stat. § 173.03(3).

(e) *Abatement citation review.* Pursuant to Wis. Stat. §§ 173.03(2) and 173.11(3), the Village President is authorized to review and affirm, modify, or withdraw abatement orders issued by the Humane Officer.

Secs. 6-3. – 6-30. Reserved.

Article II. Dogs

Division 1. Generally

Sec. 6-31. Dog running at large.

No person owning or possessing any dog shall permit such animal to run at large. The term "run at large" means the presence of dog at any place except upon the premises of the owner, unless it is on a leash held by a person physically able to control the animal, or unless the animal is in an automobile of a person with the consent of the owner of dog.
(Code 1982, § 9.08(2)(a))

Sec. 6-32. Limitation on number of dogs.

No person shall own, harbor or keep in his/her possession more than three dogs over five months of age at any one time in the village, without holding a kennel license. In addition, no owner or occupant shall permit anyone to own, harbor or keep more than three dogs over five months of age within the village at any time without holding a kennel license.

Sec. 6-33. Barking dogs.

(a) *Prohibition.* It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps to the great discomfort of the peace and quiet of the neighborhood, or in such manner as to materially disturb or annoy persons in the neighborhood, who are of ordinary sensibilities.

(b) *Warning.* Any adult person, alone or together with other adults, may seek relief from animals which habitually disturb the peace, by contacting the health department or other person designated by the village, setting forth the specific date and approximate time the animal of a particular owner was habitually howling, barking, yelping and disturbing the peace. The code enforcement officer or other person designated by the village shall notify the owner or person having possession or control of the animal, in writing, of the alleged violation.

(c) *Form of complaint.* If the warning given to the person alleged to be keeping an animal as set forth in subsection (b) of this section is ineffective, then a verified complaint of at least two adults, not from the same family, may be presented to the code enforcement officer or other person designated by the village for commencement of prosecution to obtain compliance with this section. Such written petition shall contain the following:

(1) Name and address of complainant.

(2) Description of the animal and its location.

(3) Dates and times violations were noted.

(4) Date first reported to the health department or other person designated by the village.

(5) Statement that complainants would be willing to appear and testify in court.

(d) *Notice.* The code enforcement officer or other person designated by the village shall inform the owner or person possessing or controlling the animal that a complaint has been received and may cite such person for the violation if in the village's discretion prosecution is warranted.

(Code 1982, § 9.08(2)(c))
Cross reference— Noise, § 22-31 et seq.

Sec. 6-34. Dognapping.

No person may take the dog of another from one place to another without the owner's consent or cause such a dog to be confined or carried out of the Village or held for any purpose without the owner's consent. This section does not apply to the Humane Officer or humane society agents engaged in the exercise of their official duties, or as otherwise permitted in this chapter. (Code 1982, § 9.08(2)(k))

Secs. 6-35—6-50. Reserved.

Division 2. Licenses

State Law reference— Dog license, Wis. Stat. §§ 174.05—174.09.

Sec. 6-51. Dog licenses.

(a) *Generally.*

(1) A person who owns a dog, which is or will become five months of age or older during any license year, shall obtain a license for each such dog every license year

by making application to the clerk under the terms and conditions contained in this section.

(2) The dog license tax shall be paid according to the schedule of fees on file in the village clerk's office and may be revised by village board resolution.

(3) No dog license shall be issued unless the applicant presents a valid certificate of vaccination obtained in accordance with section 6-111.

(b) *License year.* The license year under this article commences on January 1 and ends on the following December 31.

(c) *Late fee.* The treasurer/finance director shall, in addition to the license tax provided for in this section, assess and collect a late fee as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution for every application for a license for a dog more than five months of age, unless such application is made prior to April 1 of any calendar year or unless such application is made within 30 days of acquiring ownership or a licensable dog, or if the owner failed to obtain a license on or before the dog reached a licensable age.

(Code 1982, § 9.08(1)(a)—(c); Ord. No. 2008-01, § 1, 12-22-2008)

Sec. 6-52. Kennel license required.

(a) No person shall maintain or operate a dog kennel in the village without obtaining a license as provided in this section. For the purpose of Article II, the term "kennel" means any location where more than three dogs over five months of age are kept. The application for a dog kennel license shall be filed in writing with the village clerk disclosing the name and address of the applicant, the location at which the proposed kennel is to be kept, the number of dogs proposed to be kept, a description of various facilities of the dog kennel, and such other information as the village board may require.

(b) The application for a kennel license shall be accompanied by an application/license fee paid according to the schedule of fees on file in the village clerk's office and as may be revised by village board resolution. Any person obtaining a kennel license must reapply for the kennel license on an annual basis.

(c) By the filing of such application, the applicant shall be deemed to have consented to an inspection, prior to the issuance of such license, by the village board, plan commission, a code enforcement officer or any other village officer for the purpose of determining whether or not such license should be granted. Prior to the issuance of a kennel license for premises not previously licensed by the village, the application shall be considered at a regular meeting of the village board and plan commission. Notice of the kennel license application and applicable village board and plan commission meeting shall be provided by the clerk by first class mail or hand-delivery to owners of properties adjacent to or within 300 feet of the property upon which the proposed kennel will be located. The village board may issue or deny a license in the exercise of its discretion, having regard to the effect of the establishment of such dog kennel upon the public health, safety and welfare. The village board may require proof of adequate insurance, and may impose additional

conditions on the issuance of a permit related to the exercise of its powers under Wis. Stat. § 61.34.

(d) No premises shall be licensed to allow use as a dog kennel if any of the buildings or enclosed yards or portions thereof are located closer than 500 feet to the nearest adjacent lot line. No kennel shall be located on less than 20 acres of land. All buildings and dog yards from the kennel shall be enclosed in a secure woven wire fence of not less than six feet in height. Every dog kennel shall be operated and maintained in a clean and sanitary condition so as not to endanger the health, comfort, safety and welfare of the dogs and public.

(e) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five months old kept by the owner or keeper under a kennel license, but this requirement does not apply to a dog during competition or training, to a dog securely confined indoors, to a dog while hunting or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a dog during competition or training, to a dog securely confined indoors, to a dog while hunting or to a dog securely confined in a fenced area. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is on leash or temporarily for the purpose of hunting, breeding, trial, training or competition.

(f) Any person seeking a kennel license on premises that does not fully comply with the above requirements may request a waiver or modification from the village board from said provision(s). However, before a waiver or modification may be considered by the village board, the applicant shall obtain the written consent of the owners of all properties adjacent to or within 300 feet of the property upon which the proposed kennel is to be located. In addition, the applicant shall be prepared to discuss the following factors that the village board may consider in deciding whether to grant the requested waiver or modification, in addition to any other factors deemed relevant by it:

(1) Whether the request for a waiver or modification, if granted, would be consistent with the general intent of the kennel license requirements.

(2) Whether the applicant is in full compliance with other applicable ordinances and agreements with the village.

(3) Whether, instead of granting the request for a waiver or modification, the ordinance itself should be changed to accommodate the kind of situation presented by the applicant.

(4) Whether the conditions upon which the request for a modification or waiver is based are unique to the situation or property for which the modification or waiver is sought and are not applicable generally to other situations or property.

(5) Whether the request for modification or waiver, if granted, would be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

Once a waiver or modification is granted by the village board, the applicant may apply for renewal kennel license for the same premises without having to appear again before the village board. However, the village board may modify or revoke a previously issued permit, waiver or modification when conditions imposed by the village board are not complied with or activities at the licensed premises require, in the judgment of the village board, additional scrutiny. Any such modification or revocation shall only take place after notice and an opportunity to be heard is given to the licensee.

(Code 1982, § 9.08(1)(d); Ord. No. 2008-01, § 2, 12-22-2008)

Secs. 6-53—6-80. Reserved.

Article III. Care And Control

State Law reference— Animals, Wis. Stat. ch. 95 and Wis. Stat. ch. 174.

Division 1. Generally

Sec. 6-81. Neglected or abandoned animals; police powers.

(a) No person may abandon any animal.

(b) The Humane Officer may remove, shelter and care for any animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.

(c) If the owner or custodian is unknown and cannot with reasonable effort be ascertained, or does not within five days after notice redeem the animal by paying the expenses incurred, the animal may be treated as a stray and dealt with as such.

(d) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery it shall be lawful for such officer to kill such animal.

(Code 1982, § 9.08(2)(e))
State law reference— Care and custody of animals, Wis. Stat. § 173.13 and Wis. Stat. § 173.15.

Sec. 6-82. Providing proper food and drink to confined animals.

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

(1) *Food.* The food shall be sufficient to maintain all animals in good health, free of contamination, wholesome and palatable.

(2) *Water.* Adequate water shall be provided at all times.

(Code 1982, § 9.08(2)(f))

Sec. 6-83. Providing proper shelter.

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.

(1) *Indoor standards.* Minimum indoor standards of shelter shall include:

a. *Ambient temperatures.* The ambient temperature shall be compatible with the health of the animal.

b. *Ventilation.* Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(2) *Outdoor standards.* Minimum outdoor standards of shelter shall include:

a. *Shelter from sunlight.* When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this subsection, the term "caged" does not include farm fencing used to confine farm animals.

b. *Shelter from inclement weather.*

1. *Animals generally.* Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

2. *Dogs.* If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.

(3) *Space standards.* Minimum space requirements for both indoor and outdoor enclosures shall include:

a. *Structural strength.* The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

b. *Space requirements.* Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(4) *Sanitation standards.* Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards. Such enclosures shall be free of standing water and mud.

(Code 1982, § 9.08(2)(g))

Sec. 6-84. Cruelty.

(a) *Cruelty generally.* No person shall willfully or maliciously inflict unnecessary or needless cruelty, torture, abuse or cruelly beat, strike or abuse an animal, or by any act, or omission or neglect cause or inflict any unnecessary or unjustifiable pain, suffering, injuries or death to any animal, whether such animal belongs to such person or to another, except that reasonable force may be employed to drive away vicious or trespassing animals. Any unwanted animals should be delivered to the humane society for proper disposal.

(b) *Use of poisonous and controlled substances.* No person may expose any domestic animal owned by another to any known poisonous substance, any controlled substance included in schedule I, II, III, IV or V of Wis. Stat. ch. 961 or any controlled substance analog of a controlled substance included in schedule I or II of Wis. Stat. ch. 961, whether mixed with meat or other food or not, so that the substance is liable to be eaten by the animal and for the purpose of harming the animal. This section shall not apply to poison used on one's own premises and designed for the purpose of rodent or pest extermination nor to the use of a controlled substance in bona fide experiments carried on for scientific research or in accepted veterinary practices.

(c) *Use of certain devices prohibited.* No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof, either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle burr, tack burr or like device, or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed, nails, tacks or other sharp points.

(d) *Shooting at caged or staked animals.* No person may instigate, promote, aid or abet, as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a manmade enclosure, regardless of size.

(e) *Leading an animal from a motor vehicle.* No person shall lead any animal upon a highway from a motor vehicle, or from a trailer or a semitrailer drawn by a motor vehicle.

(Code 1982, § 9.08(2)(h))
State law reference— Crimes against animals, Wis. Stat. ch. 951.

Sec. 6-85. Vehicle accidents.

The operator of any vehicle involved in an accident resulting in injury to or death of a dog, cat or other domestic animal which appears to be a pet shall immediately notify the police department or an animal control agency whose jurisdiction extends into the village.

(Code 1982, § 9.08(2)(l))
Cross reference— Traffic and vehicles, ch. 50.

Sec. 6-86. Care of horses.

(a) *Responsibility.* The owner of a horse shall be responsible at all times for the care and welfare of such horse.

(b) *Shade in pastures.* All horses kept in pastures without access to barn facilities during the months of April to October, inclusive, shall have access to an area shaded from direct sunlight.

(c) *Barns.* The stalls wherein horses are kept shall be kept reasonably clean. An adequate supply of bedding of straw or comparable material shall be kept in the stalls at all times.

(d) *Food and water.* Proper feed of an adequate amount and adequate water shall be provided to horses at all times. When the usual water supply becomes frozen, water shall be provided to horses twice a day in such amounts as will permit each horse to drink his fill.

(e) *Defects.* A horse adjudged by a law enforcement officer, or other person designated by the village board, to be sick, lame or injured shall not be used for work or recreation.

(Code 1982, § 9.08(2)(m))

Secs. 6-87—6-110. Reserved.

Sec. 6-111. Vaccination required.

(a) The owner of a dog shall have such animal vaccinated against rabies by a veterinarian within 30 days after the animal reaches four months of age and revaccinated within one year after the initial vaccination. The owner shall further have any such animal revaccinated against rabies by a veterinarian before the date any such immunization expires, as stated on the certificate of vaccination or, if no date is specified, within three years after the previous vaccination.

(b) Unless otherwise exempted in this chapter, it shall be unlawful to own, harbor or keep any dog which does not carry a vaccination.

(Code 1982, § 9.08(2)(i))

Sec. 6-112. Report of biting incidents.

(a) Anyone having knowledge or reason to believe that any animal in the village has bitten a person shall report within 24 hours, so far as is known, the name and address of the owner of the animal and circumstances of such bite. Such report shall be made to the clerk, who shall communicate this information to the sheriff's department or other applicable agency.

(b) Whenever any domesticated animal has bitten a person, it shall be confined in such place as the code enforcement officer, or other person designated by the village board, may direct and for such period of observation as in his judgment may be necessary, unless such animal is too vicious and dangerous to be impounded safely, in which case it may be killed and the head shipped to the state laboratory of hygiene for rabies examination.

(c) Whenever a wild animal has bitten a person, it shall be killed, avoiding damage to the head (brain) area, and shipped to the state laboratory of hygiene under refrigeration, but not frozen, for rabies examination.

(Code 1982, § 9.08(2)(j))

Secs. 6-113—6-140. Reserved.

Article IV. Potbellied Pigs

Sec. 6-141. License required.

No person shall own, harbor or keep a potbellied pig, also known as "Vietnamese pig," in the village unless he shall obtain a license for such animal as provided in this article.
(Code 1982, § 12.20A(1))

Sec. 6-142. License.

Any person who owns, harbors or keeps a potbellied pig in the village, which pig is five months of age or older, shall obtain a license for such pig by applying therefor to the clerk.
(Code 1982, § 12.20A(2))

Sec. 6-143. License fee.

Any applicant for a license for a potbellied pig shall pay an annual license fee as set forth in the schedule of fees on file in the clerk’s office and which may be revised by village board resolution.
(Code 1982, § 12.20A(3))

Sec. 6-144. Requirements.

(a) No license shall be issued under this article unless the applicant presents certification or other evidence that the potbellied pig has been spayed or neutered.

(b) No license shall be issued under this article unless the applicant presents certification or other evidence that the potbellied pig is not in excess of 22 inches in height nor weighs over 100 pounds.

(Code 1982, § 12.20A(4))

Sec. 6-145. Exception.

No license shall be required under this article as to potbellied pigs, which are raised as a part of an agricultural business or operation and for agricultural purposes on lands zoned for such purposes.

(Code 1982, § 12.20A(5))

Secs. 6-146—6-170. Reserved.

Article V. Prohibited Dangerous Animals

Sec. 6-171. Definitions.

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

Animal means any live, domestic, livestock, or wild vertebrate creature, or any reptile.

Bodily harm means bodily injury including, but not limited to, a laceration requiring stitches, any fracture of a bone, a concussion, a loss or fracture of a tooth or any temporary loss of consciousness, sight or hearing.

Caretaker means any person who, in the absence of the owner, temporarily harbors, shelters, keeps or is in charge of a dog, cat or any other domesticated bird or animal.

Domestic animal means any animal which normally can be considered tame and converted to a pet.

Enforcement officer includes any law enforcement office, the Code Enforcement Officer, and any other person(s) designated by the Village Board.

Livestock means an animal kept for use or profit on a farm or agricultural setting, including cows, pigs, goats, chickens, and horses.

Owner means any individual that has the right of property in an animal or who keeps, harbors, cares for, acts as its custodian or who knowingly permits an animal to remain on or about his or her premises or property.

Prohibited dangerous animal means any of the following:

(a) Any animal that, while off the owner or caretaker's property, has killed a domestic animal or livestock without provocation.

(b) Any animal that, without provocation, inflicts serious bodily harm on a person on public or private property.

(c) Any animal brought from another city, village, town or county that has been declared dangerous or vicious by that jurisdiction.

(d) Any dog that is subject to being destroyed under Wis. Stats. §174.02(3).

(e) Any animal trained, owned, or harbored for the purpose of animal fighting.

(f) Any animal that, without provocation, causes bodily harm to any domestic animal, livestock, or person twice.

Serious bodily harm means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.

Wild animal means any live monkey or ape, raccoon, skunk, fox, snake or other reptile, leopard, panther, tiger, lion, lynx or any other animal or any bird of prey which can normally be found in the wild state.

Sec. 6-172 Procedure for declaring a prohibited dangerous animal.

(a) Upon conducting an investigation of an incident involving an animal, an enforcement officer may issue an order declaring an animal to be a prohibited dangerous animal.

(b) The declaration shall include the following:

(1) Name and address of the owner or caretaker of the dog

(2) A description of the dog

(3) A police report of the incident

(4) A history of the animal

(5) An evaluation of the animal from a licensed animal behavior specialist

(c) The evaluation report of the animal shall be the responsibility of the owner or caretaker and they shall be responsible for any fee incurred for the report.

(d) If the owner or caretaker fails to have the animal evaluated within 10 days from an incident then the animal shall be declared a prohibited dangerous animal.

(e) After determining the animal is a prohibited dangerous animal the owner or caretaker shall have 15 days to remove the animal from the Village.

Sec. 6-173. Notice of determination of prohibited dangerous animal.

The enforcement officer shall send by regular mail to the owner or caretaker a copy of the declaration of a prohibited dangerous animal at the owner or caretaker's last known address.

Sec. 6-174. Administrative review of a determination of prohibited dangerous animal.

Whenever an owner or caretaker wishes to contest a determination of a prohibited dangerous animal, he or she may follow the administrative appeal process under Village Code of Ordinances Section 2-396 through Section 2-403.

Sec. 6-175. Harboring prohibited dangerous animals.

(a) *Prohibited dangerous animals regulated.*

(1) No person may harbor or keep a prohibited dangerous animal within the Village.

(2) The issuance of a citation for a violation of this section need not be predicated on a prior determination that an animal is a prohibited dangerous animal.

(b) *Euthanasia.* If the owner or caretaker of an animal that has been designated a prohibited dangerous animal and is unwilling or unable to comply with the regulations in accordance with this section, he or she may have the animal humanely euthanized by an animal shelter, the humane society or a licensed veterinarian. The costs and fees of euthanizing the animal shall be borne by and be the responsibility of the owner or caretaker.

Sec. 6-176. Certain animals not to be declared dangerous.

Notwithstanding the definition of a prohibited dangerous animal above:

(a) No animal may be declared dangerous if death, injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a trespass on the land or criminal trespass on the dwelling upon premises occupied by the owner of the animal; was teasing, tormenting, abusing or assaulting the animal; or was

committing or attempting to commit a crime or violating or attempting to violate an ordinance which protects persons or property.

(b) No animal may be declared dangerous if death, injury or damage was sustained by a domestic animal or livestock which, at the time such was sustained, was teasing, tormenting, abusing or assaulting the animal.

(c) No animal may be declared dangerous if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

(d) No animal may be declared dangerous for acts committed by the animal while being utilized by a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer.

Sec. 6-177. Display or exhibition prohibited; exceptions; keeping wild animal as pet prohibited.

No person shall keep or permit to be kept on his premises any wild or prohibited dangerous animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses. No person shall keep or permit to be kept any wild animal as a pet.

Sec. 6-178. Temporary permit for care of infant native animal.

The licensing authority may issue a temporary permit for the keeping, care and protection of any infant animal native to this area, which has been deemed to be homeless.

Sec. 6-179. Penalty.

(a) Any person not complying with any part of Article V above, shall be subject to penalties under Village Code of Ordinances Section 1-14.

(b) Whenever the Village commences and pursues an action for involuntary euthanization under the state statutes or any other authority, the Village Attorney shall seek and request all applicable statutory court costs, the costs and expenses of euthanization, and any extraordinary investigative expenses incurred during the pendency of the action if the owner or caretaker absconds with the animal or hinders or deters the location of the animal during the pendency of the action or during enforcement of any judgment.

Chapters 7—9 RESERVED

Chapter 10
BUILDING AND BUILDING REGULATIONS

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Article I. In General

Sec. 10-1. Penalties.

Except as otherwise provided herein, any person who shall violate any provision of this chapter, or any order, rule or regulation made under this chapter, upon conviction thereof, shall be subject to a penalty as provided in section 1-14.
(Code 1982, § 14.15)

Secs. 10-2—10-30. Reserved.

Article II. Administration

Cross reference— Administration, ch. 2.

Division 1. Generally

Secs. 10-31—10-50. Reserved.

Division 2. Department of Buildings

Sec. 10-51. Department established.

There is established a department which shall be known as the department of buildings, and which shall include an inspector or inspectors and such employees as the village board may from time to time provide to supervise the construction of buildings and permanent equipment of buildings.
(Code 1982, § 14.01(1))

Sec. 10-52. Appointment of inspectors.

The village board shall appoint the following inspectors. Each inspector shall serve for a term of one year or until his successor is appointed and qualified.

(1) Building inspector.

(2) Plumbing inspector.

(3) Electrical inspector.

(Code 1982, § 14.01(2))

Sec. 10-53. Compensation of inspectors.

Each inspector shall receive as compensation the fees as provided by resolution in this chapter. All supplies necessary for the office of inspector shall be furnished by the village.
(Code 1982, § 14.01(3))

Sec. 10-54. Deputy inspector.

In case of the absence or the inability of an inspector to act, the village board may appoint a deputy inspector who shall have the same powers as the inspector.
(Code 1982, § 14.01(4))
Cross reference— Officers and employees, § 2-111 et seq.

Sec. 10-55. Supervision.

Inspectors shall have the necessary ability to supervise the general construction of buildings and permanent equipment of buildings. The village board may at any time remove such inspector, inspectors or employees for inefficiency, neglect of duties or malfeasance in office upon due notice and hearing.
(Code 1982, § 14.01(5))

Sec. 10-56. Enforcement.

Inspectors shall have, except where otherwise provided in this chapter, the general management and control of all matters pertaining to the department of buildings, and shall enforce all state laws and ordinances and lawful orders relating to the construction, alteration, repair, removal and safety of buildings and other structures and permanent building equipment.
(Code 1982, § 14.01(6))

Sec. 10-57. Power of inspectors.

The inspectors shall have full power to pass upon any question arising under the provisions of this chapter relating to buildings, permanent equipment of buildings, seepage beds, septic tanks and wells subject to conditions contained in this chapter.
(Code 1982, § 14.01(7))

Sec. 10-58. Records and reports.

Each inspector shall keep a record of all applications for permits in a book for such purpose and regularly number each permit in the order of issuance and keep a record showing the number, description and size of all buildings erected during his term of office, indicating the kind of materials used and the cost of each building and the aggregate cost of all buildings of the various classes. Each inspector shall keep a record of all inspections made and of all removal and condemnation of buildings and a record of all fees collected by him. Each inspector shall make an annual report to the village board on the matters outlined in this section.
(Code 1982, § 14.01(8))

Sec. 10-59. Authority of inspectors.

The inspectors shall have the power and authority at all reasonable times for any proper purpose to enter upon any public or private premises and make inspection thereof and to require the production of the permit for any building, electrical or plumbing work or the required license therefor. Any person interfering with an inspector while in the performance of the duties prescribed in this chapter shall be subject to a penalty as provided in section 1-14.
(Code 1982, § 14.01(9))

Secs. 10-60—10-90. Reserved.

Article III. Building Code

State Law reference— State building code, Wis. Stats. § 101.60 et seq.; state plumbing code, Wis. Stats. Ch. 145.

Division 1. Generally

Sec. 10-91. Compliance with state building code.

(a) All construction work in the village shall be done in accordance with the requirements of the building code issued by the department of commerce and the requirements set forth in this chapter.

(b) Plumbing, piping and fitting installed in any building erected in the village shall comply with the state plumbing code.

(c) Electric wiring, including electric service wiring, fixtures and outlets installed in or in connection with any building erected in the village shall be done in accordance with the state electric wiring code and the further regulations and requirements of the building code issued by the department of commerce.

(Code 1982, § 14.02)

Sec. 10-92. Title.

This article shall be known as the "Building, Plumbing and Electrical Code of the Village of Yorkville" and shall be referred to in this chapter as "this code."
(Code 1982, § 14.03(1))

Sec. 10-93. Purpose.

In order to promote the public health, safety, morals and general welfare of the citizens of the village there are provided by this code certain minimum standards, provisions and requirements for the safe and stable design, methods of construction and uses of materials in buildings and structures hereafter erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished and to regulate the equipment, maintenance, use and occupancy of all buildings or structures, except as excepted in this article.
(Code 1982, § 14.03(2))

Sec. 10-94. Scope.

This code shall apply to any buildings or structures hereafter erected in the village and they shall conform to all requirements of this code, except that this code shall not apply to farm out-buildings erected or structurally altered on any farm which comprises an area of at least 20 acres. If the land comprising the farm is less than 20 acres, the provisions of this code shall apply.
(Code 1982, § 14.03(3))

Sec. 10-95. Provisions supplemental; conflicts.

The provisions of this code shall supplement all laws of the state relating to buildings. Where requirements of the state code and the provisions of this code conflict, the requirements of the state code shall govern.
(Code 1982, § 14.03(4))

Sec. 10-96. Application to existing buildings, major alterations and repairs.

The following specified requirements shall apply to existing buildings, except those excluded in the preceding section, which for any reason do not conform to the requirements of this code for new buildings.

(1) *Alterations or repairs.* If alterations or repairs in excess of 50 percent of the value of an existing building are made to any existing building within any period of 12 months, the entire building shall be made to conform with the requirements given in this article for new buildings; provided, however, that any existing building which for any reason requires repairs in excess of 50 percent of the value thereof, not deducting from such value any loss caused by fire or any other reason, shall be made to conform to the requirements of this code for new buildings or shall be entirely demolished.

(2) *Changed use.* If the existing use or occupancy of an existing building is changed to a use or occupancy which would not be permitted in a similar building hereafter

erected, the entire building shall conform with the requirements given in this article for new buildings; provided, however, that if the use or occupancy of only a portion or portions of an existing building is changed, only such portion or portions of the building need be made to comply with such requirements. The building inspector is hereby given authority to approve any change in the use or occupancy of any existing building, even though such building is not made to fully conform to the requirements of this code, when it is obvious that such change in the use or occupancy of the existing building shall not extend or increase any nonconformity or hazards of the building.

(3) *Minor alterations and repairs.* Every alteration or repair to any structural part or portion of an existing building shall, when deemed necessary in the opinion of the building inspector, be made to conform to the requirements of this code for new buildings. Minor alterations, repairs and changes not covered by the preceding subsections (1) and (2) of this section may be made with the same materials of which the building is constructed; provided not more than 25 percent of the roof covering of any building shall be replaced in any one period of 12 months unless the entire roof covering is made to conform with the requirements of this code for new buildings.

(Code 1982, § 14.03(5))

Sec. 10-97. Maintenance.

(a) The requirements of this code covering the maintenance of buildings shall apply to all buildings and structures now existing or hereafter erected. All buildings or structures and parts thereof shall be maintained in a safe condition and all devices or safeguards which are required by this code at the erection, alteration or repair of any building shall be maintained in good working order.

(b) This chapter shall not be construed as permitting the removal or nonmaintenance of any existing devices or safeguards unless authorized in writing by the building inspector.

(Code 1982, § 14.03(6))

Sec. 10-98. Minimum floor areas and foundation requirements for dwellings.

Sections 28-88 and 55-1(a): 20-1020 of Exhibit A are incorporated herein by reference as though fully set forth.

(Code 1982, § 14.06)

Sec. 10-99. Violation and penalties.

(a) No person shall erect, construct, enlarge, alter, repair, move, demolish, convert, equip, use or occupy or maintain any building or structure in the village contrary to or in violation of any provision of this code or cause, permit or suffer such work to be done.

(b) The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the

provisions of this code. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid, except insofar as the work or use which it authorizes is lawful.

(c) The issuance of a permit upon plans and specifications shall not prevent the building inspector from thereafter requiring the correction of errors in such plans and specifications or from preventing building operations being carried on thereunder when in violation of this code or of any other ordinances of the village.

(d) Every permit issued by the building inspector under the provisions of this code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 60 days. Before such work can be recommenced, a new permit shall be first obtained and the fee therefor shall be the same amount as that required for the first permit. Any person who feels there are exceptional circumstances justifying consideration of a reduced fee may appeal this requirement to the Village Board. The appeal shall be governed by the procedures set forth in Chapter 2, Article VII.

(Code 1982, § 14.05(5))

Secs. 10-100—10-120. Reserved.

Division 2. Administration

Cross reference— Administration, ch. 2.

Sec. 10-121. Powers and duties of building inspector.

(a) The building inspector shall enforce all of the provisions of this code and for such purposes he shall have the powers of a police officer.

(b) The building inspector or his authorized representative may enter any building or premises for the purpose of inspection or to prevent violation of this code upon presentation of the proper credentials.

(c) Whenever any building work is being done contrary to the provisions of this code or is being done in an unsafe or dangerous manner, the building inspector may order the work stopped by notice in writing served on any persons engaged in doing or causing such work to be done and any such person shall immediately stop such work until authorized by the building inspector to proceed with the work.

(d) Whenever any building or portion thereof is being used or occupied contrary to the provisions of this code, the building inspector shall order use or occupancy discontinued and the building or portion thereof vacated by notice served on any person using or causing such use or occupancy to be continued and such person shall vacate such building or portion within ten days after receipt of such notice or make the building or portion thereof comply with the requirements of this code. However, in the event of an emergency, the provisions of subsection (e) of this section shall apply.

(e) Any building or portion thereof, including buildings or structures in process of erection, if found to be dangerous to persons or property or unsafe for the purpose for which it is being used or in danger from fire due to defects in construction, or dangerous for use because of insufficient means of egress, in case of fire, or which violates the provisions of this code due to the removal, decay, deterioration or the falling off of any thing, appliance, device or requirement originally required by this code, or which has become damaged by the elements of fire to an extent of 50 percent of its value, may be condemned by the building inspector. The building inspector shall serve notice in writing on the owner, reputed owner or person in charge of such building or premises, setting forth what shall be done to make such building safe. The person receiving such notice shall commence within 48 hours thereafter to make the changes, repairs or alterations set out in such notice and diligently proceed with such work or demolish the building. No such building shall be occupied or used for any purpose after the building inspector serves written notice of its unsafe or dangerous condition until his instructions have been complied with.

(f) If at the expiration of the time set forth in the first notice, the instructions as stated have not been complied with, a second notice shall be served personally upon the owner, agent or the person in possession, charge or control of such building or structure or part thereof, stating therein such precautionary measure as may be necessary or advisable to place such building or structure or part thereof in a safe condition. Should the necessary changes not be made within 30 days after the service of such second notice, the village board may order the building inspector to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the village board who shall cause the costs to be paid and levied as a lien against the property. Proper service of either such notice shall be personal service upon the owner of record if he is in village. If the owner of record is not in village, such service may be had upon any person accustomed to collect rents on the property in question who may be in village, and in the absence of such a person, upon the tenant of the premises. If such premises are vacant and the owner is not in village, such service shall be completed when the notice is sent by registered mail to the last known address of the owner. Whenever the owner, agent or tenant is a corporation, service may be upon the president, vice-president, secretary or treasurer or, in the absence of any of these, the local representative of such corporation.

(Code 1982, § 14.05(1))

Sec. 10-122. Alternate materials and types of construction.

(a) The provisions of this code are not intended to prevent the use of types of construction or materials offered as an alternative for the types of construction or materials required by this code, but such alternate types of construction or materials to be given consideration shall be offered for approval as specified in this chapter.

(b) Any person desiring to use types of construction or materials not specifically mentioned in this code shall file with the building inspector authentic proof in support of claims that may be made regarding the sufficiency of such types of construction and materials and request approval and permission for their use.

(Code 1982, § 14.05(2))

Sec. 10-123. Unsafe buildings.

Whenever the building inspector shall find that any building, structure or part thereof is dangerous to life, health or adjoining property by reason of bad condition, defective construction, overloaded floors, decay, lack of guards against fire, general dilapidation or other cause, he shall notify the owner or tenant thereof to cause the condition to be made safe or to be removed, as in the judgment of the building inspector may be necessary; and he shall also affix a notice of such order in a conspicuous place on the outside wall of the building and no person shall remove or deface such notice. The owner or tenant of such building or structure shall thereupon cause the building or structure to be made safe immediately or to be removed as ordered. If any such building is used for any purposes requiring a license, the building inspector may revoke such license until the building is made safe or removed to the satisfaction of the building inspector. Where the public safety requires immediate action, the building inspector shall enter upon the premises with such assistance as may be necessary and cause the building or structure to be made safe or to be removed and the expenses of such work may be recovered by the village in an action against the owner or tenant. The fire department shall give all reasonable assistance to the building inspector in such work. If the owner or tenant of any such building or structure is dissatisfied with the decision of the building inspector as to the unsafe character thereof, the question shall be referred to the village board whose decision shall be final.

(Code 1982, § 14.05(3))

Sec. 10-124. Appeals.

(a) Any person whose application for a building permit for the use of a new material or method of construction has been refused by the building inspector or who may consider that the provisions of this code do not cover the point raised or that any particular provision would cause a manifest injury to be done, may appeal to the village board by serving written notice on the building inspector in which it shall be stated that the applicant desiring to use the alternate materials or types of construction shall guarantee payment of all expenses for necessary tests made or ordered by the village board. Such notice shall be at once transmitted to the village board, which shall arrange for a hearing on the particular point raised.

(b) Such written notice shall be accompanied with the sum of as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution payable to the building inspector. If the appeal is denied, such fees shall be retained by the village. Otherwise, the fee shall be returned to the appellant.

(Code 1982, § 14.05(4))

Secs. 10-125—10-140. Reserved.

Division 3. Permits

Sec. 10-141. Application for permit.

(a) No person shall erect or construct any building or structure, nor add to, enlarge, move, improve, alter, convert, extend or demolish any building or structure, or cause such work to be done without first obtaining a permit therefor from the building inspector.

(b) Any person desiring a building permit as required by this code shall file with the building inspector an application therefor in writing on a blank form to be furnished for that purpose.

(c) Every such application for a permit shall describe the land upon which the proposed building or work is to be done, either by lot, block or tract or similar description that shall readily identify and definitely locate the proposed building or work.

(d) Every such application shall show the use or occupancy of all parts of the building and such other reasonable information as may be required by the building inspector.

(e) Copies of plans and specifications and a lot plan showing the location of the proposed building and every existing building thereon shall accompany every application for a permit and shall be filed in duplicate with the building inspector. The building inspector may authorize the issuance of a permit without plans or specifications for small or unimportant work. These plans shall be kept on file in the office of the building inspector until the completion of the building. The owner or contractor may have the plans returned to him any time thereafter for a period of two years from date of issuance of the permit. Plans not called for within two years shall be destroyed.

(f) Plans shall be drawn to scale upon substantial paper or cloth and the essential parts shall be drawn to a scale of not less than one-eighth inch to one foot.

(g) Plans and specifications shall be of sufficient clarity to indicate the nature and character of the work proposed and to show that the law shall be complied with. Computations, strain sheets, stress diagrams and other data necessary to show the correctness of the plans shall accompany the plans and specifications when required or requested by the building inspector.

(h) Any specifications in which general expressions are used to the effect that "work shall be done in accordance with the building code" or " to the satisfaction of the building inspector" shall be deemed imperfect and incomplete and every reference to this code shall be to the section or subsection applicable to the material to be used or to the method of construction proposed.

(Code 1982, § 14.04(1))

Sec. 10-142. Buildings permits.

(a) The application plans and specifications filed by an applicant for a permit shall be checked by the building inspector and if found to be in conformity with the requirements of this code

and all other laws or ordinances applicable thereto the building inspector shall, upon receipt of the required fee, issue a permit therefor.

(b) When the building inspector issues a permit he shall endorse in writing or stamp both sets of plans and specifications "Approved." One such approved set of plans and specifications shall be retained by the building inspector as a public record and one such approved set of plans and specifications shall be returned to the applicant, which set shall be kept on such building or work at all times during which the work authorized thereby is in progress and shall be open to inspection by public officers. Such approved plans and specifications shall not be changed, modified or altered without permission from the building inspector.

(c) Each inspector is empowered to refuse a permit or permits when the applicant has been guilty of continued or willful violation of the building code.

d) Every permit issued by the building inspector under the provisions of this chapter shall expire by limitation and become null and void if:

(1) The work authorized by such permit is not commenced within six months from the date of issuance. For the purpose of this section, when new construction is the principal improvement involved, commencement is considered to occur no earlier than the beginning of substantial excavation for the foundations, footings or base of the new construction, except where the new construction is to be added to an existing structure, in which case the commencement is the time of the beginning of substantial excavation or the time of the beginning of substantial preparation of the existing structure to receive the added new construction, whichever is earlier; or

(2) The work authorized by such permit on any new structure is not completed within two years from the date of issuance; or

(3) The work authorized by such permit on any existing structure and any alterations or additions thereto is not completed within one year from the date of issuance.

For good cause shown, not due to the fault of the permittee, the building inspector may extend the building permit one time for an additional period, not to exceed six months, after which time the permit shall be considered to have lapsed. After the expiration of the period of extension, and before such work can be commenced or recommenced after a building permit has lapsed, a new permit shall be first obtained and the fee therefor shall be half the amount as that required for the first permit. Any person who feels there are exceptional circumstances justifying consideration of a reduced fee may appeal this requirement to the Village Board. The appeal shall be governed by the procedures set forth in Chapter 2, Article VII."

(e) No person who has obtained a building permit for a building or structure in the village shall allow such building or structure to remain in an unfinished state for a period longer than six months from the time the building permit has lapsed under this section. Any person who has a building or structure in an unfinished state in the village as of the date of adoption of the ordinance from which this subsection is derived shall cause the building

or structure to be completed within six months of the adoption of the ordinance from which this subsection is derived, and if not, shall be in violation of this subsection. This subsection shall apply, inter alia, to a person who has been granted permission to occupy a building or structure prior to final completion. For the purposes of this subsection, the term "unfinished state" shall mean a condition not in compliance with the approved building plans or not in compliance with the requirements of the building code.

(Code 1982, § 14.04(2))

Sec. 10-143. Bond.

(a) Prior to the granting of any building permit for any new residential, commercial, industrial or institutional facilities or structures or for the remodeling of any such existing facilities or structures which in the judgment of the building inspector will require substantial equipment or materials, the applicant shall furnish a bond in the sum as provided in this section and as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution. Such bond shall be in the form of cash or a letter of credit from an institution and in a form acceptable to the village.

(b) Such bond shall guarantee:

(1) Any damage occurring during the period of construction to the public road or roads on which the property fronts, including the roadway ditches, shall be repaired and restored to the condition prior to such construction.

(2) All required culverts and all other required drainage structures or appurtenances are of the required size, gauge, class or length, are properly installed at the required elevations and locations and are in like-new and undamaged condition.

(3) All required ditches, swales, drain tiles, drainage easements and waterways located within the involved parcel or within the village road rights-of-way lying adjacent to the involved parcel are graded to the proper gradients and side slopes, lie at the required elevations and locations and are covered with healthy growing grass.

(4) All rubbish, debris and unused materials shall be removed from the premises.

(c) All such work shall be completed as above provided within 120 days after issuance of the occupancy permit with respect to such premises. If such work is not so completed within such 120-day period, the village may cause such work to be completed in accord with this section and may charge the bond for any such costs. The balance of such bond shall be refunded to the applicant. If the bond is inadequate to pay for all such costs, the applicant shall pay such amount to the village on demand. If the applicant fails to pay such amount, the village may impose a special charge against the property pursuant to Wis. Stats. § 66.0703.

(d) After an occupancy permit is issued by the village building inspector and the four requirements set forth in subsection (b) of this section have been met, the applicant may apply for the refund of the balance of the cash bond or the release of the letter of credit.

(e) The term "applicant" as used in this section shall be deemed to be the person, partnership or corporation who signs the application for a building permit. The applicant shall be responsible for the duties specified under this section. The applicant may not assign his rights or duties under this section.

(Code 1982, § 14.04(2a))

Sec. 10-144. Fees.

At the time the application for a building permit, or heating-ventilating-air-conditioning permit, or electrical permit or plumbing permit is filed, the applicant shall pay fees as set forth in the schedule of fees on file in the village clerk's office and may be revised by village board resolution.
(Code 1982, § 14.04(3); Ord. No. 2008-01, § 19, 12-22-2008)

Sec. 10-145. Street or road occupancy permit.

(a) Before placing any stone, brick, sand, dirt, gravel, cement, lumber, planks, boards or other machinery or any hoisting machine, building material, barrels or mortar box upon any sidewalk, street, road or public grounds within the village, a permit shall be first obtained from the building inspector by the party desiring to place such material, machinery, barrel or mortar box upon the sidewalk.

(b) No fee shall be charged for such permit for the first 15 days following the date of issuance but after the expiration of such 15 days a fee shall be charged as established by resolution of the village board from time to time.

(c) Such permit shall expire at the end of a reasonable length of time which shall be specified in the permit; upon good cause shown, the building inspector may extend any such permit from time to time as may be reasonably required upon written application made to the building inspector for that purpose.

(d) Such permit shall not authorize the use of more than one-third of the highway between curblines opposite the premises of the person for whom the proposed building permit is granted or opposite the premises for which such permit is requested and shall not authorize the placing of any such material or machinery within ten feet from the track of any railway within the village, except where the street or road or such portion of the highway is occupied by double track such portion may be occupied as the building inspector may determine can be occupied with safety to the public. No such permit shall be issued where the placing of any such material or machinery or other thing upon the street, road or public ground shall unreasonably interfere with the public safety and convenience or where there is sufficient room for such material or machinery on the same lot or premises which is accessible from any street, alley or road. No more than one-third of the highway between curblines shall in any event be occupied for the placing or storing of any such material, machinery or other thing and no part of the sidewalks, parkway or curb shall be utilized for the placing or storage of building materials.

(e) All materials placed upon any street, alley or road shall be piled in a compact form and in case of permanently improved streets or roads, there shall be placed a level plank floor under all brick, tile, stone or cement blocks. All accumulations of rubbish upon the

sidewalk, street, alley or road shall be cleaned up each day at the close of working hours and also on the expiration of the permit. If construction is completed before the permit expires, then on the completion of the work all material and rubbish of any kind shall be removed and the sidewalk, street, alley or road left in good condition, clean and in good repair.

(f) The persons to whom any such permit shall be granted shall cause such material or machinery placed in the street, alley or road to be properly guarded by day and each separate pile of material properly guarded by night, lighted by a red light in such manner as to warn all persons traveling upon the sidewalk, street, alley or road of the presence of such material or machinery.

(g) If any such material or machinery shall not be removed from the street, road, alley or public grounds within the time therein required, the building inspector shall cause such material or machinery to be removed and the cost thereof shall be charged against and collected from the owner of the premises for whose benefit such permit was issued and the person obtaining such permit shall be liable also for the penalty prescribed for a violation of the provisions of this chapter.

(h) Any material or machinery or other thing placed in a street, road, alley or public grounds shall be removed upon 24-hour notice given by the building inspector where such removal is necessary in order to repair, oil or otherwise improve such street, road, alley or public grounds or to lay water, sewer or other service pipes therein.

(i) Application for a permit to place material, machinery or other things connected with building purposes in a street, road, alley or public ground shall be in writing and shall describe the premises by lot, block, street and street number, if any, in front of which such material, machinery or other thing connected with building purposes is desired to be placed and shall specify the character of the material for which the permit is desired.

(j) Before a permit is granted, the applicant shall execute to the village and deliver to the building inspector a bond of undertaking in a sum as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution with surety or sureties to be approved by the village board conditioned to save the village harmless from all liability which may be incurred by the deposit or maintenance of such material, machinery or other things connected with building purposes in the street, road, alley or public ground by the applicant or by his contractors, servants, agents or employees, whether such material, machinery or other thing shall be placed within or beyond the limit specified by this chapter.

(Code 1982, § 14.04(4))

Sec. 10-146. Inspection and registered inspectors.

(a) The building inspector shall inspect or cause to be inspected at various intervals during the erection, construction, enlarging, alteration, repairing, moving, demolition, conversion, occupancy and underpinning, all buildings or structures referred to in this code and in the village and a final inspection shall be made of every building.

(b) No building construction, alteration, repair or demolition requiring a building permit shall be commenced until the permit holder or his agent shall have posted the building permit card in a conspicuous place on the front of the premises and in such position as to permit the building inspector to conveniently make the required entries thereon, respecting inspection of the work. This permit holder shall maintain this permit card in such position by the permit holder until the building inspector has issued the certificate of occupancy.

(Code 1982, § 14.04(5))

Sec. 10-147. Uniform address signs for houses and buildings.

(1) *Declaration of policy.* The village board finds that uniform address signs and the uniform location of such signage serves the health, safety, and welfare of the residents of the Village of Yorkville by providing an efficient means for locating properties in the event of a necessary sheriff, fire, or other emergency response, as well as serving the interests of the traveling public.

(2) *Uniform address signs required.* Uniform signs displaying a parcel's official address and meeting such specifications as are adopted by the board shall be installed on all improved parcels within the village. Such uniform address signs shall be obtained through the village building inspector and shall be installed by the village or its contractors. Except where the installation at such a location would be impossible or incompatible with the policy underlying uniform address signage, such uniform address signs shall be installed approximately fifteen feet to the right (as determined while facing the property from the road) of the driveway in the village's right-of-way, or at such other location as is designated by the village. In the event that multiple properties are serviced by a single driveway, the village shall install the uniform address signs for such properties in the manner it deems best suited to satisfy the policy underlying this section. After their installation, uniform address signs may not be removed or relocated without the written consent of the village, and each parcel owner shall be responsible for maintaining the parcel's uniform address sign in good and visible condition, including by removing any organic growth that would impede the sign's visibility from the road.

(3) *Installation of signs for new addresses.* At the time of application for a building permit for a new or previously unimproved parcel, the parcel owner shall apply to the village building inspector for a uniform address sign for such property. At the time of application for a uniform address sign, the building inspector shall collect from the applicant the address sign fee set by the board, reflecting the village's costs of acquiring and installing a new address sign on such parcel. The village shall thereafter install, in conformance with the requirements of subsection (2), a uniform address sign on the property.

(4) *Replacement of address signs.* Within 20 days after a uniform address sign is stolen, destroyed, or materially damaged (such determination, when in doubt, to be made by the village building inspector), the parcel owner shall apply for a replacement address sign with the village building inspector. The sign shall thereafter be replaced by the village at the parcel owner's expense. If the parcel owner fails to apply for a new sign within 20 days of the sign's removal or destruction, the condition shall constitute a public nuisance and shall be abated as provided in section 22-116.

(5) *Destruction of address signs.* It shall be unlawful for any person to remove or to intentionally damage, or to intentionally cause to be damaged, any uniform address sign installed under this section. Any person convicted of so doing shall be fined not less than $100.00, nor more than $500.00, plus court costs and assessments. Each address sign so damaged shall constitute a separate violation.

(Ord. No. 2006-04, § 1, 6-12-2006)

Secs. 10-148. Storage pods, storage containers, polystructures and polyshelters.

(a) *Applicability*. The permit requirements of this ordinance shall only apply to Storage Containers, Storage Pods, Polystructures and Polyshelters placed after August 30, 2024.

(b) *Definitions*.

(1) *Polystructure* and *Polyshelter* means a structure with a frame of steel or other material which is covered by plastic, polyurethane, vinyl, canvas, or other similar flexible sheeting material.

(2) *Storage Container* means a container fabricated for the purpose of transporting freight or goods on a truck, railroad or ship, including cargo containers, shipping containers, storage units, or other prefabricated storage structures, other than a yard maintenance building or shed, that are placed on private property and comply with all the requirements of this section and the zoning code, that can be or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building.

(3) *Storage Pod* means a box container constructed of wood, steel, or other similar material, other than a yard maintenance building or shed, such as “Portable On Demand Storage” also known as “PODS,” that can be or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building.

(c) *Location*. Storage pods, storage containers, polystructures and polyshelters shall be located in the rear and side yards only, except where 20-1115((b)(2) applies for properties with no defined rear or side yard. The above-listed structures shall comply with all Village of Yorkville zoning requirements including setbacks for accessory structures. The storage pod, storage container, polystructure or polyshelter shall not, at any time, be placed in the Village right-of-way.

(d) *No Human Habitation.* No storage pods, storage containers, polystructures and polyshelters shall be used for human habitation.

(e) *Delivery Timing*. No storage pod, storage container, polystructure, or polyshelter may be delivered between the hours of 6:00 p.m. and 7:30 a.m.

(f) *Maximum Size*. No storage pod, storage container, polystructure, or polyshelter shall exceed the following dimensions: 10 feet wide, 20 feet long, and 10 feet high.

(g) *Types of Uses.*

(1) *Temporary, permit not required.* For storage pods, storage containers, polystructures and polyshelters that will remain in place for less than three (3) months. No permit is required for storage structures that will be placed for less than three (3) months.

(2) *Temporary, permit required.* For storage pods, storage containers, polystructures and polyshelters that will remain in place for a period of time not less than three (3) months, but not longer than six (6) months. No person, firm, or corporation shall install or place any storage pod, storage container, polystructure, or polyshelter that will be in place for between three (3) and six (6) months without first obtaining a Temporary Storage Structure Permit from the Village Clerk. No storage container, polystructure, or polyshelter shall be in place for longer than 6 months, or the length of an extension granted by the Village Board under (g)(2)(b), below, whichever is longer.

a. *Temporary Storage Structure Permit requirements*. The owner of the property where the storage pod, storage container, polystructure, or polyshelter is to be placed shall submit a permit application to the Village, together with a fee established by the Village Board from time to time. A permit issued for this use shall only be valid for the location for which the permit has been issued.

b. *Expiration and extension*. The permit shall expire six (6) months after issuance. One extension of sixty (60) days may be granted upon petition to the Village Board. After that one (1) extension has been granted and expired, the structure is considered to be permanent and the permittee must obtain an Accessory Structure Permit and Building Permit under (3), below.

(3) *Permanent, permit required.* For storage containers that will remain in place for more than six (6) months. No storage pods, polystructure, or polyshelter shall be considered a permanent storage structure. No person, firm, or corporation shall install or place any storage container that will be in place for longer than six (6) months without first obtaining an Accessory Structure Permit per Sec. 20-1115 and a Building Permit under Sec. 10-141 of Village of Yorkville Municipal Code and adhering to the regulations in Chapter 10 and Secs. 20-1115 and 20-1008 of the Village of Yorkville Municipal Code. Permanent storage containers are allowed as an accessory use on parcels five (5) acres or greater in size located in A-2, A-3, A-4, and R-2 zoning districts.

(h) *Penalty and Violations*. Any person who is in violation of any provision within this section or a rule or regulation promulgated under this section shall be subject to a penalty as provided in § 1-14 of this Code.

Secs. 10-149.—10-180. Reserved.

Article IV. One- And Two-Family Dwelling Code

State Law reference— One- and two-family dwelling code, Wis. Stats. § 101.60 et seq.

Sec. 10-181. Purpose of article.

The purpose and intent of this article is to:

(1) Exercise jurisdiction over the construction and inspection of new one-family and two-family dwellings and additions to existing one-family and two-family dwellings.

(2) Provide plans review and on-site inspections of one-family and two-family dwellings by inspectors certified by the state department of commerce.

(3) Establish and collect fees to defray administrative and enforcement costs.

(4) Establish remedies and penalties for violations.

(5) Establish use of the state uniform building permit as prescribed by the state department of commerce.

(Code 1982, § 14.07(1))

Sec. 10-182. State uniform dwelling code adopted.

The Wisconsin Administrative Code provisions describing and defining regulations with respect to one-family and two-family dwellings in Wis. Admin. Code chs. SPS 320-325 are hereby adopted and by reference made a part of this article as if fully set forth herein. The Wisconsin Administrative Code provisions describing and defining regulations with respect to camping units in Wis. Admin. Code ch. SPS 327 are hereby adopted and by reference made a part of this article as if fully set forth herein. Any act required to be performed or prohibited by a Wisconsin Administrative Code provision incorporated herein by reference is required or prohibited by this article. Any further amendments, revisions or modifications of the Wisconsin Administrative Code provisions incorporated herein are intended to be made part of this article to secure uniform statewide regulation of one-family and two-family dwellings and camping units. A copy of these Wisconsin Administrative Code provisions and any future amendments shall be kept on file in the clerk's office.
(Code 1982, § 14.07(2))

Sec. 10-183. 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:

Addition means new construction performed on a dwelling which increases the outside dimensions of the dwelling.

Alteration means a substantial change or modification other than an addition or minor repair to a dwelling or systems involved within a dwelling.

Department means the state department of commerce.

Dwelling means any building, the initial construction of which is commenced on or after June 9, 1980, which contains one or two dwelling units, an existing structure or that part of an existing structure which is used or intended to be used as a one-family or two-family dwelling.

Dwelling code, uniform, means Wisconsin Administrative Code provisions, and any future amendments, revisions or modifications thereto, contained in the following chapters of the Wisconsin Administrative Code:

SPS 320, Administration and Enforcement
SPS 321, Construction Standards
SPS 322, Energy Conservation
SPS 323, Heating, Ventilating and Air Conditioning
SPS 324, Electrical Standards
SPS 325, Plumbing

Dwelling, one-family or two-family, means a building structure which contains one or two dwelling units, each intended to be used as a home, residence or sleeping place by an individual, or two or more individuals, maintaining a common household to the exclusion of all others.

Minor repair means repair performed for maintenance or replacement purposes on any existing one-family or two-family dwelling which does not affect room arrangement, light and ventilation, access to or efficiency of any exit stairways, or exits, fire protection or exterior aesthetic appearance, and which does not increase a given occupancy and use. No building permit is required for work to be performed, which is deemed minor repair.

(Code 1982, § 14.07(3))
Cross reference— Definitions generally, § 1-2.

Sec. 10-184. Method of enforcement.

For the purpose of administering and enforcing the provisions of this article and the uniform dwelling code, the village designates the office of the building inspector created under sections 2-112 through 2-114.
(Code 1982, § 14.07(4))

Sec. 10-185. Administration.

(a) *Building inspector.* The building inspector shall administer and enforce all provisions of this article and the uniform dwelling code. The building inspector shall be certified for inspection purposes by the department in each of the categories specified under Wis. Admin. Code § SPS 320.06 and by the state department of health and family services in the category of plumbing.

(b) *Subordinates.* The building inspector may appoint, as necessary, subordinates, which appointments shall be subject to confirmation by the village board. Any subordinate hired to inspect buildings shall be certified under Wis. Admin. Code Ch. 320 by the state department of safety and professional services.

(c) *Powers.* The building inspector, or an authorized certified agent, may, at all reasonable hours, enter upon any public or private premises for inspection purposes and may require the production of the permit for any building, plumbing, electrical or heating work. No person shall interfere with or refuse to permit access to any such premises to the building inspector or his agent while in the performance of his duties.

(d) *Records.* The building inspector shall perform all administrative tasks required by the state department of safety and professional services under the uniform dwelling code.

(Code 1982, § 14.07(5))

Sec. 10-186. Building permits.

(a) *Required.* No one-family or two-family dwelling of which initial construction shall be commenced after June 1, 1980, shall be built, enlarged, altered or repaired unless a building permit for that work shall first be obtained by the owner, or his agent, from the building inspector. Application for a building permit shall be made in writing upon that form, designated as the state uniform dwelling permit application, furnished by the state department of safety and professional services.

(b) *Repairs and additions.* No addition, alteration or repair to an existing one-family or two-family dwelling not deemed minor repair by the building inspector shall be undertaken unless a building permit for this work shall first be obtained by the owner, or his agent, from the inspector. No permit shall be required for remodeling within the confines of the existing foundation where the fair market value of the improvement does not exceed $2,000.00. A permit is required if the remodeling has a fair market value in excess of $2,000.00 or involves an addition to the premises, regardless of value.

(c) *Submission of plans.* The applicant shall submit two sets of plans for all new construction, or repairs or additions, to one-family and two-family dwellings at the time that the building permit application is filed.

(d) *Issuance.* If the building inspector finds that the proposed building, or repair or addition, complies with all village ordinances and the uniform dwelling code, the inspector shall officially approve the application and a building permit shall be subsequently issued to the applicant. The issued building permit shall be posted in a conspicuous place at the building site. A copy of any issued building permit shall be kept on file with the building inspector.

(Code 1982, § 14.07(6))

Sec. 10-187. Fees.

Before a building permit is issued, the owner or his agent shall pay to the building inspector the appropriate fees as set forth in section 10-144.

(Code 1982, § 14.07(7))

Sec. 10-188. Violation and penalties.

(a) No person shall erect, use, occupy or maintain any one-family or two-family dwelling in violation of any provision of this article or the uniform dwelling code, or cause to permit any such violation to be committed. Any person violating any of the provisions of this article shall, upon conviction, be subject to a penalty as provided in section 10-1.

(b) If an inspection reveals a noncompliance with this article or the uniform dwelling code, the building inspector shall notify the applicant and owner, in writing, of the violation to be corrected. All cited violations shall be corrected within 30 days after written notification unless an extension of time is granted pursuant to Wis. Admin. Code § Comm 20.10(1)(c).

(c) If, after written notification, the violation is not corrected within 30 days, a stop work order may be served on the owner or his representative and a copy thereof shall be posted at the construction site. Such stop work order shall not be removed except by written notice of the building inspector after satisfactory evidence has been supplied that the cited violation has been corrected.

(d) Each day each violation continues after the 30-day written notice period has run shall constitute a separate offense. Nothing in this article shall preclude the village from maintaining any appropriate action to prevent or remove a violation of any provision of this article or the uniform dwelling code.

(e) If any construction or work governed by the provisions of this article or the uniform dwelling code is commenced prior to the issuance of a permit, double fees shall be charged.

(Code 1982, § 14.07(8))

Sec. 10-189. Appeal to village board.

Any person feeling aggrieved by an order or a determination of the building inspector may appeal from such order or determination to the village board. The appeal shall be governed by the procedures set forth in chapter 2, article VII.

(Code 1982, § 14.07(9))

Sec. 10-190. Liability for damages.

This article shall not be construed as an assumption of liability by the village for damages because of injuries sustained or property destroyed by any defect in any dwelling or equipment.
(Code 1982, § 14.07(10))

Secs. 10-191—10-220. Reserved.

Article V. Electrical Code

Cross reference— Utilities, ch. 54.

Sec. 10-221. Compliance with state electrical.

The provisions of Chapter SPS 316 (Electrical) of the Administrative Code of the State of Wisconsin, as may be amended from time to time, are hereby adopted and, by reference, made a part of this chapter as if fully set forth herein. Any act required to be performed, or prohibited, by said Administrative Code Chapter is required and prohibited by this section as well. In the event of any conflict between any provision of this Chapter, and the Wisconsin Administrative Code, the Administrative Code provision shall control.

Sec. 10-222. Repealed.

Sec. 10-223. Inspection fees.

Fees for inspection of electric wiring or service shall be as follows:

(1) Each new service installed in a new building shall be $7.00.
(2) Each new service installed to replace an existing service or installed in an existing building not now having electrical service shall be $7.00.

(Code 1982, § 14.09(3))

Secs. 10-224—10-250. Reserved.

Article VI. Plumbing Code

State Law reference— Plumbing code, Wis. Stats. ch. 145

Sec. 10-251. State regulations adopted.

Wis. Stats. ch. 281, the State Plumbing Code, Wis. Admin. Code chs. Comm 81-86 are adopted and by reference made a part of this chapter with the same force and effect as though set out in full. Failure to comply with any of the provisions of such regulations shall constitute a violation of this chapter, punishable according to the penalties provided herein. A copy of the state plumbing code shall be on file in the offices of the plumbing inspector and the village clerk.
(Code 1982, § 14.10(1))

Sec. 10-252. Plumbing defined.

In this article, the term "plumbing" means and includes:

(1) All piping, fixtures, appliances, equipment, devices and appurtenances in connection with the water supply, water distribution and drainage systems, including hot water storage tanks, water softeners and water heaters connected with such water and drainage systems and the installation thereof.

(2) The construction, connection or installation of any drain or waste piping system from the outside or proposed outside foundation walls of any building to the mains or other sewerage system terminal within bounds of or beneath an area subject to easement for highway purposes, including private domestic sewage treatment and disposal systems and the alteration of any such systems, drains or waste piping.

(3) The water service piping from the outside or proposed outside foundation walls of any building to the main or other water utility service terminal within bounds of or beneath an area subject to easement for highway purposes and its connections.

(4) The water pressure systems other than municipal systems as provided in Wis. Stats. ch. 281.

(5) A plumbing and drainage system so designed and vent piping so installed as to keep the air within the system in free circulation and movement; to prevent with a margin of safety unequal air pressures of such force as might blow, siphon or affect trap seals or retard the discharge from plumbing fixtures or permit sewer air to escape into the building; to prohibit cross connection, contamination or pollution of the potable water supply and distribution systems; and to provide an adequate supply of water to properly serve, cleanse and operate all fixtures, equipment, appurtenances and appliances served by the plumbing system.

(Code 1982, § 14.10(2))

Cross reference— Definitions generally, § 1-2.

Sec. 10-253. Plumbing inspector.

(a) *Generally.* The plumbing inspector shall enforce all provisions of this chapter and all other state and village provisions relating to the construction, installation, alteration and repair of all plumbing within the village and shall make such inspections, perform such tests and issue such orders as may be necessary for such enforcement.

(b) *Authority to enter premises.*

(1) In the discharge of his duties, the plumbing inspector or his authorized agent may enter any building, upon presentation of the proper credentials, during reasonable hours for the purpose of inspection and may require the production of any permit or license required under this article. No person shall interfere with the plumbing inspector or his authorized agent while in the performance of his duties; and any person so interfering shall be in violation of this chapter and subject to a penalty as provided by section 1-14.

(2) If consent to entry to personal or real properties, which are not public buildings, or to portions of public buildings, which are not open to the public, for inspection purposes has been denied; the plumbing inspector shall obtain a special inspection warrant under Wis. Stats. § 66.0119.

(c) *Permits.* The plumbing inspector or his authorized agent shall prepare suitable forms for permit applications and permits, shall take applications and issue to qualified applicants permits as required for all work contemplated by this chapter and shall maintain suitable records of the permits issued. The plumbing inspector shall weekly submit permit fees collected by his office to the village clerk.

(d) *Records and reports.*

(1) *To the village board.* The plumbing inspector shall keep in his office a daily record of all the transactions of his office, including permits issued and fees received, and shall make such reports thereon to the village board as it may require.

(2) *To the department of safety and professional services.* The plumbing inspector shall make such reports to the state department of safety and professional services as are required under Wis. Stats. § 145.04(3).

(3) *Record of special locations.* The plumbing inspector shall keep a record of all sewer and water connections and shall make maps showing the locations of such sewer and water connections and the positions of all house drains, connections, junctions and other data necessary for the efficient operation of his office.

(e) *Stop work orders.* The plumbing inspector may order work stopped on the construction, installation, alteration or repair of plumbing when such work is being done in violation of this chapter. Work so stopped shall not be resumed except with written permission of the plumbing inspector, provided if the stop work order is an oral one, it shall be followed by a written order within a reasonable period of time.

(Code 1982, § 14.10(3))

Sec. 10-254. Plumbing permits.

(a) *Required.* No work contemplated by this chapter shall be started until a permit therefor has been obtained from the plumbing inspector or his authorized agent, provided no permit shall be required for minor repairs to faucets or the removal of stoppages in soil and waste pipes.

(b) *Application.* The application for a plumbing permit shall be in writing upon forms which the plumbing inspector shall provide and shall include the name of the owner and the description of the property on which the work is to be done, along with such pertinent information as the plumbing inspector may require, and shall state that the property owner and the applicant will be bound by and subject to the provisions of this chapter.

(c) *Issuance, term, suspension and revocation.* When the plumbing inspector is satisfied that the work proposed by the applicant can be done in conformity with the provisions of this chapter, and after the appropriate fees have been paid to him, he shall issue the permit. Such permit shall be good for the continuous performance of the work named thereon. A permit shall automatically expire when work ceases for a period of 60 days without good and reasonable cause for the cessation of such work and shall automatically expire on completion of the work for which it was issued; provided the plumbing inspector may, upon notice, suspend or revoke such permit for violation of the provisions of this chapter.

(d) *Restrictions on issuance.*

(1) No plumbing permit shall be issued to any person who is in violation of this chapter until such violation has been corrected.

(2) No plumbing permit shall be issued to any person against whom an order issued by the plumbing inspector is pending, provided this restriction may be waived by the plumbing inspector.

(e) *Appeals for failure to issue, suspension and revocation.* Any person directly interested who is aggrieved by the decision of the plumbing inspector to refuse to issue a permit or to suspend or revoke such permit or to order work stopped under section 10-253(e) may obtain review of such determination under chapter 2, article VII.

(f) *Fees.* The fees as established from time to time by resolution of the village board shall be paid to the plumbing inspector before the plumbing permit is issued. If plumbing work is begun before the permit has been obtained, double the fees shall be charged.

(Code 1982, § 14.10(4))

Sec. 10-255. Plumbers to be licensed.

All plumbing work shall be done only by a plumber licensed by the state for such work, provided a property owner may make repairs or installations in a single-family building owned and occupied by him as his home if a permit therefor is issued and the work is done in compliance with the provisions of this chapter.
(Code 1982, § 14.10(5))

Sec. 10-256. Registration of plumbers.

(a) *To be on file.* All master plumbers engaged in the business of plumbing in the village and all journeymen plumbers and apprentice plumbers working at the plumbing trade in the village shall register with the plumbing inspector, who shall keep such registration on file in his office.

(b) *Information to be supplied.* Such registration shall consist of the full name and address, license number and current receipt number of each master or journeyman licensee. For an apprentice, the year of apprenticeship and the shop to which he is indentured shall be indicated.

(c) *Registration requirements limited.* The purpose of this section is solely to provide for the administration of state licensing requirements and this chapter. No fee shall be charged for any plumber's registration, nor shall any information other than that specified in subsection (b) of this section be required.
(Code 1982, § 14.10(6))

Secs. 10-257—10-290. Reserved.

Article VI. Moving Buildings

Cross reference— Environment, ch. 22; streets, sidewalks and other public places, ch. 38.

Sec. 10-291. Bond requirement.

Before a permit to move any building is granted by the building inspector, the party applying for the permit shall give a bond in a sum as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution with good and sufficient securities to be approved by the village board, conditioned among other things that such party shall save and indemnify judgments, costs and expenses which may in any way accrue against the village and keep the village harmless against all liabilities, judgments, costs and expenses in consequence of the granting of such permits.
(Code 1982, § 14.08(1))

Sec. 10-292. Conditions and standards.

Every permit to move a building shall state all conditions to be complied with, designate the route to be taken and limit the time for removal. The removal of a building shall be continuous during all hours of the day, and day by day and at night, if the building inspector so orders, until completed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street or road crossing an intersection or so near thereto as to prevent easy access to any fire hydrant. Lighted lanterns shall be kept in conspicuous places at each end of the building during the night. Any building or structure moved into the village shall be considered as a new building and shall wholly conform to the conditions and restrictions contained in the building code as to square footage and construction in cases of residence buildings or structures, and such buildings moved into the village which are not dwellings or residences shall conform to the building code as to construction detail. All such buildings moved into the village shall conform to the lot area provisions contained in this Code.
(Code 1982, § 14.08(2))

Sec. 10-293. Report of building reaching destination; inspection and repair of streets.

Every person receiving a permit to move a building shall, within one day after such building reaches its destination, report that fact to the building inspector who shall report such information to the village board president. The village board president shall thereupon inspect the streets or roads over which such building had been moved and ascertain their conditions. If the removal of such building has caused any damage to the streets, the house mover shall immediately place such streets in as good repair as they were in before the permit was granted. Upon failure of the house mover to repair the streets within ten days thereafter, to the satisfaction of the village board president, the village board shall repair the damage done to such street or road and hold the sureties of bond given by the house mover responsible for the payment of the bond.
(Code 1982, § 14.10(3))

Secs. 10-294—10-320. Reserved.

Article VIII. Architectural Control

Sec. 10-321. Object and purpose.

The purpose of this article is to promote the public health, safety and general welfare of the citizens of the village by providing regulations concerning architectural requirements pertaining to the exterior design of structures hereafter built, enlarged, altered or demolished within or moved within or into the village and to prohibit structures incompatible with the character of the surrounding or neighboring structures constructed or being constructed, and to thereby maintain and conserve the taxable value of land and buildings throughout the village and to prevent the depreciation thereof.
(Code 1982, § 14.11(1))

Sec. 10-322. Requirements.

No building permit for any structure for which a building permit is required in this Code shall be issued unless it has been found as a fact by the village plan commission upon a request for determination by the building inspector by at least a majority vote and after a view of the site of the proposed structure and an examination of the application papers for the building permit, that the exterior shall, when erected, not be so at variance with nor so similar to either the exterior architectural appeal and functional plan of the structures already constructed in or in the course of construction in the immediate neighborhood or the character of the applicable district established by the zoning laws in force within the village as to cause a substantial depreciation in the property values of such neighborhood within the applicable district.
(Code 1982, § 14.11(2))

Sec. 10-323. Procedure.

Whenever the building inspector makes a request for a determination, the plan commission shall set a time and place for a hearing on the application giving notice of such hearing, as it may deem sufficient. The plan commission may, if it desires, hear the applicant for the building permit in question or the owner of the lot on which it is proposed to erect or move the structure in question together with any other persons, whether residents or property owners, desiring to be heard. Such hearing may be adjourned from time to time but not for more than 48 hours, and within 48 hours after the close of the hearing the plan commission shall in writing make or refuse to make the finding required by section 10-332. Such finding and determination shall be in writing and signed on behalf of the plan commission by the chairperson and secretary. The secretary shall thereupon file a copy of the findings and determination in the office of the clerk and shall mail a copy of the findings by registered mail to each applicant for such permit on which the plan commission has acted. Thereupon the building inspector shall issue or refuse to issue a building permit in accordance with the determination of the plan commission.
(Code 1982, § 14.11(3))

Sec. 10-324. Appeal.

Any person feeling himself aggrieved by the determination of the plan commission may appeal from such determination to the village board within ten days after written notice shall have been delivered to him, such appeal to be in writing setting forth the basis of the appeal and to be filed

with the clerk. Such appeal shall thereupon be heard at the next regular meeting of the village board. On the appeal, in the absence of proof to the contrary adduced before the village board, a refusal to grant the building permit shall be deemed to be based upon facts and supporting the conclusion that the exterior architectural appeal and functional plan erected or moved, will be so at variance with or so similar to the exterior architectural appeal and functional plan of structures already constructed or in the course of construction in the immediate neighborhood, or the character of the applicable district, as to cause a substantial depreciation in the property values of such neighborhood within the applicable district. (Code 1982, § 14.11(4))

Secs. 10-325—10-360. Reserved.

Article IX. Construction Site Erosion and Sediment Control

Cross reference— Environment, ch. 22

Sec. 10-361. Authority.

This article is adopted pursuant to the authority granted by Wis. Stats. § 60.627.
(Code 1982, § 12.23(1))

Sec. 10-362. Findings and purpose.

(a) This article is adopted pursuant to the authority granted by Wis. Stat. § 61.354. Except as otherwise specified in Wis. Stat. § 61.354, Wis. Stat. § 61.35 applies to this article and any amendments to this article.

(b) The provisions of this article are deemed not to limit any other lawful regulatory powers of the village board.

(c) The village board hereby designates the village engineer and those village officials and consultants designated by the village administrator to administer and enforce the provisions of this article.

Sec. 10-363. Applicability and jurisdiction.

This article applies to land disturbing construction activity on lands within the boundaries and jurisdiction of the village. Except as provided under 10-364, this article applies to any construction site as defined under section 10-365.

Sec. 10-364. Exemptions.

(a) This article does not apply to the following:

(1) Transportation facilities, except transportation facility construction projects that are part of a larger common plan of development such as local roads within a residential or industrial development.

(2) A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.

(3) Nonpoint discharges from agricultural facilities and practices.

(4) Nonpoint discharges from silviculture activities.

(5) Routine maintenance for project sites that have less than 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

(6) Activities conducted by a state agency, as defined in Wis. Stat. Section 227.01(1).

(7) Land disturbing construction activity affecting a surface area of eight-thousand (8,000) square feet or less or involves the excavation or filling, or a combination of excavation and filling, affecting less than three-hundred (300) cubic yards of dirt, sand, or other excavation or fill material.

(b) Notwithstanding the applicability requirements in par. (a), this ordinance applies to construction sites of any size that, as determined by the village engineer, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, or that increases water pollution by scouring or transporting of particulate.

Sec. 10-365. 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:

Administering Authority means the village engineer, and those village officials and consultants designated by the administrator to administer and enforce the provisions of this article.

Agricultural facilities and practices has the meaning set forth in Wis. Stat. § 281.16(1).

Best management practice (BMP) means structural or nonstructural practices, techniques, measures, facilities, systems of practices or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

Business day means a day the office of the Village of Yorkville is routinely and customarily open for business.

Cease and desist order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the Village.

Construction site means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

Design Storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.

Erosion means the process by which the land's surface is worn away by water, wind, ice or gravity.

Erosion and sediment control plan means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

Final stabilization means all land disturbing construction activities at the construction site have been completed and a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.

Governing body means the village board of trustees.

Land disturbing construction activity means any manmade alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

Landowner means any person holding fee title, an easement or other interest in property, which allows a person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMP on the property.

Maximum extent practicable (MEP) means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this order as determined in according with section 10-367 of this ordinance.

Performance standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

Permit means a written authorization made by the village to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Pollutant has the meaning given in Wis. Stat. § 283.01(13).

Pollution has the meaning given in Wis. Stat. § 281.01(10).

Responsible party means the landowner or any other entity performing services to meet the requirements of this article through a contract or other agreement.

Runoff means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Sediment means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

Silviculture activity means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.
Stop work order means an order issued by the village which requires that all construction activity on the site be stopped.

Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

Transportation facility means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under Wis. Stat. Section 85.095 (1)(b). "Transportation facility" does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to Wis. Stat. Section 281.33.

Waters of the state means those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction (Wis. Stat. § 281.01(18)).

Sec. 10-366. Applicability of maximum extent practicable.

Maximum extent practicable applies when a person who is subject to a performance standard of this article demonstrates to the village engineer's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

Sec. 10-367. Design criteria, standards, and specifications.

All best management practices required to comply with this article shall meet the design criteria, standards and specifications based on any of the following:

(1) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.

(2) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.

(3) Technical standards and methods approved by the village engineer.

Sec. 10-368. Maintenance.

The landowner throughout the duration of the construction activities shall maintain all best management practices necessary to meet the requirements of this article.

Sec. 10-369. Performance standards for construction sites under one acre.

(a) Responsible Party. The responsible party shall comply with this section.

(b) Erosion and Sediment Control Practices. Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

(1) The deposition of soil from being tracked onto streets by vehicles.

(2) The discharge of sediment from disturbed areas into on-site storm water inlets.

(3) The discharge of sediment from disturbed areas into adjacent waters of the state.

(4) The discharge of sediment from drainage ways that flow off the site.

(5) The discharge of sediment by dewatering activities.

(6) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.

(7) The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.

(c) Location. The BMPs shall be located so that treatment occurs before runoff enters waters of the state.

(d) Implementation. The BMPs used to comply with this section shall be implemented as follows:

(1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.

(2) Erosion and sediment control practices shall be maintained until final stabilization.

(3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

(4) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

(5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

Sec. 10-370. Performance Standards for construction sites of one acre or more.

(a) Responsible Party. The responsible party shall comply with this section and implement the erosion and sediment control plan developed in accordance with section 10-372.

(b) Erosion and Sediment Control Plan. A written site-specific erosion and sediment control plan shall be developed in accordance with section 10-372 of this ordinance and implemented for each construction site.

(c) Erosion and Other Pollutant Control Requirements. The erosion and sediment control plan required under par. (2) shall include the following:

(1) Erosion and Sediment Control Practices. Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

a. The deposition of soil from being tracked onto streets by vehicles.

b. The discharge of sediment from disturbed areas into on-site storm water inlets.

c. The discharge of sediment from disturbed areas into adjacent waters of the state.

d. The discharge of sediment from drainage ways that flow off the site.

e. The discharge of sediment by dewatering activities.

f. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.

g. The discharge of sediment from erosive flows at outlets and in downstream channels.

h. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.

i. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.

(2) Sediment performance Standards. In addition to the erosion and sediment control practices under par. (1), the following erosion and sediment control practices shall be employed:

a. BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.

b. No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.

c. Notwithstanding subd a., if BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion and sediment control plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.

(3) Preventive Measures. The erosion and sediment control plan shall incorporate all of the following:

a. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.

b. Minimization of soil compaction and preservation of topsoil.

c. Minimization of land disturbing construction activity on slopes of 20 percent or more.

d. Development of spill prevention and response procedures.

(4) Location. The BMPs used to comply with this section shall be located so that treatment occurs before runoff enters waters of the state.

(d) Implementation. The BMPs used to comply with this section shall be implemented as follows:

(1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with the erosion and sediment control plan developed in section 10-370(b).

(2) Erosion and sediment control practices shall be maintained until final stabilization.

(3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

(4) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

(5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

Sec. 10-371. Permitting requirements, procedures and fees.

(a) Permit Required. No responsible party may commence a land disturbing construction activity subject to this article without receiving prior approval of an erosion and sediment control plan for the site and a permit from the village board.

(b) Permit Application and Fees. The responsible party that will undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of section 10-372, and shall pay an application fee as set forth in the schedule of fees on file in the village clerk's office, which may be revised from time-to-time by resolution of the village board. By submitting an application, the applicant is authorizing the village engineer or designee to enter the site to obtain information required for the review of the erosion and sediment control plan. The village reserves the right to require an additional fee to reimburse the village for engineering-related costs, including costs of inspection not covered by the application fee.

(c) Permit Application Review and Approval. The village engineer shall review and make recommendations to the village board as to any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

(1) Within 45 business days of the receipt of a complete permit application, as required by sub. (2), the village board shall inform the applicant whether the application and erosion and sediment control plan are approved or disapproved based on the requirements of this ordinance.

(2) If the permit application and erosion and sediment control plan are approved, the village shall prepare, and the applicant shall sign, a pre-permit reimbursement agreement for the reimbursement of any cost or financial liability created by the responsible party related to the issuance of a permit in excess of the surety bond listed under § 10-371(d). This shall include, but is not limited to, village engineering fees and legal fees.

(3) After the completion of the pre-permit reimbursement agreement, the clerk shall issue the permit.

(4) If the permit application or erosion and sediment control plan is disapproved, the village board shall state in writing the reasons for disapproval.

(5) The village board may request additional information from the applicant. If additional information is submitted, the village board shall have 30 business days from the date the additional information is received to inform the applicant that the erosion and sediment control plan is either approved or disapproved.

(d) Surety Bond. As a condition of approval and issuance of the permit, the applicant shall deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion and sediment control plan and any permit conditions to the village in the amount of two-thousand dollars ($2,000.00).

(e) Permit Requirements. All permits shall require the responsible party to:

(1) Notify the administrator within 48 hours of commencing any land disturbing construction activity.

(2) Notify the administrator of completion of any BMPs within 14 days after their installation.

(3) Obtain permission in writing from the village engineer prior to any modification of the erosion and sediment control plan.

(4) Install all BMPs as identified in the approved erosion and sediment control plan.

(5) Maintain all road drainage systems, storm water drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.

(6) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site inspection log.

(7) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week. Make needed repairs and install additional BMPs as necessary, and document these activities in an inspection log that also includes the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.

(8) Allow the Administering Authority to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the erosion and sediment control plan. Keep a copy of the erosion and sediment control plan at the construction site.

(f) Permit Conditions. Permits issued under this section may include conditions established by Village Board in addition to the requirements set forth in sub. (e), where needed to assure compliance with the performance standards in section 10-369 or 10-370.

(g) Permit Duration. Permits issued under this section 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 village board may grant one or more extensions not to exceed 180 days cumulatively. The village engineer may require additional BMPs as a condition of an extension if they are necessary to meet the requirements of this ordinance.

(h) Maintenance. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

Sec. 10-372. Erosion and sediment control plan, statement and amendments.

(a) Erosion and sediment control plan statement. For each construction site identified under section 10-370(b) an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the clerk. The erosion and sediment control plan statement shall briefly describe the site, the development schedule, and the BMPs that will be used to meet the requirements of the ordinance. A site map shall also accompany the erosion and sediment control plan statement.

(b) Erosion and Sediment Control Plan Requirements.

(1) An erosion and sediment control plan shall be prepared and submitted to the clerk.

(2) The erosion and sediment control plan shall be designed to meet the performance standards in section 10-369 or 10-370 and other requirements of this ordinance.

(3) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:

a. Name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.

b. Description of the construction site and the nature of the land disturbing construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.

c. Description of the intended sequence of major land disturbing construction activities for major portions of the construction site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of

exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

d. Estimates of the total area of the construction site and the total area of the construction site that is expected to be disturbed by land disturbing construction activities.

e. Calculations to show the compliance with the performance standard in section 10-370(c)(2)a.

f. Existing data describing the surface soil as well as subsoils.

g. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.

h. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.

(4) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed five feet.

a. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.

b. Boundaries of the construction site.

c. Drainage patterns and approximate slopes anticipated after major grading activities.

d. Areas of soil disturbance.

e. Location of major structural and non-structural controls identified in the erosion and sediment control plan.

f. Location of areas where stabilization BMPs will be employed.

g. Areas which will be vegetated following land disturbing construction activities.

h. Area(s) and location(s) of wetland on the construction site, and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.

i. Areas(s) used for infiltration of post-construction storm water runoff.

j. An alphanumeric or equivalent grid overlying the entire construction site map.

(5) Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:

a. Description of interim and permanent stabilization practices, including a BMP implementation schedule. The erosion and sediment control plan shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.

b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the village engineer, structural measures shall be installed on upland soils.

c. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.

d. Trapping of sediment in channelized flow.

e. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.

f. Protection of downslope drainage inlets where they occur.

g. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.

h. Clean up of off-site sediment deposits.

i. Proper disposal of building and waste material.

j. Stabilization of drainage ways.

k. Installation of permanent stabilization practices as soon as possible after final grading.

l. Minimization of dust to the maximum extent practicable.

(6) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

(c) Erosion and Sediment Control Plan Amendments. The applicant shall amend the erosion and sediment control plan if any of the following occur:

(1) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the erosion and sediment control plan.

(2) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.

(3) The village engineer notifies the applicant of changes needed in the erosion and sediment control plan.

Sec. 10-373. Inspection.

(a) If land disturbing construction activities are being carried out without a permit required by this article, the village personnel may enter the land pursuant to the provisions of Wis. Stat. § 66.0119.

(b) The Administering Authority shall be permitted access to the property to conduct inspections to enforce this Article as necessary to ascertain that the practices are being maintained and operated in accordance with the ordinances of the Village of Yorkville.

Sec. 10-374. Enforcement.

(a) The village engineer, or his designee, may post a stop work order if any of the following occurs:

(1) Any land disturbing construction activity regulated under this article is being undertaken without a permit.

(2) The erosion and sediment control plan is not being implemented in a good faith manner.

(3) The conditions of the permit are not being met.

(b) If the responsible party does not cease activity as required in a stop work order posted under this article or fails to comply with the erosion and sediment control plan or permit conditions within 24 hours of being notified by the village engineer, or designee, the village board may revoke the permit.

(c) If the landowner where no permit has been issued does not cease the activity within 24 hours of being notified by the village engineer, or his designee, or if a landowner violates a stop work order posted under subsection (a) of this section, the village board may request the village attorney to obtain a cease and desist order in any court with jurisdiction.

(d) The village board or village engineer may retract the stop work order issued under subsection (a) of this section or the permit revocation under subsection (b) of this section.

(e) After posting a stop work order under subsection (a) of this section, the village board may issue a notice of intent to the landowner of its intent to perform work necessary to comply with this article. The village may go on the land and commence the work after issuing the notice of intent. The costs of the work performed by the village, plus interest at the rate authorized by the village shall be billed to the landowner. If a landowner fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special charge against the property pursuant to Wis. Stat. § 66.0627.

(f) Any person violating any of the provisions of this article shall be subject to a forfeiture of not less than $25.00 nor more than $500.00 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 article may also be enforced by injunction in any court with jurisdiction.

Sec. 10-375. Appeals.

Any aggrieved person may seek review of a determination made by the village engineer, under this article, in accordance with chapter 2, article VII.

Article X.
Post-construction Storm Water Management.

Sec. 10-376. Authority.

(a) This Article is adopted by the Village of Yorkville (“Village”) under the authority granted by Wis. Stat. § 61.354. Except as otherwise specified in Wis. Stat. § 61.354, § 61.35 applies to this section and to any amendments to this section.

(b) The provisions of this section are deemed not to limit any other lawful regulatory powers of the Village.

(c) The Village Board of trustees hereby designates the Village Engineer, and those Village officials and consultants designated by the Administrator, to administer and enforce the provisions of this Article.

(d) The requirements of this section do not preempt more stringent storm water management requirements that may be imposed by any of the following:

(1) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under Wis. Stat. §§ 281.16 and 283.33.

(2) Targeted nonagricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Wis. Admin. Code § NR 151.004.

(3) Village of Yorkville approved or adopted storm water management plans and performance standards for specific areas or watersheds including, without limitation, Planning Report Number 44, A Comprehensive Plan for the Des Plaines River Watershed, as published by the Southeastern Wisconsin Regional Planning Commission.

Sec. 10-377. Findings of fact.

The Village finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

(a) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.

(b) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.

(c) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads. Reduce the quality of groundwater by increasing pollutant loading.

(d) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.

Sec. 10-378. Purpose and intent.

(a) Purpose. The general purpose of this Article is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:

(1) Further the maintenance of safe and healthful conditions.

(2) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.

(3) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter.

(4) Minimize the amount of pollutants discharged from the separate storm sewer to protect the waters of the state.

(b) Intent. It is the intent of the Village that this Article regulates post-construction storm water discharges to waters of the state. This Article may be applied on a site-by-site basis. The Village recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this section is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under Wis. Stat. § 281.16, for regional storm water management measures and have been approved by the Village Board, it is the intent of this section that the approved plan be used to identify post-construction management measures acceptable for the community.

Sec. 10-379. Ability and jurisdiction.

(a) Applicability.

(1) Except as provided under Subsection 10-379(a)(2), this ordinance applies to a post-construction site whereupon one acre or more of land disturbing construction activity occurs during construction.

(2) A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance:

a. A post-construction site with less than 10% connected imperviousness, based on the area of land disturbance, provided the cumulative area of all impervious surfaces is less than one acre. However, the exemption of this paragraph does not include exemption from the protective area standard of this Article.

b. Agricultural facilities and practices.

c. Underground utility construction, but not including the construction of any above ground structures associated with utility construction.

(3) Notwithstanding the applicability requirements in Subsection 10-379(a)(1), this section applies to post- construction sites of any size that, in the opinion of the Village Engineer, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter.

(b) Jurisdiction. This section applies to post-construction sites within the boundaries and jurisdiction of the Village of Yorkville.

(c) Exclusions. This section is not applicable to activities conducted by a state agency, as defined under Wis. Stat. § 227.01(1).

Sec. 10-380. Definitions.

(1) ADEQUATE SOD, OR SELF-SUSTAINING VEGETATIVE COVER — Maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

(2) ADMINISTERING AUTHORITY — The Village Engineer, and those Village officials and consultants designated by the Administrator, to administer and enforce the provisions of this Article.

(3) AGRICULTURAL FACILITIES AND PRACTICES — Has the meaning given in Wis. Stat. § 281.16.

(4) ATLAS 14 — The National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013.

(5) AVERAGE ANNUAL RAINFALL — A typical calendar year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSLAMM, P8 or equivalent methodology. The average annual rainfall is chosen from a department publication for the location closest to the municipality.

(6) BEST MANAGEMENT PRACTICE or BMP — Structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

(7) BUSINESS DAY — A day the offices of the Village hall is routinely and customarily open for business.

(8) CEASE AND DESIST ORDER — A court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the administering authority.

(9) COMBINED SEWER SYSTEM — A system for conveying both sanitary sewage and storm water runoff.

(10) CONNECTED IMPERVIOUSNESS — An impervious surface connected to the waters of the state via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.

(11) DESIGN STORM — A hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.

(12) DEVELOPMENT — Residential, commercial, industrial or institutional land uses and associated roads.

(13) DIRECT CONDUITS TO GROUNDWATER — Wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non- metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

(14) EFFECTIVE INFILTRATION AREA — The area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

(15) EROSION — The process by which the land's surface is worn away by the action of the wind, water, ice or gravity.

(16) EXCEPTIONAL RESOURCE WATERS — Waters listed in Wis. Admin. Code § NR 102.11.

(17) FILTERING LAYER — Soil that has at least a three-foot deep layer with at least 20% fines; or at least a five-foot deep layer with at least 10% fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.

(18) FINAL STABILIZATION — That all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

(19) FINANCIAL GUARANTEE — A performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Village of Yorkville by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.

(20) GOVERNING BODY — The Village Board of trustees.

(21) IMPERVIOUS SURFACE — An area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, gravel or paved parking lots and streets are examples of areas that typically are impervious.

(22) IN-FILL — An undeveloped area of land located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur.

(23) INFILTRATION — The entry of precipitation or runoff into or through the soil.

(24) INFILTRATION SYSTEM — A device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop

downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

(25) LAND DISTURBING CONSTRUCTION ACTIVITY — Any man- made alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

(26) LANDOWNER — Any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.

(27) MAINTENANCE AGREEMENT — A legal document that provides for long-term maintenance of storm water management practices.

(28) MAXIMUM EXTENT PRACTICABLE — The highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with Subsection (10-379) of this ordinance.

(29) NEW DEVELOPMENT — Development resulting from the conversion of previously undeveloped land or agricultural land uses.

(30) NRCS MSE3 or MSE4 DISTRIBUTION — A specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.

(31) OFF-SITE — Located outside the property boundary described in the permit application.

(32) ON-SITE — Located within the property boundary described in the permit application.

(33) ORDINARY HIGH-WATER MARK — Has the meaning given in Wis. Admin. Code § NR 115.03(6).

(34) OUTSTANDING RESOURCE WATERS — Waters listed in Wis. Admin. Code § NR 102.10.

(35) PERCENT FINES — The percentage of a given sample of soil, which passes through a # 200 sieve.

(36) PERFORMANCE STANDARD — A narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(37) PERMIT — A written authorization made by the Village to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

(38) PERMIT ADMINISTRATION FEE — A sum of money paid to the Village by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

(39) PERVIOUS SURFACE — An area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

(40) POLLUTANT — Has the meaning given in Wis. Stat. § 283.01(13).

(41) POLLUTION — Has the meaning given in Wis. Stat. § 281.01(10).

(42) POST-CONSTRUCTION SITE — A construction site following the completion of land disturbing construction activity and final site stabilization.

(43) PRE-DEVELOPMENT CONDITION — The extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

(44) PREVENTATIVE ACTION LIMIT — Has the meaning given in Wis. Admin. Code § NR 140.05(17).

(45) PROTECTIVE AREA — An area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.

(46) REDEVELOPMENT — Areas where development is replacing older development.

(47) RESPONSIBLE PARTY — The landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.

(48) RUNOFF — Storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

(49) SEPARATE STORM SEWER — A conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

a. Is designed or used for collecting water or conveying runoff.
b. Is not part of a combined sewer system.
c. Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
d. Discharges directly or indirectly to waters of the state.

(50) SILVICULTURE ACTIVITY — Activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

(51) SITE — The entire area included in the legal description of the land on which the land disturbing construction activity occurred.

(52) STOP WORK ORDER — An order issued by the Administering Authority which requires that all construction activity on the site be stopped.

(53) STORM WATER MANAGEMENT PLAN — A comprehensive plan designed to reduce the discharge of pollutants from storm water, after the site has undergone final stabilization, following completion of the construction activity.

(54) STORM WATER MANAGEMENT SYSTEM PLAN — Is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

(55) TECHNICAL STANDARD — A document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

(56) TOP OF THE CHANNEL — An edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

(57) TOTAL MAXIMUM DAILY LOAD or TMDL — The amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.

(58) TR-55 — The United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986, which is incorporated by reference for this chapter.

(59) TRANSPORTATION FACILITY — A highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under Wis. Stat. § 85.095 (1)(b). "Transportation facility" does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to Wis. Stat. § 281.33.

(60) TSS — Total suspended solids.

(61) WATERS OF THE STATE — Includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

Sec. 10-381. Applicability of maximum extent practicable.

Maximum extent practicable applies when a person who is subject to a performance standard of this Article demonstrates to the Administering Authority's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

Sec. 10-382. Technical standards.

The following methods shall be used in designing the water quality, peak discharge, and infiltration components of storm water practices needed to meet the water quality standards of this Article:

(a) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under Wis. Admin. Code Ch. NR 151, Subch. V.

(b) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the Administering Authority.

(c) Technical engineering standards administered and/or approved by the Village of Yorkville.

(d) In this section, the following year and location has been selected as average annual rainfall: Milwaukee 1969 (Mar. 28 — Dec. 6).

Sec. 10-383. Performance standards.

(a) Responsible party. The responsible party shall comply with this section.

(b) Storm Water Management Plan. A written storm water management plan in accordance with Subsection (i) shall be developed and implemented for each post-construction site.

(c) Maintenance of effort. For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this Article, whichever is more stringent.

(d) Requirements. The storm water management plan required under Subsection 10-383(b) shall include the following:

(1) Total suspended solids. BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:

a. BMPs shall be designed in accordance with Table 1 or to the maximum extent practicable as provided in Subsection 10-383(d)(1)b. The design shall be based on an average annual rainfall, as compared to no runoff management controls.

Table 1. TSS Reduction Standards	
Development Type	TSS Reduction
New Development	80%
In-fill development	80%
Redevelopment	40% of load from parking areas and roads

b. Maximum extent practicable. If the design cannot meet a total suspended solids reduction performance standard of Table 1, the storm water management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable.

c. Off-site drainage. When designing BMPs, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.

(2) Peak discharge.

a. By design, BMP's for all areas outside of the Des Plaines River Watershed shall be employed to maintain or reduce the one-year, twenty-four-hour; and the two-year, twenty-four-hour post-construction peak runoff discharge rates to the one-year, twenty- four-hour; and the two-year, twenty-four-hour pre- development peak runoff discharge rates respectively and shall be employed to reduce the 100-year, twenty- four-hour, post-construction runoff rate to the ten- year, twenty-four-hour, pre-development runoff rate, or to the maximum extent practicable. Storm water management practices within the Des Plaines River Watershed shall be employed to reduce the 100-year, twenty-four-hour, post-construction rate to 0.3 cfs per acre. The post-construction two-year, twenty-four- hour, rate shall be reduced to 0.04 cfs per acre. The runoff curve numbers in Table 2 shall be used to represent the actual pre-development conditions. Peak discharges shall be calculated using TR-55 runoff curve number methodology, NRCS Racine County representative Altas 14 precipitation depths and NRCS MSE3 precipitation distribution.

Table 2. Maximum Pre-Development Runoff Curve Numbers				
	Hydrologic Soil Group			
Runoff Curve Number	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

b. By design, storm water management practices shall be employed to meet peak discharge requirements of Village adopted storm water management plans for specific areas or watersheds where applicable.

c. This Subsection 10-383(d)(1)b does not apply to any of the following:

1. A post-construction site where the discharge is directly into a lake over 5,000 acres or a stream or river segment draining more than 500 square miles.

2. Except as provided in 10-383(c), a redevelopment post-construction site, if the impervious surface area of the redevelopment is not increased from existing conditions.

3. An in-fill development area less than five acres, unless determined otherwise by the Village per Subsection 10-379(a)(3).

(3) Infiltration.

a. Best management practices. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable:

1. Low imperviousness. For development up to 40% connected imperviousness, such as parks, cemeteries, and low-density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the post-construction site is required as an effective infiltration area.

2. Moderate imperviousness. For development with more than 40% and up to 80% connected imperviousness, such as medium and high density residential, multi-family development, industrial and

institutional development, and office parks, infiltrate sufficient runoff volume so that the post- development infiltration volume shall be at least 75% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the post-construction site is required as an effective infiltration area.

3. High imperviousness. For development with more than 80% connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the predevelopment infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the post- construction site is required as an effective infiltration area.

b. Pre-development. The pre-development condition shall be the same as specified in Table 2 of the Peak Discharge section of this ordinance.

c. Source areas.

1. Prohibitions. Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of this section unless demonstrated to meet the conditions identified in Subsection 10-383(d)(3)f:

[a] Areas associated with a tier one industrial facility identified in s. NR 216.21 (2)(a), including storage, loading and parking. Rooftops may be infiltrated with the concurrence of the regulatory authority.

[b] Storage and loading areas of a tier 2 industrial facility identified in s. NR 216.21 (2)(b).

[c] Fueling and vehicle maintenance areas. Runoff from rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.

2. Exemptions. Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas is optional:

[a] Parking areas and access roads less than 5,000 square feet for commercial development.

[b] Parking areas and access roads less than 5,000 square feet for industrial development not subject to the Prohibitions under par a.

[c] Except as provided under Subsection 10-383(c), redevelopment post-construction sites

[d] In-fill development areas less than five acres.

[e] Roads on commercial, industrial and institutional land uses, and arterial residential roads.

d. Location of practices.

1. Prohibitions. Infiltration practices may not be located in the following areas:

[a] Areas within 1,000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.

[b] Areas within 400 feet of a community water system well as specified in s. NR 811.16(4) or within the separation distances listed in s. NR 812.08 for any private well or noncommunity well for runoff infiltrated from commercial, including multi-family residential, industrial and institutional land uses or regional devices for one- and two-family residential development.

[c] Areas where contaminants of concern, as defined in s. NR 720.03(2), are present in the soil through which infiltration will occur.

2. Separation distances.

[a] Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 3:

Table 3. Separation Distances and Soil Characteristics

Source Area	Separation Distance	Soil Characteristics
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 feet or more	Filtering Layer

[b] Notwithstanding Subsection 10-383(d)(3)d.2., applicable requirements for injection wells classified under Ch. NR 815 shall be followed.

[c] Infiltration rate exemptions. Infiltration practices located in the following areas may be credited toward meeting the requirements under the following conditions, but the decision to infiltrate under these conditions is optional:

[i] Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.

[ii] Where the least permeable soil horizon to five feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.

e. Alternate use. Where alternate uses of runoff are employed, such as for toilet flushing, laundry, irrigation or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required by this section.

f. Groundwater standards.

1. Infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with Ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

2. Notwithstanding Subsection 10-383(d)(3)f.1., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

g. Pretreatment. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with Subsection 10-383(d)(3)f. Pretreatment options may include, but are not limited, oil and grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

h. Maximum Extent Practicable. Where the conditions of Subsection 10-383(d)(3)c and d limit or restrict the use of infiltration practices, the performance standard of Subsection 10-383(d)(3) shall be met to the maximum extent practicable.

(4) Protective areas. The following are minimum standards for protective areas; however, the Village may impose greater limits based on site specific information:

a. Definition. In this section, "protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, so that runoff cannot enter the enclosure at this location.

1. For outstanding resource waters and exceptional resource waters, 75 feet.

2. For perennial and intermittent streams identified on a U.S. Geological Survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.

3. For lakes, 50 feet.

4. For wetlands not subject to Subsection 10-383(d)(4)a.5. or 6., 50 feet.

5. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.

6. For less susceptible wetlands, 10% of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include: degraded wetland dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.

7. In Subsection 10-383(d)(4)a.4. to 6., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.

8. Wetland boundary delineation shall be made in accordance with s. NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary

delineation after a fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.

9. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

10. Notwithstanding Subsection 10-383(d)(4)a.1. to 9., the greatest protective area width shall apply where rivers, streams, lakes and wetlands are contiguous.

b. Applicability. This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to Subsection 10-383(d)(4)d.

c. Requirements. The following requirements shall be met:

1. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the storm water management plan shall contain a written, site-specific explanation.

2. Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained where no impervious surface is present. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.

3. BMPs such as filter strips, swales, or wet detention ponds, that are designed to control pollutants from non-point sources, may be located in the protective area.

d. Exemptions. This section does not apply to any of the following:

1. Except as provided under sec. 10-383(c), redevelopment post-construction sites.

2. In-fill development areas less than five acres.

3. Structures that cross or access surface water such as boat landings, bridges, and culverts.

4. Structures constructed in accordance with s. 59.692 (1v), Stats.

5. Areas of post-construction sites from which the runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the local ordinance requirements for total suspended solids and peak flow reduction, except to the extent that vegetative ground cover is necessary to maintain bank stability.

e. Fueling and vehicle maintenance areas. Fueling and vehicle maintenance areas shall have BMPs designed, installed, and maintained to reduce petroleum within runoff, so that the runoff that enters waters of the state contains no visible petroleum sheen, or to the maximum extent practicable.

f. Swale treatment for transportation facilities.

1. Requirement. Except as provided in Subsection 10-383(d)(6)b., transportation facilities that use swales for runoff conveyance and pollutant removal are exempt from the requirements of local ordinance requirements for peak flow control, total suspended solids control, and infiltration, if the swales are designed to do all of the following or to the maximum extent practicable:

[a] Swales shall be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

[b] Swales shall comply with Sections V.D. (Velocity and Depth) and V.E. (Swale Geometry Criteria) with a swale pre-treatment length as long as that specified in Section V.H. (Pre-Treatment) of the Wisconsin Department of Natural Resources technical standard 1005 "Vegetated Swale", dated December 2017, or a superseding document. Transportation facility swale treatment does not have to comply with other sections of technical standard 1005.

2. Other requirements.

[a] Notwithstanding Subsection 10-383(d)(6)a., the Administering Authority may, consistent with water quality standards, require that other requirements, in addition to swale treatment, be met on a transportation facility with an average daily traffic rate greater than 2,500 and where the initial surface water of the state that the runoff directly enters is one of the following:

[i] An outstanding resource water.

[ii] An exceptional resource water.

[iii] Waters listed in Section 303 (d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to non-point source impacts.

[iv] Water where targeted performance standards are developed pursuant to s. NR 151.004, Wis. Adm. Code.

[b] The transportation facility authority shall contact the administering authority to determine if additional BMPs beyond a water quality swale are needed under this subsection.

g. Storm sewers and culverts.

1. Storm sewers and culverts shall be designed for a ten- year storm event as defined by the Southeastern Wisconsin Regional Planning Commission (SEWRPC).

2. Storm sewers shall be designed to be self-cleaning with a minimum velocity of two feet per second and a maximum velocity of 12 feet per second.

(5) General considerations for storm water management measures. The following considerations shall be observed in on-site and off-site runoff management:

a. Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

b. Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(6) BMP Location.

a. To comply with the performance standards required under sec. 10-383 of this ordinance, BMPs may be located on- site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003, Wis. Adm. Code.

b. The administering authority may approve off-site management measures provided that all of the following conditions are met:

1. The administrating authority determines that the post-construction runoff is covered by a storm water management system plan that is approved by the Village of Yorkville and that contains management requirements consistent with the purpose and intent of this ordinance.

2. The off-site facility meets all of the following conditions:

[a] The facility is in place.

[b] The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on- site practices meeting the performance standards of this ordinance.

[c] The facility has a legally obligated entity responsible for its long-term operation and maintenance.

3. Where a regional treatment option exists such that the Village Board exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the Village Board. In determining the fee for post- construction runoff, the administering authority shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(7) Additional Requirements. The Administering Authority may establish storm water management requirements more stringent than those set forth in this ordinance if the Administering Authority determines that the requirements are needed to control storm water quantity or control flooding, comply with federally approved total maximum daily load requirements, or control pollutants associated with existing development or redevelopment.

Sec. 10-384. Permitting requirements, procedures and fees.

(a) Permit required. No responsible party may undertake a land disturbing construction activity without receiving a post- construction runoff permit from the Village of Yorkville prior to commencing the proposed activity.

(b) Permit application and fees. Unless specifically excluded by this section, any responsible party desiring a permit shall submit to the Village of Yorkville a permit application made on a form provided by the Village of Yorkville for that purpose.

(1) Unless otherwise excepted by this section, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a nonrefundable permit administration fee.

(2) The storm water management plan shall be prepared to meet the requirements of Subsections 10-383 and 10-385, the maintenance agreement shall be prepared to meet the requirements of Subsection 10-386, the financial guarantee shall meet the requirements of Subsection 10-387, and fees shall be those established by the Village of Yorkville as set forth in Subsection 10-388.

(c) Review and approval of permit application. The Administering Authority shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

(1) Within 45 business days of the receipt of a complete permit application, including all items as required by Subsection 10-384(b), above, the Village of Yorkville shall inform the applicant whether the application, plan, and maintenance agreement are approved or disapproved based on the requirements of this section.

(2) If the storm water permit application, plan, and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Village of Yorkville shall prepare, and the applicant shall sign, a pre-permit reimbursement agreement for the reimbursement of any cost or financial liability created by the responsible party related to the issuance of a permit in excess of any financial guarantee listed under § 10-389. This shall include, but is not limited to, village engineering fees and legal fees.

(3) Once a pre-permit reimbursement agreement is signed, the Village of Yorkville shall issue the permit.

(4) If the storm water permit application, plan or maintenance agreement is disapproved, the Village of Yorkville shall detail in writing the reasons for disapproval.

(5) The Administering Authority may request additional information from the applicant. If additional information is submitted, the Village of Yorkville shall have 45 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(6) Failure by the Village of Yorkville to inform the permit applicant of a decision within 60 business days of a required submittal, provided all information required by the Administering Authority has been received, shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(d) Permit requirements. All permits issued under this section shall be subject to the following conditions, and holders of permits issued under this section shall be deemed to have accepted these conditions. The Village of Yorkville may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Village of Yorkville to suspend or revoke this permit may be appealed in accordance with Subsection (10-390).

(1) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.

(2) The responsible party shall design and install all structural and nonstructural storm water management measures in accordance with the approved storm water management plan and this permit.

(3) The responsible party shall notify the Village of Yorkville at least five business days before commencing any work in conjunction with the storm water management plan, and within five business days upon completion of the storm water management practices. If required as a special condition under Subsection 10-384(e) below, the responsible party shall make additional notification according to

a schedule set forth by the Village of Yorkville so that practice installations can be inspected during construction.

(4) Practice installations required as part of this section shall be certified "as built" or "record" drawings by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the Village of Yorkville or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The Village of Yorkville or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.

(5) The responsible party shall notify the Village of Yorkville of any significant modifications it intends to make to an approved storm water management plan. The Village of Yorkville may require that the proposed modifications be submitted for approval prior to incorporation into the storm water management plan and execution by the responsible party.

(6) The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the Village of Yorkville or are transferred to subsequent private owners as specified in the approved maintenance agreement.

(7) The responsible party authorizes the Village of Yorkville to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under Wis. Stats. Ch. 66, or charge such costs against the financial guarantee posted under Subsection 10-387.

(8) If so directed by the Village of Yorkville, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.

(9) The responsible party shall permit property access to the Village of Yorkville or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.

(10) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Village of Yorkville may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.

(11) The responsible party is subject to the enforcement actions and penalties detailed in Subsection 10-389, if the responsible party fails to comply with the terms of this permit.

(e) Permit conditions. Permits issued under this subsection may include conditions established by the Village of Yorkville in addition to the requirements needed to meet the

performance standards in Subsection 10-383 or a financial guarantee as provided for in Subsection 10-387.

(f) Permit duration. Permits issued under this section shall be valid from the date of issuance through the date the Village of Yorkville notifies the responsible party that all storm water management practices have passed the final inspection required under Subsection 10-384(d)(4), above.

Sec. 10-385. Storm water management plan.

(a) Plan requirements. The storm water management plan required under Subsection 10-384(b) shall contain at a minimum the following information:

(1) Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.

(2) A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.

(3) Predevelopment site conditions, including:

a. One or more site maps at a scale of not less than one-inch equals 100 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed 100 feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100-year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to Wis. Admin. Code § NR 811.16.

b. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

(4) Post-development site conditions, including:

a. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.

b. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.

c. One or more site maps at a scale of not less than one inch equals 100 feet showing the following: post- construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed 100 feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.

d. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

e. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.

(5) A description and installation schedule for the storm water management practices needed to meet the performance standards in Subsection 10-383.

(6) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.

(7) Cost estimates for the construction, operation, and maintenance of each storm water management practice.

(8) Other information requested in writing by the Administering Authority to determine compliance of the proposed storm water management measures with the provisions of this section.

(9) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed Wisconsin professional engineer to be prepared in accordance with accepted engineering practice and requirements of this section.

(b) Alternate requirements. The Village of Yorkville may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under Subsection 10-383(e).

Sec. 10-386. Maintenance agreement.

(a) Filing of agreement. The maintenance agreement required under Subsection 10-384(b) for storm water management practices shall be an agreement between the Village of Yorkville and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the Racine County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.

(b) Agreement provisions. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by Subsection 10-385(a)(6):

(1) Identification of the storm water facilities and designation of the drainage area served by the facilities.

(2) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under Subsection 10-384(b).

(3) Identification of the responsible party(s), organization or city, county, or Village responsible for long term inspection and maintenance of the storm water management practices identified in the storm water management plan required under Subsection 10-384(b).

(4) Requirement that the responsible party(s), organization or city, county, or Village shall maintain storm water management practices in accordance with the schedule included in Subsection 10-386(b)(2) hereinabove.

(5) Authorization for the Administering Authority to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement and the ordinances of the Village of Yorkville.

(6) A requirement on the Village of Yorkville to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.

(7) Agreement that the party designated under Subsection 10-386(b)(3) hereinabove, as responsible for long term inspection and maintenance of the storm water management practices, if notified by the Village of Yorkville of maintenance problems which require correction, undertake corrective within a reasonable time frame as set by the Village of Yorkville.

(8) Authorization of the Village of Yorkville to perform the corrected actions identified in the Village notification under Subsection 10-386(b)(6), hereinabove, if the responsible party designated under Subsection c, hereinabove, does not make the required corrections in the specified time period. The Village of Yorkville shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Wis. Stat. Ch. 66, Subchapter VII.

Sec. 10-387. Financial guarantee.

(a) Establishment of the guarantee. The Village of Yorkville may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Village of Yorkville. The financial guarantee shall be in an amount determined by the Village of Yorkville to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Village of Yorkville the authorization to use the funds to complete the storm water management practices, or restore the project site as deemed fit by the Village, if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the Administering Authority that the requirements of this section have not been met.

(b) Conditions for release. Conditions for the release of the financial guarantee are as follows:

(1) The Village of Yorkville shall release the portion of the financial guarantee established under this section, less any costs incurred by the Village of Yorkville to complete installation of practices, upon submission of "as built plans" or "record" drawings by a licensed professional engineer. The Village of Yorkville may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

(2) The Village of Yorkville shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the Village of Yorkville, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

Sec. 10-388. Fee schedule.

The fees referred to in other sections of this section shall be established by the Village of Yorkville and may from time to time be modified by resolution. A schedule of the fees established by the Village of Yorkville shall be available for review in the Village hall.

Sec. 10-389. Enforcement.

(a) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this section by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this section.

(b) The Village of Yorkville shall notify the responsible party by certified mail of any noncomplying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule of remedial action, and additional enforcement action which may be taken.

(c) Upon receipt of written notification from the Village of Yorkville under Subsection 10-389(b), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Village of Yorkville in the notice.

(d) If the violations to a permit issued pursuant to this section are likely to result in damage to properties, public facilities, or waters of the state, the Village of Yorkville may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Village of Yorkville plus interest and legal costs shall be billed to the responsible party.

(e) The Village of Yorkville is authorized to post a stop work order on all land disturbing construction activity that is in violation of this section, or to request the municipal attorney to obtain a cease and desist order in any court with jurisdiction.

(f) The Village of Yorkville may revoke a permit issued under this section for noncompliance with ordinance provisions.

(g) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Village of Yorkville or by a court with jurisdiction.

(h) The Village of Yorkville is authorized to refer any violation of this section, or of a stop work order or cease and desist order issued pursuant to this section, to the municipal attorney for the commencement of further legal proceedings in any court with jurisdiction.

(i) Any person, firm, association, or corporation who does not comply with the provisions of this section shall be subject to a forfeiture of not less than $500 or more than $1,000 per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

(j) Compliance with the provisions of this section may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to in junctional proceedings.

(k) When the Village of Yorkville determines that the holder of a permit issued pursuant to this section has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the Village of Yorkville or a party designated by the Village of Yorkville may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into

conformance with requirements of the approved plan. The Village of Yorkville shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to Subsection 10-387 of this section. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

Sec. 10-390. Appeals.

(a) Board of appeals. The Board of Appeals of the Village of Yorkville, pursuant to Wis. Stats. § 61.354(4)(b), shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Village of Yorkville in administering this section. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this section that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.

(b) Who may appeal. Appeals to the Board of Appeals may be taken by any aggrieved person or by an officer, department, board or bureau of the Village of Yorkville affected by any decision of the Village of Yorkville.

Sec. 10-391. Severability.

If a court of competent jurisdiction Judges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and not be affected by such judgment.

Chapters 11—13 RESERVED

Chapter 14

BUSINESSES

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
	Article I. In General		
Sec. 14-1.	Penalty.		
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	Article II. Licenses Generally		
Sec. 14-31.	Terms interchangeable.		
Sec. 14-32.	License required.		
Sec. 14-33.	Application.	2023-16	11/13/23
Sec. 14-34.	License fees.	2023-16	11/13/23
Sec. 14-35.	Enumerated businesses and fees.	03-2014	06/09/14
		06-2015	07/13/15
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Sec. 14-36.	Granting of licenses.	2023-16	11/13/23
Sec. 14-37.	Terms of licenses.		
Sec. 14-38.	Form of license.	2023-16	11/13/23
Sec. 14-39.	Records of licenses.	2023-16	11/13/23
Sec. 14-40.	Display of licenses.		
Sec. 14-41.	Compliance with ordinances required.		
Sec. 14-42.	Transfer of licenses.		
Sec. 14-43.	Exemptions.		
Sec. 14-44.	Renewal of licenses.	2023-16	11/13/23
Sec. 14-45.	Consent to inspection.		
Sec. 14-46.	Revocation and suspension of licenses.		
Sec. 14-47.	Withholding of licenses for nonpayment of amounts due to the village.		
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	Article III. Alcohol Beverages		
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Sec. 14-103.	Expiration.	05-2015	10/29/15
Sec. 14-104.	Application.	05-2015	10/29/15
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Sec. 14-107.	Revocation, suspension, refusals to issue or renew.	05-2015	10/29/15
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Sec. 14-108.	Transfer of licenses.	05-2015	10/29/15
Sec. 14-109.	Permission.	05-2015	10/29/15
Sec. 14-110.	Restrictions.	05-2015	10/29/15
Sec. 14-111.	Temporary extension of licensed premises for special events	05-2015	10/29/15
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Sec. 14-136.	Conduct.	05-2015	10/29/15
Sec. 14-137.	Violations by agents and employees.	05-2015	10/29/15
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Division 2. License

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Division 2. Business License

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Sec. 14-1022	Definitions	2025-11	06/23/25
Sec. 14-1023	Permits	2025-11	06/23/25
Sec. 14-1024	Application	2025-11	06/23/25
Sec. 14-1025	Notices	2025-11	06/23/25
Sec. 14-1026	Decision by Board	2025-11	06/23/25
Sec. 14-1027	Enforcement and penalty	2025-11	06/23/25

Article I. In General

Sec. 14-1. Penalty.

Except as otherwise provided herein, and in addition to the suspension or revocation of a license issued under this chapter, any person who shall violate any provision of this chapter, or any order, rule or regulation made under this chapter, shall be subject to a penalty as provided in section 1-14.
(Code 1982, § 12.25)

Secs. 14-2—14-30. Reserved.

Article II. Licenses Generally

Sec. 14-31. Terms interchangeable.

The words "license" and "permit," as used throughout this chapter, shall be interchangeable.
(Code 1982, § 12.02(1))

Sec. 14-32. License required.

No person shall engage in any business or activity enumerated in section 14-35 without a license therefor as provided by this chapter.
(Code 1982, § 12.02(2))

Sec. 14-33. Application.

Application for a license required by this chapter shall be made to the clerk on a form furnished by the village and shall contain such information as may be required by the provisions of this chapter or as may be otherwise required by the village board.
(Code 1982, § 12.02(3))

Sec. 14-34. License fees.

(a) Fees to accompany application. License fees imposed under section 14-35 shall accompany the license application. If a license is granted, the clerk shall issue the applicant a receipt for his license fee.
(b) Refunds. No fee paid shall be refunded unless the license is denied.

(Code 1982, § 12.02(4))

Sec. 14-35. Enumerated businesses and fees.

A license shall be required for each of the following businesses or activities, which shall be for one year unless otherwise indicated. The annual fee for such licenses shall be on file in the village clerk 's office and may be revised by village board resolution.

(1) Auction sales;

(2) Cigarettes;

(3) Alcohol beverages:

a. Retail “Class A” license;

b. Retail “Class B” license;

c. Temporary “Class B” (picnic wine) license;

d. Retail “Class C” wine license;

e. Retail Class “A” license;

f. Retail Class “B” license;

g. Temporary Retail Class “B” (picnic) license;

h. Operator's;

i. Transfer fee;

(4) Fireworks;

(5) Intoxicating liquor:

a. Retail Class A;

b. Retail Class B;

c. Retail Class C;

(6) Junk dealer's;

(7) Massage establishments;

(8) Nonintoxicating beverages;

(9) Peddler's, canvasser's, solicitor's and transient merchant's;

(10) Pool, billiard halls and bowling alleys;

(11) Dance halls;

a. Class A;

b. Class B;

c. Class C;

d. Special permit;

(12) Public shows;

(13) Quarry, gravel pit, dump, etc.:

a. Operator's;

b. Owner's;

(14) Gaming machines:

a. Electronic gaming machines;

b. Other amusement devices;

(15) Adult-oriented establishments:

a. New;

b. Renewal;

(16) Wireless telecommunications towers and antennas:

a. Tower conditional use permit;

b. Antenna site plan review.

(Code 1982, § 12.01; Ord. No. 2008-01, § 3, 12-22-2008)

Sec. 14-36. Granting of licenses.

Unless otherwise designated, licenses required by this chapter shall be issued by the clerk only with the approval of the village board; except the clerk may issue the following licenses subject to the standards established by this chapter without prior approval of the village board:

(1) Auction sales.

(2) Dog licenses, but not kennels.

(3) Nonintoxicating beverages.

(4) Peddlers, canvassers, solicitors and transient merchants.

(5) Public dances.

(Code 1982, § 12.02(5))

Sec. 14-37. Terms of licenses.

All licenses issued under this chapter shall expire on June 30 in the year of issuance unless issued for a shorter term, when they shall expire at midnight of the last effective day of the license, or unless otherwise provided by these ordinances or state laws.

(Code 1982, § 12.02(6))

Sec. 14-38. Form of license.

All licenses issued under this chapter shall show the dates of issue and expiration and the activity licensed and shall be signed by the clerk.
(Code 1982, § 12.02(7))

Sec. 14-39. Records of licenses.

The clerk shall keep a record of all licenses issued.
(Code 1982, § 12.02(8))

Sec. 14-40. Display of licenses.

All licenses under this chapter shall be displayed upon the premises or vehicle for which issued or, if carried on the person, shall be displayed to any officer of the village upon request.
(Code 1982, § 12.02(9))

Sec. 14-41. Compliance with ordinances required.

It shall be a condition of holding a license under this chapter that the licensee complies with all ordinances of the village. Failure to do so shall be cause for suspension or revocation of the license.
(Code 1982, § 12.02(10))

Sec. 14-42. Transfer of licenses.

All licenses issued under this chapter shall be personal to whom it may be issued, and no license shall be transferred without the consent of the village board.
(Code 1982, § 12.02(11))

Sec. 14-43. Exemptions.

No license other than a liquor or beer license shall be required under this chapter for any nonprofit educational, charitable, civic, military or religious organization if the activity, which would otherwise be licensed, is conducted for the benefit of the members or for the benefit of the public generally.
(Code 1982, § 12.02(12))

Sec. 14-44. Renewal of licenses.

All applications for renewal of licenses, which expire June 30 shall be made to the clerk by April 15.
(Code 1982, § 12.02(13))

Sec. 14-45. Consent to inspection.

An applicant for a license under this chapter thereby consents to the entry of police or authorized representatives of the village upon the licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this chapter all things found therein in violation of this chapter or state law.

(Code 1982, § 12.02(14))

Sec. 14-46. Revocation and suspension of licenses.

(a) Except as otherwise provided, any license issued under this chapter may be revoked for cause by the village board. No license shall be revoked except upon written verified complaint filed with the village board by the village president, a member of the village board, the police chief, chairperson of the license committee or a resident of the village. The licensee shall be served with a written copy of the charges and shall be given an opportunity to be heard before the village board. The licensee shall be given notice of such hearing, which shall be not more than 20 days nor less than five days after service of notice, except as otherwise agreed between the parties. Procedures for suspension or revocation of liquor licenses shall be as provided in Wis. Stat. § 125.12.

(b) At such hearing, the licensee shall be entitled to be represented by counsel, shall have the right to present and cross examine witnesses and upon request, may have subpoenas issued by the village president or presiding officer of the village board to compel the attendance of witnesses.

(c) After hearing the evidence, the village board may revoke such license or impose a limited period of suspension. The determination of the village board shall be final, subject to review under chapter 2, article VII. The licensee shall not be entitled to a further hearing unless granted by the village board.

(d) The police chief shall repossess any license revoked under this chapter.

(e) If the licensee does not apply for a hearing within the time provided, the license may be revoked by the village board.

(f) The Village President or village board may suspend the license of a licensee under this chapter without hearing, but not to exceed ten days.

(Code 1982, § 12.02(15))

Sec. 14-47. Withholding of licenses for nonpayment of amounts due to the village.

No person shall be eligible to hold any license or permit by the village if he is delinquent in the payment of any local taxes, forfeitures, charges, assessments, fees, special charges or other amounts payable to the village or to any district, commission or other subdivision of the village.

No license or permit shall be issued for any premises for which taxes, forfeitures, charges, assessments, fees, special charges or other amounts are delinquent and unpaid, unless:

(1) The delinquent amount is owed by the premises' owner;

(2) The license or permit would be issued to the premises' tenant; and

(3) The premises' tenant and owner have no immediate or extended family, business, or financial relationship with one another other than as landlord and tenant.

If a license or permit is revoked, or a license or permit application or renewal is denied, because of nonpayment of such amounts, the licensee or permittee shall be entitled to notice in writing and an opportunity to be heard. If such license or permit has procedures applicable to revocation or nonrenewal, e.g., alcohol beverages, such provisions shall apply.

(Ord. No. 2006-01, § 1, 6-12-2006; Ord. No. 2009-04, § 1, 7-27-2009)
Editor's note— Section 1 of Ord. No. 2006-01, adopted June 12, 2006, amended § 14-47 in its entirety to read as herein set out. Former § 14-47 pertained to similar subject matter and derived from § 12.02(16) of the 1982 Code.

Secs. 14-48—14-80. Reserved.

Article III. Alcohol Beverages

State Law reference— Alcohol beverages, Wis. Stat. ch. 125. (Back)

Division 1. Generally

Sec. 14-81. Adoption of statutes.

Wis. Stat. ch. 125, except Wis. Stat. §§ 125.03, 125.11, 125.19, 125.29, 125.30, 125.52, 125.53, 125.54, 125.55, 125.56, 125.58, 125.60, 125.61, 125.62 and 125.63, and all acts amendatory thereof and supplementary thereto, are adopted as a portion of this article so far as applicable, except as otherwise provided by this article.

(Code 1982, § 12.03(1))
State law reference— Authority to adopt, Wis. Stat. § 125.10.

Secs. 14-82—14-100. Reserved.

Division 2. Licenses

Sec. 14-101. Required; fees.

No person shall engage in any licensed activities as set forth in this section without first obtaining the appropriate license. The classes of licenses and fees are:

(1) Intoxicating liquors. Licenses to sell, deal or traffic in intoxicating liquors are:

a. Retail “Class A” license.

1. A retail “Class A” license shall permit the holder to sell, deal and traffic in intoxicating liquors only in original packages or containers, and consumed off the licensed premises. The annual fee shall be as stated in section 14-35 and shall be paid on or before July 1 of each license year.

2. Licenses may be granted which expire on June 30 each year upon payment of a proportion of the annual license fee as the number of months, or fraction of a month, remaining until June 30 each year bears to 12.

b. Retail “Class B” license.

1. A retail “Class B” licensee shall sell, deal and traffic in intoxicating liquors consumed by the glass only on the licensed premises, and in the original package or container, in multiples not to exceed four liters at any one time, consumed off the licensed premises, except that wine may be sold in the original package or otherwise in any quantity consumed off the premises. The annual fee for such license shall be paid on or before July 1 of each license year. The annual fee for such license shall be as stated in section 14-35.

2. Licenses may be granted which expire on June 30 of each year upon payment of a proportion of the annual license fee as the number of months, or fraction of a month, remaining until June 30 each year bears to 12.

3. No retail “Class B” liquor license shall be issued to any person who does not have or is not issued a retail “Class B” license for the sale of fermented malt beverages.

c. Retail “Class C” wine license.

1. A retail “Class C” licensee shall sell, deal and traffic in wine consumed by the glass only on the licensed premises, or in an opened original container for consumption on premises only. A single, open bottle of wine may be taken off premise if ordered with a meal and re-corked prior to being taken off premise. The annual fee for such license shall be paid on or before July 1 of each license year. The annual fee for such license shall be as stated in section 14-35.

2. Licenses may be granted which expire on June 30 of each year upon payment of a proportion of the annual license fee as the number of months, or fraction of a month, remaining until June 30 each year bears to 12.

d. Temporary Retail “Class B” (picnic wine) licenses. A temporary retail “Class B” (picnic wine) license may be issued to bona fide clubs and chambers of commerce, to county or local fair associations or agricultural societies, churches, lodges or societies that have been in existence for at least six months prior to the date of application, or to posts now or hereafter established, of veteran's organizations, authorizing them to sell wine in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, or at a meeting of any such post or during a fair conducted by such fair association or agricultural societies. The annual fee for such license shall be as stated in section 14-35 except that no fee may be charged to a person at the same time the person applies for a temporary Class “B” license to sell fermented malt beverages at the same event. Not more than 2 licenses may be issued under this subsection to any club, chamber of commerce, county or local fair association, agricultural association, church, lodge, society or veterans post in any 12-month period.

e. Semiannual license. Licenses may be issued at any time for a period of six months in any calendar year for which one-half of the annual license fee shall be paid. Such six-month licenses shall not be renewable during the calendar year in which issued.

(2) Fermented malt beverages. The licenses to sell, deal or traffic in fermented malt beverages are as follows:

a. Retail Class “A” license.

1. A retail Class “A” license authorizes sales of fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. The annual fee for such license shall be as stated in section 14-35 and shall be paid on or before July 1 of each license year.

2. Licenses may be granted which expire on June 30 each year upon payment of a proportion of the annual license fee as the number of months, or fraction of a month, remaining until June 30 each year bears to 12.

b. Retail Class "B" license.

1. A retail Class “B” license shall authorize the holder to sell fermented malt beverages either to be consumed on the premises where sold, or away from such premises. The holder of retail Class “B” license may also sell beverages containing less than one-half of one percent of alcohol by volume without obtaining a special license to sell such beverages under article VII of this chapter. The annual fee for such license shall be as stated in section 14-35 and shall be paid on or before July 1 of each license year.

2. Licenses may be granted which expire on June 30 each year upon payment of a proportion of the annual license fee as the number of months, or fraction of a month, remaining until June 30 each year bears to 12.

3. The licenses may be issued at any time for a period of six months in any calendar year for which three-quarters of the license fee shall be paid. Such six-month licenses shall not be renewable during the calendar year in which issued.

c. Temporary Retail Class “B” (picnic) licenses. A temporary retail Class “B” (picnic) license may be issued to bona fide clubs and chambers of commerce, to county or local fair associations or agricultural societies, churches, lodges or societies that have been in existence for at least six months prior to the date of application, or to posts now or hereafter established, of veteran's organizations, authorizing them to sell fermented malt beverages at a particular picnic or similar gathering, or at a meeting of any such post or during a fair conducted by such fair association or agricultural societies. The annual fee for such license shall be as stated in section 14-35.

(3) Provisional retail licenses. A provisional retail license authorizes only the activities that the type of retail license applied for authorizes.

a. Qualifications. The Village clerk shall, without prior Village Board approval, issue a provisional retail license to a person who has applied for a Class "A", Class "B", "Class A", "Class B", or “Class C” license, as those terms are defined in the state statutes, provided that, based upon the information contained in the application, the person meets the general qualifications contained in this chapter of the Code and Wis. Stat. Ch. 125, for the issuance of a license relating to alcohol beverages, as well as any additional qualifications for the issuance of the specific retail license for which the applicant has applied. The Village clerk may not issue a provisional "Class B" license if the Village's quota under Wis. Stat. § 125.51(4), prohibits the Village from issuing a "Class B" license. No person may hold more than one provisional retail license per type of license per year.

b. Application fee. The fee for a provisional retail license shall be as set forth in the schedule of fees on file in the Village clerk 's office and which may be revised by Village Board resolution, which shall be nonrefundable and shall not apply toward the retail license for which the applicant has applied.

c. Duration. A provisional retail license expires 60 days after its issuance or when the applicant's application for the Class "A", Class "B", "Class A", "Class B" or “Class C” license is issued or denied, whichever is sooner. The Village clerk shall revoke the provisional retail license if it is discovered that the holder of the license made a false statement on the application.

d. Conditions. Notwithstanding paragraph a. of this subsection, provisional retail licenses shall be issued only:

1. For transfers of existing liquor licenses at existing locations; or

2. When the applicant's retail license has been approved by the Village Board, excepting that the applicant has not successfully completed a responsible beverage server training course, in which case the applicant must provide proof that he or she is enrolled in such a course in order to receive a provisional license under this subsection.

(Code 1982, § 12.03(2)(a), (b); Ord. No. 2009-02, § 1, 5-27-2009)

Sec. 14-102. Operator's license.

(a) *Required*. No premises shall be open for business under any “Class A”, Class “A”, “Class B”, Class “B”, or “Class C” license or temporary retail license or provisional retail license unless there is upon the premises the licensee, the agent named in the license if the licensee is a corporation or limited liability company, or some person who has an operator's license issued by the Village or operator's permit issued by the Division of Alcohol Beverages and who is responsible for the acts of all persons serving any fermented malt beverages or intoxicating liquor to customers. For the purpose of this section, any person holding a manager’s license under Wis. Stat. § 125.18, or any member of the licensee’s or permittee’s immediate family who has attained the age of 18, shall be considered the holder of an operator’s license. No person other than the licensee or agent may serve fermented malt beverages or intoxicating liquor in any place operated under any “Class A”, Class “A”, “Class B”, Class “B”, or “Class C” license or temporary retail license or provisional retail license unless he or she has an operator's license issued by the Village or operator’s permit issued by the Division of Alcohol Beverages, is considered to have an operator's license under this subsection, or is at least 18 years of age and is under the immediate supervision of the licensee, agent, or a person holding an operator's license or operator's permit, who is on the premises at the time of the service.

(b) *Standards for Issuance*. Operators’ licenses shall be issued as provided in Wis. Stat. § 125.17, as follows:

(1) *Application.* Operator’s licenses shall be made upon written application on forms provided by the village clerk. Said application shall state the name, residence, age, and sex of the applicant, together with such pertinent information as to the fitness of a candidate as the Village clerk shall require. All such applicants shall list any convictions for crimes or ordinance violations which bear a relationship to the responsibilities of licensees.

(2) *Application fee.* The annual fee for an operator’s license shall be paid to the Village treasurer in an amount as set forth in the schedule of fees on file in the Village clerk's office and which may be revised by Village Board resolution from time to time.

(3) An operator's license may be issued only to persons who have attained the age of 18 years.

(4) Applicants shall not be required to show proof of or offer of employment as a condition of receiving an operator's license.

(5) *Training course.* The applicant shall provide the Village clerk with documentation demonstrating successful completion of a responsible beverage server training course that is offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board, or a comparable training course, which may include computer-based training and testing, that is approved by the department of safety and professional services, or unless the applicant fulfills one of the following requirements:

a. The applicant is renewing a valid operator's license.

b. Within the past 2 years, the person held a Class "A", "Class A", Class "B", "Class B", or "Class C" license or an operator's license.

c. Within the past 2 years, the person has provided documentation demonstrating completion of a responsible beverage server training course.

(6) Prior to the grant and issuance of an operator's license, both initially before issuance and annually upon renewal, the Village clerk shall conduct a background investigation of each operator's license applicant.

(7) Operator's licenses may be granted and issued to individuals by the Village Clerk as provided in Wis. Stat. § 125.17(1).

(8) If the Village clerk determines, however, that further review of an application is necessary or that an application may meet the criteria for denial, the Village clerk shall cause the name of the applicant to be placed on the agenda of the Village Board for action to either grant or deny such license application. In such cases, upon granting of the application by the majority vote of the Village Board members present, the Village clerk shall issue an operator's license to the applicant.

(9) Each operator's license shall expire on the 30th day of June following the date of issuance.

(10) In the event that an applicant for an operator's license submits an application in the months of May or June, a provisional license may be issued to that applicant to cover the final two months of the licensing year subject to the provisional license application fee and requirements.

(11) *Temporary operators' licenses.*

a. The Village clerk may, without prior Village Board approval and as provided in Wis. Stat. § 125.17(4), be authorized to issue temporary operator's licenses.

b. Operator's licenses shall be made upon written application on forms provided by the village clerk. Said application shall state the name, residence, age, and sex of the applicant, together with such pertinent

information as to the fitness of a candidate as the Village clerk shall require. All such applicants shall list any convictions for crimes or ordinance violations, which bear a relationship to the responsibilities of licensees.

c. The fee for a temporary operator's license shall be paid to the Village treasurer in an amount as set forth in the schedule of fees on file in the Village clerk's office and which may be revised by Village Board resolution from time to time.

d. A temporary operator's license may only be issued to persons who have attained the age of 18 years.

e. Temporary operators' licenses may only be issued to operators employed by, or donating their services to, nonprofit corporations.

f. No person may hold more than two temporary operator's licenses per year.

g. The temporary operator's license is valid for any period from one day to 14 days. The period for which the license is valid shall be stated on the license.

(12) *Provisional operators' licenses.* A provisional operator's license shall function as an operator's license, subject to the limitations contained in this subsection.

a. *Qualifications.* The Village clerk shall, without prior Village Board approval and as provided in Wis. Stat. § 125.17(5), be authorized to issue a provisional operator's license to any person who has, at the same time, also applied with the Village for an operator's license pursuant to this section of the Code, provided that, based upon the information contained in the application, the person meets the general qualifications contained in this section of the Code and Wis. Stat. Ch. 125 for the issuance of an operator's license, and further provided, however, that the Village clerk shall issue a provisional operator's license to anyone filing with the Village clerk a certified copy of a valid operator's license issued by another municipality. In no event, however, shall a provisional operator's license be issued to anyone who has been denied an operator's license by the Village Board. A provisional license may be issued to an applicant that has enrolled in a training course if that applicant meets the other qualifications for an operator's license.

b. *Application fee.* The fee for a provisional operator's license shall be paid to the Village treasurer in an amount as set forth in the schedule of fees on file in the Village clerk's office and which may be revised by Village Board resolution from time to time. The application fee shall be nonrefundable and shall not apply in whole or in part toward the operator's license fee for which the applicant has applied.

c. *Duration.* A provisional operator's license shall expire (1) 60 days after its issuance, (2) upon issuance or denial of the operator's license that was

applied for with the Village, or (3) upon expiration of an operator's license from another municipality that was filed with the Village under paragraph a., whichever event occurs sooner.

d. *Revocation.* The Village clerk may revoke the provisional operator's license if it is discovered that the holder of the license made a false statement on the application, if the operator's license issued by another municipality is determined to not be valid, or upon denial of the license holder's application for an operator's license by the Village Board." If the provisional license was issued to an applicant that had enrolled in a training course, the license may be revoked for the applicant's failure to successfully complete the training course.

Sec. 14-103. Expiration.

Unless otherwise specifically provided in this article, or at the time of issuance, all licenses shall expire on June 30 following issuance of the license.
(Code 1982, § 12.03(2)(d))
State law reference— Operator's license, Wis. Stat. § 125.17 and Wis. Stat. § 125.32.

Sec. 14-104. Application.

(a) Each applicant for any license shall file a written application for the license on the form prescribed by the state department of revenue with the Village clerk not less than 15 days prior to any meeting to consider the granting of such license.

(b) Each application shall be sworn to by the applicant as provided by Wis. Stat. § 887.01.

(c) Each application shall be accompanied by a sum equal to the license fee and costs of publication as provided in Wis. Stat. § 125.04.

(d) Whenever a bond is required by the state statute, the bond shall not be acceptable unless approved by the Village president and attorney, either of whom may require such evidence as they deem necessary as to the eligibility and justification of the sureties.

(Code 1982, § 12.03(2)(a), (b); Ord. No. 2009-02, § 1, 5-27-2009)

Sec. 14-105. Investigation and consideration of applications.

(a) Whenever any applicant for a license shall have complied with all of the conditions and regulations contained in this article relative to the filing of his application, it shall be the duty of the Village clerk to forward the application to the Village Board for consideration at any regular or special meeting thereof occurring no earlier than 15 days from the date of the application.

(b) The Village Board shall give an opportunity to any person to be heard for or against the granting of any application and issuance of a license. In determining the suitability of an

applicant, consideration shall be given to applicant's financial responsibility, the appropriateness of the location and the premises proposed for licensing, and generally, the applicant's fitness for the trust to be reposed. The Village clerk shall issue no license until there has been favorable action by the Village Board upon the application except that the Village clerk is authorized to issue temporary “Class B” (picnic wine) and Class “B” (picnic) licenses upon receipt of a completed application by a qualified applicant. Upon approval, the Village clerk shall forward a duplicate copy of the application to the state department of revenue.

(c) If any application for a license under this article is denied, any fees required to be submitted with the application shall be returned to the applicant.

(Code 1982, § 12.03(3)(b))

Sec. 14-106. Issuance and posting of licenses.

(a) Upon approval of any application and receipt of all fees fixed by the statute, the Village clerk shall issue the applicant a license under this article, serially numbered and describing specifically the name of the licensee and premises for which it is issued.

(b) Every license issued under this article shall be posted and at all times displayed as provided in state statutes. No person shall post such license, or permit or allow any other person to post it, upon premises other than those mentioned in the application, or knowingly deface or destroy such license.

(Code 1982, § 12.03(3)(c))

Sec. 14-107. Revocation, suspensions, refusals to issue or renew.

Upon complaint made in writing under oath by any Village resident and filed with the Village clerk, that any person licensed under this article or state statutes, has violated any provision of this article or any section of the state statutes regulating the sale of intoxicating liquor or fermented malt beverages; keeps or maintains a disorderly or riotous, indecent or improper house; has sold or given away any alcohol beverages to a known habitual drunkard; or does not possess the qualifications required under Wis. Stat. ch. 125 to hold the license, the Village Board shall proceed as provided in Wis. Stat. § 125.12 to consider and act on the suspension, revocation, refusal to issue or renew the license. The provisions in Wis. Stat. § 125.12 relating to renewing or granting a new license shall be applicable to any applicant or licensee under this article.

(Code 1982, § 12.03(3)(d))

Sec. 14-108. Transfer of licenses.

(a) No license under this article shall be transferable as to licensee or location, except as provided by Wis. Stat. § 125.04(12).

(b) A transfer fee as stated in section 14-35 shall be paid for each such license transfer.

(Code 1982, § 12.03(3)(e))

Sec. 14-109. Permission.

No officer, Board or committee shall have any authority to give permission, whether temporary or otherwise, to any person to do anything for which a license under this article is required, unless authority of the Village Board has actually granted such license. Any such permission granted shall be of no effect and shall not constitute a defense in an action brought for the violation of this article or any part thereof.
(Code 1982, § 12.03(3)(f))

Sec. 14-110. Restrictions.

The issuance of licenses shall be restricted as follows:

(1) Persons. No license shall be granted to any person who does not meet the minimum requirements imposed by state statute.

(2) Location.

a. No license shall be granted for any premises that does not meet the minimum requirements imposed by the state statute.

b. No license shall be issued to any person for the purpose of possessing, selling or offering for sale any intoxicating liquor or fermented malt beverages in any dwelling house, flat or residential apartment.

(3) Limitation as to number.

a. The number of “Class B” intoxicating liquor licenses shall be the maximum allowed under Wis. Stat. § 125.51(4), unless such location meets an exception allowed thereunder.

b. Not more than two of any one type of retail “Class A”, Class “A”, “Class B” Class “B”, or “Class C” licenses shall be issued in the state to any one corporation or person, except in case of hotels or clubs.

(Code 1982, § 12.03(4))

Sec. 14-111. Temporary extension of licensed premises for special events.

(a) Authority. The granting of a temporary extension of licensed premises for special events shall authorize the licensee to sell or serve intoxicating liquors or fermented malt beverages, as permitted by the specific license held, for a period of time not exceeding 48 hours and in the area described in the application for such temporary extension, as expressly approved by the Village Board. Such authority, however, shall be contingent upon the licensee also obtaining any and all other special privileges or permits required for the conduct of the special event for which the temporary extension of the licensed premises is sought.

(b) Eligibility. Any person holding a valid "Class B" retail liquor license, Class "B" fermented malt beverage retailer's license or "Class C" retail wine license may apply for temporary extension of such licensed premises for a special event. The area which the licensee wishes to include in any temporary extension of the licensed premises must be contiguous to the licensed premises and owned by or under the control of the licensee. If the applicant seeks a temporary extension of the licensed premises, such that the extended licensed premises would extend into or encroach upon public property or public thoroughfares, then the applicant shall also be required to obtain the applicable special privilege or street festival permit before the document authorizing the temporary extension of the licensed premises is issued by the Village clerk. The applicant shall also comply with all other applicable statutes, ordinances and resolutions.

(c) Applicant's responsibility. Application for the temporary extension of licensed premises for special events shall be made by an individual, or authorized agent in the case of a corporation, a limited liability company or other entity or association, who shall be personally responsible for compliance with all of the terms and provisions of this chapter. All applications shall be submitted for review and approval at least thirty (30) days prior to the event.

(d) Application. An application for the temporary extension of licensed premises shall be filed on or before the deadline established by the Village clerk on forms provided by the Village clerk The application shall be signed and sworn to by the applicant, if an individual; by one partner, if a partnership; or by a duly authorized agent, officer or member, if a corporation or limited liability company or other entity. The application shall include:

(1) The name, business address and telephone number of the applicant.

(2) The address of the existing licensed premises and a specific description of the site for which the temporary extension is sought.

(3) The name of the particular event or function for which the temporary extension of the licensed premises is sought.

(4) The date and period of time for which the particular event or function will be operated.

(5) Such other reasonable and pertinent information as the Village Board or Village clerk may require.

(e) Approval by Village Board. The completed application shall be referred to the Village Board, which shall determine whether to approve the permit. The Village Board may take into consideration the following:

(1) The appropriateness of the location and site for which the permit is sought and whether the event for which the permit is sought will create problems.

(2) The hours during which the event would be operated on the site and the likely effect of the event on the surrounding area.

(3) Whether previous permits granted to the same applicant or to other applicants for the same site have resulted in neighborhood problems, including, but not limited

to, complaints of loud music, noise, litter, or conduct that would be considered to be disorderly conduct.

(4) Any other factors which reasonably relate to the public health, safety and welfare.

(f) Issuance. In the event the Village Board grants the application for a temporary extension of licensed premises for special events, the Village clerk shall issue an appropriate document to the applicant confirming that fact and specifying the date, period of time and specific location for which the extended licensed premises shall be in effect. Such document shall also contain any restrictions or conditions which the Village Board may place on such approvals. The Village clerk shall inform the Code Enforcement Officer and the Racine County Sheriff's Department of the date, place and event for which the temporary extension of licensed premises was issued.

(g) Limitation as to Number. No more than four (4) temporary extensions of licensed premised for special events shall be granted to any one licensed premises per year.

(h) On-premises sale.

(1) A licensee granted a temporary extension of licensed premises for special events may not sell any alcohol or nonalcoholic beverages for consumption in bottles, cans and glass containers in the location of the temporary extension of the licensed premises. Beverages may only be sold in single service cups for on-premises consumption in the location of the temporary extension of the licensed premises.

(2) An exception to the limitation on sale of alcohol beverages to single-service cups in Subsection (g)(1) above may be permitted by the Village Board upon application of an event sponsor or the licensee of the extended premises made at least 60 days prior to the special event. No exception shall be permitted allowing glass containers upon extended premises. The applicant shall include a copy of the application and permit, if issued, and information identifying the sponsor or sponsors of the special event, if any, the reason or reasons for which an exception is sought, including a specific description of the procedures and policies for assuring the safety of the public, a description of the entertainment or amusement to be provided during the special event, the type and estimated quantity of single-service beverage containers proposed for sale or possession upon the extended premises, and any other information the Village Board may require. The Village Board may permit beverage containers other than single-service cups when, in its discretion, considering information in the application and other factors consistent with the health, safety and welfare of the public and of law enforcement officers, it is determined that the exception poses no appreciable risk. These factors may include, but are not limited to, past experience with the same or similar special events, the estimated number of participants in the special event, and neighborhood circumstances. The Village Board may, upon cause clearly shown in the application, waive the requirement that an application be made at least 60 days prior to the event.

Secs. 14-112—14-130. Reserved.

Division 3. Regulations

Sec. 14-131. Compliance with division.

All licenses shall be granted subject to the regulations in this division.

(Code 1982, § 12.03(5))

Sec. 14-132. Inspection of premises.

The Village Board may, at any and all reasonable times, as it, by majority vote, may deem necessary and proper, cause any premises licensed under this article to be inspected by the Code Enforcement Officer, to determine whether the applicant, licensee and the premises licensed or sought to be licensed comply with the regulations, ordinances and laws applicable thereto and the applicant's or licensee's fitness for the trust imposed or to be imposed. These officers, or any one of them, shall furnish to the Village Board in writing the information derived from such inspection and within ten days from notification thereof.
(Code 1982, § 12.03(5)(a))

Sec. 14-133. Closing hours.

No premises for which a wholesale or retail alcohol beverage license has been issued shall be permitted to remain open for the sale of intoxicating liquors or fermented malt beverages:

(1) If a retail Class “A” license, between midnight and 6:00 a.m. and a “Class A” license, between 9:00 p.m. and 6:00 a.m.

(2) If a retail “Class B”, Class “B”, and “Class C” license, between 2:00 a.m. and 6:00 a.m. on weekdays and between 2:30 a.m. and 6:00 a.m. on Saturdays and Sundays. On January 1, premises operating under a “Class B” license are not required to close. No package, container or bottle sales may be made after midnight. On the Sunday that daylight saving time begins as specified in Sec. 175.095(2), the closing hours shall be between 3:30 a.m. and 6:00 a.m.

(3) No premises licensed for the sale of alcohol beverages at retail shall, during the day or hours they are required to close, or during the hours in which the sale of intoxicating liquor is prohibited, obstruct by the use of curtains, blinds, screens or in any other manner, a full and complete view of the interior from the outside. During the hours in which the sale of intoxicating liquors is permitted, the premises shall be properly and adequately lighted.

(4) Hotels and restaurants, the principal business of which is the furnishing of food and lodging to patrons, bowling centers, indoor horseshoe pitching facilities, curling clubs, golf courses and golf clubhouses shall be permitted to remain open for the conduct of their regular business, but shall not be permitted to sell intoxicating liquors or fermented malt beverages during the hours mentioned in subsection (3) of this section.

(5) During closing hours, and except as provided in subsection (3) of this section, no patron or guest shall be permitted to enter or remain in the licensed premises.

(Code 1982, § 12.03(5)(b))

Sec. 14-134. Health and sanitation.

All licensed premises shall be kept sanitary and conform to the sanitary, safety and health requirements of the state agencies with jurisdiction over such premises and to all ordinances and regulations of the county and Village.

(Code 1982, § 12.03(5)(c))

Sec. 14-135. Repealed.

Sec. 14-136. Conduct.

Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

(Code 1982, § 12.03(5)(e))

Sec. 14-137. Violations by agents and employees.

A violation of this article by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

(Code 1982, § 12.03(5)(f))

Sec. 14-138. Sale to persons under the legal drinking age.

No person may sell, furnish or give intoxicating liquor to a person under the legal drinking age, or traffic or deal in intoxicating liquor with a person under the legal drinking age. No person shall sell, dispense, give or furnish fermented malt beverages to anyone under the legal drinking age when not accompanied by parent, guardian or adult spouse who has attained the legal drinking age.

(Code 1982, § 12.03(5)(g))

Sec. 14-139. Sale to intoxicated person prohibited.

No keeper of a place for the sale of intoxicating liquor may sell, vend or in any way deal or traffic in, or for the purpose of evading this article or any law of the state relating to the sale of intoxicating liquor, give away intoxicating liquor in any quantity to any person intoxicated or bordering on a state of intoxication.

(Code 1982, § 12.03(5)(h))

Sec. 14-140. Procuring liquor for persons under the legal drinking age.

No person shall procure intoxicating liquor for a person under the legal drinking age.

(Code 1982, § 12.03(5)(i))

Sec. 14-141. Suspending business.

If any licensee shall suspend or cease doing business for a period of 90 consecutive days or more, “Class A” retail liquor license, Class “A” retail license, the “Class B” intoxicating liquor, Class “B” fermented malt beverage license, or the Class C wine license shall be subject to revocation by the Village Board after public hearing thereon in accordance with Section 14-107.

(Code 1982, § 12.03(5)(j))

Sec. 14-142. Underage person's presence on licensed premises; exceptions.

Notwithstanding the restrictions and exceptions applicable to underage persons on licensed premises as set forth in Wis. Stat. ch. 125, and as adopted by subsection (1) of this section, an underage person may enter or remain in a room in any “Class B” and Class “B” licensed premises separate from any room where alcohol beverages are sold or served if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present, provided that the licensee shall have accomplished each of the following:

(1) The licensee shall have submitted to and have obtained the approval of the Village Board for the plan of operation and the anticipated schedule of events for such activity, together with such other information as the Village Board may request. In granting such approval, the Village Board shall first determine that the proposed activity is beneficial for underage persons, the proposed activity serves a community purpose and the presence of underage persons of the premises would not endanger their health, safety and welfare or that of the other members of the community.

(2) The licensee has obtained the written authorization of the Village Board and the Code Enforcement Officer permitting underage persons to be present under the terms of this article on the date specified in the authorization. The licensee shall obtain a separate authorization from the Village Board and the Code Enforcement Officer for each day on which underage persons will be present on the premises. In determining whether to issue such authorization, the Village Board and the Code Enforcement Officer shall make a determination that the presence of underage persons on the licensed premises would not endanger their health, welfare or safety or that of the other members of the community. Among the criteria, which the Village Board and the Code Enforcement Officer shall utilize in making that determination, are the following:

a. The plan is consistent with the authorization of the Village Board.

b. Provision has been made for:

1. An acceptable security plan for the event.

2. Conducting the event in a separate room or space with walls or partitions to segregate the event from the rest of the premises.

3. Adequate parking and traffic control.

4. Securing of all alcohol beverages during any such event.

5. Prohibiting the bringing of alcohol beverages or other illegal substances to the premises.

6. Noise control.

7. Hours of operation.

8. Ages of persons permitted.

9. Control of exit and reentry.

10. Such other matters which may be reasonably considered in approving of the conduct of the event.

(Code 1982, § 12.03(5)(k))

Sec. 14-143. Sale of fermented malt beverages.

No retail “Class A” or Class “A” licensee shall sell individual bottles, cans or containers of fermented malt beverages containing 20 ounces or less of fermented malt beverages. All such sales shall be of containers, cases or other receptacles containing six or more bottles, cans or containers each of 20 ounces or less.
(Code 1982, § 12.03(5)(l))

Sec. 14-144. Penalty.

For the violation of any of the provisions of this article which are in conformity with the statutes of the state, the persons convicted of such violations shall be subject to forfeitures equal to any fines as provided by such statutes, together with the costs of prosecution, and in default of payment thereof, imprisonment for a period of not more than 90 days or until paid.

(Code 1982, § 12.03(6))

Secs. 14-145—14-170. Reserved.

Article IV. Peddlers, Canvassers, Solicitors And Transient Merchants

Cross reference— Streets, sidewalks and other public places, ch. 38. (Back)
State Law reference— Authority to regulate, Wis. Stat. § 66.0423 et seq. (Back)

Sec. 14-171. 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:

Canvasser and solicitor mean a person who goes from place to place within the village soliciting orders for the future delivery of property or for services to be performed in the future, including any person who occupies any place within the village for the purpose of exhibiting samples and taking orders for future delivery.

Peddler means a person who goes from place to place within the village offering for sale property which he carries with him, including a vendor who distributes his products to regular customers on an established route.
Transient merchant means a person who engages in the sale of merchandise at any place in this stat temporarily and who does not intend to become and does not become a permanent merchant of that place.

(Code 1982, § 12.05(1))
Cross reference— Definitions generally, § 1-2.

Sec. 14-172. License required.

Except as provided by section 14-173, no person shall conduct any of the activities enumerated in section 14-171 without a license therefor as provided by this article.
(Code 1982, § 12.05(2))

Sec. 14-173. Exemptions.

No license shall be required under this article for the following:

(1) Persons selling personal property at wholesale to dealers in such articles.

(2) Newsboys.

(3) Children under 18 years of age who are residents of the village.

(4) Merchants or their employees delivering goods in the regular course of business.

(5) Farmers or truck gardeners offering to sell the products of the farm or garden occupied and cultivated by them.

(6) A veteran holding a special state license under Wis. Stat. § 440.51, but he shall comply with sections 14-177 through 14-180.

(7) Any person soliciting for charitable, religious, patriotic or philanthropic purposes if the proceeds thereof are devoted solely to the purposes of the organization.

(8) Sales required by statute or order of a court.

(9) Bona fide auction sales conducted pursuant to law.

(10) Activities for which local licensing is prohibited under the United States Constitution.

(Code 1982, § 12.05(3))

Sec. 14-174. Investigation fee.

At the time of filing the application, the applicant shall pay fees as set forth in section 14-35.
(Code 1982, § 12.05(4); Ord. No. 2008-01, § 4, 12-22-2008)

Sec. 14-175. Investigation.

The clerk may cause the applicant and the facts stated in the application to be investigated and may request assistance to the code enforcement officer in such investigation. The clerk shall approve or disapprove the application within 72 hours after its submission.
(Code 1982, § 12.05(5))

Sec. 14-176. Bond.

(a) When required. Every applicant who is not a resident of the county or who represents a firm the principal place of business of which is located outside of the state shall file with the clerk a surety bond in an amount as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution, approved by the village president, conditioned that the applicant shall comply with all provisions of the village ordinances and state laws and guaranteeing to any person doing business with the licensee that all money paid as a down payment will be accounted for and applied according to the representations of the licensee, and further guaranteeing that property purchased for future delivery will be delivered according to the representations of the licensee.

(b) Action on bond. Action on such bond may be brought by any person aggrieved.

(Code 1982, § 12.05(6))

Sec. 14-177. Use of streets.

No licensee shall use the public streets or sidewalks for purposes of sales in such manner as to impede or inconvenience the public use of the streets or sidewalks.
(Code 1982, § 12.05(7))

Sec. 14-178. Display of license.

Any person licensed under this article shall carry his license with him while engaged in licensed activities and shall upon request display such license to any officer of the village or any person with whom he seeks to do business.
(Code 1982, § 12.05(8))

Sec. 14-179. Hours restricted.

No person licensed under this article shall call at any residence or other place between 9:00 p.m. and 9:00 a.m. except by appointment.
(Code 1982, § 12.05(9))

Sec. 14-180. Prohibited practices.

No licensee shall:

(1) Call at any place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning.

(2) Call at the rear door of any place.

(3) Remain on the premises after being asked to leave by the owner, occupant or person in authority.

(Code 1982, § 12.05(10))

Secs. 14-181—14-210. Reserved.

Article V.
Massage Establishments and Massage Technicians

Division 1. - Generally

Sec. 14-211. Purpose and intent.

It is the purpose and intent of the village that the operation of massage establishments and massage technicians as defined in this article shall be regulated so as to further the public interest, safety and welfare by providing minimum building, sanitation and health standards for such establishments and providing minimum qualifications for massage technicians.

Sec. 14-212. 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:

Health officer means the Racine County Public Health Division or its authorized representative.

Massage means any method of rubbing, pressing, stroking, kneading, tapping, pounding, vibrating or stimulating the superficial parts of the human body with the hands or with any instrument.

Massage establishment means any establishment wherein one of the principal functions is such that massage is given, engaged in or carried on, or permitted to be given, engaged in or carried on.

Massage technician means any person who administers to another person, for any form of consideration, a bath, massage, manipulation of the body, electric vibration, magnetic stimulation or similar procedure.

Cross reference— Definitions generally, § 1-2.

Sec. 14-213. Required clothing and prohibition of sexual massages.

(a) Massages shall not be given unless patrons are wearing clothing fully covering their genitals and female patrons are in addition wearing clothing fully covering their breasts. Massage technicians shall at all times be fully clothed from the knee to the neck in clean, opaque, nontransparent, light colored clothing.

(b) No massage technician shall massage the genital area of any patron, including the breasts of any female patron, nor shall any operator or owner of a massage establishment allow or permit such massage in such massage establishment.

Sec. 14-214. Hours of operation.

Massage establishments shall commence operations no earlier than 8:00 a.m. and the hours of operation shall extend no later than 10:00 p.m. Massage technicians shall not practice or administer massages at massage establishments at any time outside the hours of operation. The entrances and exits of massage establishments which are used by the patrons of such massage establishments shall be locked during the hours which the massage establishments are closed.

Sec. 14-215. Suspension or revocation of permits.

Any massage establishment permit issued under this article shall be subject to suspension or revocation by the village board for violation of any provision of this article or for any grounds that would warrant the denial of the issuance of such permit in the first instance. Prior to the suspension or revocation of any permit issued under this article, the permittee shall be entitled to a hearing held before the village board at which time evidence shall be received for the purpose of determining whether or not such permit shall be suspended or revoked, or whether the permit may be retained. If the permit is suspended or revoked, the notification and reasons for such suspension or revocation shall be set forth in writing and sent to the permittee by means of registered or certified mail or hand delivery to the address stated in the permit.

Sec. 14-216. Injunctive relief.

In addition to the legal remedies provided in this chapter, the operation of any massage establishment in violation of the terms of this article shall be deemed a public nuisance and may be enjoined by the village through its authorized representatives, including at all times the village attorney without further authorization of the village board.

Secs. 14-217—14-240. Reserved.

Division 2.
Massage Establishments

Sec. 14-241. Massage establishment permit required.

No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises within the village, as the owner or operator of a massage establishment as defined in section 14-212, without having procured a permit as provided in this article, nor without complying with all statutes, ordinances and regulations applicable to such establishment and unless such permit is in effect at the time of such operation.

Sec. 14-242. Permit application.

(a) The application for a permit under this article shall be upon a form provided by the clerk and shall set forth the exact nature of the services to be provided and the proposed place of business and facilities therefor, and the name and address of each applicant and such other information as the clerk may require. If the applicant is a corporation, the names and residence addresses of each of the officers and directors of such corporation and of each stockholder owning more than ten percent of the stock of the corporation shall be set forth. If the applicant is a partnership, the names and residence addresses of each of the partners including limited partners shall be set forth.

(b) In addition to the provisions of subsection (a) of this section, any applicant for such a permit shall furnish the following information:

(1) The two previous addresses, if any, three years immediately prior to the present address of applicant.

(2) Written proof that the individual or partnership applicant is over the age of 18 years.

(3) Individual or partnership applicant's height, weight, sex, color of eyes and hair.

(4) Two portrait photographs at least two inches by two inches.

(5) Business, occupation or employment of the applicant for the three years immediately preceding the date of the application.

(6) The history of the applicant in operation of a massage establishment or similar business or occupation, including, but not limited to, whether or not such person when previously operating in this village or any other village, city or state under permit, has had such permit revoked or suspended and the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

(7) All criminal convictions other than misdemeanor traffic violations, and the reasons therefore.

(8) The name and address of each massage technician who is or shall be employed in such establishment.

(9) Such other identification and information necessary to discover the truth of the matters required to be set forth in the application.

(10) Nothing contained in this section shall be construed to deny to the investigation officer the right to take the fingerprints and additional photographs of the applicant.

Sec. 14-243. Exemptions.

The permits required by this article shall not apply to hospitals, nursing homes, sanitaria, persons holding an unrevoked certificate to practice the healing arts or physical therapy under the laws of the state.

Sec. 14-244. Permit investigation and fee.

An investigation fee, in the amount specified in section 14-35, no part of which shall be refundable, shall accompany all applications for a massage establishment permit. Upon receipt of such application, the clerk shall refer the application to the building inspector, plumbing inspector, electrical inspector, the fire department and the health officer, each of whom within a period of 30 days from the date of application shall review records or make an inspection of the premises proposed to be devoted as a massage establishment and shall make a written recommendation to the village board concerning compliance with the respective requirements.

Sec. 14-245. Requirements for issuance of permit.

(a) The village board shall issue such permit within 30 days after completion of the investigation if upon investigation and the reports filed it is found:

(1) The operation, as proposed by the applicant, if permitted, would comply with all applicable laws, including, but not limited to, the village's building, plumbing, electrical and health code and the county zoning regulations and the provisions of this article.

(2) The applicant has not been convicted in a court of competent jurisdiction of:

a. An offense involving lewd conduct; nor an offense involving the use of force nor violence upon the person of another.

b. Any offense involving the willful making of a false statement or theft from a person.

(3) The applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent statement of facts in the permit application or any other document required by the village in conjunction therewith.

(4) The applicant or any shareholder, partner or other participant in such massage business has within the five years prior to application been engaged in the massage establishment business and has not had any license issued by another authority revoked for violation of any ordinance or law regulating such establishment.

Sec. 14-246. Denial of a permit.

If a permit under this article is denied, notification and reasons for denial shall be set forth in writing and sent to the applicant by means of registered or certified mail or hand delivery to the address given in the application.

Sec. 14-247. Sanitation requirements.

(a) All premises used by permittees under this article shall be subject to periodic inspection by the village for safety of the structure and the propriety of plumbing, electrical wiring, ventilation, heating and sanitation. One artificial, illuminated white light of not less than 100 watts shall be provided in each room where a massage is being administered. The walls shall be clean and painted with an approved, washable, mold-resistant paint in all rooms where the water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the massage operation shall be maintained in a clean and sanitary condition. Separate restrooms shall be provided for men and women.

(b) Towels, sheets and linens of all types and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, clothes and sheets shall not be used for more than one person. Reuse of such linen is prohibited unless the linen has first been laundered. Heavy white paper may be substituted for sheets provided that such paper is used once for every person and then discarded into a sanitary receptacle. Every massage establishment shall have the following facilities for patrons:

(1) Separate toilet rooms and shower facilities for men and women.

(2) Individual, private dressing rooms for each patron.

(3) Locker facilities for patrons' property.

Sec. 14-248. Inspection by village officers.

The investigating officers of the village, including the health officer, shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to enforce compliance with the building, fire, electrical, plumbing or health regulations. If an applicant for a massage establishment permit has a communicable or venereal disease or if the applicant is in violation of any federal, state or local health law or regulation, the application may be denied. If a permit has been issued, it may be revoked or suspended in the matter set forth in this article.

Sec. 14-249. Transfer of massage establishment permit.

No massage establishment permit shall be transferable except with the written approval of the village board. Any application for such a transfer shall be in writing and shall be accompanied by a filing and investigation fee as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution, no part of which shall be refundable. The application for such transfer shall contain the same information as required for an initial application for such permit. If the transfer is denied, notification and reasons for denial shall be set forth in writing and shall be sent to the applicant by means of registered and certified mail or hand delivery.

Secs. 14-250. Prohibition on employing unlicensed masseuses.

Any massage establishment in the Village of Yorkville is prohibited from employing or contracting for services to provide massage therapy or bodywork therapy with an individual who is not licensed under Wis. Stat. § 460.02.

Secs. 14-251—14-270. Reserved.

Division 3.
Massage Technician

Sec. 14-271. License required.

No person shall practice massage as a principal, an employee or otherwise within the village unless such person has been issued a “massage therapist” or “bodyworker” license by the State of Wisconsin per Wis. Stat. Chapter 460.

Sec. 14-272. Display of permits and licenses.

The owner or operator shall display the massage establishment permit issued and the state issued license of each and every massage technician employed in the establishment in an open and conspicuous place on the premises.

Secs. 14-273—14-300. Reserved.

Article VI. Manufactured Homes, Mobile Homes, and Manufactured and Mobile Home Communities

Cross reference— Environment, ch. 22; land division, ch. 28; solid waste, ch. 34; streets, sidewalks and other public places, ch. 38; utilities, ch. 54.
State Law reference— Mobile homes, manufactured homes, and manufactured home communities, Wis. Stat. § 66.0435.

Division 1. Generally

Sec. 14-301. State statutes and definitions adopted.

For the purpose of this article, Wis. Stat. § 66.0435 and the definitions therein are adopted as and for the general law of the Village and are made applicable in the Village.

Sec. 14-302. Adoption of Wisconsin Administrative Code.

The provisions of Wis. Admin. Code ch. SPS 326. are hereby adopted by reference and the state department of safety and professional services shall have the power to grant variances thereto, which shall be in writing, subject to the approval and acceptance of the village. The village shall have the power to grant variances to portions of this article which are more restrictive than the provisions of Wis. Admin. Code ch. SPS 326., if such village variance complies with the requirements of the applicable provisions of Wis. Admin. Code ch. SPS 326., or a written variance to Wis. Admin. Code ch. SPS 326. 95 granted by the state department of safety and professional services.

Sec. 14-303. Scope.

The provisions of this article shall apply to the owner and operator, if other than the owner, of any mobile home manufactured home, or manufactured and mobile home community.

Sec. 14-304. Relief.

When strict adherence to these regulations is shown to be impractical by proof satisfactory to the licensing authority, the licensing authority may approve modifications as needed consistent with the intent hereof to safeguard public health, safety and welfare, subject to the provisions of section 14-353.

Sec. 14-305. Parking of manufactured homes.

(a) It shall be unlawful for any person to park any manufactured home or mobile home on any street, alley, or highway or other public place within the limits of the village.

(b) Emergency or temporary stopping or parking is permitted on any street, alley, or highway for not longer than one hour, subject to any further prohibitions, regulations, or limitations imposed by the traffic and parking regulations or ordinances for that street, alley, or highway.

Secs. 14-306—14-320. Reserved.

Division 2. License

Sec. 14-321. Required; exemption.

No person shall maintain or operate, within the limits of the village, any manufactured and mobile home community unless such person first obtains from the village a license therefor. All such manufactured and mobile home communities in existence on August 9, 1953, shall, within 90 days, obtain such license and, in all other respects, shall comply fully with the requirements of this article, except that the licensing authority shall, upon application of a manufactured and mobile home community operator, waive such requirements that require prohibitive reconstruction costs if such waiver does not affect sanitation requirements of the village or create or permit to continue any hazard to the welfare and health of the community and occupants of the manufactured and mobile home community.

Sec. 14-322. Application for license.

Application for a license to operate a manufactured and mobile home community or annual renewal, accompanied by the state licensure and current inspection report thereof, shall be filed with the clerk on a form prescribed by the village board. Such application shall be in writing, signed by the applicant and shall contain the following information:

(1) The name, address and age of the applicant.

(2) The location and legal description of the manufactured home and mobile community.

(3) The complete plan of the park, giving the address, exterior dimensions, maximum number of mobile homes to be accommodated therein, the actual or proposed sanitary facilities, the proposed drainage facilities, fire prevention system to be maintained and such other pertinent information as the village board may require.

(4) Accompanying and to be filed with the original application for a mobile home park shall be plans and specifications which shall comply with all village ordinances and provisions of the state Department of Safety and Professional Services. The plans and specifications shall show the actual or proposed locations of all mobile homes and all other or similar structures; streets; toilets, showers or baths and all other sanitary facilities; fire prevention apparatus; lighting facilities and such other information as the village board may require to be shown on such plans and specifications.

(5) The application shall be accompanied by a license fee, as specified in section 14-353.

(6) By the filing of such application, the applicant shall be deemed to have consented to an inspection, prior to the issuance of the license, by the village board, village health officers and any other village officers or their agents for the purpose of determining whether or not such license shall be granted.

(7) The village board may approve or deny an application in the exercise of its discretion, having regard to the effect of the establishment of such manufactured and mobile home community upon the public health, safety and welfare. The clerk, after approval of the application and upon completion of the work according to the plans shall issue the license.

(8) All licenses issued shall expire on June 30 of each year. No license shall be transferable, either as to the applicant or the licensed premises.

(9) All applications for license renewal shall be in writing signed by the applicant on forms furnished by the village and shall be in substantial compliance with the applications for original license. An annual license fee, as specified in section 14-35, shall be paid with each application for license renewal.

Sec. 14-323. Revocation and suspension.

(a) Any license granted under the provisions of this article shall be subject to revocation or suspension for cause by the village board upon complaint filed with the clerk, signed by any code enforcement officer, health officer or building inspector, after a public hearing upon such complaint; provided, however, that the holder of such license shall be given ten days' notice in writing of such hearing and shall be entitled to appear and be heard as to why such license should not be revoked.

(b) A licensee shall be deemed liable for revocation or suspension if the licensee violates any of the regulations and standards for the operation of a manufactured and mobile home community as established in this article.

(c) Any holder of a license which is revoked or suspended by the village board may, within 20 days of the date of such revocation or suspension, appeal therefrom to the circuit court by filing a written notice of appeal with the clerk, together with a bond executed to the village in a sum as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution with two sureties or a bonding company approved by the administrator, conditioned for the faithful prosecution of such appeal and the payment of costs adjudged against the licensee, all as provided for by Wis. Stat. § 66.0435.

Secs. 14-324—14-340. Reserved.

Division 3. Standards and Regulations

Sec. 14-341. Purpose.

To protect and promote the public health, morals and welfare, the standards and regulations in this division for every manufactured and mobile home community are hereby established.

Sec. 14-342. Drainage and grading.

Every mobile home, manufactured home, and manufactured and mobile home community shall be located on a well-drained area and the premises shall be properly graded so as to prevent the accumulation of storm or other waters. No mobile home, manufactured home, or manufactured and mobile home community shall be located in any area that is situated so that drainage of contaminated liquids or solids can be deposited on its location.

Sec. 14-343. Site requirements.

(a) Each site shall be clearly defined or delineated. The basic unit shall not occupy in excess of one-fourth of the area of the site, and the complete unit including all accessory structures shall not occupy more than one-half of the area of the site. Manufactured and mobile home communities, which as of January 26, 1981, existed lawfully with mobile home or manufactured home sites that do not comply with the minimum area requirements in this subsection, may continue to operate. Expansion and modification of such manufactured and mobile home communities shall, however, be in accord with current regulations.

(b) Each unit shall be located on a lot of not less than 5,000 square feet with a minimum width of 45 feet. The unit shall be so located on a site that there shall be at least a clearance between basic units. No unit shall be located less than 25 feet from the right-of-way line of a highway or 10 feet to the right-of-way line of a public street or internal private street system of the manufactured and mobile home communities. Each lot shall contain a parking space upon which the unit shall be situated, which parking space shall be graveled or paved with concrete or bituminous material. Each such parking space shall be not less than 10 feet wide, nor shorter than the length of the unit to be parked thereon plus 5 feet.

(c) Each manufactured and mobile home community shall be completely surrounded except for permitted entrances and exits by a yard in addition to all other required yards and open spaces, which shall not be less than 15 feet wide and permanently planted in grass, flowers, shrubs or trees.

Sec. 14-344. Street and driveway standards.

(a) All sites in a manufactured and mobile home community shall abut upon a street having a width of at least 36 feet, either graveled or paved with concrete or bituminous material.

(b) All streets and driveways in a manufactured and mobile home community shall be maintained in good condition, have natural drainage and be lighted at night to a minimum of five footcandles.

Sec. 14-345. Parking.

There shall be parking spaces for automotive vehicles provided within each manufactured and mobile home community, surfaced with gravel, concrete or bituminous material in the ratio of two

such parking spaces for each unit site. Each automobile parking space in a manufactured and mobile home community shall be not less than 9 feet wide, nor 160 square feet in area, exclusive of maneuvering and access space.

Sec. 14-346. Recreational area.

Each manufactured and mobile home community shall contain a recreational area. A minimum of 1/2 acre of area for such use shall be provided for each 50 sites or fraction thereof. The minimum recreational area in a manufactured and mobile home community shall be 1/2 acre.

Sec. 14-347. Water supply.

An adequate supply of pure water for drinking and domestic purposes shall be provided in an amount sufficient to care for the needs of the maximum number which can be accommodated in a manufactured and mobile home community and shall be installed in compliance with the village plumbing and well codes and shall meet the applicable requirements of the state department of natural resources as set forth in Wis. Admin. Code chs. NR 108, 111, 112 and 114.

Sec. 14-348. Sewage disposal.

(a) Service availability. The requirements covering the sewage disposal facilities for all manufactured and mobile home communities are based upon the availability of public utilities as well as the practicability of connection to the public utilities.

(b) Public utilities. When acceptable public sewage facilities are available to the manufactured and mobile home community, connection and use is required.

(c) Private sewage disposal.

(1) Private sewage disposal systems are permitted in a manufactured and mobile home community when a public sewer facility is not available to the premises. The system shall be located on the premises and be designed and constructed in accordance with Wis. Admin. Code ch. SPS 382.

(2) Plans and installation details covering the design and construction, alteration and extension of private sewage disposal systems in a manufactured and mobile home community shall be approved by the section of plumbing and fire protection systems of the state Department of Safety and Professional Services prior to construction.

(3) Sufficient area of suitable soils for the initial soil absorption system and one replacement system of adequate size to serve the ultimate number of sites to be provided, shall be available in the manufactured and mobile home community.

Sec. 14-349. Plumbing.

(a) Generally. All plumbing shall meet the requirements contained in Wis. Admin. Code ch. SPS 382 applicable to mobile homes, manufactured homes, and manufactured and mobile home community.

(b) Water connection. A separate valved water service shall extend to each site in the manufactured and mobile home community.

Sec. 14-350. Solid wastes.

(a) Garbage. All garbage which is not disposed of through a garbage disposal unit connected with the sewerage system shall be kept in separate, leakproof, nonabsorbent containers equipped with tight-fitting covers unless otherwise protected from flies and insects located within 100 feet of any site in a manufactured and mobile home community, and the contents shall be disposed of as often as necessary to prevent decomposition or overflow.

(b) Cleanliness. Garbage cans in a manufactured and mobile home community should be washed each time they are emptied unless provided with a single service sanitary removable waterproof liner.

(c) Restriction. The use of wooden or paper containers for garbage in a manufactured and mobile home community is prohibited.

(d) Rubbish. Fly-tight containers with covers are required for cans, bottles and other rubbish in a manufactured and mobile home community. The contents of such containers shall be disposed of as often as necessary to prevent overflow.

Sec. 14-351. Management.

(a) Office. The manufactured and mobile home community management shall maintain an office in the community or in close proximity thereof for immediate communication.

(b) Duties; owner. The manufactured and mobile home community owner or operator, together with any attendants or persons in charge of a manufactured and mobile home community, shall:

(1) Keep a register which is to be open at all reasonable times and upon reasonable notice to inspection by appropriate state and local officers, of all owners of manufactured homes and mobile homes located in the manufactured and mobile home community.

(2) Maintain the manufactured and mobile home community in a clean, orderly and sanitary condition at all times.

(3) Cooperate with local health officers in all cases of persons or animals infected or suspected of being infected with any communicable disease.

(4) Post copies of these regulations in one or more conspicuous places in the manufactured and mobile home community where the manufactured and mobile home community personnel and visitors can easily see them.

(c) Duties; occupants. All occupants of manufactured home and mobile homes shall:

(1) Maintain their site in a clean, orderly and sanitary condition at all times.

(2) Abide by all applicable state and local regulations and the rules established by the manufactured and mobile home community management.

Sec. 14-352. State license and inspection.

(a) Requirement. Before being open for public use, each manufactured and mobile home community, as defined in the Wisconsin Statutes through Yorkville Code section 14-301, shall be licensed by the state Department of Safety and Professional Services.

(b) Inspection. Prior to the issuance of a license under this division and at least one other time during the license year, the village health officer shall conduct a sanitary inspection of each manufactured and mobile home community, complete a report of such inspection and submit copies of such report to the clerk and the state Department of Safety and Professional Services. Such reports shall be on forms provided by the state Department of Safety and Professional Services.

Sec. 14-353. License and monthly manufactured home or mobile home fee.

(a) Annual License Fee. Each licensee shall pay an annual fee of not less than $25.00 nor more than $100.00 for each 50 spaces or fraction of 50 spaces within each community within its limits in advance for each calendar year or fraction within each mobile home park within the village limits. This fee is set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution from time to time. Where the community is located in more than one municipality, the fee shall be in such fraction as the number of spaces in the mobile home park within the village bears to the entire number of spaces in the mobile home park.

(b) License Transfer Fee. Each transferee of a manufactured and mobile home community license shall pay a fee of $10.00 as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution from time to time in advance to the clerk for transfer of any such license.

(c) Monthly Municipal Permit Fee.

(1) In addition to the license fees provided in subsections (a) and (b) of this subsection, there is imposed on each owner of a nonexempt, occupied mobile home in the village a monthly municipal permit fee determined in accordance with Wis. Stat. §66.0435(3), which is adopted by reference and made a part of this article as if fully set forth in this section. It shall be the full and complete responsibility of the

mobile homeowner to pay the monthly municipal permit fee on or before the tenth day of the month following that month in which the monthly municipal permit fee is due.

(2) The monthly municipal permit fee shall be collected by the licensee in accordance with Wis. Stat. §66.0435(3m). The monthly municipal permit fees, less two percent of the moneys collected, shall be remitted to the village clerk by the 15th day of the month to allow for timely payment to the school districts.

(3) Licensees of manufactured and mobile home communities and owners of land on which are parked any occupied manufactured homes and mobile homes shall furnish information to the village clerk and the village assessor on such homes added to their communities or land within five days after arrival of such homes, on forms furnished by the village clerk in accordance with Wis. Stat. §66.0435(3)(c) and (e).

(4) The monthly municipal permit fee for a mobile home located outside of a licensed mobile home park shall be paid by the owner of the mobile home, the occupant thereof or the owner of land on which it stands, the same as and in the manner provided for mobile homes located in a mobile home park, and the owner of such land shall be required to comply with the reporting requirements of subsection (c) of this section, provided that the monthly municipal permit fee shall be paid directly to the clerk on or before the tenth day of the month following the month for which such parking permit is due.

(d) Exemption. This article shall not apply where a mobile home park is owned and operated by any county under the provisions of Wis. Stat. § 59.52(16)(b).

(e) Penalty. Failure to timely pay the tax under this article shall be treated in all respects like a default in payment of personal property tax and shall be subject to all procedures and penalties applicable thereto under Wis. Stat. ch. 70 and Wis. Stat. ch. 74.

Secs. 14-354—14-380. Reserved.

Article VII. Nonintoxicating Beverages

State Law reference— Nonintoxicating beverages, Wis. Stat. § 66.0433 et seq

Division 1. Generally

Secs. 14-381—14-400. Reserved.

Division 2. License

Sec. 14-401. Required.

No person shall operate, conduct or maintain within the limits of the village any business or selling of nonintoxicating beverages as defined in Wis. Stat. § 66.0433(1), whether at retail or wholesale, without first procuring a license to do so as provided in this division. The licenses shall be issued by the clerk under the authority of the village board.
(Code 1982, § 12.08(1))

Sec. 14-402. Application.

(a) Applications for licenses under this division shall be filed with the clerk for presentation to the village board at any regular or special meeting thereof. A license fee, as specified by section 14-35, shall accompany all applications. If the license under this article is denied, the fee shall be returned upon demand. The premises to be licensed shall be described in the application.

(b) All persons granted licenses under this division shall cause their licenses to be prominently displayed in their place of business.

(c) The whole license fee shall be charged for the whole or any fraction of the license year.

(Code 1982, § 12.08(1)(a)—(c); Ord. of 8-14-2000; Ord. No. 2008-01, § 8, 12-22-2008)

Sec. 14-403. Moving of licensed premises; transferability.

If the place of business is moved from the premises designated in the license to another location in the village within the license period, the licensee shall give notice of such change of location and the license shall be amended accordingly without payment of any additional fee. No such license, however, shall be transferable from one person to another.
(Code 1982, § 12.08(2))
State law reference— Similar provisions, Wis. Stat. § 66.0433(1)(am).

Sec. 14-404. Residency.

No license under this division shall be granted to any person not a resident of the village, nor subject to Wis. Stat. §§ 111.321, 111.322 and Wis. Stat. § 111.335 to any person who has been convicted of a felony, unless the person has been restored to civil rights.
(Code 1982, § 12.08(3))

State law reference— Similar provisions, Wis. Stat. § 66.0433(1)(b).

Secs. 14-405—14-430. Reserved.

Article VIII. Fireworks

Cross reference— Fire prevention and protection, ch. 26; fireworks, § 30-71 et seq.
State Law reference— Fireworks, Wis. Stat. § 167.10.

Sec. 14-431. Definitions.

Consumer Fireworks, also known as 1.4G fireworks and formerly known as "Class C" fireworks mean fireworks containing Division 1.4 explosives, as defined in 49 CFR 173.50. Note: These fireworks are commonly sold at neighborhood stands during the Fourth of July season.

Display Fireworks, also known as 1.3G fireworks and formerly known as "Class B" fireworks mean fireworks containing Division 1.3 explosives, as defined in 49 CFR 173.50. Note: These are the type of fireworks used in large community displays run by licensed professionals and are not intended for use by consumers.

Fireworks, as set forth in Wis. Stat. § 167.10, mean anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

(1) Fuel or a lubricant.

(2) A firearm cartridge or shotgun shell.

(3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.

(4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.

(5) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.

(6) A toy snake which contains no mercury.

(7) A model rocket engine.

(8) Tobacco and a tobacco product.

(9) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.

(10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.

(11) A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter grain of explosive mixture.

(12) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.

(13) A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(14) A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(15) A novelty device that spins or moves on the ground.

Sec. 14-432. Sale and use.

(a) *Sale Prohibited.* No person may sell or possess with intent to sell fireworks or those devices described in Sec. 14-431 (5), (6), (9) through (14) within the limits of the village.

(b) *Permit Required for Use*. No person may use or possess fireworks within the village without a user's permit from the village, except that possession of fireworks without a permit is permitted, subject to Wis. Stat. § 167.10(3)(bm), while transporting the fireworks to a city, town, village or county where possession of fireworks is authorized by permit or ordinance.

(c) *Application.* All permit applications shall be filed with the clerk, or designee, in writing upon payment of an application fee in an amount set from time-to-time by the village board. All applications shall be on a form prepared by the village clerk and shall include at a minimum the following:

(1) The name and address of the permit holder.

(2) The date on and after which fireworks may be purchased.

(3) The general kind and approximate quantity of fireworks which may be purchased and used.

(4) The date and location of permitted use.

(5) The event for which the fireworks will be used and whether the public is invited to attend.

(d) *Referral, Notice and Approval***.** The village clerk or designee shall have the authority to issue a permit for the use of Consumer Fireworks. The clerk shall refer complete applications for the use of Display Fireworks to the village board for review and approval following review and recommendation by the chief of the fire department and the code enforcement officer. The clerk shall provide written notice of the village board meeting at which the application for use of Display Fireworks will be considered to all landowners within 2500’ of the proposed location where the Display Fireworks will be used, at least seven days in advance of such meeting. The cost for such written notice shall be borne

by the applicant. A user's permit may be issued by the village president or designee to a person listed under subsection (e)(1) through (e)(7) of this section upon receiving approval by the clerk or designee for Consumer Fireworks and by the village board for Display Fireworks. The issuance of any such permit shall not be deemed a guarantee by the village or any of its officers or designees that the use of any fireworks shall be safe. Permits issued shall contain all of the following information:

(1) The name and address of the permit holder.

(2) The general kind and approximate quantity of fireworks which have been approved for use.

(3) The date and location of permitted use.

(4) The event for which the fireworks will be used and whether the public is invited to attend.

(5) Statements of limitation of liability for the Village, pursuant to Wis. Stat. Section 167.10(7m), and requiring indemnification of the Village for claims related to the use of the fireworks permitted by the Village.

(6) Other special conditions prescribed by ordinance or the village board necessary to protect the public health, safety and welfare, including restrictions limiting the manner of use and distances from buildings and spectators.

(e) *Authorized Permittees*. A permit under this section may be issued only to the following:

(1) A public authority.

(2) A fair association.

(3) An amusement park.

(4) A park board.

(5) A civic organization.

(6) An individual or a group of resident or nonresident individuals.

(7) An agricultural producer for the protection of crops from predatory birds or animals.

(f) *Miscellaneous Provisions*.

(1) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

(2) No person may use a device listed under Section 14-431 (5),(6), (9) through (14) within the village, except upon private property with the owner's consent.

(3) No person may possess or use fireworks or a device listed under Section 14-431 (5),(6), (9) through (14) while attending any permitted fireworks display.

(4) No permit shall be granted for the display or use of any fireworks within 100 feet of any gasoline pump, gasoline filling station or bulk station or any building in which gasoline or volatile liquid is sold in quantities in excess of one gallon.

(5) A permit under this section may not be issued to a minor.

(6) Unless otherwise approved by the village board, fireworks must be used on the date set forth on the permit between the hours of dusk and 11:00 pm.

(7) A user's permit may be cancelled and rescheduled by the clerk or designee, or fire chief or designee, if the weather or other situations make it unsafe for the use to be conducted or if it is determined by the village board that the user permit was issued based upon fraud or misrepresentation.

(8) The village board reserves the right to limit the amount of permits granted or to enact a moratorium on the issuance of such permits where conditions so warrant (e.g., drought conditions, pending no-burn orders, etc.).

(9) Pursuant to Wis. Stat. § 167.10 (5), the Village's fireworks ordinance may not be less restrictive in its coverage, prohibition or regulation than state statute, but may be more restrictive. Subject to that requirement, the village board retains the authority to approve a modification or waiver to its ordinance requirements where warranted pursuant to Sec. 2-404 of the village's Code of Ordinances.

(10) The notification requirements set forth in subsection (d) above are not applicable to Display Fireworks held at the Racine County Fairgrounds.

Sec. 14-433. Liability insurance required.

The person issuing a permit under this article for Display Fireworks shall require a surety bond or policy of liability insurance showing evidence of fireworks liability, for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit granted under this article, in the amount of no less than $1,000,000, with the Village of Yorkville named as an additional insured. Any person injured thereby may bring an action on the policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the insurer to all persons shall not exceed the amount of the bond or policy. The policy and documentation showing the village as an additional insured shall be filed in the office of the clerk prior to permit issuance.

Sec. 14-434. Permit to be provided to fire chief and code enforcement officer.

Copies of all permits issued shall be given to chief of the fire department, code enforcement officer, and Racine County Sheriff's Department at least two days before the date of authorized use.

Sec. 14-435. Parental liability.

A parent or legal guardian of a minor who consents to the use of fireworks by a minor is liable for damages caused by the minor's use of the fireworks.

Sec. 14-436. Enforcement.

Fireworks stored, handled, sold, possessed or used by a person in violation of this Article, shall be seized. The fireworks shall be destroyed after conviction for a violation; and if not convicted shall be otherwise returned to the owner.

Sec. 14-437. Penalty.

A person, or a parent or legal guardian of a minor who consents to the use of fireworks by the minor, who violates this Article shall forfeit not less than $50.00 nor more than $1,000.00.

Sec. 14-438 -14-460. Reserved.

Article IX. Cigarettes, Electronic Vaping Devices, and Tobacco Products

State Law reference— Cigarettes, electronic vaping devices, and tobacco products retailer license, Wis. Stat. § 134.65.

Division 1. Generally

Sec. 14-461. State law adopted.

Sections 134.65 and 134.66, Wis. Stat., as amended from time to time, pertaining to cigarette retailer's licenses and restrictions on the sale or gift of cigarettes or tobacco products and electronic vaping devices are adopted by reference and incorporated herein as though set forth in full.

Secs. 14-462—14-480. Reserved.

Division 2. License

Sec. 14-481. Required.

No person shall in any manner, directly or indirectly, manufacture, sell, exchange, dispose of or give away or expose for sale any cigarettes, electronic vaping devices, or tobacco products without first applying for and obtaining a license therefor from the clerk in the manner provided in Wis. Stat. § 134.65. This division shall not apply to jobbers or manufacturers doing interstate business with customers outside the state.

Sec. 14-482. General requirements.

The fee for a license under this division is set forth in section 14-35 and shall be submitted together with the application to the clerk for presentation to the village board at any regular or

special meeting. The clerk under the authority of the village board shall issue licenses under this division. All licenses issued under this division shall indicate thereon the name of the licensee and the place where he is authorized to conduct the licensed business as well as whether the licensee will sell, exchange, barter, dispose of, or give away cigarettes, electronic vaping devices, or tobacco products over the counter, in a vending machine, or both, as well as any other information required by the Department of Revenue on their prepared licensing form under Wis. Stat. § 134.65(1g).

(1) All persons granted licenses under this division shall enclose the license in a frame with a transparent front and shall cause their licenses to be prominently displayed in the room or place where the activity subject to licensure is carried out within their place of business.

(2) The whole license fee shall be charged under this division for the whole or any fractional part of the license year.

Sec. 14-483. Transfer of license prohibited.

A license issued under this division shall not be transferred from the licensee to another owner, nor from one premises to another.

Sec. 14-484. Penalties.

(a) In addition to the suspension or revocation of any license or permit issued under this Article, any person who shall violate any provision of this article shall be subject to the fines:

(1) First Offense: not more than $100 nor less than $25.

(2) Second and Subsequent Offenses: not more than $200 nor less than $25.

Secs. 14-485 —14-510. Reserved.

Article X. Pool, Billiard Halls and Bowling Centers

Secs. 14-511—14-530. Reserved.

Division 2. License

Sec. 14-531. Required.

No person shall keep for gain or operate any pool or billiard table or bowling center in the village without having made application and secured the appropriate license and paid the required fee therefor. (Code 1982, § 12.11(1))

Sec. 14-532. Application procedure.

All applications for licenses under this division shall be made in the manner as provided in section 14-482 and shall, in addition, specify the exact number of pool or billiard tables or bowling centers to be licensed on such premises.
(Code 1982, § 12.11(2))

Sec. 14-533. Fee.

The license fee for each pool or billiard table or bowling center for each year or fraction thereof shall be as stated in section 14-35. (Code 1982, § 12.11(3))

Secs. 14-534—14-560. Reserved.

Article XI. Dancehalls

Division 1. - Generally

Sec. 14-561. 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:

Dancehall means any room or place or space at which a public dance may be held, or any hall or academy in which classes in dancing are held and instruction in dancing given, and shall include pavilions and amusement parks; except, however, this shall not include halls or academies where bona fide instruction in dancing is given to children 17 years of age or under. The fact that the room or place or space is not used exclusively for dancing, but merely as an incidental activity in connection with the operation of some other business, shall not exclude the room, place or space from the definition of the term "public dancehall."

Person means natural persons, corporations, partnerships, associations, joint stock companies, societies and all other entities of any kind capable of being used.

Public dance means any dance to which admission can be had by the public generally with or without the payment of a fee, with or without the purchase, possession or presentation of a ticket or token, or any other dance operated by club membership, season ticket or invitation, or any other dance open or offered to the public generally, regardless of whether the music is furnished by an orchestra, phonograph, radio, juke box or any other device, and regardless of whether such dance is the exclusive or principal activity provided, or whether such dance is an incidental activity permitted by a person in connection with his operation or some other commercial activity.

(Code 1982, § 12.12(1))
Cross reference— Definitions generally, § 1-2.

Secs. 14-562—14-580. Reserved.

Division 2. License

Sec. 14-581. Required.

No person shall permit or allow any room, space, place or building owned, leased, managed, supervised or controlled by him to be used for the purpose of a public dancehall unless the dancehall shall have been licensed under the provisions of this article, regardless of the type of music employed and regardless of whether such dancing is incidental to the operation of another commercial activity. (Code 1982, § 12.12(2))

Sec. 14-582. Application for license.

The application for any license permitted under this article shall be filed with the clerk. Such application shall contain the following:

(1) Name, age, residence, occupation and citizenship of the applicant, if any individual, or the names of the principal officers, their residences and ages if the applicant is an association or corporation. The application shall also contain the name or names of one or more persons whom such firm, partnership or association shall designate as manager or person in charge, with his address.

(2) The length of time such applicant, if an individual, or the manager or person in charge, in case the applicant is a firm, partnership, corporation or association, has resided in the county; his place of previous employment; whether he has been convicted of violating any law or ordinance regulating the conduct of public dancehalls or public dances, and if so, when and in what court.

(3) The premises where such public dancehall is to be located or conducted as well as the location of the room or rooms to be occupied for the purpose of conducting such dance, and the total amount of floor space to be used for dancing purposes.

(4) Whether the applicant or manager has, either alone or with someone else, previously engaged as owner, lessee or employee in conducting a public dancehall, when, where and for how long.

(5) The name and address of the person owning the premises for which the license is sought.

(6) Whether a hotel, roominghouse, lodginghouse, restaurant or tavern is conducted in any part of the premises for which the license is sought.

(Code 1982, § 12.12(3))

Sec. 14-583. When licenses refused.

(a) No dancehall license shall be issued unless the village board finds that all of the persons named in the application as applicant, manager or person in charge are residents of the state, that the proposed public dancehall complies with and conforms to all ordinances,

laws and regulations governing public buildings and health and fire regulations applicable thereto, and that it is a safe and proper place for such proposed use.

(b) No license shall be granted unless the village board finds that the applicant, manager or person in charge is capable of maintaining the public peace and good order at a public dance. In determining whether or not the applicant is capable of meeting the required standard, the village board shall consider the records of law enforcement agencies or of any courts that touch upon the applicant's operation of a dancehall in the preceding license year.

(c) No license shall be granted unless adequate modern toilet facilities are provided within the building where the public dance is to be held, an adequate supply of drinking water is available, the premises are properly lighted and ventilated, and all parts of the premises are safe and sanitary.

(d) No license under this article shall be granted to any applicant or applicants who have been convicted within five years of the date of the application of a second offense against any of the provisions of this section or any similar ordinance of any other municipality.

(e) No license under this article shall be granted to any applicant to whom a license has been refused or has been suspended or revoked until at least six months shall have elapsed from the date of refusal, suspension or revocation unless he can show that the reason for such refusal, revocation or suspension no longer exists.

(f) No license under this article shall be granted to a person under 18 years of age.

(g) No license under this article shall be granted to any person who knowingly makes any false statement in his application for a dancehall license.

(Code 1982, § 12.12(4))

Sec. 14-584. Classification as to types of licenses.

Nontransferable licenses for public dances shall be issued the following four divisions of classification, namely: Class A, Class B, Class C, and special permit licenses.

(1) Class A. A Class A license is required for the premises in which a public dance is held where a charge is made for admission or where admission is by means of the purchase, possession or presentation of a ticket or token or where the dance is advertised as such and where an orchestra is employed to furnish dance music.

(2) Class B. A Class B license is required for the premises in which a public dance is held and where no charge is made for admission or where admission is not by means of the purchase, possession or presentation of a ticket or token and where an orchestra is employed to furnish the dance music.

(3) Class C. A Class C license is required when dancing is incidental to such other business conducted in the premises used for dancing and where no charge, either directly or indirectly, is made for admission and no orchestra or musicians are employed to furnish the music for such dancing.

(4) Special permit. A special permit license may be granted to hold not more than two public dances in any structure or premises not licensed under either subsection (1), (2), or (3) of this section, and such special permit license shall be valid only within a specified 24-hour period.

(Code 1982, § 12.12(5))

Sec. 14-585. License fees.

The fees for the four classes of dancehall licenses shall be as stated in section 14-35.
(Code 1982, § 12.12(6))

Sec. 14-586. Method of issuing licenses.

(a) All applications for dancehall licenses shall be accompanied by the appropriate license fee fixed in this article. If such license is denied, such fee shall be returned to the applicant.

(b) The clerk shall submit the application for a dancehall license to the village board for its consideration. The village board may schedule a public hearing on the application; provided, however, before the denial of any renewal application, the village board shall grant the applicant a hearing. If the village board is satisfied that the requirements of this article have been met and, if it is determined that the issuance of a license is not contrary to the public health, safety and welfare, the village board may grant a license to the applicant.

(c) All licenses under this article shall be numbered in the order of their date of issuance and shall state clearly the name of the licensee, the location of the public dancehall, the date of issuance and expiration and the amount of fee paid.

(d) Each license, except a special permit license, issued under this article shall expire on June 30 of each year and any license issued shall be posted in a conspicuous place within the hall in which the dance is to be held.

(Code 1982, § 12.12(7))

Secs. 14-587—14-610. Reserved.

Division 3. Regulations

Sec. 14-611. Rules and regulations.

(a) No person shall post a license issued under this article on premises other than those described in the application.

(b) No person conducting a public dance or operating a dancehall, or any manager or agent of such person, shall:

(1) Permit during any public dance in such hall the use of intoxicating liquor or fermented malt beverages in violation of law.

(2) Permit the presence of any intoxicated person or persons under the influence of intoxicating liquors or drugs in such dancehall or on the premises in which such dancehall is located.

(3) Permit the presence of any minor 17 years of age or under in such dancehall who is not accompanied by his parent or lawful guardian.

(4) Permit any public dance beyond the hour of 1:00 a.m. or before the hour of 9:00 a.m. (Code 1982, § 12.12(8))

Sec. 14-612. Miscellaneous provisions.

(a) Nothing in this section shall be construed to prevent the attendance of children 17 years of age or under at bathing beaches or public dancehalls when public dances are not being held.

(b) No person, licensee, proprietor or manager of any dancehall shall advertise, operate, maintain, promote or aid in the advertising, operating, promoting or maintaining of any mental or physical endurance contest in the nature of a marathon, dance or any other like endurance contest whether under that or similar names.

(c) No person, licensee, proprietor or manager of any dancehall shall conduct a public dance or public ball in the manner or form commonly known as a "taxi-dance," and no license shall be issued for any public dance to be conducted in the form or manner commonly known as "taxi-dance."

(d) This article shall not apply to dances conducted by any church, grade school, high school or college, or other recognized educational institution located in the village which are intended primarily to be attended by students of such schools or of similar schools, or to dances conducted by any 4-H Club, parent-teacher or similar organization, or any fraternal society when conducted in conformity with the rules of such society.

(Code 1982, § 12.12(9))

Sec. 14-613. Penalties.

In addition to any other penalties provided in this chapter, or in lieu thereof, the village board may suspend or revoke the license of any dancehall proprietor or manager if any of the provisions of this article are violated.

(Code 1982, § 12.12(10))

Secs. 14-614—14-640. Reserved.

Article XII. Public Shows

Secs. 14-641—14-660. Reserved.

Division 2. Permit

Sec. 14-661. Definition; Applicability; Permit required.

(a) Definition. A “Public Event” is entertainment to which the public may gain admission by payment of an admission charge, donation, or by the purchase or presentation of a ticket or token obtained for money or other valuable thing or in which a charge is made indirectly for admittance. It includes, but is not limited to, shows, circuses, exhibitions, rodeos, athletic events, and carnivals.

(b) Applicability. The licensing requirement of this ordinance shall apply to all assemblies held in the Village of Yorkville regardless of whether the assembly is held indoors, outdoors, or some combination of both. The licensing requirement of this ordinance shall not apply at those assemblies held at or on regularly established places of worship, entertainment, debate or at stadiums, athletic fields, arenas, coliseums, fairgrounds or other similarly established places of assembly or their surrounding grounds which are governed by existing codes, ordinances, statutes or rules reasonably designed to protect the health, safety and welfare of those in attendance at said assembly, and which regularly established places of assembly have adequate access to emergency medical assistance and do not permit access to the assembly of more persons than can reasonably assemble at the location in consideration of the nature of the assembly, the size of the location of the assembly and the safety of those in attendance at the assembly. For purposes of this section, existing codes, ordinances, statutes or rules shall be deemed to be "reasonably designed to protect the health, safety and welfare of those in attendance” if those existing codes, ordinances, statutes or rules establish standards and guidelines for the health, safety and welfare of those in attendance at the Public Event similar in nature to those established inSection14-662 and Division 3 of this ordinance.

(c) Permit Required. No person shall conduct, exhibit, operate or maintain within the village any Public Event unless a license or permit shall be obtained therefor. This article shall not apply to events conducted under the sole control and supervision of educational, charitable or religious organizations where the entire proceeds of such Public Event are devoted to such organization.

Sec. 14-662. Application procedure.

(a) Application. Each permit sought shall require a separate application. All applications for permits under this division shall be made in the manner provided in this chapter and shall specify in addition two previous places of employment of the applicant and the nature of the Public Event. An application for a Public Event permit, along with the application fee

set by the Village Board, shall be filed with the Village Clerk on forms provided by the Village Clerk at least 30 days before the Village Board meeting in which the applicant seeks to have the Board act on the application. The application shall include:

(1) The name, address, email and telephone number of the applicant;

(2) The address of the premises where such event/activity is proposed to occur;

(3) The date and period of time for which the permit is sought;

(4) A general description of the type of event to be held on the premises;

(5) A description of any equipment to be used for the amplification of noise/sound and steps to be taken to minimize noise/sound emanating from the premises;

(6) If an evening event, a description of the outdoor lighting to be used and steps to be taken to minimize light emanating from the premises;

(7) A description of measures to be taken to address sanitation needs for the event;

(8) A description of measures to be taken to address parking for those attending the event; and

(9) Name, address, email and phone number of the responsible person who will be present on the site during the Public Event .

(10) Indicate the date of the last state inspection of rides, merry-go-rounds and other mechanical devices. A copy of the state inspection certificate shall be submitted with the application. The Village reserves the right to require inspections of all mechanical devices that would be available to the public. All inspection costs shall be paid by the licensee.

(11) Indicate whether there will be food handlers, food trucks, or other provision of food and beverages, including alcoholic beverages, at the Public Event. A copy of the state health certificate for any person employed in such Public Event for the purpose of preparing, handling or selling food or drink shall be submitted to the clerk before the Public Event begins. Additionally, if alcohol is to be served at the Public Event, a copy of the operators permits or licenses for each person handling the alcohol and the applicable alcoholic beverage license shall be submitted to the clerk before the Public Event begins.

(b) Notices. The Village Clerk, upon receiving the application, shall send written notice to all landowners who own any parcel located within 1,000 feet of any property line of the proposed event premises. The notice shall include the applicant's name, the event's proposed date, location, and type, and the date of the Board meeting at which the application will be considered.

(c) Decision by Board. The application shall be referred to the Board at its next regularly scheduled meeting. The village board, in weighing whether to issue such permit, shall consider the detrimental effect of such event to the owners of the property situated within 1,000 feet of the premises contained in the application, shall consider if the premises

contained in the application shall allow adequate on-premises parking for vehicles of patrons of the premises and employees of the business conducted on the premises, shall consider whether adequate fire and police protection can be afforded to the premises as outlined in the application, and shall consider and may provide specific conditions in the permit for the hours of operation of such Public Event. No permit shall be issued unless the premises on which the Public Event is to be held complies with all applicable laws including, but not limited to, the village's building, plumbing, electrical and health codes and the zoning regulations. The village board may require proof of adequate insurance and may impose additional conditions on the issuance of a permit related to the exercise of its powers under Wis. Stat. § 61.34. No applicant to whom a permit has been refused shall make further application for a period of at least six months. No permit shall be issued under this article to any applicant or licensee or permittee whose license or permit has been revoked within two years of the date of application, nor, subject to Wis. Stat. §§ 111.321, 111.322 and Wis. Stat. § 111.335, to any person who has within five years of the date of application been convicted of a felony. The Village Board may approve the application as presented, approve the application subject to limitations and conditions, or deny the application. If the application is denied, the Village Board shall set forth the basis for its denial.

Sec. 14-663. Fees.

The permit fee for permits issued under this division are set forth in section 14-35, or a fraction thereof for any Public Event not regularly conducted within the village at least 60 days in each year except carnivals, which shall be subject to the daily permit fee regardless of tenure.

Sec. 14-664. Yearly fee.

The fee for permits issued under this division for any ongoing Public Event shall be as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution, renewable on the anniversary date of issuance.

Secs. 14-665—14-680. Reserved.

Division 3. Restrictions

Sec. 14-681. Inspection of premises.

The clerk shall refer all applications filed under this article to the code enforcement officer and building inspector who shall investigate and inspect each application to determine whether the place sought to be licensed complies with all applicable laws and ordinances and is a proper place for the purpose for which it is to be used.

Sec. 14-682. Insurance required.

No permit shall be granted unless the applicant therefore shall have filed with the clerk a public liability insurance policy in a sum satisfactory to the Village, with the conditions that the applicant

shall indemnify and save harmless the Village and its officers and agents and citizens against any injuries and damages resulting or arising from the conducting of any Public Event for which the license is issued or from the performance by the applicant or his or her agents of any negligence incident to or connected with the conduct of such Public Event and that the applicant shall pay all judgments, costs and charges that may be recovered against the Village or any of its officers or agents by reason of the conduct of such Public Event.

Sec. 14-683. Sanitation requirements.

All premises used by permittees under this article shall be subject to periodical inspection by the village for safety of the structure and the propriety of plumbing, electrical wiring, ventilation, heating and sanitation. The investigating officers of the village including the health officer may enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to enforce compliance with the building, fire, electrical, plumbing and health regulations.

Sec. 14-684. Prohibition of obscenity.

Any Public Event that includes obscene themes is subject to the restrictions and regulations contained in Chapter 14, Article XX titled “Adult Oriented Entertainment Establishments.”

Secs. 14-685 Miscellaneous conditions

The Village Board may impose, at its discretion, the following conditions on any Public Event permit:

(a) Fencing. A fence or other barrier, either natural or assembled, completely enclosing the proposed location of sufficient height and strength or in the alternative, any such other reasonable plan to prevent people in excess of the maximum permissible number from gaining access to the Public Event grounds, which shall have a controlled point of entry and at least four points of exits, one at or near four opposite points of the compass. The applicant shall indicate the type and dimensions of the fence or other barrier.

(b) Water. Water meeting all federal and state requirements for purity, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day.

(c) Toilet Facilities. Separate enclosed toilets for males and females meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least two toilets for every 100 persons with said facilities to be evenly divided between male and female together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations; two lavatories for every 200 persons with running water under pressure and a continuous supply of soap and paper towels to be provided with each lavatory or in the alternative a sufficient number of chemically treated sanitary towels. The applicant shall indicate the source, number, type and means of disposing of waste deposited.

(d) Solid Waste Disposal. A sanitary method of disposing of solid waste in compliance with state and local laws and regulations sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 pounds of solid waste per person per day, together with a plan for holding and a plan for collecting all such waste at least once each day of the assembly and sufficient trash cans with tight fitting lids and personnel to perform the task. The Applicant shall indicate the method of disposing of such waste.

(e) EMS. Medically trained personnel certified as capable of administering emergency first aid at the rate of one certified personnel per 1000 persons and the minimum amount of medical equipment and supplies as may be required by the state or other municipal authorities; an enclosed, covered structure where treatment may be rendered and at least one emergency on site ambulance available. The applicant agrees that sufficient and timely and written notice will be given to an additional local ambulance service which may be called upon in an emergency situation, said notice giving the time and location and points of entry and exit of the assembly and the aforementioned enclosed covered structure where treatment may be rendered. In addition, the applicant indicates the names and addresses and hours of availability of medically trained personnel and by whom they are certified to give first aid medical treatment. In the event of assemblies of less than one thousand persons continuing between the hours of midnight and eight a.m., medically trained personnel shall not be required on the site. However, all other provisions of this section shall apply.

(f) Telephones. Telephones connected to outside lines sufficient to provide service for the maximum number of people to be assembled at the rate of at least one separate line and receiver for each 2,000 persons, and one additional phone to be located in the medical structure described in sec. (e). The applicant shall indicate the source and number of telephones. There shall be at least two phones.

(g) Security. Security guards, either regularly employed, duly sworn off-duty Wisconsin peace officers or private guards, licensed in Wisconsin, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one security guard for every 750 people. The applicant shall indicate the number of guards, their deployment, names, addresses and credentials. There shall be at least one security guard per event.

(h) Fire services. Fire protection, including alarms, extinguishing devices and fire lanes and escapes sufficient to meet all state and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code and the ordinances of the Village and sufficient emergency personnel to efficiently operate the required equipment. The applicant agrees that notice shall be given in writing to that fire department having jurisdiction over the Public Event area with said notice to provide the fire department with the location of the Public Event, the dates of the Public Event and hours of operation as well as points of entrance, fire lanes, location of extinguishers and possible water supply, and any structures which may be on the Public Event grounds. The applicant shall indicate the number and type of all such fire protection devices and the number, names and addresses and credentials of emergency fire personnel.

(i) Site plan. If required, the applicant shall provide a site plan indicating the location of any of the following, as applicable:

(1) The location of the fence or other barrier and points of entry and exits.

(2) The location of water outlets.

(3) The location of toilets for males and females.

(4) The location of trash cans and receptacles.

(5) The location of the medical structure.

(6) The location of the power supply and location of lamps.

(7) The location of parking lots, lanes, points of highway access and interior roads, including routes between highway access points and parking lots.

(8) The location of telephone lines and receivers.

(9) The location of all fire protection devices including extinguishers and water supply.

(10) The location of amplifiers and speakers and their power source.

(11) The location of food and beverage concessions.

(j) Any other conditions the Village Board can reasonably impose to mitigate potential impacts of the Public Event.

Secs. 14-686—14-696. Reserved.

Division 4. Enforcement.

Sec. 14-697. Enforcement and Penalty.

Any person who violates any provision of this section or who violates any condition upon which a Public Event permit is granted shall be subject to a forfeiture under the general penalty per Section 1-14 of the Village Code. Each day of violation shall be considered a separate offense. In addition, the Village may enforce this section by way of injunctive relief and all other remedies available at law and in equity.

Sec. 14-698. Revocation.

Any license granted by the Village Board under the provisions of this section may be revoked by the Village Board provided such Public Event shall not be maintained or if the person who maintains, owns, controls or operates such Public Event shall permit the violation of any provisions of this municipal code or state laws or where, in the opinion of the Village Board, the Public Event is deemed undesirable. Revocations or suspensions may be appealed pursuant to Article VII of Chapter 2 of this municipal code.

Secs. 14-699- 14-710. Reserved.

ARTICLE XIII. Auction Sales

State Law reference— Auctions, Wis. Stat. ch. 480.

Sec. 14-711. Definition.

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: Auction sales means all sales by auction of four or more articles of merchandise whether the property is sold to the highest bidder in fact or by "dutch auction," by bidding down the seller thereof or adding to the quantity of property offered for sale at a fixed price or any other way if made to evade the provisions of this article.
(Code 1982, § 12.14(1))
Cross reference— Definitions generally, § 1-2.

Sec. 14-712. Permit required.

No person shall exercise the business of auctioneer or conduct auction sales without a permit. This article shall not apply to the following:

(1) Sales made by virtue of a chattel mortgage or by order or judgment of this state or federal government;

(2) Sales made by or on behalf of any executor or administrator or by an assignee for the benefit of creditors; sale of state of federal property;

(3) Closing-out sales by resident merchants where all taxes on such stock or inventory have been paid;

(4) Sales of livestock or farm property of any farmer who has resided in the county continuously for one year or more and on which taxes have been paid; and

(5) Sales conducted by a religious, fraternal or benevolent society, a school or a nonprofit organization.

(Code 1982, § 12.14(2))

Sec. 14-713. Hours of operation.

No auction sales shall be conducted between the hours of 10:00 p.m. and 8:00 a.m.
(Code 1982, § 12.14(3))

Sec. 14-714. Application and fee.

Each application for a permit for an auction sale shall be accompanied by a per day fee, as specified in section 14-35.
(Code 1982, § 12.14(4); Ord. No. 2008-01, § 12, 12-22-2008)

Sec. 14-715. Suspension or revocation.

In addition to procedures in article II of this chapter, the village president may, at any time, suspend for not more than ten days any permit granted under this article on the basis of misrepresentation of property offered for sale, substituting of articles sold to the highest bidder; bidding in on the property by the licensee, owner, auctioneer or agents of them, or for violation of any village ordinance or state law in the interest of public, health, safety or general welfare.

Secs. 14-716—14-750. Reserved.

Article XIV. Slaughterhouses and Offensive Businesses

Sec. 14-751. License required; slaughterhouse defined.

(a) License requirement. No person shall construct, operate or maintain a slaughterhouse in the village without first obtaining a license to do so from the state department of agriculture in compliance with the provisions of Wis. Stat. § 97.42.

(b) Definition. As used in this article, the term "slaughterhouse" shall mean a place where cattle, swine, sheep, goats or horses are killed or dressed for human consumption, excepting such killing or dressing, or both, by farmers of animals produced on their own farms where such killing or dressing occurs and excepting occasionally such killing or dressing by individuals for their own use.

(Code 1982, § 12.15(1))
Cross reference— Definitions generally, § 1-2.

Sec. 14-752. Slaughterhouse; location.

No person shall construct, operate or maintain a slaughterhouse in the village within three-eighths of one mile of any residence or other structure used for dwelling purposes.
(Code 1982, § 12.15(2))

Sec. 14-753. Offensive business; location.

No person shall construct, operate or maintain an offensive business in the village within three-eighths of one mile of any residence or any structure used for dwelling purposes. As used in this section, the term "offensive business" shall mean the killing or dressing of any animal in the usual course of a business or occupation, excepting the killing or dressing by farmers of animals produced on their own farms where such killing or dressing occurs.
(Code 1982, § 12.15(3))

Secs. 14-754—14-780. Reserved.

Article XV. Junk Dealers

Sec. 14-781. Compliance with article required.

No person shall engage in the junk business except in strict accordance with the provisions of this article.
(Code 1982, § 12.16(1))

Sec. 14-782. 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:

Junk means pig iron, chain, brass, copper, tin, lead, other base metals, automobiles, trucks, trailers or any parts thereof to be junked or demolished, taken apart or destroyed for salvage materials, paper, wastepaper, paper clippings, rags, rubber, glass or bottles and all articles and things discarded as manufactured articles composed of or consisting of any one or more of the articles mentioned, including industrial metal or scrap or other material commonly included within the term "junk." Also included within the meaning of "junk" are those items included within the definitions of rubbish, refuse, garbage and abandoned, dismantled, inoperable, junked or wrecked motor vehicles set forth in chapter 22, article III.

Junk business means the buying, selling, gathering, delivering or storing of junk.

Junk dealer means a person who buys, sells, gathers, delivers or stores junk and maintains a yard or building therefor.

Junk peddler means a person engaged in buying and gathering junk by means of a wagon, cart or other vehicle.

(Code 1982, § 12.16(2))
Cross reference— Definitions generally, § 1-2.

Sec. 14-783. Application for license.

(a) Application for a junk dealer's license shall be made to the clerk and shall contain the following information:

(1) The full name and residence of the applicant; and if a firm or association, the full name and residence of the firm or association; and if a corporation, the full name and residence of the officers thereof.

(2) The address and description of the premises for which the license is desired.

(3) A complete statement of the business to be carried on.

(4) An enumeration of the articles and merchandise to be handled on the premises and a statement as to whether the junk to be stored is combustible or incombustible.

(5) Such other information as the village board may from time to time require.

(b) Each applicant for a license shall execute a permit granting the village board or any of its representatives permission to inspect and search the premises. Any false statement contained in such application shall automatically nullify any license issued pursuant thereto.

(c) Licenses under this article shall be granted by the village board. In considering such application for a license under this article, the village board shall take into account, among other things, the nature and development of surrounding property, the proximity of churches, schools, public buildings or other places for public gathering, the health, safety and general welfare of the public, traffic volume, congestion and hazard at the location of applicant's proposed place of business.

(Code 1982, § 12.16(3))

Sec. 14-784. Fees.

(a) The license fee, in an amount specified by section 14-35, per annum or fractional part thereof for each junk business.

(b) There shall be a fee, in an amount specified by section 14-35, per annum for each junk peddler using one wagon, cart or other vehicle. For each additional wagon, cart or other means of conveyance used for each purpose, such licensee shall pay an additional sum as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution. Each licensee engaged in collecting or gathering junk shall be furnished with a plate with the number of his license described thereon which shall be securely fastened by the licensee in some conspicuous place on the wagon, cart or other vehicle so used by him.

(Code 1982, § 12.16(4); Ord. No. 2008-01, § 13, 12-22-2008)

Sec. 14-785. License numbers.

All licenses shall be numbered consecutively and the clerk shall furnish each licensee a card setting forth his name and the number of such license.

(Code 1982, § 12.16(5))

Sec. 14-786. Revenues and expenses.

The clerk shall secure the necessary blanks or cards and the expense thereof shall be paid by the village out of the general fund and all monies derived from such licenses shall be turned into the general fund.

(Code 1982, § 12.16(6))

Sec. 14-787. Limitation upon issuance of licenses.

A separate license shall be required for each place of business and each shall particularly describe the premises for which issued.
(Code 1982, § 12.16(7))

Sec. 14-788. Restriction of licenses.

(a) Accumulation of junk. No person except a licensed junk dealer or junk peddler shall buy, collect, gather junk or shall allow the junk to accumulate in any substantial amount in the village.

(b) Storage restrictions. No junk shall be accumulated, stored or placed on any premises in the village within 750 feet from the centerline of any public highway or roadway or within one-half mile from the nearest residence, school, church or other place of public gathering. No burning of junk shall be done on such premises unless such burning takes place not less than 1,000 feet from the centerline of any public highway or roadway within the village and not less than one-half mile from the nearest residence, school, church or other place of public gathering.

(c) Storage of combustible junk. No combustible junk shall be stored in any building unless such building is approved by the building inspector and is of fireproof construction.

(d) Enclosure of junkyards. Every junkyard shall be enclosed by a substantial enclosure consisting of a solid fence, to be approved by the building inspector, not less than eight feet in height and maintained in proper condition. Junk placed in a junkyard shall be piled as to not rest against or project through the enclosure. No person shall affix or display or permit to be affixed or displayed upon such enclosure any picture, sign, bill, placard, pamphlet, notice or other thing for the purpose of advertising or notification. The words "Post No Bills" shall be painted on such enclosure at intervals in letters six inches high.

(e) Record of purchases. A written record consisting of an accurate description and price of the goods, articles and things purchased, together with the name, age and residence of the seller shall be maintained by each licensee under this article. Such record shall be available to any code enforcement officer for inspection at any reasonable times.

(f) Purchase from certain persons. No purchase shall be made from any child or children under 18 years of age or from any intoxicated or unknown person.

(g) Purchase of certain property. No person shall purchase used pipe, faucets, boilers, spigots or coils from any person except the manufacturer thereof, a licensed plumber, a licensed peddler or the owner of the building from which material is taken.

(h) Rodents and vermin. Effective means for the elimination of the rodents and vermin commonly infesting junk areas shall be administered by all licensees under this article.

(i) Garbage. No person shall store any garbage materials on the premises licensed under this article.

(j) Revocation. See section 14-46 for provisions regarding the revocation of licenses.
(Code 1982, § 12.16(8))

Sec. 14-789. Limitation of licenses granted.

The village board shall issue no more than one license to cover junkyards for each 5,000 inhabitants or fraction thereof, except that if a greater number of licenses have been granted, issued or in force in the village than shall be permissible under such limitation, the village board may issue and grant such licenses equal in number to those granted, issued or in force on the effective date of this section, but the village board shall not grant and issue any additional licenses above the number of licenses existing on such date until the number of licenses shall correspond to the limitation provided in this section.
(Code 1982, § 12.16(9))

Secs. 14-790—14-820. Reserved.

Article XVI. Gravel Pits, Sand Pits And Dumps

Sec. 14-821. 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:

Asphalt or tar paving mix plants means plants wherein asphalt, tar or other petroleum products or byproducts are prepared or mixed, either alone or with other ingredients, as a material for paving or surfacing.

Concrete ready mix plants means plants where water, gravel, sand, crushed stone or other aggregate is mixed with cement and placed within a truck or trucks for the purpose of mixing such ingredients and to create and manufacture concrete thereby while such truck is in transit to its ultimate point of delivery.

Dump means the use and maintenance of lands for the dropping down or deposit of garbage, junk, refuse or other waste materials.

Gravel pits and sand pits mean any place where gravel, sand or dirt, or any combination thereof, is removed from its natural state of deposit by digging, pushing or any other method and sold or held for sale.

Quarry means any place where materials, consisting in whole or in part of rock or stone, are removed from their natural state by cutting, blasting, digging or pushing or by any other method and sold or held for sale.

(Code 1982, § 12.17(1))
Cross reference— Definitions generally, § 1-2.

Sec. 14-822. Operator's license required.

No owner of land shall permit any person to operate a quarry, a gravel pit, a sand pit, an asphalt or tar paving mix plant, a concrete ready mix plant or a dump within the village without first obtaining a license to do so from the village board.
(Code 1982, § 12.17(2))

Sec. 14-823. Owner's permit.

No owner of land shall permit any person to operate a quarry, gravel pit, sand pit, asphalt or tar paving mix plant, a concrete ready mix plant or a dump within the village without first obtaining a permit therefor from the village board.
(Code 1982, § 12.17(3))

Sec. 14-824. Operator's permit application; fee.

(a) Applications for permits to operate a quarry, gravel pit, sand pit, asphalt or tar paving mix plant, concrete ready mix plant or dump within the village shall be submitted in writing to the village board and shall set forth the following:

(1) Name, residence or office address of applicant.

(2) Description of the premises to be used.

(3) Statement of the nature of the proposed operation, including a description of the machinery to be used; the type and size of buildings to be constructed; the type and amount of explosives to be used or stored, if any; the smoke and dust control devices to be utilized, if any; the highways to be used for the truck traffic to and from the location; devices to protect the public from dangers inherent to the proposed use; deodorants or odor control devices, if any; method of concealing unsightly deposits, if any; and any other pertinent data which the applicant deems material.

(4) Hours of intended operation.

(5) The method and manner of draining surface water and accumulated water from the licensed premises.

(6) The method and manner of restoring the area of the operation after the cessation of operation to a condition of practical usefulness and reasonable physical attractiveness.

(7) Name, residence or office address of owner and date on which owner's permit was issued.

(b) The application shall be accompanied by a fee, as specified by section 14-35, to defray the cost of publication, investigation and public hearings, if any.
(Code 1982, § 12.17(4); Ord. No. 2008-01, § 14, 12-22-2008)

Sec. 14-825. Owner's permit application; fees; term.

(a) Applications for owner's permits shall be submitted in writing to the village board and shall set forth the following:

(1) Name, residence or office address of applicant.

(2) Description of the premises to be used.

(3) Zoning of the premises to be used.

(4) Statement of the nature of the proposed operation.

(5) A description of the surrounding property and its use.

(b) The application shall be accompanied by a fee as specified in section 14-35

(c) The license, if granted, shall be in effect for a period of five years.

(Code 1982, § 12.17(5); Ord. No. 2008-01, § 15, 12-22-2008)

Sec. 14-826. Public hearing.

(a) Upon receipt of an application submitted as provided in this chapter, the village board shall personally inspect the premises for which a permit is requested and shall set a date for public hearing upon such application, which date shall be not more than 30 days after the receipt of the application by the village board. A public hearing shall be held at the place specified in the village and a notice of the meeting shall be published in a newspaper of general circulation in the village at least five days before the date of public hearing. At such public hearing, the village board shall hear all persons interested in the granting or denying of the permit and may take testimony relative to the application.

(b) Where the license applied for relates to the renewal of a permit previously granted, no publication shall be required and no public hearing shall be held.

(Code 1982, § 12.17(6))

Sec. 14-827. Preexisting operator's licenses and nonconforming uses.

Any person who was operating under a license which antedates the effective date of ordinance from which this section is derived or by reason of any permitted nonconforming use, shall be subject to the provisions of this chapter. No application by such person shall be denied unless it is established that the existing operation constitutes a public nuisance as defined in this Code. The village board may impose reasonable terms and conditions upon such operation. No additional agreement for restoration and no additional bond shall be required of such applicant, but a restoration agreement and bond may be required if a restoration agreement and bond were not previously required.

(Code 1982, § 12.17(7))

Sec. 14-828. Variance between application and license.

(a) At any time prior to the determination by the village board, any applicant may request that his application be amended to reduce the area of land, the term of the permitted or the intended use of the premises and the village board may act on such amended application without requiring further publication or public hearing.

(b) If at any time it is apparent that an error has been made in the legal description of the land to be permitted and the village board is satisfied that the amendment of such legal description shall work no hardship on any other person, it may direct that the /clerk amend the application, or the license if already issued, to set forth the proper legal description of the licensed premises.

(Code 1982, § 12.17(8))

Sec. 14-829. Determination by village board.

(a) Within five days after the public hearing if required and otherwise within 30 days of receipt of application the village board shall make a determination as to whether or not the proposed use described in the application shall be detrimental to the health, safety and welfare of the public of the village. Such determination shall be made on the basis of the information contained in the application together with the evidence presented at the public hearing and a personal inspection of the premises by the members of the village board.

(b) The village board shall, as a condition to the issuance of an operator's license, demand an agreement with the applicant whereby the applicant agrees to restore the premises in accordance with the representations contained in the application. The village board shall demand that a performance bond, written by a licensed surety company in an amount sufficient to secure the performance of the restoration agreement, be furnished to the village. The amount of such bond shall be not less than an amount set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution for each acre of land included in the application.

(Code 1982, § 12.17(9))

Sec. 14-830. Hours of operation.

No licensee shall operate his business except between the hours of 7:00 a.m. and 7:00 p.m. A temporary variance for a period not in excess of 30 days may be granted upon application to the village board.
(Code 1982, § 12.17(10))

Sec. 14-831. Term of operator's license.

(a) Such operator's license shall have a term of one year or such shorter period as the village board shall prescribe and shall not be assignable. Such license shall further terminate:

(1) Upon the change of ownership of the firm, company, corporation or municipality operating the licensed business.

(2) If the use specified in the license is not carried on in accordance with the representations contained in the application or if such use is changed to another use enumerated in this article or if the license use has been discontinued for more than six months.

(b) If any event prescribed above occurs, another license shall be applied for and obtained by the proposed operator as a condition precedent to the continued operation of the licensed business, the operation of a new business or the resumption of the discontinued business.

(c) The village board may consider an application under subsection (b) of this section without the necessity of publication or a public hearing.

(d) Any license issued under subsection (b) of this section shall be deemed an original license and the licensed operator shall be bound by the terms of this article.

(Code 1982, § 12.17(11))

Sec. 14-832. Revocation of operator's license.

The following acts shall constitute grounds for revocation of a license:

(1) Failure to discharge or drain surface water or accumulated water from the licensed premises in such method and manner as shall not interfere with the use of lands, drains and ditches or other persons, firms or corporations, municipally owned or otherwise.

(2) Any change in the manner of operation specified in the application as approved by the village board in granting the original license.

(3) Failure during and after excavation to provide adequate lateral support to roadways or to the lands of abutting property owners. No excavating shall take place within 25 feet of any roadway or property line and the licensee shall excavate such further distance away from such roadway or property line as is necessary to provide lateral support.

(Code 1982, § 12.17(12))

Sec. 14-833. Revocation of owner's permit.

An owner's permit may be revoked for any of the reasons enumerated in section 14-829. Revocation of an owner's permit shall be deemed an automatic revocation of any operator's permit covering the same premises.
(Code 1982, § 12.17(13))

Sec. 14-834. Revocation procedures.

See section 14-46 for provisions relative to revocation procedures.
(Code 1982, § 12.17(14))

Sec. 14-835. Denial of permit.

If a permit is denied for any business enumerated in this article with respect to any particular parcel of realty, no application for the same business on the same parcel of land, or any part thereof, may be filed within one year from the date of such denial. If, however, a new application reveals a material difference, the village board may proceed to hear and determine such new application within such year.
(Code 1982, § 12.17(15))

Secs. 14-836—14-860. Reserved.

Article XVII. Shooting Facilities

Sec. 14-861. Definition.

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:

> *Shooting facility* means any place where fixed or movable targets are set up and arranged for the purpose of being shot at for practice or marksmanship by more than two persons discharging firearms at about the same time, including a skeet or trap field.

(Code 1982, § 12.18(1))
Cross reference— Definitions generally, § 1-2.

Sec. 14-862. License required.

No person shall operate a shooting facility within the village without first obtaining a license therefor from the village. No owner of land shall permit any person to operate a shooting facility upon any lands within the village without a license having been first obtained from the village board.
(Code 1982, § 12.18(2))

Sec. 14-863. Application; fee.

(a) Application. Application for licenses to operate a shooting facility within the village shall be submitted in writing to the village board and shall set forth the following:

(1) Name, address and phone number of the applicant and all range masters.

(2) Schematic layout of shooting facility, showing relation to property lines and adjoining properties, including dimensions and distances.

(3) A description of the surrounding property and its use.

(4) Hours of intended operation.

(5) Type of firearms to be used (small-bore, high power, pistol and shotgun).

(b) Fee. The license application for a shooting facility shall be accompanied by a fee as set forth in section 14-35 to defray the cost of publication, investigation and public hearings, if any.

(Code 1982, § 12.18(3); Ord. No. 2008-01, § 16, 12-22-2008)

Sec. 14-864. Regulation of existing shooting facilities.

This article shall apply to all shooting facilities within the village.
(Code 1982, § 12.18(4))

Sec. 14-865. Public hearing.

(a) Upon receipt of an application submitted as provided in section 14-863, the village board shall personally inspect the premises of a shooting facility for which a license is requested and shall set a date for public hearing upon such application, not more than 30 days after the receipt of the application by the village board. A public hearing shall be held at the place specified in the village. Notice of such meeting shall be published in a newspaper of general circulation in the village and mailed to the applicant at least five days before the date of the public hearing. At the public hearing the village board shall hear all persons interested in the granting or denying of such license and may, if it sees fit, take testimony relative to the application.

(b) An existing license for a shooting facility may be renewed by the village board without publication and public hearing. No renewal shall be denied without publication and public hearing.

(Code 1982, § 12.18(5))

Sec. 14-866. Determination by village board.

Within five days after the public hearing, if required, and otherwise within 30 days of receipt of application, the village board shall make a determination as to whether or not the proposed use described in the application will be detrimental to the health, safety and welfare of the public. Such determination shall be made on the basis of the information contained in the application together with the evidence presented at the public hearing, and a personal inspection of the premises by the members of the village board. If not found to be detrimental to the public health, safety and

welfare, the village board shall issue a license to the applicant, subject to such reasonable conditions as the village board may impose to protect the public health, safety and welfare.
(Code 1982, § 12.18(6))

Sec. 14-867. Term of operator's license.

The license for a shooting facility shall have a term of one year and shall expire on June 30 of each year.
(Code 1982, § 12.18(7))

Sec. 14-868. Conditions of operator's license.

(a) The license for a shooting facility shall not be assignable. Such license shall terminate:

(1) Upon the change of ownership of the licensed business.

(2) If the licensed operation has been discontinued for more than six months.

(b) If a license terminates, another license shall be applied for and obtained by the proposed operator as a condition precedent to the continued operation of the licensed business, the operation of a new business, or the resumption of the discontinued business. Any license issued pursuant to this subsection shall be deemed an original license and the licensed operator shall be bound by the terms thereof.

(c) Any shooting facility licensed under this article, except skeet and trap ranges, shall comply with the following conditions:

(1) A qualified range master shall be present on the firing line during all times when shooters are on the firing line. A qualified range master will officially open and close the range by flying a red flag at the top of a 12-foot high pole on top of the backstop. The flag shall be made of red cloth six feet long and three feet wide.

(2) A bullet stop shall be used and shall be a hillside or dirt barricade with a minimum height of 25 feet and extending at least 25 feet beyond each end of the target line. Rifle ranges with targets set beyond 100 yards shall have a bullet stop with heights increased in accordance with the current standards published by the National Rifle Association of America. Ranges built with baffles may reduce the height of bullet stops upon approval of the village board.

(3) All bullet stops shall be seeded or sodded on the forward slope to minimize possible ricochets. The impact area behind each target shall have all stones removed and a device to prevent the bullet from sliding up and over the bank.

(4) The entire range, including the bullet stops and firing lines, shall be enclosed with a barrier at least four feet high to prevent animals and careless persons from wandering into the field of fire. This barrier shall be posted every 200 feet with a two-foot by two-foot sign easily read with a warning such as "Danger—Shooting Range—No Trespassing." When a fence that can be climbed over is used as a

barrier, the vegetation shall be cut to a height of no more than eight inches so that the range master has full view of the complete shooting range.

(5) The firing line should be graded smooth and have a slight slope from front to rear. Firing line and target lines must be 90 degrees to the line of fire. Firing points shall be spaced a minimum of five feet apart with a numbered peg set on each firing point and a corresponding number on the target line.

(6) Only one shooter and his coach shall be allowed at each firing point on the firing line at the same time.

(d) Skeet and trap ranges shall comply with the following conditions:

(1) A qualified referee shall be present on the field to start, stop and control all shooters.

(2) A skeet field shall have all vegetation cut to a minimum height of eight inches within a 100-yard radius in front of station number 8.

(3) A trap field shall have all vegetation cut to a maximum height of eight inches within a 100-yard radius in front of the trap house.

(4) The 300-yard shotfall zone must be in a clear and unobstructed view of the referee so that shooting can be stopped when unauthorized persons or animals enter this zone.

(5) In multiple skeet field layouts, a protection fence will be required between fields.

(6) Then current standards as published by the National Rifle Association shall be used in planning and approval of skeet and trap fields.

(Code 1982, § 12.18(8))

Sec. 14-869. Revocation of license.

Any change in the manner of operation specified in the application for a shooting facility license as approved by the village board in granting the original license and any violations of the provisions of this article shall constitute grounds for revocation of the license.
(Code 1982, § 12.18(9))

Sec. 14-870. Revocation procedures.

See section 14-46 for provisions relative to license revocation procedures.
(Code 1982, § 12.18(10))

Sec. 14-871. Denial of license.

If a license is denied for any business enumerated in this article with respect to any particular parcel of realty, no application for the same business on the same parcel of land, or any part thereof, may be filed within one year from the date of such formal denial, unless a new application shall reveal a material difference from the prior application.
(Code 1982, § 12.18(11))

Secs. 14-872—14-900. Reserved.

Article XVIII. Gaming Machines

Sec. 14-901. License required.

No person or corporation, private, municipal or otherwise, shall keep and maintain any gaming machines in the village for which a fee or charge is imposed to play the gaming machine without first having obtained a license therefor from the village and having paid the required license fee. For purposes of this article, the term "gaming machine" shall mean any machine or device designed for and permitting one or more persons to play a game or games and shall include, without limitation, pinball, electronic and video game machines.
(Code 1982, § 12.19(1))

Sec. 14-902. Application procedure.

All applications for licenses under this section shall be made in the manner as provided in section 14-482 and, in addition, shall specify the number, types, and serial numbers of all such gaming machines for which a license is sought.
(Code 1982, § 12.19(2))

Sec. 14-903. Revocation or nonrenewal.

In addition to any other reason for which such license may be revoked or nonrenewed by law or under this Code, any license issued hereunder with respect to a gaming machine may be revoked or nonrenewed for allowing the machine to be used for any illegal purpose, including, but not limited to, gambling.
(Code 1982, § 12.19(3))

Sec. 14-904. Fee.

The license fee for each gaming machine shall be as stated in section 14-35.
(Code 1982, § 12.19(4))

Secs. 14-905—14-930. Reserved.

Article XIX. Cable Television

State Law reference— Regulations by village, Wis. Stat. § 66.0420.

Sec. 14-931. Purpose.

The purpose of this article is to supervise and regulate, to the extent permitted by law, cable television systems within the village in the public interest and to provide for the issuance of franchises to operate cable television systems within the village.
(Code 1982, § 12.20(1))

Sec. 14-932. 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:

Additional service means any communication service other than basic cable service provided on a CATV system by a grantee.

Basic cable service and basic service mean the lowest priced level of service offered by a grantee to subscribers, which includes local broadcast stations.

Cable system (CATV system) means a system of antennas, cables, wires, lines, fiber optic cables, towers, wave guides or other conductors, converters, equipment or facilities, used for distributing video programming to home subscribers, and/or producing, receiving, amplifying, storing, processing, or distributing audio, video, digital or other forms of electrical signals to, from and between subscribers and other users.

Channel means a band of frequencies six megahertz wide capable of carrying one standard audio-visual television signal.

FCC means the Federal Communications Commission of the United States.

Grantee means a person who has been granted a franchise for a CATV system in the village.

Gross revenues means all revenues received by a grantee from grantor's subscribers for cable services, excluding grantor's proportionate share of: taxes and other assessments collected for governmental authorities; bad debt expense; subscriber deposits; copyright fees; programming fees paid by grantee for nonbroadcast program services; and installation and disconnect charges.

Subscriber means any person or entity who subscribes to a service provided by a grantee.

(Code 1982, § 12.20(2))
Cross reference— Definitions generally, § 1-2.

Sec. 14-933. Privileges granted.

A grantee shall be granted a nonexclusive franchise and privilege to construct, operate and maintain in, upon, along, across, above, over and under the public roads and rights-of-way of the village and all extensions thereof and additions thereto, poles, wires, cable underground conduits, and other television conductors and fixtures necessary for the operation and maintenance in the village of a CATV system for a term of 25 years, subject to the following conditions:

(1) Utilization of existing facilities. Where feasible to do so, the grantee shall endeavor to obtain rights to use poles and conduits belonging to the franchise holders or utilities within the village. Approval of the assignment of such rights to a grantee by such other franchise holders may be granted by the village board, in its discretion. It is the intention of the village that a grantee shall utilize existing public utility poles and conduits where feasible. All poles and conduits installed within the village shall be made available for attachment or use by a grantee, at just and reasonable rates. If such poles or facilities are not made so available, a grantee may erect its own poles upon application to and approval by the village.

(2) Interference. All transmission and distribution structures, lines and equipment erected by a grantee within the village shall be located so as not to interfere with the proper use of the roads and rights-of-way of the village, and to cause minimum interference with the rights or reasonable convenience of property owners or occupants of lands adjoining any of such road and rights-of-way, and not to interfere with existing public utility installations. In all areas of the village where the cables, wires or other like facilities of all public utilities are placed underground, the grantee shall place its cables, wires or other like facilities underground in conformity with the standards established for such utilities.

(3) Restoration. If a grantee disturbs any pavements, sidewalks, driveways, or other surfacing, or any other property, it shall, at its own expense, and in the manner provided by the village, replace and restore all such pavements, sidewalks, driveways, or other surfaces of any roads or rights-of-way disturbed and return any and all property to its conditions immediately prior to being disturbed.

(4) Alterations. If at anytime during the period of the franchise the village shall lawfully elect to alter, or change the grade or location of any road or right-of-way, a grantee shall upon reasonable notice by the village, remove, relay and relocate its poles, wires, cable underground conduits, manholes and other fixtures at its own expense, and in each instance comply with the requirements of the village.

(5) Installations. A grantee shall not place poles, conduits, or other fixtures above or below ground where the poles, conduits, or other fixtures will unreasonably interfere with any gas, electric, telephone fixtures, water hydrant or other utility, and all such poles, conduits or other fixtures placed in any road shall be so placed so as to comply with all requirements of the village.

(6) Trimming. A grantee shall have the authority to trim any trees upon and overhanging the streets, alleys, sidewalks and public places of the village so as to prevent the branches of such trees from coming into contact with the wires and cables of the grantee.

(7) Approval. Prior to the erection by a grantee of poles or other wire holding structures, the grantee shall secure approval of the village with regard to the location, height, type and other pertinent aspects of such facilities.

(Code 1982, § 12.20(3))

Sec. 14-934. Type and capacity of equipment and standard of service.

(a) A grantee shall engineer, install, maintain, operate and equip its CATV system so as to meet the technical standards of the FCC.

(b) The signals distributed by a grantee shall be the best possible signals available under the circumstances existing at the time and shall provide the best possible quality reception to each subscriber.

(c) The standards of equipment and service specified in this article to be utilized and rendered by a grantee are intended as minimum standards and nothing in this article shall be construed as an attempt to relieve a grantee from complying fully with existing FCC regulations nor from meeting future standards of the FCC within the times for compliance specified by the FCC.

(Code 1982, § 12.20(4))

Sec. 14-935. Subscriber rates.

The village shall have the option, upon proper notice to a grantee and an opportunity for the grantee to comment, to regulate basic cable rates according to the extent authorized by the U.S. statutes and regulations adopted pursuant thereto.

(Code 1982, § 12.20(5))

Sec. 14-936. Service.

(a) As part of the consideration for the rights and privileges granted to a grantee, the grantee shall provide one free drop, with no monthly service charge for basic service to the village hall building, fire and police stations, public library, and to all public and parochial primary and secondary schools located within the village, which are passed by the cable system.

(b) A grantee shall maintain a competent staff of employees sufficient to provide adequate and prompt service to its subscribers. Except where an emergency requires a more expedited procedure, the grantee may interrupt service for the purpose of repairing or upgrading the system only during periods of minimum use.

(Code 1982, § 12.20(6))

Sec. 14-937. Compensation to the village.

(a) In consideration of the terms of the franchise, the grantee shall pay to the village a sum equal to four percent of the gross revenues of the grantee received during each calendar

year during the period of the franchise. These fees shall be payable to the village in annual payments on June 30 of each year. The grantee shall keep complete records of accounts showing dates and payments received.

(b) Upon reasonable notice, the village shall have the right to inspect the grantee records showing its gross receipts for basic service and additional service from which its franchise payments are computed, and the right of audit and recomputation of any and all amounts paid under the franchise shall be always accorded to the village. No acceptance of any payment by the village shall be construed as a release of or an accord or satisfaction of any claim the village might have for further or additional sums payable under this article or for any other performance or obligation of the grantee under this article.

(c) Payments of compensation made by a grantee to the village under the provisions of this article shall not be considered in the nature of a tax, but shall be in addition to any and all taxes which are now or hereafter required to be paid by any law of the United States, the state, the village, or any other taxing authority.

(Code 1982, § 12.20(7))

Sec. 14-938. Liability and indemnification.

(a) A grantee shall agree to pay all damages and penalties which the village may be required to pay as a result of granting the franchise, and a grantee shall agree to save the village harmless from any and all liability arising out of the franchise, the granting of the franchise or the operation of the cable system thereunder; provided, however, the grantee shall not be liable for occurrences or acts which are wholly or partially the fault of the village and in respect of which the grantee is not at fault. A grantee may assume the defense of any such claim or it may permit the village to defend itself. If the village assumes its own defense with the grantee's consent, the grantee shall pay all expenses incurred by the village in defending itself with regard to all damages and penalties payable because of an act for which the grantee is liable under this indemnity, including, but not limited to, all out-of-pocket expenses, disbursements and attorney's fees.

(b) In any instance where the village intends to seek reimbursement or indemnification pursuant to subsection (a) of this section, it shall promptly notify the grantee of the claim so as to allow grantee to assume or participate in the defense. The village, its employees and agents shall cooperate fully with the grantee in the defense of such a claim and shall make its records fully available as grantee or its representatives deem necessary. Should the village compromise or settle any claim without the grantee's express consent, it shall forfeit its right to indemnification or reimbursement.

(c) The grantee shall maintain, in full force and effect during the term of its franchise, liability insurance insuring the village and the grantee in the minimum amounts of:

(1) Two hundred fifty thousand dollars for bodily injury or death or to any one person, with the limit of $750,000.00 for bodily injury or death resulting from any one accident;

(2) Fifty thousand dollars for property damage resulting from any one accident.

(Code 1982, § 12.20(8))

Sec. 14-939. Transfer of franchise.

The CATV franchise shall not be assigned or transferred, in whole or in part, without the consent of the village, such consent shall not be unreasonably withheld.
(Code 1982, § 12.20(9))

Sec. 14-940. Change of control of grantee.

No transfer of more than 51 percent of the ownership or control of the grantee shall be made without prior approval of the village. Such approval shall not be unreasonably withheld.
(Code 1982, § 12.20(10))

Sec. 14-941. Franchise renewal.

(a) A franchise may be renewed for an additional 25 years if:

(1) The grantee has substantially complied with the material terms of the existing franchise and with applicable law;

(2) The quality of the grantee's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable service or other services provided over the cable system has been reasonable in light of community needs;

(3) The grantee has the financial, legal, and technical ability to provide the services, facilities, and equipment set forth in the grantee's application; and

(4) The grantee's application indicates it can reasonably meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

(b) In any renewal proceeding, a grantee shall be afforded adequate notice and the grantee and the village, or its designee, shall be afforded a fair opportunity for full participation, including the right to introduce evidence, to require the production of evidence, and to question witnesses. A transcript may be made of any such proceeding at the cost of the grantee.

(c) A proceeding under this section shall be completed within 12 months of its commencement, within which time the village shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding, and transmit a copy of such decision to the grantee. Such decision shall state the reasons therefor.

(d) Any denial of a proposal for renewal shall be based on one or more adverse findings made with respect to the factors described in subsection (a) of this section, pursuant to the record of the proceeding under subsection (b) of this section.

(Code 1982, § 12.20(11))

Sec. 14-942. Filings of communication with regulatory agencies.

Copies of all petitions, applications and communications submitted by a grantee to the FCC, or any other federal, or state, regulatory commission or agency having jurisdiction in respect to any matters affecting CATV operations authorized pursuant to a franchise granted hereunder shall also be submitted upon request to the village.
(Code 1982, § 12.20(12))

Sec. 14-943. Filing of plats, maps and records.

A grantee shall file upon request with the clerk of the village true and correct copies of maps and plats of existing and proposed installations, and such maps and plats shall be updated upon request of the village.
(Code 1982, § 12.20(13))

Sec. 14-944. Improving and modifying CATV system.

A grantee shall monitor technological developments in the cable communications industry and shall, at request of village board, consult on implementing such changes as are required to meet substantially unfilled needs and interests in commercially available programming where economically feasible.
(Code 1982, § 12.20(14))

Sec. 14-945. Remedies.

(a) Default. Nonperformance or violation by a grantee of any term or provision of a franchise shall constitute a default. In such event, the village shall send a written default notice by certified mail, return receipt requested, and the grantee shall have 60 days from the receipt of such notice to correct or remedy the default; provided, however, if the default has caused a public safety problem, the village may shorten such period to cure or, if reasonably necessary, to cause a cure to be effected and to charge the grantee therefor. If the grantee corrects or remedies the alleged default within the 60-day period or such lesser period designated by the village board, then no default will have been deemed to have occurred. The grantee may within 15 days of receiving such notice notify the village that there is a dispute as to whether a violation has, in fact, occurred. Such notice by grantee to village shall specify the matters disputed by grantee. The village shall hear the grantee's dispute at the next regularly scheduled village board meeting.

(b) Revocation. If a grantee fails to disprove or correct the violation within the time period specified, the village board may revoke the franchise.

(Code 1982, § 12.20(15))

Sec. 14-946. Force majeure.

Prevention or reasonable delay of any performance under a franchise due to circumstances or acts of God beyond the control of the grantee, shall not be deemed noncompliance with or a violation of the franchise.
(Code 1982, § 12.20(16))

Sec. 14-947. Conflicting laws, rules and regulations.

If the laws of the United States or the state, or rules and regulations of any agency of the United States or the state, whether presently in existence or hereinafter enacted or set in force, are in conflict with any provision or portion thereof, of this article, those provisions (or portions thereof) of this article which are in conflict therewith shall be deemed amended so as to comply with such laws, rules and/or regulations.
(Code 1982, § 12.20(17))

Sec. 14-948. Removal of facilities.

At the termination of a franchise at the end of the term or otherwise, a grantee shall at the grantee's expense, remove all such facilities from the village streets and public property. Upon termination of service to any subscriber, the grantee shall promptly remove all of its facilities and equipment from the premises of each subscriber upon the request of and at no cost to the subscriber.
(Code 1982, § 12.20(18))

Sec. 14-949. Severability.

If any provision of this article shall be invalid, the remaining provisions hereof and their application shall not be affected thereby.
(Code 1982, § 12.20(19))

Secs. 14-950—14-980. Reserved.

Article XX. Adult Oriented Entertainment Establishments

Division 1. Generally

Sec. 14-981. Findings.

Based on evidence concerning the adverse secondary effects of adult oriented establishments on the community, as set forth in reports made available to the Village Board, and on the holdings and findings in:

(1) Report to the American Center for Law and Justice on the Secondary Impacts of Sexual Oriented Businesses;

(2) The Affidavit of Richard McCleary for the case of New Albany DVD LLC v. City of Albany;

(3) National Law Center Summaries of SOB Land Use Studies;

(4) Workplace Perspectives on Erotic Dancing, a Minneapolis Minnesota Study;

(5) The studies conducted in Newport News, Virginia, Garden Grove, California, Dallas, Texas, Houston Texas;

(6) the Effects of Sexually Oriented Businesses by Louis F. Cormus III, which summarized studies conducted in Phoenix, Arizona; Garden Grove California; Los Angles, California; Whittier California; Indianapolis, Indiana; Minneapolis, Minnesota; Cleveland, Ohio; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Houston, Texas; Seattle, Washington; New York City, New York (specifically, Times Square); Dallas, Texas; Environmental Research Group Report; Tucson, Arizona; Manatee County, Florida; State of Minnesota; New Hanover County, North Carolina; Town and Village of Ellicottville, New York; Islip, New York; New York City, New York; Oklahoma City, Oklahoma; Houston Texas; Newport News; and Des Moines, Washington;

(7) The Police Memorandum dated May 1, 1990, to the Tucson, Arizona City Prosecutor;

(8) Rural Hotspots: The Case of Adult Businesses by Dr. Richard McCleary;

(9) The findings incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986); Colman A. Young v. American Mini-Theaters, Inc., 427 U.S. 50 (1976), Association of Club Executives of Dallas, Inc., et al. v. City of Dallas, 22-CV-00177 (N.D. Tex. May 24, 2022).

The Board finds that there is convincing evidence that the secondary effects of adult establishments include an increased risk of:

(1) Crime statistics show that all types of crimes, especially sex-related crimes, occur with greater frequency in neighborhoods where adult oriented establishments are located.

(2) Adult oriented establishments may contribute to an increased public health risk through the spread of sexually transmitted diseases, and such increased risk is a significant and legitimate matter of concern to the Village.

(3) Studies on the relationship between adult oriented establishments and neighboring property values have consistently found a negative effect on both residential and commercial property values.

(4) There is an increased potential for the infiltration of organized crime into the community via the operation of adult oriented establishments for the purpose of perpetrating unlawful conduct.

(5) The consumption of alcoholic beverages on the premises of an adult oriented establishment exacerbates the harmful secondary effects that such businesses have on the community.

(6) Human trafficking may be prevalent in certain adult establishments.

(7) Prostitution may be prevalent in certain adult establishments.

Given this well-documented correlation between adult oriented establishments and the harmful secondary effects itemized above, the Village Board has determined that the locational criteria imposed by the zoning code are not alone adequate to protect the health, safety and general welfare of Village residents, so the board deems it necessary to regulate, to the extent allowed by law, the operation of adult oriented establishments within the Village. By this article, it is not the Village Board's intent to suppress the constitutionally protected speech occurring within adult oriented establishments, nor does the Village Board anticipate that the limited regulations contained herein will have the effect of "chilling" the expression of such speech within the Village. To the contrary, the Village Board's purpose in adopting this article is limited to minimizing the occurrence and impact of the harmful secondary effects associated with adult oriented establishments and ensuring that the protected speech occurring therein is expressed in a safe, healthy, and lawful environment.

Sec. 14-982. 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 indicates a different meaning:

Adult bookstore means an establishment:

(1) Which has a facility or facilities for the presentation of "adult entertainment", as defined in this section, including adult oriented films, computer video, movies or live performances for observation by patrons therein; or

(2) Having as a substantial or significant portion of its stock in trade, for sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, DVDs, or magazines or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities as defined in this section.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which features:

(1) Live performances which are characterized or distinguished by the exposure of specified anatomical areas or the removal of articles of clothing; or

(2) Films, motion pictures, videocassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing specified anatomical areas or specified sexual activities.

Adult entertainment means any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas.

Adult mini-motion picture theater means an enclosed building with a capacity of less than 50 persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult modeling studio means any establishment or business where individuals pay money or other consideration to observe, sketch, draw, paint, sculpt or photograph a person who displays his or her specified anatomical areas. Adult modeling studios shall not include a proprietary school licensed by the state or a college, technical college, or university; or adult modeling in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing;

(2) Where, in order to participate in a class, a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude or seminude model is on the premises at any one time.

Adult motion picture theater means an enclosed building with a capacity of 50 or more persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below for observation by patrons therein.

Adult novelty shop means an establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items which are distinguished or characterized by their emphasis on or design for specified sexual activity or stimulating such activity.

Adult oriented establishment means any premises including, but not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments, adult modeling studios, adult novelty shops, or adult cabarets. It further means any premises to which public patrons or members are invited or admitted and wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. The term "adult oriented establishment" further includes any establishment open to the public upon the premises of which is conducted an enterprise having as its dominant theme or which is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as herein defined.

Booths, cubicles, rooms, compartments and stalls mean enclosures as are specifically offered to the public or members of an adult oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business adult entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the adult entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, the terms "booth," "cubicle," "room," "compartment" and "stall" do not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the

public or members of the establishment for hire or for a fee or for the purpose of viewing adult entertainment for a fee, and are not open to any persons other than employees; nor shall this definition apply to hotels, motels or other similar establishments licensed by the state pursuant to Wis. Stat. ch. 50.

Nudity means the appearance of the human bare anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or the nipple or areola of the female breast, with less than a fully opaque covering; or showing of the covered male genitals in a discernibly turgid state. Operators means any person, partnership, or corporation operating, conducting, maintaining or owning any adult oriented establishment.

Specified anatomical areas means:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below the point immediately above the top of the areola.

(2) Human male genitals in a discernibly turgid state, even if opaquely covered. Specified sexual activities means simulated or actual:

a. Showing of human genitals in a state of sexual stimulation or arousal.

b. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, or cunnilingus.

c. Fondling or erotic touching of human genitals, pubic region, buttocks, or female breasts.

Sec. 14-983. Physical layout of establishment.

(a) *Manager's Stations.* Each adult establishment shall have one (1) or more manager's stations. The interior of each adult establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one (1) manager's station to every part of each area, except restrooms, of the establishment to which any adult establishment patron is permitted access for any purpose. The cashier's or manager's station shall be located so that someone working there can quickly move to physically halt any attempted or accidental entry by a minor. An employee shall occupy the station at all times when patrons are in and on the premises.

(b) *Adult booths prohibited.* Adult booths, rooms, or cubicles for the private viewing of any adult entertainment shall be prohibited in all adult establishments.

(c) *Stages*. All live performers in an adult establishment shall perform only on a stage elevated no less than thirty-six (36) inches above floor level. There shall be a metal railing attached to the floor by bolts surrounding the stage which shall keep patrons at least forty-eight (48) inches from the stage. There shall also be a metal railing attached to the floor by bolts at the end of the stage.

(d) *Display windows prohibited.* All points of access into structures containing adult establishments and all windows or other openings shall be located, constructed, covered, or screened in a manner which will prevent a view into the interior.

(e) *Residential quarters not allowed.* No residential quarters shall be allowed on a premises with an adult establishment.

Sec. 14-984. Compliance with regulations.

(a) It shall be a violation of the provisions of this section for an operator to authorize or knowingly permit any employee action that is in violation of this section. Any violation by an operator of this subsection shall be separate and distinct from the employee's violation, and both the employee's and the operator's violations shall be punishable as set forth herein.

(b) Any act or omission of any employee constituting a violation of the provisions of this section shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(c) No employee of an adult oriented establishment shall allow any minor to loiter around or to frequent an adult oriented establishment or to allow any minor to view adult entertainment.

(d) The adult establishment shall clearly post and enforce a no loitering policy.

(e) The operator must ensure that at least one employee is on duty and situated such that he or she has an unobstructed view of each part of every area, except restrooms, of the establishment to which any adult establishment patron is permitted access for any purpose.

(f) The operator shall maintain the premises in a clean and sanitary manner at all times.

(g) The operator shall maintain at least ten footcandles of light in the public portions of the establishment, including aisles, at all times.

(h) The operator shall ensure compliance of the establishment and its patrons with the provisions of this section.

(i) It shall be a violation of this section for any person to knowingly or intentionally appear in a state of nudity in an adult oriented establishment.

(j) The sale, use, or consumption of alcohol on the premises of an adult oriented establishment is prohibited.

Sec. 14-985. Hours of operation.

(a) No adult oriented establishment shall be open between the hours of 2:00 a.m. and 12:00 p.m., noon.

(b) All adult oriented establishments shall be open to inspection at all reasonable times by the code enforcement officer, the county sheriff's department, the building inspectors, and the health department.

Sec. 14-986. Exemptions.

(a) The provisions of this article do not apply to the following establishments: theatres, performing arts centers, civic centers, and dinner theatres where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis, and in which the predominant business or attraction is not the offering of entertainment which is intended for the sexual interests or titillation of customers, and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or seminude performances. While expressive live nudity may occur within these establishments, this article seeks only to minimize and prevent the secondary effects of adult oriented establishments on the community, and the Village Board is not aware of any negative secondary effects that have been associated with these establishments.

(b) The provisions of this article also do not apply to any medical or therapeutic treatment facilities that are owned and operated by medical professionals licensed to practice within this state.

Secs. 14-987—14-1000. Reserved.

Division 2. Business License

Sec. 14-1001. Required.

(a) Except as provided in subsection (d) of this section, no adult oriented establishment shall be operated or maintained in the Village without first obtaining a business license to operate issued by the Village.

(b) A business license may be issued only for one adult oriented establishment located at a fixed and certain place. Any person who desires to operate more than one adult oriented establishment must have a business license for each.

(c) No business license or interest in a business license may be transferred to any person.

(d) All adult oriented establishments existing at the time of the passage of this section must submit an application for a business license within 60 days of the passage of this section.

(e) Notwithstanding section 14-1002, an adult oriented establishment business license shall not be granted to a premises in which the Village Board has determined that said premises operated as an adult oriented establishment without a business license within one year prior to the date of application. This prohibition applies to a premise for a period of one year following the Village Board's determination.

Sec. 14-1002. Application.

(a) Any person desiring to secure a license shall make application to the clerk. The application shall be filed in triplicate and dated by the clerk. A copy of the application shall be distributed promptly by the clerk to the code enforcement officer and to the applicant.

(b) The application for a license shall be upon a form provided by the clerk. An applicant for a license shall furnish the following information under oath:

(1) Demographics.

a. *Individual.*

1. Applicant's legal name, all of the applicant's aliases, and the applicant's age;

2. Applicant's business address.

b. *Corporations.*

1. Applicant corporation's complete name and official business address;

2. Legal names, all aliases, the ages, and business addresses of all of the directors, officers, and managers of the corporation and of every person owning or controlling more than twenty-five (25) percent of the voting shares of the corporation;

3. Applicant corporation's date and place of incorporation and the objective for which it was formed;

4. Proof that the corporation is a corporation in good standing and authorized to conduct business in the State of Wisconsin;

5. Name of the registered corporate agent and the address of the registered office for service of process.

c. *Partnerships (general or limited), joint ventures, or any other type of organization where two (2) or more persons share in the profits and liabilities of the organization.*

1. Applicant organization's complete name and official business address;

2. Legal name, all aliases, the ages, and business addresses of each partner (other than limited partners) or any other person entitled to share in the profits of the organization, whether or not any such person is also obligated to share in the liabilities of the organization.

d. *Land trusts.*

1. Applicant land trust's complete name;

2. Legal name, all aliases, and the business address of the trustee of the land trust;

3. Legal name, all aliases, the ages, and business addresses of each beneficiary of the land trust and the specific interest of each such beneficiary in the land trust;

4. The interest, if any, that the land trust holds in the permitted premises.

(2) If a corporation or partnership is an interest holder that shall be disclosed pursuant to subsections (b)(1)(b) and (c), then such interest holders shall disclose the information required in said subsections with respect to their interest holders.

(3) The general character and nature of the applicant's business.

(4) The length of time that the applicant has been in the business of the character specified in response to subsection (3) above.

(5) The location (including street address and legal description) and telephone number of the premises for which the adult establishment permit is sought.

(6) The specific name of the business that is to be operated under the adult establishment permit.

(7) The identity of each fee simple owner of the permitted premises.

(8) A diagram showing the internal and external configuration of the permitted premises, including all doors, windows, entrances, exits, the fixed structural internal features of the permitted premises, plus the interior rooms, walls, partitions, stages, performance areas, and restrooms.

A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required, provided, however, that each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions to an accuracy of plus or minus six (6) inches and sufficient to show clearly the various interior dimensions of all areas of the permitted premises and to demonstrate compliance with the provisions of this article. The approval or use of the diagram required pursuant to this subsection shall not be deemed to be, and may not be interpreted or construed to constitute, any other Village approval otherwise required pursuant to applicable Village ordinances and regulations.

(9) The specific type(s) of adult establishment(s) that the applicant proposes to operate on the permitted premises.

(10) A copy of each adult establishment's permit, liquor license, and gaming license currently held by the applicant, or any of the individuals identified in the application pursuant to subsection (1) or (2) above.

(11) The name of the individual(s) who shall be the day-to-day, on-site manager(s) of the proposed adult establishment.

(12) Whether the applicant or any person required to be named is currently operating, or has previously operated, in this or any other county or state, under an adult oriented establishment license or similar business license or permit; and whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

(13) Consent from the applicant(s) for the Village to conduct a background check on the applicant(s).

(c) Within 30 days of receiving an application for a new license or an application to renew a license, the clerk shall notify the applicant whether the application is granted or denied. Any application for a license that does not include all of the information and documents required under this section, or the appropriate application fee required by this section, shall be deemed to be incomplete and shall be returned to the applicant without any action thereon being taken by the Village.

(d) Whenever an application is denied, or a license is not renewed, the clerk shall advise the applicant in writing of the reasons for such action. Administrative review under Chapter 2, Article VII of this code may be requested when a license is denied.

(e) Refusal of the applicant to give any information relevant to the application or his refusal or failure to appear at any reasonable time and place for examination under oath regarding such application or his refusal to submit to or cooperate with regard to any information required by this section shall constitute an admission by the applicant that he is ineligible for such license and shall be grounds for denial thereof by the clerk.

Sec. 14-1003. Standards for issuance.

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 immediately preceding the date of the application.

(2) If the applicant is a corporation:

a. All officers, directors, and stockholders required to be named under section 14-1002(b) shall be at least 18 years of age.

b. No officer, director, or stockholder required to be named under section 14-1002(b) shall have been found to have previously violated this article within five years immediately preceding the date of the application.

(3) If the applicant is a partnership, limited liability company, 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, limited liability company, joint venture or other type of organization shall be at least 18 years of age.

b. No person having a financial interest in the partnership, limited liability company, joint venture or other type of organization shall have been found to have violated any provision of this article within five years immediately preceding the date of the application.

Division 3. Entertainer and Employee Licensing

Sec. 14-1004. License for entertainers and managers required.

(a) No person shall work as an entertainer at an adult establishment without having first obtained an entertainer's license from the clerk.

(1) Purpose. To ensure the entertainers comply with this Article and provide enforcement mechanisms for the Village against violators.

(b) No person shall work as a manager of an adult establishment without having first obtained a manager's license from the clerk.

(1) Purpose. To require licensed managers at adult establishments to monitor the conduct of patrons at adult establishments on the premises and ensure compliance with this Article.

a. "On site viewing" of adult entertainment means patrons viewing films, videos, live entertainment, and other such entertainment on the premises, whether or not for a fee or other consideration, as opposed to strictly the sale or rental of adult books, magazines, novelties and videos.

Sec. 14-1005. Application.

(a) Any person desiring to secure an entertainer or manager license shall make application to the clerk. The application shall be filed in triplicate and dated by the clerk. A copy of the application shall be distributed promptly by the clerk to the code enforcement officer and to the applicant.

(b) The application for an entertainer or manager license shall be upon a form provided by the clerk. An applicant for a license shall furnish the following information under oath:

(1) Name (including any aliases, previous names, and stage names or nick names used while entertaining), current address, and date of birth.

(2) Written proof that the individual is at least 18 years of age. Any of the following shall be accepted as documentation of age:

a. A driver's license issued by any state bearing the applicant's photograph and date of birth; or

b. A state issued identification card bearing the applicant's photograph and date of birth; or

c. An official passport issued by the United States of America

d. An immigration card issued by the United States of America; or

e. Any other picture identification that the city determines to be acceptable.

(3) The name, if known, and address of all adult oriented establishments the applicant will be working at under this license.

(4) A description of the applicant's principal activities and exact nature of the service or performances to be conducted.

(5) the names and addresses of employers or individuals or businesses for whom the applicant was an employee or independent contractor for the period of three (3) years immediately prior to the application.

(6) Consent from the applicant(s) for the Village to conduct a background check on the applicant(s).

(c) Within 30 days of receiving an application for a new license or an application to renew a license, the clerk shall notify the applicant whether the application is granted or denied. Any application for a license that does not include all of the information and documents required under this section, or the appropriate application fee required by this section, shall be deemed to be incomplete and shall be returned to the applicant without any action thereon being taken by the Village.

(d) Whenever an application is denied, or a license is not renewed, the clerk shall advise the applicant in writing of the reasons for such action. Administrative review under Chapter 2, Article VII of this code may be requested when a license is denied.

(e) Refusal of the applicant to give any information relevant to the application or his refusal or failure to appear at any reasonable time and place for examination under oath regarding such application or his refusal to submit to or cooperate with regard to any information required by this section shall constitute an admission by the applicant that he is ineligible for such license and shall be grounds for denial thereof by the clerk.

Sec. 14-1006. Standards for issuance.

To receive a license as an entertainer at or manager of an adult oriented establishment, an applicant must meet the following standards:

(a) The applicant must be at least 18 years of age.

(b) The applicant shall not have been found to have previously violated any adult establishment law, ordinance, or resolution from any U.S. state or municipality within five years immediately preceding the date of the application.

Division 4. Fees, Renewal, Revocation for both Business and Entertainer/Employee Licenses

Sec. 14-1007. Fees.

A license fee, as set forth in section 14-35 and on the fee schedule on file at the clerk's office, shall be submitted with the application for a business or entertainer/employee license, respectively. If the application is denied, one half of the fee shall be returned.

Sec. 14-1008. Display.

The business license shall be displayed in a conspicuous public place in the adult oriented establishment.

Sec. 14-1009. Renewal.

(a) Every license issued pursuant to this article will terminate at the expiration of one year from date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the clerk. The application for renewal must be filed not later than 60 days before the license expires. The application for renewal shall be upon a form provided by the clerk and shall contain such information and data given under oath or affirmation as is required for an application for a new license.

(b) The license renewal fee is one-half the amount of the initial application fee as set forth in the schedule of fees on file in the Village clerk's office and which may be revised by Village Board resolution shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty as set forth in the schedule of fees on file in the Village clerk's office and which may be revised by Village Board resolution shall be assessed against any applicant who files for a renewal less than 60 days before the license expires. If the application is denied, one half of the total fees collected shall be returned.

(c) Any law enforcement agencies with any information bearing on the operator's qualifications may file that information with the clerk.

(d) The building inspector shall inspect the establishment prior to the renewal of a license to determine compliance with the provisions of this article.

Sec. 14-1010. Revocation.

(a) The Village Board may revoke, suspend, or refuse to renew a license for any of the following reasons:

(1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(2) The operator or any employee of the operator violates any provision of this article, the Yorkville Zoning Code, or any rules or regulations adopted by the Village Board pursuant to this article provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30 days if the Village Board shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(3) The operator becomes ineligible to obtain a license or permit.

(4) Any cost or fee required to be paid by this article is not paid.

(b) The Village Board, before revoking or suspending any license or permit, shall give the operator at least ten days written notice of the charges and an opportunity for a public hearing in accordance with article VII of chapter 2. If the operator does not file a timely request for a public hearing, the allegations set forth in the charges shall be taken as true, and if the Village Board finds the charges sufficient the license shall be revoked or suspended. If the operator files a written request for a hearing with the clerk within ten days of receipt of the charges, a public hearing shall be held in accordance with article VII of chapter 2.

(c) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.

(d) Any operator whose license is revoked shall not be eligible to reapply for a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult oriented establishment for six months from the date of revocation of the license. For purposes of this section, a revocation of a license takes effect when the licensed premises ceases operations as an adult oriented establishment.

Sec. 14-1011. Penalties and Prosecution.

Any person who shall violate any provisions of this Article or who shall fail to obtain a license or permit as required hereunder shall be subject to penalty as provided in Section 1-14 of this Village Code for each offense.

Sec. 14-1012. Severability.

If any section, subsection, or clause of this Article shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

Secs. 14-1013—14-1020. Reserved

Article XXI. Private Outdoor Events

Sec. 14-1021. Authority and Purposes.

(a) The Village Board has the authority to act for the health, safety, welfare and convenience of the public, pursuant to Wis. Stat. §61.34.

(b) Purposes of this section include:

(1) Establish criteria for when a permit is required to hold a private event on property containing a residential dwelling; and

(2) Ensure that private events do not adversely affect the character of the surrounding neighborhood by, for example, producing light, noise, vibration, odor, parking demand, or traffic impacts that are not typical of a residential neighborhood in Yorkville; and

(3) Ensure that private events are conducted so as to not create or cause a nuisance; and

(4) Promote and protect the health, safety, welfare and convenience of the public.

Sec. 14-1022. Definitions.

(a) “Private Outdoor Event” means an outdoor party, event, gathering, ceremony, dance, rodeo, show, presentation, amusement, musical event or similar occurrence held on a property containing a residential dwelling, involving 75 or more attendees, which is not open to the general public and for which no products are sold to those attending and no admission fee is charged.

(b) “Public Event” means, in addition to the listing set forth in §14-661, a party, event, gathering, ceremony, dance, rodeo, show, presentation, amusement, musical event or similar occurrence held on a property which is open to the general public, or where products are sold to those attending, or where an admission fee is charged.

Sec. 14-1023. Permits.

(a) Exemptions.

(1) No permit is required where one private outdoor event is held in a calendar year.

(b) Permit Required.

(1) A permit is required for anyone holding two or more private outdoor events in a calendar year. Each calendar day included in any single event shall be deemed a separate event for purposes of determining the allowable number of events in a calendar year.

(2) A permit is required for a public event pursuant to §14-661.

(3) The Village Board may, at its discretion, require a permit to be obtained for subsequent private outdoor events after one (1) complaint has been received and verified by the Racine County Sheriff's Department or the Village about an event being held at the subject property in violation of this Article.

(4) The Village Board may, for good cause, require a permit to be required for any type of private outdoor event, regardless of the number of people in attendance.

Sec. 14-1024. Application.

(a) Each permit sought shall require a separate application. An application for a private outdoor event permit, along with the application fee set by the Village Board, shall be filed with the Village Clerk on forms provided by the Village Clerk at least 30 days before the Village Board meeting in which the applicant seeks to have the Board act on the application. The application shall include:

(1) The name, address, email and telephone number of the applicant;

(2) The address of the premises where such event/activity is proposed to occur;

(3) The date and period of time for which the permit is sought;

(4) A general description of the type of event to be held on the premises;

(5) A description of any equipment to be used for the amplification of noise/sound and steps to be taken to minimize noise/sound emanating from the premises;

(6) If an evening event, a description of the outdoor lighting to be used and steps to be taken to minimize light emanating from the premises;

(7) A description of sanitation facilities to be provided for the event;

(8) A description of measures to be taken to address parking for those attending the event; and

(9) Name, address, email and phone number of the responsible person who will be present on the site during the private outdoor event.

Sec. 14-1025. Notices.

The Village Clerk, upon receiving the application, shall send written notice to all landowners who own any parcel located within 500 feet of any property line of the proposed event premises. The notice shall include the applicant's name, the event's proposed date, location, and type, and the date of the Board meeting at which the application will be considered.

Sec. 14-1026. Decision by Board.

The application shall be referred to the Board at its next regularly scheduled meeting. The Board, in making a determination, shall consider the days of the week and hours during which the activity will be operated on the premises, the sufficiency of the applicant's plan to address noise/sound and light emanating from the premises, parking, toilet and sanitation needs for the event and other likely impacts from the event, if any, on the neighborhood. Its determination shall be based upon whether the event, as proposed, is likely to cause significant interference with the use and/or enjoyment of neighboring properties or otherwise have an appreciable detrimental effect on the public health, safety or welfare. The Village Board may approve the application as presented, approve the application subject to limitations and conditions, or deny the application. If the application is denied, the Village Board shall set forth the basis for its denial. Any appeal to the Board's determination shall be conducted in accordance with the Village's Admninistrative Review Procedure as set forth in Article VII of the Village's Code of Ordinances, beginning at Section 2-391.

Sec. 14-1027. Enforcement and Penalty.

Any person who violates any provision of this section or who violates any condition upon which a private outdoor event permit is granted shall be subject to a forfeiture under the general penalty per Section 1-14 of the Village Code. Each day of violation shall be considered a separate offense. In addition, the Village may enforce this section by way of injunctive relief and all other remedies available at law and in equity.

Chapters 15—17 RESERVED

Chapter 18

CIVIL EMERGENCIES

Cross reference— Administration, ch. 2; fire prevention and protection, ch. 26.

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
	Article I. In General		
Sec. 18-1.	Penalty.		
Secs. 18-2. – 18-30.	Reserved.		
	Article II. Emergency Management		
Sec. 18-31.	Declaration of policy.		
Sec. 18-32.	Definitions.		
Sec. 18-33.	Emergency government committee.		
Sec. 18-34.	Coordinator of emergency government services.		
Sec. 18-35.	Utilization of existing services and facilities.		
Sec. 18-36.	Penalty.		

Article I. In General

Sec. 18-1. Penalty.

Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter, or any order, rule or regulation made under this chapter, upon conviction thereof, shall be subject to a penalty as provided in section 1-14.

Secs. 18-2—18-30. Reserved.

Article II. Emergency Management

Sec. 18-31. Declaration of policy.

To prepare the village to cope with emergencies resulting from enemy action and natural or manmade disaster, it is declared to be necessary to establish an organization for emergency government for the village by conferring upon the Village President and others specified duties and powers consistent with Wis. Stats. ch. 323.
(Code 1982, § 6.01)

Sec. 18-32. 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:

Civil defense means all measures undertaken by or on behalf of the state and its political subdivisions to prepare for and minimize the effects of enemy action upon the civilian population.

Emergency government includes "civil defense" and means all measures undertaken by or on behalf of the village to:

(1) Prepare for and minimize the effect of enemy action and natural or manmade disaster upon the civilian population.

(2) Effectuate emergency repairs to, or the emergency restoration of, vital public utilities and facilities destroyed or damaged by such action or disaster.

(Code 1982, § 6.02)
Cross reference— Definitions generally, § 1-2.
State law reference— Definitions, Wis. Stats. § 166.02.

Sec. 18-33. Emergency government committee.

(a) *Village board to serve.* The village board shall be the emergency government committee, whose chairperson shall be the Village President.

(b) *Duties.* The emergency government committee shall be an advisory and planning group and shall advise the coordinator of emergency government services on all emergency government matters. The emergency government committee shall annually prepare and adopt a budget for emergency government.

(Code 1982, § 6.03)
Cross reference— Boards, committees, commissions, § 2-151 et seq.

Sec. 18-34. Coordinator of emergency government services.

(a) *Office created.* There is hereby created the office of coordinator of emergency government services.

(b) *Joint coordinator.* The coordinator of emergency government services shall also hold the office of coordinator of emergency government services for the Village of Union Grove upon enactment by the village board of an ordinance parallel to this article.

(c) *Appointment.* The coordinator of emergency government services shall be appointed by the village and Village of Union Grove emergency government committees in joint session.

(d) *Term.* The coordinator of emergency government services shall serve until a successor is appointed and qualified.

(e) *Powers and duties.* The coordinator of emergency government services, subject to the control and direction of the village boards, shall:

(1) Develop and promulgate a joint emergency government plan for the villages consistent with state and county plans.

(2) Direct the emergency government program for the villages and perform such other duties related to emergency government as are required by the village boards.

(3) Direct the emergency government training programs and exercises.

(Code 1982, § 6.04)
State law reference— Powers and duties of head of emergency management, Wis. Stats. § 166.03(5).

Sec. 18-35. Utilization of existing services and facilities.

(a) *Policy.* In preparing and executing the emergency government program, the services, equipment, supplies and facilities of the existing departments and agencies of both villages shall be utilized to the maximum extent practicable. The heads and personnel of all such departments and agencies are directed to cooperate and extend such services and facilities as are required of them.

(b) *Responsibility.* To ensure that in an emergency all the facilities of the existing village governments are expanded to the fullest to meet such emergency. Department and agency heads assigned to specific responsibilities under the joint emergency operations plan shall fulfill emergency and nonemergency duties as prescribed in the plan.

(Code 1982, § 6.09)

Sec. 18-36. Penalty.

Whoever intentionally fails to comply with the directives of emergency government authorities promulgated under this article during a state of emergency or during any training program or exercise may be subject to a penalty as provided in section 1-14.
(Code 1982, § 6.10)

Chapters 19 - 21 RESERVED

Chapter 22
ENVIRONMENT

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
	Article I. In General		
Sec. 22-1.	Littering.		
Sec. 22-2.	Penalty.		
Secs. 22-3 – 22-30.	Reserved.		
	Article II. In Noise		
Sec. 22-31.	Loud and unnecessary noise, prohibited.		
Secs. 22-32 – 22-60.	Reserved.		
	Article III. Junked, Wrecked, Abandoned Property		
	Division 1. Generally		
Sec. 22-61.	Storage of rubbish, refuse and garbage.		
Secs. 22-62 – 22-80.	Reserved.		
	Division 2. Vehicles		
Sec. 22-81	Definitions.		
Sec 22-82.	Prohibitions.		
Sec. 22-83.	Exemptions.		
Secs. 22-84 – 22-110.	Reserved.		
	Article IV. Public Nuisances		
Sec. 22-111.	Prohibition.	2024-03	02/26/24
Sec. 22-112.	Public nuisance defined.		
Sec. 22-113.	Affect on health.	2024-04	03/25/24
Sec. 22-114.	Offending morals and decency.		
Sec. 22-115.	Affecting peace and safety.		
Sec. 22-116.	Abatement.	06-2014	06/09/14
Sec. 22-117.	Cost of abatement.		
Sec. 22-118.	Penalty.		

Article I. In General

Sec. 22-1. Littering.

(a) *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:

Aircraft means any structure invented, used or designed for navigation or flight in the air.

Highway has the meaning given in Wis. Stats. § 340.01(22).

Vehicle has the meaning given in Wis. Stats. § 340.01(74) and includes an electric personal assistive mobility device, as defined in Wis. Stats. § 340.01(15pm).

Waters of the state has the meaning given in Wis. Stats. § 281.01(18).

(b) *Prohibited activities.* Except as provided in subsection (c) of this section, a person who does any of the following may be required to forfeit not more than $500.00:

(1) Deposits or discharges any solid waste on or along any highway, in any waters of the state, on the ice of any waters of the state or on any other public or private property.

(2) Permits any solid waste to be thrown from a vehicle operated by the person.

(3) Fails to remove within 30 days or otherwise abandons any automobile, boat or other vehicle in the waters of the state.

(4) Owns an aircraft that has crashed in the waters of the state and fails to remove the aircraft from those waters within 30 days after the crash, within 30 days after June 15, 1991, or within 30 days after the national transportation safety board pursuant to an investigation under 49 CFR 831 authorizes its removal, whichever is latest.

(c) *Exceptions.*

(1) Subsection (b)(1) of this section does not apply to a person who places solid waste in a receptacle designed for solid waste storage that is located along a highway or on other public or private property.

(2) Subsection (b) of this section does not apply to a person who deposits or discharges solid waste in conformance with Wis. Stats. chs. 30, 31, 281—285 or 289—299 or a permit, license or other approval issued by the state department of natural resources under those chapters.

(Code 1982, § 9.10)
Cross reference— Solid waste, ch. 34.
State law reference— Similar provisions, Wis. Stat. § 287.81.

Sec. 22-2. Penalty.

Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter, or any order, rule or regulation made under this chapter, upon conviction thereof, shall be subject to a penalty as provided in section 1-14.

Secs. 22-3—22-30. Reserved.

Article II. Noise

Cross reference— Barking dogs, § 6-33.

Sec. 22-31. Loud and unnecessary noise, prohibited.

(a) No person shall make, or cause to be made, any loud, disturbing or unnecessary sounds or noises which may annoy or disturb a person of ordinary sensibilities in or about any public street, alley or park, or any private residence

(b) No person shall make unnecessary and annoying noise with a motor vehicle by squealing tires, excessive acceleration of engine or by emitting unnecessary and loud muffler noises.

(Code 1982, § 9.06)
State law reference— Disorderly conduct, Wis. Stats. § 947.01.

Secs. 22-32—22-60. Reserved.

Article III. Junked, Wrecked, Abandoned Property

State Law reference— Storage of junked vehicles, Wis. Stats. § 175.25.

Division 1. Generally

Sec. 22-61. Storage of rubbish, refuse and garbage.

(a) *Definitions.* For the purpose of this section, the following definitions shall apply:

Garbage means discarded materials resulting from the handling, processing, storage or consumption of food.

Rubbish and *refuse* mean all waste matters produced from industrial or community life, including, but not limited to: paper, wood, metal, glass, cloth and products thereof, litter and street rubbish, ashes, tree stumps and branches, yard trimmings, discarded articles and machinery or machinery parts, motor vehicles and parts thereof, tires, the lumber, concrete, or other debris resulting from the construction, remodeling, or demolition of structures,

tractors, refrigerators, furnaces, washing machines and all other household and business waste. In addition, all articles coming within the definition of "junk" as set forth in section 14-782 is included within the definition of "rubbish" and "refuse" set forth in this section.

(b) *Prohibition; exceptions.* No person shall store any rubbish, refuse, or garbage on any property within the village except as follows:

(1) Storage in receptacles, incidental to normal residential use of property.

(2) Storage by a junk dealer or motor vehicle salvage dealer licensed by the village or the county.

(3) Storage of tree stumps, branches or trunks on farm wood lots.

(Code 1982, § 9.09(2))
State law reference— Removal of rubbish, Wis. Stat. § 66.0405.

Secs. 22-62—22-80. Reserved.

Division 2. Vehicles

Cross reference— Traffic and vehicles, ch. 50.
State Law reference— Storage of junked automobiles, Wis. Stats. § 342.40.

Sec. 22-81. Definitions.

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

Motor vehicle has the same definition as set forth in Wis. Stats. § 340.01, which is adopted and incorporated herein by reference.

Motor vehicle, abandoned, means a motor vehicle which has been left unattended on other property without the permission of the property owner for more than 48 consecutive hours.

Motor vehicle, dismantled, means a motor vehicle which has parts, accessories or equipment removed therefrom so that the motor vehicle cannot be safely or legally operated upon a public highway.

Motor vehicle, inoperable, means a motor vehicle which due to damage, wreckage or removal of parts is rendered incapable of being safely or legally operated upon a public highway. An automobile is also considered inoperable due to expired or missing license plates, which render it illegal to operate on a public highway.

Motor vehicle, junked, means a motor vehicle which has been dismantled, damaged or wrecked in such a manner that it cannot be safely or legally operated upon a public highway.

Motor vehicle, wrecked, means a motor vehicle which has been damaged by collision or otherwise and the parts of which have been bent, broken or detached so that it cannot be safely or legally operated upon a public highway.

(Code 1982, § 9.09(1)(a))
Cross reference— Definitions generally, § 1-2.

Sec. 22-82. Prohibitions.

(a) No person having ownership, custody or possession of any abandoned, dismantled, inoperable, junked or wrecked motor vehicle shall dump or store or cause to be dumped or stored any such motor vehicle within the village.

(b) No person having ownership, custody or possession of property within the village shall dump or store or permit to be dumped or stored any abandoned, dismantled, inoperable, junked or wrecked motor vehicle upon such property.

(c) No person shall cause any abandoned, dismantled, inoperable, junked or wrecked motor vehicle to be removed from any private property where such storage is not permitted to any other property within the village where such storage is not permitted under this division.

(Code 1982, § 9.09(1)(b))

Sec. 22-83. Exemptions.

The following are exempted from the prohibitions in section 22-82:

(1) Storage of dismantled, inoperable, junked or wrecked vehicles within a totally enclosed garage.

(2) Temporary storage not to exceed 60 days of dismantled, inoperable, junked or wrecked motor vehicles by a sales or repair business located in a properly zoned area.

(3) Storage of dismantled, inoperable, junked or wrecked motor vehicles by a junk dealer or motor vehicle salvage dealer licensed by the village or the county.

(Code 1982, § 9.09(1)(c))

Secs. 22-84—22-110. Reserved.

Article IV. Public Nuisances

Sec. 22-111. Prohibition; intent.

(a) *Prohibition.* No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the village.

(b) *Intent: Right to Farm*. It is the intent of this ordinance to allow the continuation of present agricultural uses and practices in the Village as protected under Wis. Stat. § 823.08. Changes in agricultural technology, practices, and scale of operation may create conflicts between agricultural and other activities. To the extent possible consistent with good public policy, the prohibition against public nuisances should not hamper agricultural production or the use of modern technology on lands and areas primarily used for agricultural purposes.

Sec. 22-112. Public nuisance defined.

A public nuisance is a thing, act, occupation, condition or use of property, which continues for such length of time as to:

(1) Substantially annoys, injure or endanger the comfort, health, repose or safety of the public;

(2) In any way renders the public insecure in life or in the use of property;

(3) Greatly offends the public morals or decency;

(4) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

(Code 1982, § 10.02)
Cross reference— Definitions generally, § 1-2.

Sec. 22-113. Affect on health.

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances; but such enumeration shall not be construed to exclude other health nuisances coming within the definition in section 22-112:

(1) *Adulterated food.* All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.

(2) *Unburied carcasses.* Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

(3) *Breeding places for insects or vermin.* Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin can breed.

(4) *Stagnant water.* All stagnant water in which mosquitoes, flies or other insects can multiply.

(5) *Privy vaults and garbage cans.* Privy vaults and garbage cans which are not fly-tight.

(6) *Noxious weeds.* All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height not to exceed one foot.

(7) *Water pollution.* The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

(8) *Noxious odors, gases, etc.* Any use of property, substances or things within the village emitting or causing any foul, offensive, noisome, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the village.

(9) *Street pollution.* Any use of property which causes any noxious or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the village.

(10) *Air pollution.* The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the village or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or threaten or cause substantial damage to property in the village.

(11) *Loose animals.* Any animals running at large in the village.

(12) *Health nuisances identified by health officer.* Any human health hazard identified by the health officer or the Racine County Public Health Division.

(Code 1982, § 10.03)

Sec. 22-114. Offending morals and decency.

The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency; but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition in section 22-112:

(1) *Disorderly houses.* All disorderly houses, bawdy houses, houses of ill fame, gambling houses and building or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

(2) *Gambling devices.* All gambling devices and slot machines.

(3) *Unlicensed sale of liquor and beer.* All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the village.

(4) *Continuous violation of village ordinances.* Any place or premises within the village where village ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(5) *Illegal drinking.* Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of state laws.

(Code 1982, § 10.04)

Sec. 22-115. Affecting peace and safety.

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety; but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition in section 22-112:

(1) *Dangerous signs, billboards, etc.* All signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

(2) *Illegal buildings.* All buildings erected, repaired or altered in violation of village ordinances relating to materials and manner of construction of buildings and structures within the village.

(3) *Unauthorized traffic signs.* All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as official traffic control devices or railroad signs or signals or which, because of their color, location, brilliance or manner of operation, interfere with the effectiveness of any such device, sign or signal.

(4) *Obstruction of intersections.* All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(5) *Low-hanging tree limbs.* All limbs of trees which project over and less than ten feet above any public sidewalk, street or other public place.

(6) *Dangerous trees.* All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

(7) *Fireworks.* All use or display of fireworks except as provided by state laws and village ordinances.

(8) *Dilapidated buildings.* All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(9) *Low-hanging wires and cables.* All wires and cables over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.

(10) *Noisy animals or fowl.* The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, greatly annoys or disturbs a neighborhood or any considerable number of persons within the village.

(11) *Obstructions of streets, etc.; excavations.* All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the streets, alleys, sidewalks or crosswalks, except as permitted by the ordinances of the village but including those which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit.

(12) *Unlawful assemblies.* Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

(13) *Blighted buildings and premises.*

a. Premises existing within the village which are blighted because of faulty design or construction, failure to maintain such premises in a proper state of repair, improper management, or due to the accumulation thereon of junk, rubbish, refuse, garbage, junked vehicles, or other unsightly debris structurally unsound fences, and other items which depreciate property values and jeopardize or are detrimental to the health, safety, morals or welfare of the people of the village.

b. The blighted premises contribute to conditions that are dangerous to the public health, safety, morals and general welfare of the people; the conditions necessitate excessive and disproportionate expenditure of public funds for public health, public safety, crime prevention, fire protection and other public services; the conditions cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas.

c. Elimination of blighted premises and prevention of blighted premises in the future is in the best interest of the citizens and this shall be fostered and encouraged by this article. It is essential to the public interest that this article be liberally construed to accomplish the purposes of this section.

(Code 1982, § 10.05)

Sec. 22-116. Abatement.

(a) *Enforcement*. A law enforcement officer, the code enforcement officer the fire chief, the building inspector and the health officer shall enforce those provisions of this article that come within the jurisdiction of their offices; and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

(b) *Summary abatement.* If the inspecting officer determines that a public nuisance exists within the village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the village president may direct the proper officer to cause the public nuisance to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(c) *Abatement after notice*. If the inspecting officer determines that a public nuisance exists on private premises but that such nuisance does not threaten great and immediate danger to the public health, safety, peace, morals or decency, the inspecting officer shall serve notice on the person causing or maintaining the nuisance to remove the public nuisance within ten days. If such nuisance is not removed within ten days, the proper officer shall cause the nuisance to be removed as provided in subsection (b) of this section.

(d) *Other methods not excluded*. Nothing in this article shall be construed as prohibiting the abatement of public nuisances by the village or its officers in accordance with the laws of the state.

(e) *Court order*. Except when necessary under subsection (b) of this section, an officer under this article shall not use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance. (Code 1982, § 10.10)

Sec. 22-117. Cost of abatement.

In addition to any other penalty imposed by this article for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance; and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.
(Code 1982, § 10.11)

Sec. 22-118. Penalty.

Any person who shall violate any provision of this article, or any regulation, rule or order made under this article, or permit or cause a public nuisance shall be subject to a penalty as provided in section 1-14.
(Code 1982, § 10.12)

Chapters 23 - 25 RESERVED

Chapter 26

FIRE AND RESCUE PROTECTION

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
Sec. 26-1.	Definitions.		
Sec. 26-2.	Fire and rescue department recognized.		
Sec. 26-3.	Department composition.		
Sec. 26-4.	Fire commission: department funding and compensation.		
Sec. 26-5.	Budget and compensation.		
Sec. 26-6.	Department organization.		
Sec. 26-7.	Appointment, powers and duties of the chief.		
Sec. 26-8.	Control and care of apparatus, vehicles and equipment.		
Sec. 26-9.	Authority of department at fires, emergency incidents, and other emergencies.		
Sec. 26-10.	Records and reports.		
Sec. 26-11.	Fire inspectors.		
Sec. 26-12.	Fire inspection fees.		
Sec. 26-13.	Notification of use or occupancy change.		
Sec. 26-14.	Fire prevention.		
Sec. 26-15.	Adoption of International Code Council Inc. codes.		
Sec. 26-16.	Adoption by reference NFPA publications.		
Sec. 26-17.	False alarms.		
Sec. 26-18.	Open burning.		
Sec. 26-19.	Ambulance service rates.		
Sec. 26-20.	Fire district.		
Sec. 26-21.	Fire walls.		
Sec. 26-22.	Automatic fire sprinkler, fire suppression and fire alarm systems and fire hydrants.		
Sec. 26-23.	Automatic fire sprinkler fees.		
Sec. 26-24.	Hazardous materials and spills.		
Sec. 26-25.	Elevators.		
Sec. 26-26.	Key lockbox system.		
Sec. 26-27.	Storage tanks.		
Sec. 26-28.	Fees for response and service on roads, streets, highways, public waterways and railroads.		
Sec. 26-29.	Fees for recovery of costs.		
Sec. 26-30.	Violations and penalties.		
Sec. 26-31.	Appeals.	06-2015	07/13/15

Article I. In General

Sec. 26-1. Definitions.

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

Access box means a steel key vault, mounted on the exterior of a building that contains keys, floor plans, maps or other items as required by the AHJ, for access to all portions of the building.

Adult day care means any place, that receives at any time for compensation four or more adults, for care and supervision, for less than 24 hours a day.

Adult family home has the meaning as set forth in Wis. Stat. § 50.01(1), and any amendments thereto.

Advanced life support (ALS) means emergency medical care provided by emergency medical technicians - intermediate that requires the use of life-sustaining equipment, utilizing an ambulance equipped with radio or constant telephone contact with a physician/hospital.

Advanced life support intercepts—Paramedic means when it is necessary for a patient that is being transported by a nonparamedic ambulance service to require the services of a paramedic - advanced life support ambulance service. This includes when it is necessary for two ambulance services to be involved in the transport of a patient, when either the patient is transferred from the nonparamedic ambulance to the paramedic ambulance or where the paramedic staff and/or equipment boards the nonparamedic ambulance.

Advanced life support (ALS)—Without transport means emergency medical care provided by emergency medical technicians - intermediate that requires the use of life-sustaining equipment, with radio or constant telephone contact with a physician/hospital, without transport.

Approved means acceptable to the fire department.

Approved agency means an agency accepted or acceptable to the bureau of fire prevention, such as Underwriters Laboratories, Inc., the National Institute of Standards and Technology, the American Gas Association laboratories or other nationally recognized testing authorities.

Area means the maximum horizontal projected area on one floor of building or structure using the exterior walls or between approved fire walls, including fire walls.

Assembly group A. Group A occupancies include, among others, the use of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civic, social or religious functions, recreation, food or drink consumption or awaiting transportation. A room or space used for assembly purposes by less than 50 persons and accessory to another occupant shall be included as a part of that occupancy. Assembly occupancies shall include the following:

(a) *A-1 Assembly* uses, usually with fixed seating, intended for the production and viewing of performing arts or motion pictures.

(b) *A-2 Assembly* uses intended for food and/or drink consumption.

(c) *A-3 Assembly* uses intended for worship, recreation or amusement and other assembly uses not classified elsewhere in group A.

(d) *A-5 Assembly* uses intended for participation in or viewing outdoor activities.

Attic means the space not used for human occupancy located between the ceiling of the uppermost story and the roof.

Automatic fire detector means a device designed to detect specific products of fire—smoke, heat or both.

Authority having jurisdiction (AHJ) shall be the fire chief, or designee of the fire chief, to enforce this Code, the laws of the state, as designated in Wis. Admin. SPS 314, pertaining to the prevention of fires and public safety, and approving equipment installation, or procedures as outlined in NFPA Standards, Codes and/or recommended practices.

Automatic closing device means a device that functions without human intervention and is actuated as a result of the predetermined temperature rise, rate of rise of temperature, combustion products or smoke density.

Automatic fire alarm system means a system which automatically detects fire condition and actuates notification appliances throughout the protected premises.

Automatic fire-extinguishing system means an approved system of devices and equipment which automatically detects a fire and discharges an approved fire-extinguishing agent onto or in the area of fire.

Automatic fire sprinkler system means an integrated system of underground and overhead piping designed in accordance with fire protection and engineering standards. The system includes a suitable water supply, such as a gravity tank, fire pump, reservoir or pressure tank or connection beginning at the supply side of an approved gate valve located at or near the property line where the pipe or piping system provides water used exclusively for fire protection and related appurtenances and to standpipes connected to automatic sprinkler systems. The portion of the sprinkler system above ground is a network of specially sized or hydraulically designed piping installed in a building, structure or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system includes a controlling valve and a device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area.

Automatic fire suppression system means a mechanical system designed and equipped to detect a fire, actuate an alarm and suppress or control a fire using water, water spray, foam, carbon dioxide, or other approved suppression agent.

Basement means any story where less than half the height between floor and ceiling is above the average level of a street, sidewalk or finished grade.

Basic life support (BLS) means emergency first aid services that do not meet the ALS criteria.
Bonfire means a recreational fire larger than three feet in diameter or three feet tall.

Boarding house means a building arranged or used as lodging for compensation, with or without meals, not occupied as a single-family unit.

Business group B. Group B occupancy includes, among others, the use of a building or structure, or a portion thereof, for office, professional or service-type transactions, including storage of records and accounts.

Central station means:

(a) An off-site facility equipped to receive and process fire alarms and that may act as the automatic fire alarm receiving center retained by the village.

(b) The use of a system, or group of systems, in which the operations of circuits and devices are signaled automatically to, recorded in, maintained by, and supervised from a listed or approved central station having competent and experienced servers and operators who, upon receipt of a signal, take such action as required by this chapter. Such service is to be controlled and operated by a person, firm, or corporation whose business is the furnishing and maintaining of supervised signaling systems or whose properties are the protected premises.

Change of use (not reported) means a change in the use of property that was not made known by the owner to the fire department through procedures established by the village.

Change of use (reported) means a change in the use of property which has been made known by the owner to the fire department through procedures established by the village.

Chief means the chief of the fire department.

Closing device (fire door) means a closing device that will close the door and be adequate to latch or hold, or both, a hinged or sliding door in closed position. An automatic closing device is one that functions without human intervention and is actuated by a fire detection or suppression device.

Commercial waste means any material, including yard waste, that is transferred, delivered or received for the purpose of disposal by open burning.

Common area refers to any area in a building that can be accessed by more than one person from different families at one time.

Community-based residential facility (CBRF) means generally, a community facility where five or more adults who are not related to the operator or administrator and who do not require care above intermediate level nursing care reside and receive care, treatment or services that are above the level of room and board, but that include no more than three hours of nursing care per week per resident. For specific definition, see Wis. Stat. § 50.01(1g), and any amendments thereto.

Conditional approval means an approval of plans and/or specifications by the AHJ based upon information provided to the AHJ, including, but not limited to, any changes required by the AHJ to the above-mentioned plans and/or specifications.

Consultant(s) means a company, individual or agency hired by the bureau of fire prevention to provide advice to the bureau of fire prevention on fire-related issues. Consultants may provide services, which could include plan reviews of fire suppression systems, fire alarm systems, witness tests and/or conduct inspections.

Construction materials means lumber; piping used in plumbing, including, but not limited to, plastics, polyvinyl chloride, copper, lead, galvanized steel and cast iron; plaster; drywall; insulation, including, but not limited to, Styrofoam, cellulose fiber, fiberglass, rock wool vermiculite, various extruded foams, and asbestos; shingles, including, but not limited to, wiring, electrical boxes, transformers and outlets; paints, including, but not limited to, varnishes, stains, paint thinners and removers; and painting supplies.

Construction types mean:

(a) *Construction Type I:* "Fire resistive" refers to a building in which the structural components are so designed and protected to resist the maximum severity of fire expected within the structure without any significant collapse.

(b) *Construction Type II:* "Noncombustible" refers to a building in which the structural components are built of noncombustible or limited combustible materials. The materials used within the building are unprotected from the severity of fire.

(c) *Construction Type III:* "Ordinary construction" refers to a structure in which the exterior walls are made of noncombustible materials with interior components designed and built of wood.

(d) *Construction Type IV:* "Heavy timber" refers to a structure in which the exterior bearing and nonbearing walls are composed of noncombustible (masonry) components, and the interior members are made of wood with columns no less than eight inches × eight inches and girders no less than six inches × ten inches.

(e) *Construction Type V:* "Wood frame" refers to a structure in which the bearing and nonbearing members are made of all wood.

Day care center means any place which receives at any one time for compensation four or more children under the age of seven years, for care and supervision, for less than 24 hours a day or more than ten days a month, without the attendance of a parent, relative or legal guardian.

Deputy of the department of commerce means the chief is the deputy of the department of commerce and is responsible for the enforcement of the state codes identified within this chapter.

DILHR means the division of state government formerly known as the department of industry, labor and human relations, now the department of commerce.

Disposable medical supplies mean equipment designed to have a one-time use and then be properly disposed of, to aid in the prevention and spread of infectious disease.

Dwelling or *dwelling unit* means a single unit providing living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. For the

purpose of this Code, dwelling unit includes apartments and condominiums but does not include hotel and motel rooms, guest suites, dormitories, boarding rooms, or sleeping rooms in nursing homes.

(a) *Single-family dwelling.* A detached building containing only one dwelling unit and designed for one family.

(b) *Two-family dwelling.* A detached building containing not more than two individual dwelling units which are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or common basement.

Educational group E. Group E occupancy includes, among others, the use of a building or structure, or a portion thereof, by six or more persons at any one time for educational purposes through the 12th grade.

Elevator shall be as defined within Wis. Admin. Code SPS 318, Elevators, Escalators and Lift Devices.

Factory group F. Group F occupancy includes, among others, the use of a building or structure, or a portion thereof, for assembly, disassembly, fabricating, finishing, manufacturing, packaging, repair or processing operations that are not classified as group H occupancy.

(a) F-1 Moderate-hazard occupancy.

(b) F-2 Low-hazard occupancy.

False alarm means the willful and knowing initiation or transmission of a signal, message or other notification of an event of fire when no such danger exists.

(a) *Malicious alarm.* A false alarm of fire deliberately sounded by someone in order to inconvenience the fire department.

(b) *Accidental alarm.* An alarm set off and transmitted through accidental operation of an automatic or manual fire alarm device.

(c) *Good intent false alarm.* An alarm that turns out be false, but was reported in good faith.

Family unit means two or more individuals who are related to each other by blood, marriage, adoption or legal guardianship. For purposes of this abode a group of not more than four persons not necessarily related by blood or marriage, living together in a single living unit will be considered equivalent to a single family.

Fire alarm annunciation device means a device connected to a fire alarm to signal either a fire or trouble condition. Fire alarm annunciation devices could include visual devices, horn/strobes, horns, bells, and/or annunciator panels.

Fire alarm initiating device means a device connected to a fire alarm system that causes a trouble, supervisory and/or alarm signal to be initiated. Fire alarm initiating devices could

include smoke, heat, flame, ionization, or photoelectric detectors, water flow, low air, low temperature, low water, or supervisory switches.

Fire alarm system means a system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of the fire alarm or supervisory signal-initiating devices to activate notification appliances throughout the protected premises and to initiate the appropriate response to those signals.

Fire control system means a system designed and constructed with the intent of controlling or limiting a fire. Fire control systems may be automatic or non-automatic. Fire control systems could include automatic fire sprinkler systems, standpipe systems, chemical agent systems, fire hydrants and/or any other system acceptable to the AHJ.

Fire chief means the chief of the fire department or, in the absence of the chief, the designee in charge of the department.

Fire department means the Union Grove-Yorkville Fire Department. The provider of essential fire protection and emergency medical care to the people that live, work or travel through the Village of Union Grove and the Village of Yorkville.

Fire department connection (FDC) means a part of a sprinkler, standpipe, deluge and/or combination system to be used by the fire department to pump additional water into the system(s) it is connected to.

Fire door assembly means any combination of a fire door, frame, hardware, and other accessories that together provide a certain degree of fire protection to the opening.

Fire inspection means an examination of a public building or place of employment to determine and cause to be eliminated any fire hazard or any violation of law relating to fire hazards or to the prevention of fires.

Fire inspector. The chief shall hold the office of fire inspector and shall appoint one or more inspectors from within the department who shall perform the same duties and have the same powers as the fire inspector. The fire inspector(s) is responsible for the enforcement of the state codes adopted within this chapter, as well as the enforcement of this chapter.

Fire-resistive means the type of construction in which the structural members, including walls, partitions, columns, floor and roof construction, are of noncombustible materials with fire-resistive rating of at least four hours.

Fire wall means a wall which has a fire-resistance rating of not less than four hours and which subdivides a building or separates a building to restrict the spread of fire, including a three-foot parapet wall beyond the furthest point of the sides and roof with sufficient structural stability under fire conditions to allow collapse of construction on either side without collapse of the wall.

Fireworks means anything manufactured, possessed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

(a) Fuel or a lubricant.

(b) A firearm cartridge or shotgun shell.

(c) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.

(d) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.

(e) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.

(f) A toy snake which contains no mercury.

(g) A model rocket engine.

(h) Tobacco and a tobacco product.

(i) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.

(j) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.

(k) A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter grain of explosive mixture.

(l) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.

(m) A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(n) A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

Floor area or *square footage of a building* refers to the total square footage of the sums of all basements, floor levels, balconies and mezzanines.

(a) The area for basements and floor levels shall be measured from the outside perimeter of the outside walls.

(b) The area for mezzanines shall be determined from the product of the length of the mezzanine multiplied by the width of the mezzanine.

(c) For the purpose of determining square footage, fire division walls will not be accepted as outside walls or area dividers.

(d) Buildings that are in close proximity to each other will have their building square footage added together to arrive at the total square footage.

1. For the purpose of determining close proximity the following will hold true:

a. Single story buildings: Thirty feet apart or less.

b. Two story buildings: Sixty feet apart or less.

c. Three story buildings: Sixty feet apart or less.

d. All other multiple story buildings: Sixty feet apart or less.

e. Buildings of variable height next to each other: Thirty feet apart or less.

(e) For the purpose of determining square footage a fire wall which has a fire resistance rating of not less than four hours and which subdivides or separates a building to restrict the spread of fire, including a three-foot parapet wall, is an approved area divider.

Floor, ground means that level of a building on a sloping or multilevel site which has a floor line at or not more than three feet above exit discharge grade for at least one-half of the required exit discharges.

Frequenter means every person, other than an employee, who may go in or be in a place of employment or public building under circumstances which render such person other than a trespasser. Such term includes a pupil or student when enrolled in or receiving instruction at an educational institution.

Garbage means refuse and accumulation of animal, fruit and vegetable matter that attends the preparation, use, cooking, dealing in or storage of meats, fish, fowl, fruits and vegetables.

Grade plane means a reference plane representing the average of finished ground level adjoining the building exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

Hazardous material(s) means a substance (solid, liquid or gas) capable of posing an unreasonable risk to health, safety, the environment or property.

Hazardous group H. Group H occupancy includes, among others, the use of a building or structure, or a portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard in quantities in excess of those found in Tables 307.7(1) through 307.7(4) of the International Building Code.

(a) H-1 buildings and structures which contain material that poses a detonation hazard.

(b) H-2 buildings and structures which contain materials that pose a deflagration hazard or a hazard from accelerated burning.

(c) H-3 buildings and structures which contain materials that readily support combustion or pose a physical hazard.

(d) H-4 buildings and structures which contain materials that are health hazards.

(e) H-5 semiconductor fabrication facilities and comparable research and development areas in which hazardous production materials are used and the aggregate quantity of materials is in excess of those listed in Tables 307.7(1) and 307.7(2) of the International Building Code.

Height building means the vertical distance from the grade plane to the average height of the highest roof surface.

Incident commander means the chief or other officer or other member of the department who is in charge of a fire, emergency medical or other emergency scene to which the services of the department have been requested.

Institutional group I. Group I occupancy includes, among others, the use of a building or structure, or a portion thereof, in which people having physical limitations because of health or age are harbored for medical treatment or other care or treatment, or in which people are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Institutional occupancies are classified as I-1, I-2, I-3 or I-4, as described in the International Building Code.

Key lockbox means a secure box placed upon a building that contains the keys to said building. The fire department is able to access that box using standard operating procedures.

Listed means included in a list published by a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation, that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or materials meet nationally recognized standards or has been tested and found suitable for use in a specified manner.

MABAS means the mutual aid box alarm system which is an organized method of providing mutual aid between departments located in both of the states of Wisconsin and Illinois.

Manual fire alarm system means a system or portion of a combination system that consists of components and circuits arranged to initiate the notification appliances and appropriate response to those signals only after a person manually activates the fire alarm system.

Mercantile group M. Group M occupancy includes, among others, building and structures or a portion thereof, for the display and sale of merchandise, and involves stock of goods, wares or merchandise incidental to such purposes and accessible to the public.

Mezzanine or *mezzanine floor* means an intermediate level or levels between floor and ceiling of any story with an aggregate floor area of not more than one-third of the area of the room or space in which the level or levels are located.

Miscellaneous group U means buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed,

equipped and maintained to conform to the requirements of this Code commensurate with the fire and life hazard incidental to their occupancy.

Multifamily dwelling means a building or portion thereof, containing three or more dwelling units, such as tenements, apartments, or rooming houses. Row houses with fire walls extending from the basement to the underside of the roof separating each living unit are not considered multifamily for the purpose of this chapter.

Mutual aid means the providing of and receiving fire or emergency medical services to and from other municipalities within the states of Wisconsin and Illinois with which the villages have signed agreements.

National Fire Protection Association (NFPA) means an organization that facilitates the development and distribution of fire safety codes and standards.

NFPA means the National Fire Protection Association, an organization that facilitates the development and distribution of fire safety codes and standards.

Noncombustible materials. A noncombustible material is one which, in the form in which it is used, meets one of the requirements listed below. Materials used adjacent to or in contact with heat producing appliances, warm air ducts, plenums and chimneys shall be classified as noncombustible only on the basis of requirement (a). Noncombustible does not apply to the flame-spread characteristics of interior finish or trim materials. No material shall be classified as noncombustible building construction material, which is subject to increase in combustibility or flame-spread classification (FSC) beyond the limits herein established through the effects of age, moisture or other atmospheric conditions. (See flame spread rating in Wis. Admin. Code.)

(a) Materials which pass the test procedure of ASTM E-136 for noncombustibility of elementary materials when exposed to a furnace temperature of 1,382 degrees for a minimum period of five minutes and do not cause a temperature rise of the surface or interior thermocouple in excess of 54 degrees above the furnace air temperature at the beginning of the test and which do not flame after exposure of 30 seconds.

(b) Materials having structural base of noncombustible material as defined in subsection (a), with a surfacing not more than one-eighth-inch thick which has a flame-spread classification (FSC) not greater than 50 when tested in accordance with the method of test for surface burning characteristics of building materials (ASTM E-84).

Notification appliance means a fire alarm system component such as a bell, horn, speaker, light, or text display that provides audible, tactile, visible outputs, or any combination thereof.

Occupants means the person or persons who physically reside, work or are present in a facility.

Open burning means the act of starting a fire by means of igniting combustible materials by a match, torch, or accelerant.

Other terms. Other terms not defined herein used in this section shall be as defined in the International Fire Code section 202 and are adopted herein by reference.

Outdoor cooking means any cooking activity which occurs in a grill or barbecue kettle or cooker designed expressly for cooking meals outside.

Owner includes his duly sworn agent or attorney, a purchaser, devisee, fiduciary, or person having a vested or contingent interest in the property in question.

Places of employment, as set forth in Wis. Stat. § 101.01(11), includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade, or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade, or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. "Farming" includes those activities specified in Wis. Stat. § 102.04(3), and also includes the transportation of farm products, supplies, or equipment directly to the farm by the operator of the farm or employees for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, "place of employment" does not include an adult family home, as defined in Wis. Stat. § 50.01(1), or, except for the purposes of Wis. Stat. § 101.11, a previously constructed building used as a community-based residential facility, as defined in Wis. Stat. § 50.01(1g), which serves 20 or fewer residents who are not related to the operator or administrator.

Protected premises means the physical location protected by a fire alarm system.

Pumper pad means an area designated for fire engine access to the fire department connection (FDC) and fire hydrant combination. The site can be a shared portion of the pavement (however it must not cause driveway access to be blocked) or an area designated for the sole use of the fire department. The fire department shall grant final approval.

Recreational burning means a fire to be used for cooking or warmth similar to that of a campfire. The fire shall be three feet in diameter or less if it is placed on the ground.

Remodel means to remodel, alter or both, means to change any building or structure which affects the structural strength, fire hazard, internal circulation, or exits of the existing building or structure. This definition does not apply to maintenance, re-roofing, or alterations to the heating and ventilating or electrical system.

Residential group R. Group R occupancy includes, among others, the use of a building or structure, or portion thereof, for sleeping accommodations when not classed as an Institutional Group I.

(a) R-1 residential occupancies where the occupants are primarily transient in nature.

(b) R-2 residential occupancies containing more than two dwelling units where occupants are primarily permanent in nature.

(c) R-3 residential occupancies where the occupants are primarily permanent in nature and not classified R-1, R-2 or I, and where buildings do not contain more than two dwelling units or adult and child care facilities, that provide accommodations for five or fewer persons of any age for less than 24 hours.

(d) R-4 residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including five but not more than 16 occupants, excluding staff.

Roof spaces. Buildings with combustible roofs shall have all roof spaces subdivided every 3,000 square feet by one-hour rated partitions unless protected by an approved automatic fire sprinkler system. All openings must have a minimum of a one-hour rated self-closing door.

Rooming house means any building, which has a room or rooms for sleeping, without permanent provisions for cooking. Rooming house rooms do not include any room in a one- or two-family dwelling.

Rough inspection means visual observation from the floor and/or ground level of any system and/or component thereof required by this Code prior to being concealed in any way by any means.

Row house means a place of abode arranged to accommodate three or more attached side-by-side or back-to-back living units.

Rubbish and *refuse* mean old rags, paper, newspaper, furniture, white goods, metal, plastics, wood other than wood classified as yard waste, and other combustible materials.

Self-closing device (door) means a device that will maintain a door in a closed position.

Shall indicates a mandatory requirement.

Should means a recommendation which is advised but not required.

Solid waste means as defined in Wis. Stat. § 289.01.

Spacing means a horizontally measured dimension relating to the allowable coverage limits of fire detectors, automatic sprinkler systems, and fire alarm visual notification devices.

Standard means a document, the main text of which contains only mandatory requirements using the word "shall" to indicate mandatory requirements and which is in a form generally suitable for reference by another standard or code for adoption into law.

Standpipe means an arrangement of piping, valves, hose connections, and allied equipment installed in a building or structure with the hose connections located in such a manner that water can be discharged in streams or spray patterns through attached fire hose and nozzles for the purpose of extinguishing a fire and so protecting a building or structure and its contents in addition to protecting the occupants. This is accomplished by connections to water supply systems or by pumps, tanks, and other equipment necessary to provide an adequate supply of water to those connections.

Story means that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. To determine the number of stories in a building, all floors will be counted whether they are above grade or below grade, including basements, sub-basements, and ground floors, but not including penthouses or mezzanines less than one-third of a story.

Temporary means less than 180 days.

Throughout, for the purpose of this Code, "throughout" shall mean the following:

(a) *Throughout for automatic fire sprinkler systems* means providing fire sprinkler protection in all areas of a structure as required by NFPA 13.

(b) *Throughout for automatic fire alarm systems* means installing detection, audible and visual notification devices in all areas of the protected premises installed in accordance with NFPA 72.

(c) *Throughout for manual fire alarm systems* means installing audible and visual notification devices in all areas of the protected premises installed in accordance with NFPA 72.

Villages means the Village of Union Grove and the Village of Yorkville.

Water flow alarm means a device that is listed for the service and so constructed and installed that any flow of water from a sprinkler system equal to or greater than that from a single automatic sprinkler of the smallest orifice size installed on the system will result in an audible, visual alarm and send such notification to a central station within one minute after such flow begins.

Water flow test means a test of an available water supply that indicates the quantity of water flowing out of a specific orifice, at a specific pressure, at a specific point in time.

Yard waste means leaves, branches, twigs and organic material from household gardens which have become dried to the extent that they are combustible without an accelerant.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-2. Fire and rescue department recognized.

(a) The Union Grove-Yorkville Fire Department is officially recognized as the provider of the essential services of fire protection and emergency medical care to the people that live, work or travel through the villages. The department also provides service to those communities that reciprocally provide mutual aid to the villages. The contemporary duties expected of the fire department include but may not be limited to intermediate level emergency care and transportation, fire prevention inspections, public fire and safety education, fire suppression, first responder first aid and defibrillation, hazardous material incident mitigation, rescue from water, ice, confined space, heights, transportation accidents, construction accidents, and industrial accidents, and assistance to law enforcement, as well as operations at natural and manmade disasters. The duties of the fire department need to stay current with the needs of a dynamic community.

(b) The fire department shall be in charge of firefighting and emergency care where fires, emergency medical incidents, accidents or disasters threaten life and/or property and those duties related to the performance of this service within the villages.

(c) Unless the context requires otherwise, all references in this Code to the "fire department" or "department" shall mean the Union Grove-Yorkville Fire Department and include the provision of emergency medical care and other rescue services where life(s) is threatened.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-3. Department composition.

The department is comprised of volunteers who are paid-on-call personnel. The department shall have a chief as well as other officers and personnel as may be authorized by the fire commission and department bylaws.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-4. Fire commission: department funding and compensation.

(a) A fire commission is created which shall consist of three members from the village board appointed annually by the village president and approved by the Union Grove Village Board, three members from the Yorkville Village Board and one member of the Union Grove-Yorkville Fire Department elected by the Union Grove-Yorkville Fire Department, who shall be a nonvoting member. The fire commission shall act in an advisory capacity to, and as a liaison between, the Union Grove Village Board, the Yorkville Village Board and the Union Grove-Yorkville Fire Department; and further to transact all business necessary to carry this chapter into effect.

(b) Budgeted funds for the operation of the fire department will be retained by the fire commission and disbursed for the purchase of equipment and for expenses. The fire commission will report semiannually on its expenditures to the governing bodies. All fees for services of the Union Grove-Yorkville Fire Department will be billed and collected by the fire commission and held in escrow to be applied towards the operation and maintenance of the fire department. No expenditure will be made from this fund, without prior approval of the fire commission.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-5. Budget and compensation.

The village boards shall appropriate funds to provide for operation and for such apparatus and equipment for the use of the fire department, as they may deem expedient and necessary to maintain efficiency and properly protect life and property from fire. The officers and members of the fire department shall receive such compensation as may from time to time be fixed by the fire commission.
(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-6. Department organization.

The organization and internal regulation of the department shall be governed by the provisions of this chapter and by such rules, regulations, standard operating procedures and guidelines as adopted by the department and approved by the fire commission.
(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-7. Appointment, powers and duties of the chief.

(a) *Fire chief.* Unless the context requires otherwise, all references in this Code to the "chief," "fire chief" or "incident commander" shall mean the chief of the fire department. In the absence of the chief, "chief" shall mean the next highest ranking officer.

(b) *Qualifications.* The fire chief shall have seven years of volunteer department or equivalent experience, part of which shall have been as a command officer. The fire chief shall be a certified firefighter or shall hold a current EMT license. The fire commission may waive this requirement with a five-sixths vote of the commission.

(c) *Appointment.* The office of fire chief shall be filled by appointment by a two-thirds vote of the members of the fire commission.

(d) *Tenure.* The chief shall immediately assume office upon appointment and shall hold office for a three-year term which term may be renewed by a two-thirds vote of the fire commission, or until removed for cause by a two-thirds vote of the members of the fire commission after a hearing before the fire commission.

(e) *Vacancy.* A vacancy in the office of the chief shall be filled by appointment by a two-thirds vote of the fire commission. Upon creation of a vacancy in the office of the chief, the next highest ranking officer shall perform the duties of the chief until such time as an interim chief has been appointed or until the vacancy has been filled.

(f) *Review.* The fire chief shall have a performance review done annually. The review shall be conducted by the fire commission.

(g) *General supervision.* The chief shall have the responsibility of overall supervision of the department and personnel assigned to the department, which shall be subject to and not to conflict with this chapter. The chief shall be responsible for all activities within the department, as well as the personnel, department budget and general efficiency of the department, and shall report directly to the fire commission on all matters that do not conflict with Wis. Stat. § 66.0105. The chief shall perform such other duties as are usually incumbent upon the commanding officer of a fire department and as are detailed in the job description for this position.

(h) *Command at incidents.* The chief shall have all of the authority and responsibility for command at all firefighting, rescue, and emergency medical incidents and other incidents that the department may respond to where life and/or property is threatened within the villages. The chief shall plan the control of the same, direct the actions of the department and/or mutual aid personnel and other agencies which may be called to assist, ensure that the department performs the duties required, and grant leaves and/or release personnel and equipment from the scene of the emergency when appropriate. In the

absence of the chief, the next highest ranking officer or, in the absence of an officer, the most senior member of the department shall be in charge and shall have the same authority and responsibility at incidents as the chief.

(i) *Readiness.* The chief shall maintain the department, personnel and equipment in a constant state of readiness in anticipation of an emergency response. The chief shall keep the fire commission apprised of the department's readiness and report deficiencies in the department's ability to provide service.

(j) *Mutual aid.* The chief shall recommend and maintain the necessary mutual aid contracts as approved by the fire commission. Mutual aid with other municipalities within the states of Wisconsin and Illinois shall be organized within the mutual aid box alarm system or with a community directly when necessary. The chief shall have the authority to dispatch units to respond out of the villages in response to mutual aid requests from signatories of a mutual aid agreement and the responsibility to ensure that the villages are adequately protected during said incidents.

(k) *Enforcement of fire prevention ordinances.* The fire chief of the villages or his/her designee shall enforce all fire prevention ordinances of the villages and the State of Wisconsin. The chief and/or his/her designees are authorized to cite violations of the fire prevention ordinances of the villages in accordance with this chapter.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-8. Control and care of apparatus, vehicles and equipment.

(a) *Chief responsible.* The chief shall have control of all apparatus, vehicles and equipment used by the department and shall be responsible for its proper maintenance. The chief may authorize emergency repairs.

(b) *Use.* Fire apparatus and rescue vehicles shall be used for official purposes only.

(c) *Damage to equipment.* No person shall willfully damage any hose, hydrant, fire apparatus, rescue vehicle and equipment related to the provision of said services that belongs to the villages, and no vehicle or railroad equipment shall be driven over any unprotected hose of the department when laid down on any street, private driveway, track or other place to be used at any fire or alarm of fire or other emergency without the consent of the chief.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-9. Authority of department at fires, emergency incidents, and other emergencies.

(a) Pursuant to Wis. Stat. § 213.095, the chief or other officer acting as the incident commander at the scene of a fire, emergency medical call or other emergency where the department has been called to perform service to persons or property shall have the authority to do the following:

(1) Suppress any disorder and order all individuals or companies to leave the neighborhood of any fire or first aid scene.

(2) Command from the inhabitants of the villages all necessary assistance for the suppression of fires and the preservation of property exposed to fire.

(3) Enter any property or premises to do whatever may be reasonably necessary in the performance of the officer's duties while engaged in the work of extinguishing any fire or performing any duties incidental thereto and/or while engaged in the work of aiding persons or minimizing the loss to property at first aid scene.

(b) The incident commander conducting operations in connection with the extinguishment and control of any fire, explosion or other emergency shall have the authority to direct all operations of fire extinguishment or control and to take the necessary precautions to save life, protect property, and prevent further injury or damage. During such operation, including the investigation of the cause of such emergency, the incident commander shall be permitted to control or prohibit the approach to the scene of such emergency by any vehicle, vessel or person.

(c) No person shall obstruct the operations of the department in connection with extinguishing or control of any fire, or actions relative to other emergencies, or disobey any lawful command of the incident commander in charge of the emergency, or any part thereof, or any lawful order of a police officer assisting the department.

(d) The incident commander in charge of an emergency scene shall have the authority to establish barriers to control access in the vicinity of such emergency and to place, or cause to be placed, ropes, guards, barricades, or other obstructions across any street or alley to delineate such emergency scene barrier. No person, except as authorized by the incident commander in charge of the emergency, shall be permitted to cross such barriers.

(e) The incident commander in charge of an emergency scene shall have the authority to have property damaged by fire or other emergency barricaded or otherwise protected from persons or the elements. The expense of such preventative action shall be borne by the property owner.

(f) The fire department shall investigate the cause and origin, and circumstances of fires occurring within its jurisdiction to determine if the fire is of carelessness or design. Such investigations may begin immediately upon the occurrence of such a fire, and if it appears to the officer making such an investigation that such fire is of suspicious origin and of a significant nature, the fire chief shall be notified of the facts. The AHJ shall notify the proper authorities designated by law to pursue the investigation of such matters and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case. A member of the fire investigation team shall file a written report of damage associated with every fire in a timely manner. It shall contain a statement of all facts relating to the cause and origin and circumstances of such fire and other information as may be required.

(g) The fire chief or officers in command and the fire inspector at any fire are hereby vested with full and complete police authority. Any officer of the fire department may cause the arrest of any person failing to give the right-of-way to the fire department in responding to or investigating an incident.

(h) The fire chief or officers in command shall have the power to cause the removal of any property whenever it is deemed necessary and prudent for the preservation of such property. During the progress of any fire, they shall have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes work of the fire department during the progress of fire.

(i) It shall be lawful for any fire department personnel while acting under the direction of the fire chief or officer in command to enter premises adjacent to or in the vicinity of a building or other property that is on fire for the purpose of extinguishing, containing, or searching for extension of such fire or other exigent circumstances. No person shall hinder, resist or obstruct any firefighter in the discharge of his duties as is hereinbefore provided. The person so offending shall be deemed guilty of resisting firefighters in the discharge of their duties.

(j) During the progress of fire the fire chief or officers in command shall have the power to order the removal or destruction of any property necessary to prevent the further spread of fire or to ensure that the fire has not extended to other areas; providing that it is likely that, unless such property is removed, other property is in danger of being destroyed by fire.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-10. Records and reports.

(a) *Legal custodian.* The chief is the legal custodian of the reports, records and property within the department.

(b) *Fire reports.* Per Wis. Stat. § 101.141, the department shall maintain a record of all fires. The department shall participate in the national incident fire reporting system, supplying data collected to the department of commerce. Fire reports shall be maintained a minimum of seven years.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-11. Fire inspectors.

(a) *Chief to be a deputy of the department of safety and professional services.* Pursuant to Wis. Stat. § 101.14, incorporated herein, the chief is a deputy of the department of safety and professional services. The chief is responsible for the enforcement of the state codes adopted within this chapter.

(b) *Fire inspectors.* The chief shall hold the office of fire inspector and shall appoint one or more inspectors from within the department who shall perform the same duties and have the same powers as the fire inspector.

(c) *Required inspections.* The chief of the department shall be responsible for having all public buildings and places of employment inspected for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or any violations of any law or ordinance

relating to fire hazards or to the prevention of fires. Repairs or alterations necessary to remove a hazard or hazardous condition shall be at the owner's expense and within a reasonable time or sooner if so ordered by the chief.

(d) *Special inspections.* The chief, upon the request of the fire commission, or upon receiving the complaint of any person or whenever the chief deems it necessary, shall inspect any public building and premises where inspections are required within the villages.

(e) *Number of inspections.* The chief shall be responsible for determining the number of public buildings and places of employment to be inspected within the village.

(f) *Scheduling of inspections.* Fire prevention inspections shall be conducted at least once in each non-overlapping six-month period per calendar year, or more often if ordered by the chief.

(g) *Written reports.* Written reports of inspections shall be made and kept on file.

(h) *Authority to inspect.* The chief acting as the fire inspector or other fire inspectors shall be authorized at all reasonable times to enter and examine any building, structure, vehicle or premises, excepting only the interior of private dwellings, where inspections are required for the purpose of making fire inspections. The owner, agent or occupant of any such premises who refuses to permit, or prevents or interferes with, any entry into or upon the premises by any such inspector shall be in violation of this chapter.

(i) *Special inspection warrant.* If consent for entry to personal or real properties which are not public buildings, or to portions of public buildings which are not open to the public, has been denied, the chief shall obtain a special inspection warrant under Wis. Stat. § 66.0119.

(j) *Correction of hazards.* At such time as the fire inspector identifies a violation or fire hazard, the fire inspector shall serve notice in writing upon the owner of the property, giving such owner a reasonable time in which to remove the hazard. However, where an extreme or hazardous condition exists which, for the protection of the public, must be corrected or removed immediately, the chief shall have the authority to take such steps as may be necessary to protect the public and property, including closing and vacating of a building, structure or premises. If the owner fails to comply with the order to correct the hazard within the time allowed, it shall be deemed a nuisance. The fire chief shall also have the authority to take such steps as may be necessary, including obtaining appropriate court orders, to enforce any order of the chief correcting a hazardous or potential fire condition. The fire chief may also have a hazard corrected or removed by the villages. The cost of such removal shall be recovered in an action by the villages against the property owner and may be entered in the tax roll as a special charge against the property. When the owner of any property or person in apparent control of the property is issued an order by the AHJ and fails to comply with the order, the municipality may do the work ordered and the cost of such work shall constitute a special assessment against the property upon which the work is done and shall be levied against such property pursuant to Wis. Stat. § 66.0703.

(k) *Special inspection requests.* If a building owner requests a fire inspection from the fire department for a building that is not a public building and premises where inspections are not required within the villages, the building owner shall pay for the cost of inspection. The inspection rate will be $50.00 per hour, per inspector and any related reports generated

from the inspection of the building will be charged an administrative fee of five percent of the subtotal.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-12. Fire inspection fees.

(a) An annual fire inspection fee shall be charged to the property owner by the fire department for required inspections of each building, structure, and premises. Fire inspection fees shall be billed to the owner of each inspected parcel within the villages.

(b) The fee for the required annual fire inspections and any reinspections shall be based upon the building's square footage, as set forth by resolutions of the village boards, from time to time.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-13. Notification of use or occupancy change.

(a) Whenever there is a change in occupancy or the agent(s) (manager, shift supervisor, after hour's emergency contact, etc.) of that occupancy, the owner or their duly authorized agent shall submit the changes in writing to the fire department within five working days. The information shall consist of the following:

(1) Name and address of occupancy;

(2) Owner's name, address and phone number(s);

(3) Agent's name, address and phone number(s);

(4) Other information as required by the AHJ.

(b) Whenever a change in the service company for the alarm system has occurred within the occupancy, the owner or authorized agent shall submit the changes in writing to the fire department within five working days. The information shall consist of the following:

(1) All information required in subsection (a);

(2) Type(s) of fire protection systems;

(3) Service company name, address and phone number(s).

(c) No change can be made in the use or occupancy of any building or structure, or any space within a building, structure, or space of a building or structure either in a different division of the same occupancy group or in a different occupancy group, unless the building or structure complies with this Code's requirements for the new division of occupancies, as these requirements exist.

Exception: This subsection does not apply to an approved temporary use or to a new use that will be less hazardous, based on life and/or fire risk, than the existing use.

(d) An inspection by the fire department shall be required for any new or change of occupancy. The fee for occupancy inspections and reinspections shall be based upon the square footage of the building or tenant space, as set forth by resolutions of the village boards from time to time.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-14. Fire prevention.

(a) *Wisconsin regulations adopted.* The following chapters of the Wisconsin Administrative Code, Department of Safety and Professional Services and the Department of Agriculture, Trade, and Consumer Protection are hereby adopted by reference with the same force and effect as if fully set forth herein and as the same may be from time to time amended:

SPS 303 Petition for Variance Procedure
SPS 305 Certifications and Registrations
SPS 307 Explosives and Fireworks
ATCP 93 Flammable and Combustible Liquids
SPS 314 Fire Prevention
SPS 316 Electrical
SPS 318 Elevators, Escalators and Lift Devices
SPS 323 Heating, Ventilating and Air Conditioning
SPS 326 Manufactured Home Communities
SPS 328 Smoke Detectors and Carbon Monoxide Detectors
SPS 330 Fire Department Safety and Health
SPS 334 Amusement Rides
SPS 335 Infectious Agents
SPS 340 Gas Systems
SPS 341 Boilers and Pressure Vessels
SPS 343 Anhydrous Ammonia
SPS 345 Mechanical Refrigeration
SPS 348 Petroleum and Other Liquid Fuel Products
SPS 361—365 Enrolled Commercial Building Code
SPS 366 Existing Buildings
SPS 371 Solar Energy Systems
SPS 372 Cleaning Methods for Historic Buildings
SPS 375 Definitions and General Requirements
SPS 376 Factories, Office and Mercantile Buildings
SPS 377 Theaters and Assembly Halls
SPS 378 Schools and other Places of Instruction
SPS 379 Apartment Houses, Hotels and Places of Detention

(b) *Compliance.* Any act required to be performed or prohibited by any chapter of the Wisconsin Administrative Code incorporated herein by reference is required or prohibited by this section. Any violation of these provisions constitutes a violation of this chapter.

(c) *Code updates.* Any future updates to the Wisconsin Administrative Codes are also adopted prospectively by reference.

(d) *Fire department access.* A road shall be provided to all construction sites at the commencement of construction having suitable strength and width to support the apparatus operated by the department. Such road will have a minimum clear width of 12 feet and shall be subject to the approval of the fire chief and the building inspector.

(e) *Conflicts.* In cases of conflict between local and state codes, the most restrictive provisions shall govern.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-15. Adoption of International Code Council Inc. codes.

The latest I.C.C. publication listed below, and any amendments thereto, is adopted by reference, enforced and incorporated into this Code as if fully set forth herein:

International Fire Code (applies only to sections specifically referenced in this Code) 2006 edition.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-16. Adoption by reference NFPA publications.

The latest NFPA publications and any amendments thereto, are adopted by reference, enforced and incorporated into this Code as if fully set forth herein. For the sake of easy reference, the following NFPA standards are routinely consulted:

NFPA 1 Uniform Fire Code (applies only to the use, maintenance, operation and testing) 2006 edition

NFPA 10 Standard for Portable Fire Extinguishers, 2007 edition

NFPA 11 Standard for Low-, Medium-, and High-Expansion Foam, 2005 edition

NFPA 12 Standard on Carbon Dioxide Extinguishing Systems, 2008 edition

NFPA 13 Standard for Installation of Sprinkler Systems, 2007 edition

NFPA 13D Sprinkler Systems in One and Two-Family Dwellings and Manufactured Homes, 2007 edition

NFPA 13R Sprinkler Systems in Residential Occupancies up to and Including four Stories in Height, 2007 edition

NFPA 14 Standard for the Installation of Standpipes, and Hose Systems, 2007 edition

NFPA 15 Standard for Water Spray Fixed Systems for Fire Protection, 2007 edition

NFPA 16 Standard for the Installation of Foam-Water sprinkler and Foam-Water Spray Systems, 2007 edition

NFPA 17 Standard for Dry Chemical Extinguishing Systems, 2002 edition

NFPA 17A Standard for Wet Chemical Extinguishing Systems, 2002 edition

NFPA 20 Standard for the Installation of Stationary Pumps for Fire Protection, 2007 edition

NFPA 22 Standard for Water Tanks for Private Fire Protection, 2008 edition

NFPA 24 Standard for the Installation of Private Fire Service Mains and their Appurtenances, 2007 edition

NFPA 25 Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, 2008 edition

NFPA 30 Flammable and Combustible Liquids Code, 2008 edition

NFPA 30B Code for the Manufacture and Storage of Aerosol Products, 2007

NFPA 33 Standard for Spray Application Using Flammable or Combustible Materials, 2007 edition

NFPA 34 Standard for Standard Dipping and Coating Processes Using Flammable or Combustible Liquids, 2007 edition

NFPA 35 Standard for the Manufacture of Organic Coatings, 2005 edition

NFPA 36 Standard for Solvent Extraction Plants, 2004 edition

NFPA 37 Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, 2006 edition

NFPA 40 Standard for the Storage and Handling of Cellulose Nitrate Film, 2007 edition

NFPA 42 Code for the Storage of Pyroxylin Plastic, 2002 edition

NFPA 45 Standard on Fire Protection for Laboratories Using Chemicals, 2004 edition

NFPA 51 Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes, 2007 edition

NFPA 51A Standard for Acetylene Cylinder Charging Plants, 2006 edition

NFPA 54 National Fuel Gas Code, 2006 edition

NFPA 55 Standard for the Storage, Use, and Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks, 2005 edition

NFPA 58 Liquefied Petroleum Gas Code, 2008 edition

NFPA 59 Utility LP-Gas Plant Code, 2008 edition

NFPA 59A Standard for the Production, Storage, and Handling of Liquefied National Gas (LNG), 2006 edition

NFPA 61 Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities, 2008 edition

NFPA 68 Standard on Explosion Protection by Deflagration Venting, 2007 edition

NFPA 69 Standard on Explosion Prevention Systems, 2008 edition

NFPA 70 National Electrical Code®, 2008 edition

NFPA 72 National Fire Alarm Code, 2007 edition

NFPA 75 Standard for the Protection of Information Technology Equipment, 2003 edition

NFPA 76 Standard for the Fire Protection of Telecommunications Facilities, 2005 edition

NFPA 80 Standard for Fire Doors and Other Opening Protectives, 2007 edition

NFPA 82 Standard on Incinerators and Waste and Linen Handling Systems and Equipment, 2004 edition

NFPA 85 Boiler and Combustion Systems Hazards Code, 2007 edition

NFPA 86 Standard for Ovens and Furnaces, 2007 edition

NFPA 88A Standard for Parking Structures, 2007 edition

NFPA 91 Standard for Exhaust Systems for Air Conveying of Vapors, Gases, Mists, and Noncombustible Particulate Solids, 2004 edition

NFPA 92B Standard for Smoke Management Systems in Malls, Atria, and Large Spaces, 2005 edition

NFPA 96 Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2008 edition

NFPA 99B Standard for Hypobaric Facilities, 2005 edition

NFPA 99C Standard on Gas and Vacuum Systems, 2005 edition

NFPA 101 Life Safety Code®, 2006 edition

NFPA 102 Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures, 2006 edition

NFPA 105 Standard for the Installation of Smoke Door Assemblies and Other Opening Protectives, 2007 edition

NFPA 110 Standard for Emergency and Standby Power Systems, 2005 edition

NFPA 111 Standard on Stored Electronic Energy Emergency and Standby Power System, 2005 edition

NFPA 115 Standard on Laser Fire Protection, 2008 edition

NFPA 160 Standard for the Use of Flame Effects Before an Audience, 2006 edition

NFPA 170 Standard for Fire Safety and Emergency Symbols, 2006 edition

NFPA 204 Standard for Smoke and Heat Venting, 2007 edition

NFPA 214 Standard on Water-Cooling Towers, 2005 edition

NFPA 221 Standard for High Challenge Fire Walls, Fire Walls, and Fire Barrier Walls, 2006 edition

NFPA 232 Standard for the Protection of Records, 2007 edition

NFPA 241 Standard for Safeguarding Construction, Alteration, and Demolition Operations, 2004 edition

NFPA 291 Recommended Practice for Fire Flow Testing and Marking of Hydrants, 2007 edition

NFPA 303 Fire Protection Standards for Marinas and Boatyards, 2006 edition

NFPA 307 Standards for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves, 2006 edition

NFPA 318 Standard for the Protection of Semiconductor Fabrication Facilities, 2006 edition

NFPA 400 Hazardous Chemical Code, Proposed Standard

NFPA 418 Standard for Heliports, 2006 edition

NFPA 430 Code for the Storage of Liquid and Solid Oxidizers, 2004 edition

NFPA 432 Code for the Storage of Organic Peroxide Formulations, 2002 edition

NFPA 434 Code for the Storage of Pesticides, 2002 edition

NFPA 484 Standard for Combustible Metals, 2006 edition

NFPA 490 Code for the Storage of Ammonium Nitrate, 2002 edition

NFPA 495 Explosive Materials Code, 2006 edition

NFPA 499 Recommended Practice for the Classification of Combustible Dusts and of Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas, 2008 edition

NFPA 560 Standard for the Storage, Handling, and Use of Ethylene Oxide for Sterilization and Fumigation, 2007 edition

NFPA 654 Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids, 2006 edition.

NFPA 655 Standard for Prevention of Sulfur Fires and Explosions, 2007 edition

NFPA 664 Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities, 2007 edition

NFPA 704 Standard System for the Identification of the Hazards of Materials for Emergency Response, 2007 edition

NFPA 720 Standard for Installation of Carbon Monoxide (CO) Warning Equipment in Dwelling Units, 2005 edition

NFPA 750 Standard on Water Mist Fire Protection Systems, 2006 edition

NFPA 780 Standard for the Installation of Lightning Protection Systems, 2008 edition

NFPA 801 Standard for Fire Protection for Facilities Handling Radioactive Materials, 2008 edition

NFPA 804 Standard for Fire Protection for Advanced Light Water Reactor Electric Generating Plants, 2006 edition

NFPA 850 Recommended Practice for Fire Protection for Electric Generating Plants and High Voltage Direct Current Converter Stations, 2005 edition

NFPA 853 Standard for the Installation of Stationary Fuel Cell Power Systems, 2007 edition

NFPA 1123 Code for Fireworks Display, 2006 edition

NFPA 1124 Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition

NFPA 1125 Code for the Manufacture of Model Rocket and High Power Rocket Motors, 2007 edition

NFPA 1126 Standard for the Use of Pyrotechnics before a Proximate Audience, 2006 edition

NFPA 2001 Standard on Clean Agent Fire Extinguishing Systems, 2008 edition

NFPA 2010 Standard for Fixed Aerosol Fire Extinguishing Systems, 2006 edition

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-17. False alarms.

No person shall give a false alarm of fire with intent to deceive, or pull the lever of any signal box except in case of fire, or tamper, meddle or interfere with the fire alarm system or any part thereof. (Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-18. Open burning.

(a) *Definitions.*

Campfire means a small outdoor fire intended for recreation or cooking not including a fire intended for disposal of waste wood or refuse.

Clean wood means natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

Outdoor burning means open burning or burning in an outdoor wood-fired furnace.

Open burning means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.

Outdoor wood-fired furnace means a wood-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

Refuse means any waste material except clean wood.

(b) *General prohibition on outdoor burning and refuse burning.* Open burning, outdoor burning and refuse burning are prohibited unless the burning is specifically permitted by this chapter.

(c) *Materials that may not be burned.*

(1) Unless a specific written approval has been obtained from the department of natural resources, the following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating device.

(2) Rubbish or garbage including, but not limited to, food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.

(3) Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 590, Wisconsin Administrative Code.

(4) Asphalt and products containing asphalt.

(5) Treated or painted wood including, but not limited to, plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

(6) Any plastic material including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.

(7) Rubber including tires and synthetic rubber-like products.

(8) Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the recycling ordinance.

(d) *Open burning of leaves, brush, clean wood and other vegetative debris.*

(1) Open burning of leaves, weeds, brush, stumps, clean wood and other vegetative debris is allowed only in accordance with the following:

a. All allowed open burning shall be conducted in a safe nuisance free manner, when wind and weather conditions are such as to minimize adverse effects and not create a health hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.

b. Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the fire chief or the state department of natural resources has issued a burning ban applicable to the area.

c. Open burning shall be conducted only on the property on which the materials were generated or at a facility approved by and in accordance with provisions established by the department of natural resources and the fire chief.

d. Unless explicitly allowed elsewhere in this chapter, a commercial enterprise other than an agricultural or silvicultural operation may open burn only at a facility approved by and in accordance with provisions established by the department of natural resources and the fire chief.

e. Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this chapter.

f. Fires set for forest, prairie or wildlife habitat management are allowed with the approval of the department of natural resources.

g. Outdoor campfires and small bonfires for cooking, ceremonies or recreation are allowed provided that the fire is confined by a control device or structure such as a barrel, fire ring, or fire pit. Bonfires are allowed only if approved by and in accordance with provisions established by the fire chief.

h. Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-way is allowed if approved by the fire chief and if in accordance with other provisions of this chapter.

i. In emergency situations such as natural disasters, burning that would otherwise be prohibited is allowed if specifically approved by the department of natural resources.

j. Open burning under this section shall only be conducted at a location at least 25 feet from any structure and ten feet from any property line.

k. Except for campfires and permitted bonfires, open burning shall only be conducted between 9:00 a.m. and the earlier of the following: Sunset or 7:00 p.m. All recreational fires shall be out by 12:00 a.m.

l. Open burning shall be constantly attended and supervised by a competent person until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

m. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.

n. Except for barbecue, gas and charcoal grills, no burning shall be undertaken within 25 feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the fire chief.

o. No open burning may be conducted on days when the department of natural resources has declared an ozone action day applicable to the County of Racine.

p. Fires shall not be ignited with flammable or combustible liquids, such as gasoline, kerosene, fuel oil, diesel fuel, etc.

(e) *Outdoor wood-fired furnaces.* An outdoor wood-fired furnace may be installed and used in the villages only in accordance with the following provisions:

(1) The outdoor wood-fired furnace shall be installed and used only in an area zoned for agricultural use.

(2) The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed above.

(3) The outdoor wood-fired furnace shall be located at least 300 feet from the nearest building which is not on the same property as the outdoor wood-fired furnace.

(4) The outdoor wood-fired furnace shall have a chimney that extends at least 15 feet above the ground surface. If there are any residences within 500 feet the chimney shall also extend at least as high above the ground surface as the height of the roofs of all such residences. The fire chief may approve a lesser height on a case-

by-case basis if necessary to comply with manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors.

(f) *Fire department practice burns.* Notwithstanding subsections (b) and (c), the fire department may burn a standing building if necessary for firefighting practice and if the practice burn complies with the requirements of the department of natural resources.

(g) *Liability.* A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

(h) *Right of entry and inspection.* The fire chief or any authorized officer, agent, employee or representative of the villages who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this chapter.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-19. Ambulance service rates.

(a) The Union Grove-Yorkville Fire Department provides emergency ambulance service to those needing emergency medical attention after the sudden onset of a medical condition manifesting itself by acute symptoms of such severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, or the serious impairment of bodily functions, or serious dysfunction of any bodily organ or part.

(b) The fire department shall be in charge of firefighting and emergency care where fires, emergency medical incidents, accidents or disasters threaten life and/or property and those duties related to the performance of this service within the villages.

(c) Fees for outlying areas (with a mutual aid agreement). In all cases where the emergency service of the villages is summoned in response to an emergency call in areas outside the villages where a mutual aid agreement does exist, every person receiving such emergency service, the administration of medical drugs and disposable medical equipment used in attending at the scene of the incident and transporting such person to an emergency hospital shall be charged for such service.

(d) Fees for outlying areas (without a mutual aid agreement). In all cases where the emergency service of the villages is summoned in response to an emergency call in areas outside the villages where no mutual aid agreement exists, every person receiving such emergency service, the administration of medical drugs and disposable medical equipment used in attending at the scene of the incident and transporting such person to a private or emergency hospital shall be charged for such service.

(e) The schedule of fees for service, transfer service, medical drugs and disposable medical equipment shall be established by resolutions of the village boards, from time to time.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-20. Fire district.

(a) *Definitions.* As used in this section, the terms "fire resistive construction," "mill construction," "ordinary construction," "frame construction," and "fire-retardant roof coverings" shall have the meanings as defined in the Wis. Admin. Code.

(b) *Established.* The part of the village included within the following described territory shall be known as the fire district:

(1) Block 1, Taber's addition to the village.

(2) Blocks 1 and 2, Salisbury's addition to the village.

(3) Blocks 2, 3 and 5 of the original plat of the village.

(c) *Building construction requirements.* Every building erected, enlarged or moved within or into the fire district shall be fire resistive, mill or ordinary construction, except as otherwise provided by this section. Enclosing walls and party walls shall be four-hour, fire resistive walls of a construction as provided in Wis. Admin. Code which is adopted by reference and made a part of this section with respect to all buildings and structures within the fire district.

(d) *Exceptions for certain frame construction.* No building of frame construction shall be constructed within or moved within or into the fire district except the following:

(1) The entire building is sprinklered regardless of size.

(2) A greenhouse, not more than 15 feet in height.

(3) A construction trailer, for use only in connection with a duly authorized building operation.

(e) *Bulk oil tanks prohibited.* The storage of class I flammable liquids, as defined in the Wis. Admin. Code ATCP 93 in aboveground tanks outside of buildings is prohibited within the fire district.

(f) *Razing old or damaged buildings.* Any building of frame construction within the fire limits which may be damaged by fire or which has deteriorated to an amount greater than one-half of its value, exclusive of the foundation, as determined by the village assessor, shall be subject to a raze order, as issued by the building inspector, pursuant to Wis. Stat. § 66.0413.

(g) *Fire-retardant roofing.*

(1) Every roof constructed within the fire district, including buildings listed in subsection (d), shall be covered with roofing having a fire resistive rating equivalent to class B or better of the Underwriters' Laboratories, Inc., classification in their list of inspected materials, which is adopted by reference and incorporated in this section as if fully set forth in this section.

(2) No roofing on a roof shall be renewed or repaired to a greater extent than one-tenth of the roof surface, except in conformity with the requirements of subsection (g)(1).

(h) *Enforcement.* The building inspector or fire chief or other designated person is authorized and it shall be his/her duty to enforce this section.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-21. Fire walls.

(a) *Purpose.* The purpose of this section is to establish uniform standards for the identification of fire walls.

(b) *Identification.* Every owner of a building within the villages shall identify the location of a fire wall at the exterior walls of the building with a sign. A sign may not be required to identify a fire wall:

(1) Abutting exterior walls of two or more buildings along streets in downtown areas;

(2) With a visible parapet from the street;

(3) Which extends above a roof and is an exterior wall of another part of the building; and

(4) In a building of more than three stories.

(c) *Sign requirements.* A sign required by this section shall be subject to the following:

(1) *Generally.* The sign shall consist of three circles arranged vertically on the exterior wall marking the location of the fire separation wall or occupancy separation wall and centered on the fire separation wall or occupancy separation wall. The circles may be affixed directly to the surface of the building or may be placed on a background material which is affixed to the building.

(2) *Size of circle.* Each circle shall be the same size. The diameter of the circle shall be at least one and one-half inches, but shall not be greater than two inches.

(3) *Spacing.* The circles shall be spaced an equal distance apart. The maximum distance measured from the top of the uppermost circle to the bottom of the lowermost circle shall be 12 inches.

(4) *Color.* The circles shall be orange and of a reflective material.

(5) *Location.* The top of the sign shall be located on the face of the exterior wall of the building and located no more than 12 inches below the eave, roof edge, fascia or parapet.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-22. Automatic fire sprinkler, fire suppression and fire alarm systems and fire hydrants.

(a) *Purpose.* The purpose of this section is to protect the health, safety and welfare of the those that live, work, visit, or travel through the villages, including the fire personnel who serve the villages or assist the villages, by establishing minimum standards for fire safety through the standardization of the design, installation, testing and maintenance requirements for automatic fire sprinkler, fire suppression and fire alarm systems.

(b) *Enforcement.* The Union Grove-Yorkville Fire Department shall be responsible for the enforcement of this section.

(c) *State regulations.* All building code requirements, rules and laws of the state shall apply to all buildings located within the villages. The requirements of this section shall not lessen any building code requirements, rules or laws of the state. Should any conflict arise between this section and the codes, rules or laws of the state, the more stringent regulation shall govern.

(d) *Owner's responsibility.*

(1) Within buildings that the fire department is required to inspect, no owner may construct or alter any building, or portion of a building, or permit any building to be constructed or altered except in compliance with this chapter.

(2) The owner is also responsible for maintaining a current set of plans for all detection, suppression and fire alarm systems.

(3) The owner shall maintain all automatic fire sprinkler, suppression and alarm systems (and the alarm monitoring of those systems) that were required by the villages as a condition of occupancy.

(e) *Installation required.* An automatic fire sprinkler system shall be installed in all structures where the floor area exceeds the thresholds established in the Wisconsin Administrative Code, or where otherwise required by state law.

(f) *How installed.*

(1) *Incorporation of standards by reference.* The most current editions of all NFPA documents are hereby incorporated by reference into this section.

(2) *Material and test certificates.* All fire protection systems installed in the villages shall be tested in accordance with the requirements of the state code and NFPA provisions. In the event that a conflict between these documents occurs, the fire protection contractor shall comply with the most stringent requirements. Two copies of each material and test certificate shall be provided to the department before an occupancy permit will be granted.

(3) *When using nonpotable water and/or a nonfreeze solution.* Whenever nonpotable water is used to supply a fire sprinkler system and/or when a fire sprinkler system uses any type of nonfreeze solution, a reduced pressure backflow preventer (R-P-Z) shall be required as part of those systems.

(4) *Fire pump test header.* Fire pump test headers shall be placed on the exterior of the fire pump room.

(5) *Fire pump relief valve.* When a fire pump is required to have a relief valve and that relief valve discharges to the exterior, the relief valve shall discharge directly into a stormwater catch basin.

(6) *Safety factor.* The safety factor for a hydraulically calculated sprinkler system shall be a minimum of ten percent or five psi, whichever is greater.

(7) *[Location of control rooms.]* Sprinkler control rooms shall be located with adequate access for fire department, sprinkler maintenance and inspection personnel and shall not be located within private dwellings with the exception of NFPA 13D systems.

(8) *[Direct access required.]* There shall be direct access from the exterior to the sprinkler control valve as determined by the AHJ, with a door labeled as such which will include reflective lettering.

(g) *Standpipes and hose connections.*

(1) Wet automatic standpipes shall be provided in all buildings three stories or more in height. Standpipes shall be sized and distributed as described in subsection (2).

(2) When the NFPA requires the installation of small hose and small hose valve connections, this department will require the installation of two and one-half-inch

hose valves in lieu of the former. The two and one-half-inch hose valves shall be supplied from a separate piping system or from adjacent sprinkler systems. The two and one-half-inch NST valve shall be capable of delivering 250 gpm at 75 psi measured at the hose valve. The standpipes shall be wet and placed first adjacent to the exterior exit doors and then move inward to provide the required coverage. Hose valves shall be no further than 150 feet apart, per floor.

(h) *Fire department connection.* The fire department connection (FDC) for both the sprinkler system and standpipe systems shall be located remote from the building, curbside to a street or driveway. The minimum distance from the building shall be equal to the height of the building. An FDC may be placed at a greater distance from the building if the building is of extra hazard occupancy. The location of the FDC shall be approved by the fire department. The FDC shall have an automatic drip for drainage of the waterline enclosed within an inspection pit and accessed through a manhole, when the automatic drip cannot be placed within the structure.

(i) *Fire hydrant(s) and pumper pad.*

(1) *Scope.* The requirements of this section apply to fire hydrants and water main systems supplying private fire hydrants or fire suppression systems.

(2) *Installation and maintenance standards.* Private fire hydrants and water mains shall be installed in accordance with NFPA 24 and the villages' water utility. Private fire hydrants and water mains shall be maintained in accordance with NFPA 25.

(3) *Approval required.* Plans shall be submitted to the designated third party for review to determine compliance with the applicable standards prior to the installation of private fire hydrants.

(4) *Approved water hydrant.* An approved water hydrant shall mean a water hydrant connected to a municipal water main, and the hydrant shall have one five-inch Storz connection and two two-and-five-tenths-inch connections. The connecting waterline between the municipal water main and the approved water hydrant shall not be less than six inches. All water hydrants shall be installed in such a manner and location so as to be accessible at all times to the fire department. Note: The hydrant must flow a minimum of 1,500 gpm with 20 psi residual.

(5) *Number of required fire hydrants.* A minimum of one fire hydrant shall be installed on the property where a sprinkler system (or standpipe system) is installed within the building. The hydrant shall be located remote from the building at a minimum distance equal to the height of the building and adjacent (maximum distance five feet) to the fire department connection(s), curbside. Hydrants may be placed at a greater distance from the building if the building is of extra hazard occupancy. The FDC and the fire hydrant shall be incorporated into a pumper pad to assure access for the fire department pumpers. This access must be maintained at all times. Additional hydrant(s) shall be provided around the perimeter of the building so that no hydrant is more than 250 feet from other approved hydrants measured by normal access routes.

(6) *Setback distances.* Private fire hydrants shall be no more than five feet from the curb or edge of the street or fire apparatus access. Alternative setback distances may be considered when site conditions conflict with the provisions of this section.

(7) *System design.*

a. *Valves.* Control valves shall be provided to limit the number of private hydrants and/or sprinkler systems affected by maintenance, repair or construction. Valves shall be located at street intersections and at no more than 800-foot intervals, and sectional control valves shall be placed so that no more than a combination of five hydrants and sprinkler systems can be isolated between control valves. Valves shall be provided in each hydrant lead.

b. *Outlet position.* All hydrants shall be positioned so that the largest outlet faces the street or fire apparatus access route.

c. *Hydrant height above grade.* The center of the lowest outlet cap of the fire hydrants shall be at least 18 inches above grade and not more than 23 inches above grade.

(8) *Hydrant specifications.* All fire hydrants shall meet the specifications of the villages' water utility.

(9) *Bollards.* Private hydrants shall be protected from vehicular traffic damage with bollards. The chief shall determine the number of bollards needed.

(10) *Hydrant colors.*

a. For private hydrants fed by a fire pump, the hydrants shall be painted red, both barrel and caps.

b. Hydrants fed by municipal water shall be painted a solid color, both barrel and caps that match the hydrant's flow rate.

c. No person shall alter the color or paint scheme of an approved municipal fire hydrant or an approved private fire hydrant. That person or persons who alter the color of a fire hydrant identified above shall be in violation of this chapter.

(11) *Hydrant markers.* Whenever the location of a fire hydrant may be obscured by its placement, or due to the placement of a building, structure, fencing, grade or land, vegetation, snow accumulation or other obstruction of vision, the fire chief may require such fire hydrants to be identified and marked with above-grade markers. Above-grade markers are any devices, approved for use by the fire chief, designed to promote and enhance the ready identification of fire hydrant locations.

(12) *Obstructions.* No obstructions, including, but not limited to, power poles, trees, bushes, fences or posts, shall be located within five feet of a fire hydrant. Grade changes exceeding one and one-half feet are not permitted within five feet of a fire

hydrant or hydrant lead. Owners shall remove snow, vegetation or other material that has covered or obstructed the view of a hydrant(s) on their property.

(13) *Installation prior to construction.* Fire hydrants shall be installed, tested and placed in service prior to combustible construction.

(14) *Out of service fire hydrants.* Private fire hydrants and water systems placed out of service or made inoperable for maintenance, repair or construction shall be covered with a durable and weather-resistant bag to indicate the hydrant is unusable. The fire department shall be notified immediately when hydrants and/or systems are out of service. Fire hydrants and/or water systems shall be repaired and returned to service within 48 hours.

(15) *Maintenance.* The inspection(s), test and maintenance of required fire hydrants shall be recorded on forms approved by the fire chief. Completed forms shall be maintained on premises and made available to the fire department upon request or during required fire inspections. Copies of the above records shall be mailed to the department upon completion of tests. Failure to provide the completed forms as required shall constitute a rebuttable presumption that required inspections, tests and maintenance have not been performed.

(j) *Protection of fire hydrants and other control valves.*

(1) Private fire hydrants and those fire protection control valves and devices placed along drives and parking areas of a building shall be protected by bollards. The department shall determine the number of bollards needed.

(k) *Strobe light.*

(1) A red strobe light shall be placed in the vertical position above the audible water flow alarm. The light shall be activated by a sprinkler water flow. Additional strobe lights will be required on the exterior of buildings that have multiple sprinkler (risers in multiple locations) systems.

(2) Strobe specifications. The following strobe lights are acceptable for use: Federal, Model 131 ST/DST and Whelen, Model 1550. Alternate manufacturers must be approved by the department prior to installation.

(l) *Annual inspections.*

(1) Every standpipe system or sprinkler system required by the villages' Code or by the administrative rules of the state shall be inspected at least once within each consecutive 12-month period and maintained in accordance with the most current edition of the applicable department of commerce provisions, and NFPA 25, Inspection, Testing and Maintenance of Water-Based Fire Protection Systems.

(2) Annual maintenance permit and inspection form. Prior to performing the annual inspection required by NFPA 25 of a fire sprinkler system and/or fire pump, the owner shall obtain a permit and inspection form from the fire department. The results of the inspection shall be recorded on the department form and copies given to the fire chief, owner and all others authorized by the owner within ten days

of the date the inspection was performed. In the case that deficiencies are found, the department shall be given a schedule as to when repairs will be made at such time the inspection report is filed with the department. In the event that a permit is not obtained prior to the inspection being performed, the owner may be subject to an additional fee, in accordance with penalties set forth in these chapters.

(m) *Completion of work.* At such time that each sprinkler project is completed, the sprinkler contractor shall provide the owner of the building and the fire department with a letter stating that the sprinkler system, or portion thereof, is 100 percent operational and built according to the design of the licensed and certified fire protection engineer.

(n) *Maintenance of automatic fire sprinkler, suppression and alarm systems.* Sprinkler systems, standpipe systems, fire alarm systems and other fire protective or extinguishing systems or appliances which have been installed in compliance with a permit or order, or because of any law or ordinance, shall be maintained in operative condition at all times in accordance with NFPA 25, Inspection, Testing and Maintenance of Water-Based Fire Protection Systems, and other applicable NFPA codes. Further, it shall be unlawful for any owner or occupant to reduce the effectiveness of the protection so required, except that this shall not prohibit the owner or occupant from temporarily reducing or discontinuing the protection where necessary to make tests, repairs, alterations or additions. The chief of the fire department shall be notified before repairs, alterations or additions are begun and shall be notified again when the system has been restored to service.

(o) *Exemptions.* Rooms or buildings devoted to the manufacture or storage of aluminum powder, calcium carbide, calcium phosphate, metallic sodium or potassium, quick lime, magnesium powder, sodium peroxide or like materials where the application of water may cause or increase combustion are exempt from the use of automatic water sprinkling systems but are required to install other forms of fire protection systems approved by the fire chief.

(p) *Automatic closing devices.*

(1) *Where installed.*

a. Except on single- and two-family dwellings, there shall be an automatic closing device on all fire and smoke doors, except doors leading directly outside in all buildings, regardless of size.

b. On all fire shutters and vents.

c. Wired into the fire alarm system when a fire alarm system is required.

(2) *How installed.* Per National Fire Protection Association Standard 80, Fire Doors and Other Opening Protectives.

(3) *How maintained and inspected.* Per National Fire Protection Association Standard 80, Fire Doors and Other Opening Protectives.

(q) *Fire alarm systems.*

(1) *Intent.* The intent of this section is to provide a means for automatic detection of fire conditions and to provide warning notification throughout all buildings and occupancies built hereinafter, structurally altered, and/or added to.

(2) *Installation required.* A fire alarm system shall be installed in all structures where the floor area, inclusive of any additions to structures, exceeds 5,000 square feet. However, this section shall have no applicability to single-family residential structures.

(3) *Minimum system requirements.* When a fire alarm system is required, the following minimum system requirements shall be met:

a. Audible notification appliances shall be installed throughout protected premises.

b. Visible notification appliances shall be installed throughout protected premises.

Exceptions:

1. Closets and/or other similar small storage rooms that do not exceed 50 square feet in floor area and are not normally occupied.

2. Normally unoccupied crawl spaces.

3. Normally unoccupied attic spaces.

4. Any non-accessible area.

5. Any area the AHJ deems visible notification appliances are not required.

c. Appliances that automatically detect fire and/or products of combustion shall be installed throughout protected premises. The type of appliance used in each specific application and/or area must be appropriate for the applicable conditions and acceptable to the AHJ. The determination of the acceptability of any type of detector (products of combustion, flame, heat, etc.) shall be based upon occupancy and/or building use.

Exceptions:

1. Closets and/or other similar small storage rooms that do not exceed 50 square feet in floor area and are not normally occupied.

2. Normally unoccupied crawl spaces.

3. Normally unoccupied attic spaces.

4. Any nonaccessible area.

5. Appliances that automatically detect fire and/or products of combustion are not required in buildings that have complete automatic fire sprinkler systems installed in accordance with NFPA 13, unless required by the AHJ.

6. Any area the AHJ deems appliances that automatically detect fire and/or products of combustion are not required.

d. Manual initiating devices (pull stations) shall be located at all points of egress including all exit doors on every floor and/or building level.

e. Water flow detection devices shall be connected to the protected premises fire alarm system to specifically activate the notification appliances upon water flow.

f. Fire suppression system activation alarms shall be connected to the protected premises fire alarm system to specifically activate the notification appliances upon system activation. This includes, but is not limited to, wet chemical, CO2, clean agent, water mist and dry chemical systems.

g. Fire control and/or suppression systems supervisory condition indicators shall be connected to and monitored by the protected premises fire alarm system. This specifically includes, but is not limited to: valve supervisory switches (tamper switches), low air switches, low water switches, low temperature switches, fire pump condition indicators and/or any other situation or condition deem necessary by the AHJ.

h. Fire alarm systems shall be addressable and capable of indicating the status of all specific components connected to the system.

i. All fire alarm systems shall be monitored by a service acceptable to the AHJ.

j. Fire alarm annunciators shall be installed in all protected premises. The number and locations of the fire alarm annunciators installed shall be acceptable to the AHJ.

k. As determined by the AHJ, any additional notification and/or initiation appliances/devices may be required due to size, occupancy hazards, building construction, and/or occupancy use.

(4) *Shop drawings for fire alarm systems.* Shop drawings for fire alarm systems are intended to provide basic information consistent with the objective of installing a fully operational, code compliant fire alarm system and to provide the basis for the record drawings required by NFPA 72. Conditional approval of shop drawings is not intended to imply waiver or modification of any requirements of any code or any other applicable criteria.

a. A minimum of three sets of plans, specifications, equipment data sheets and calculations must be submitted for conditional approval. The

municipality will retain two copies of each submittal and one copy will be returned to the installing contractor.

b. Fire alarm submittals shall include shop drawings that include, to an extent commensurate with the extent of the work being performed, floor plan drawings, riser diagrams (except for systems in single-story buildings), control panel wiring diagrams, point-to-point wiring diagrams, and typical wiring diagrams as described herein.

c. All shop drawings shall be drawn on sheets of uniform size and shall include the following information:

1. Name of owner and occupant.

2. Location, including street address.

3. Device legend.

4. Date.

5. Floor plan drawings shall be drawn to an indicated scale and shall include the following information:

I. Floor identification.

II. Point of compass.

III. Graphic scale.

IV. All walls and doors.

V. All partitions extending to within 18 inches of the finished ceiling.

VI. Room descriptions.

VII. Fire alarm device/component locations.

VIII. Locations of monitor/control interfaces to other systems.

IX. Riser locations.

X. The location of the electrical panel that has the control panel circuit breaker.

XI. Name and address of installation contractor.

XII. Name and address of system designer.

6. Fire alarm system riser diagrams shall include the following information:

I. General arrangement of the system, in building cross-section.

II. Number of risers.

III. Type and number of circuits in each riser.

IV. Type and number of fire alarm system components/devices on each circuit, on each floor or level.

7. Control panel wiring diagrams shall be provided for all control equipment (i.e., equipment listed as either a control unit or control unit accessory), power supplies, battery chargers, and annunciators and shall include the following information:

I. Identification of the control equipment depicted.

II. Location(s) of control panels.

III. All field wiring terminals and terminal identifications.

IV. All indicators and manual controls, including the full text of all labels.

V. All field connections to supervising station signaling equipment, releasing equipment, and fire safety control interfaces.

8. Typical wiring diagrams shall be provided for all initiating devices, notification appliances, remote alarm light-emitting diodes (LEDs), remote test stations, and end-of-line and power supervisory devices.

(r) *Door, floor and stairway identification.* Any occupancy having more than five exterior means of egress and or more than two floors in height shall number the individual egress areas according to this section.

(1) An identifying number shall be placed on the interior and exterior of each means of egress doorway not less than six inches high in contrasting color and light reflective. The main entrance or means of egress shall be numbered one with each additional means of egress, progressing clockwise around the exterior of the structure to reflect its relationship to the main entrance. All means of egress leading into the structure shall be numbered, not just the required exit egresses.

(2) Each interior door providing access to an enclosed stairway that is considered part of an accessible means of egress shall be identified with numbers and letters not less than three and one-half inches high in the following manner:

a. Have a sign indicating floor level posted on both sides of the egress door in a location acceptable to the AHJ.

b. Have a sign indicating the exterior exit door egress assigned in compliance with subsection (1) located on both sides of the egress door in a location acceptable to the AHJ.

(3) Identification numbers shall be placed on the exterior windows of all hotels, motels, nursing homes, and multifamily occupancies to identify the room number or address it services. The numbers shall be not less than three and one-half inches high and light reflective and in a location acceptable to the AHJ.

(s) *Exit lights and emergency lights.*

(1) Exit and emergency lights are required in all places of public occupancy.

(2) Exit and emergency lights shall have battery backup unless connected to an emergency generator.

(3) Combination exit and emergency lights are acceptable and recommended.

(t) *Plan review, approval and conditions.*

(1) The department uses a third party contractor to perform the review. The owner or owner's contractor is responsible for payment of all third party review fees. The plans for all fire sprinkler, fire suppression and fire alarm systems, both new and modified, must be submitted to the third party contractor for review.

(2) No automatic fire sprinkler, fire suppression or fire alarm equipment shall be installed or altered in a building until plans have been submitted and approved by the department. Upon payment of the review fees the villages on behalf of the fire department shall issue a permit. Work started before a permit is issued may be subject to fine up to three times the original permit fee.

(3) The state-registered fire protection contractor or other contractor(s) who was given the permit to work shall keep at the job site at all times one set of approved plans bearing the stamp of conditional approval from the department and a copy of the specifications. The plans shall be open to inspection by an authorized representative of the department immediately upon request.

(u) *Engineered roof and floors.*

(1) All new residential and commercial buildings within the Village of Yorkville and the Village of Union Grove shall have the required emblems affixed as provided in this section to indicate that they are equipped or have installed truss supports.

(2) Identifying emblems shall be permanently affixed to the meter sockets of residential properties in the lower left corner of the exterior cover. On commercial properties they shall be located on the meter trans socket. If the meters are located in the building, the emblem shall be affixed to the front doorway. If the building is sprinklered and no trans socket is located outside, the emblem shall be located on the sprinkler control room door. With the approval of the fire department, emblems may be placed in other locations.

a. The emblem shall be of white reflective background with red reflecting trim and lettering. The shape of the emblem shall be a house and the size shall be three inches horizontally by five inches vertically. The following letters, four inches in size and in red reflective shall be printed on the emblem.

"F" to signify a floor with truss construction.

"R" to signify a roof with truss construction.

b. The emblem shall be permanently affixed by the building inspector at the final inspection, and before an occupancy permit is granted.

(v) *Revocation, extension and liability.*

(1) *Revocation of approval.* The fire department may revoke any approval issued under the provisions of this section for any false statements or misrepresentation of facts on which the approval was based.

(2) *Expiration of plan approval.* Plan approvals issued by the department shall expire two years after the approval date indicated on the fire protection plans.

(3) *Extension of plan approval.* Upon written request and payment of the fees specified under of this chapter, the expiration date described under subsection (v)(2) may be extended for a single two-year period, provided that the written request and fee are submitted prior to the expiration date of the original approval and the originally approved plans are revised to comply with the requirements of this section at the time that the request is made.

(4) *Limitation of liability.* The conditional approval of an automatic fire sprinkler, suppression or fire alarm design by the fire department shall not be construed as an assumption of any design responsibility.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-23. Automatic fire sprinkler fees.

Automatic fire sprinkler fees shall be established by third party consultants or resolutions of the village boards, from time to time.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-24. Hazardous materials and spills.

(a) *Prohibited discharges.* No person, firm or corporation shall discharge or cause to be discharged, leaked, leached or spilled upon any public or private street or alley, or public, private or village-owned property, or onto the ground, surface waters, subsurface waters, or aquifers, within the villages, except those areas specifically licensed for waste disposal activities and to receive such materials, any explosive, flammable or combustible liquid or gas, any radioactive material at or above nuclear regulatory restriction levels, etiologic

agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas have a deleterious effect on the environment.

(b) *Containment, cleanup and restoration.* Any person, firm or corporation in violation of this section shall, upon direction of the chief, begin immediate actions to contain, clean up and remove to an approved repository the offending material(s) and restore the site to its original condition. The spiller (offending person, firm, or corporation) is responsible for all expenses incurred by the department, mutual aid departments and contractors retained during the mitigation, removal and cleanup. Should any person, firm, or corporation fail to engage the necessary personnel and equipment to comply with or to complete the requirements of this section, the chief shall notify the office of emergency government, which may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the villages and those assisting the villages in this matter.

(c) *Response by emergency services.* A response by emergency services includes, but is not limited to, fire services, emergency medical services, and police and law enforcement services. A person, firm or corporation who or which possesses or controls a hazardous substance which is discharged or who or which causes the discharge of a hazardous substance shall be responsible for reimbursement to the responding agencies for actual and necessary expenses incurred in carrying out their duties under this section.

(d) *Expenses.* Actual and necessary expenses may include, but are not limited to, personnel hourly costs; fire and rescue vehicle hourly costs; equipment expense; replacement of equipment damaged by the hazardous material; the replacement costs of any extinguishing agent or chemical, neutralizer or materials used to extinguish a fire or suppress a vapor; confinement, neutralizing or cleanup of any flammable or combustible liquid, gas, solid or any hazardous material or chemical involved in any fire or accidental spill; cleaning, decontamination, and maintenance of the equipment specific to the incident; costs incurred in the procurement and use of specialized equipment specific to the incident; specific laboratory expenses incurred in the recognition and identification of hazardous substances in the evaluation of the response; and decontamination, cleanup and medical surveillance of response personnel as required by the responding agency's medical advisor.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-25. Elevators.

(a) *Purpose; intent.* It is the purpose of this section to establish minimum requirements relating to the specification and installation of an elevator within a building or structure that adequately meets the needs of the department. It is the intent of this section to ensure adequate access to any floor or level that is above or below the ground or first floor level. It has been the past experience that elevators have been specified and installed within buildings and structures within the villages that do not adequately meet the needs of the department. It is recognized that an ordinance is needed to identify the minimum size elevator that will be accepted by the department.

(b) *Scope.* This section applies to all new construction that is covered within Wis. Admin. Code chs. 61 to 66. All existing public buildings or places of employment and all additions shall conform to this section, as follows.

(1) Additions, remodeled buildings, and change of use.

a. Any existing building that is to be modified by addition or remodel in a percentage of 25 percent or more shall comply with the intent of this section when a new elevator installation is required.

b. If the use of an existing building is changed to a new use and the building undergoes physical remodeling, the building shall comply with the intent of this section when a new elevator installation is required.

c. Exemptions:

1. Multitenant dwelling buildings which have separated, private entrances and that do not share an internal common corridor.

2. Mezzanine levels which are not utilized as work environments, provided that their primary function is as storage space.

(c) *Minimum rated load and capacity for elevators.* At least one elevator for each building or structure shall be designed to accommodate an ambulance stretcher that is a minimum 80 inches by 24 inches in the horizontal position along with three department personnel and all associated equipment. The door and car size shall permit the entrance and exit of an ambulance stretcher without tilting the stretcher at any time.

(1) Acceptable minimum size.

a. Passenger (general purpose). Capacity 4,000 pounds with a minimum clear cab inside of seven feet eight inches by five feet five inches.

b. Hospital/service. Capacity 4,500 pounds with a minimum clear cab inside of five feet eight inches by seven feet nine and one-half inches.

c. The proposed elevator shall meet or exceed these minimum clear cab inside dimensions.

(d) *Location within the building.* The department shall review and approve the proposed location being considered for the elevator. This is to ensure that the elevator is easily accessible and readily available to the emergency services. This will be done in conjunction with site and operational approval for a building permit and is not associated with the shop drawing approval process described in the following sections.

(e) *Submittal.* All shop drawings of proposed elevators for each building or structure shall be submitted to the third party reviewer for review and approval.

(f) *Shop drawings.* All shop drawings will be reviewed and returned accepted or not accepted within three weeks of being received.

(g) *Installation permit required.* No installation shall begin until the department has completed a satisfactory review and issued a permit.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-26. Key lockbox system.

(a) *Definition.* As used in this chapter, the term "key lockbox" means a locking metal container, UL approved, approved by the Union Grove-Yorkville Fire Chief, designated to hold keys for emergency entry into buildings, which can be opened by a key to be kept by the Union Grove-Yorkville Fire Department for emergency use only.

(b) *General provisions.* The following structures shall be equipped with a key lockbox at or near the main entrance or such other location as required by the fire chief:

(1) Commercial, retail or industrial structures;

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

(3) Governmental structures and nursing care facilities.

(c) *Lockbox installation.* All structures subject to this chapter shall have a key lockbox installed and operational prior to the issuance of an occupancy permit.

(d) *Requirements.*

(1) The fire chief shall designate the type and quantity of the key lockbox system to be implemented and shall have the authority to require all structures to use the designated system.

(2) The owner or operator of a structure required to have a key lockbox shall, at all times, keep keys in the lockbox that will allow for access to the following:

a. Keys to locked points of egress, whether on the interior or exterior of such buildings;

b. Keys to locked mechanical equipment rooms;

c. Keys to locked electrical rooms;

d. Keys to elevator controls; and

e. Keys to other areas as directed by the fire chief.

f. Each key shall be legibly labeled to indicate the lock that it opens in such a manner as is approved by the fire chief.

(e) *Rules and regulations.* The fire chief shall be authorized to implement rules and regulations for the use of the lockbox system, which rules shall be approved by the Union Grove-Yorkville Fire Commission.

(f) *Security procedures.* The fire chief shall promulgate and enforce procedures to protect the security of the fire department's master lockbox key, which rules shall be approved by the Union Grove-Yorkville Fire Commission.

(g) *Contact information.* Any person who owns or operates a structure subject to this chapter shall annually provide a list of emergency contacts and telephone numbers to the fire department.

(h) *Penalties.* Any person who owns or operates a structure subject to this chapter shall be subject to the penalties set forth below. Any person who tampers with, removes, or otherwise renders any key lockbox inoperable shall be subject to the penalties set forth in this chapter.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-27. Storage tanks.

(a) *Plan and permits.* A permit is required for the installation, upgrade or removal of new and existing aboveground or belowground storage tanks, piping or appliances. The department shall be notified when tanks are installed or removed.

(b) *Department of safety and professional services codes.* The installation, upgrade and/or removal of storage tanks shall be in compliance with the state department of safety and professional services codes.

(c) *Violation.* Any person failing to obtain a permit is in violation of this chapter.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-28. Fees for response and service on roads, streets, highways, public waterways and railroads.

The Union Grove-Yorkville Fire Department from time to time responds to provide emergency service on a local street, county trunk highway, state trunk highway, the interstate system, public waterways, and the railroad system, where emergencies such as vehicle fires, vehicle accidents, transportation incidents and spills create a hazardous condition.

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

County trunk highway means a road maintained by the county highway department.
Disposable supplies mean any material used to control and/or remove a hazard and then must be replenished, such as firefighting foam and/or oil dry.

Emergency vehicles mean fire apparatus, ambulance vehicles, and support vehicles operated by the villages and/or by the municipalities that are signatories to the MABAS (mutual aid box alarm system) mutual aid agreement that are providing service within the villages.

Hazardous condition means a condition or substance (solid, liquid or gas) capable of posing an unreasonable risk to health, safety, the environment or property.

National highway system means any highway maintained by the state department of transportation that is a part of the national system of interstate highways, including entrance and exit ramps, frontage access roads, service centers, and inspection and weigh stations.

Service means an act performed by the fire department upon the national highway system, state trunk highway or local street that includes, but is not limited to, extinguishing a vehicle fire, using extrication equipment to aid in the removal of victims of a vehicular accident, and cleanup of a hazardous condition or spill.

Specialized vehicles mean vehicles such as heavy lifting tow trucks, cranes, and vacuum trucks, owned or operated by the villages or a subcontractor to the villages, that are needed to control and/or remove a hazardous condition.

State trunk highway means a road maintained by the state department of transportation.

Street means a local thoroughfare or roadway, either private or owned and maintained by the villages.

(b) *Establishment of fees.* Fees to be charged for emergency service shall be established by resolutions of the village boards, from time to time.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-29. Fees for recovery of costs.

The Union Grove-Yorkville Fire Department from time to time responds to provide a service after which it can be determined that a fire was intentionally set, a false alarm occurred because a fire or rescue call was falsely reported either verbally or through the activation of a fire alarm device, a fire detection device and/or a fire suppression system, or by the failure of the property owner to properly and adequately make prior notification that would have prevented the unnecessary response by the fire department during a scheduled test, scheduled maintenance or scheduled repair of either a fire alarm device, fire detection device and/or fire suppression systems. When in fact it is determined that an event such as those described above has occurred, the villages will seek to recover the costs expended during such a response from the responsible party or the property owner when applicable.

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

False alarm means a report of an emergency that was found to be not true and caused by an unintentional or accidental activation.

1. *Preventable false alarm* means a report of an emergency either verbally, automatically or during a scheduled test, scheduled maintenance or scheduled repair of either a fire alarm device, fire detection device and/or fire suppression system that could have been prevented by prior notification to the central station and/or local fire department which in fact would have prevented an emergency response by the fire department.

2. *Malicious false alarm* means a report of an emergency that was found to be not true and caused by an intentional verbal reporting or manual activation of a fire alarm or fire suppression system.

Fire alarm and detection device means a device designed to send a fire alarm thus reporting an emergency and/or which monitors the products of combustion, most commonly known as heat, smoke and radiant energy, and which in fact will send an alarm of emergency when appropriate.

Fire suppression system means a device or system that uses water or special agents to automatically or manually release for the purpose of extinguishing a fire.

Fire, deliberately set, lawful means a fire where the evidence supports the conclusion that the fire was intentionally set but the circumstances indicate that no law was broken, such as an open burning fire where there is a valid open burning permit in effect.

Fire, deliberately set, unlawful means a fire where the evidence supports the conclusion that the fire was intentionally set and that it was unlawful, such as an open burning fire where there is no valid open burning permit in effect.

Property owner means the owner of record.

Responsible party means the person or persons found to be responsible for causing the incident.

Service means the service provided by the fire and rescue department during such events as fires, hazardous material, emergency medical calls, and other events requiring the department to contain, control and remove.

Unintentional false alarm means when a device such as a fire alarm, fire detection system or fire suppression system is accidentally tripped, such as being struck by a forklift or falling boxes or excessive heating of a fusible link.

(b) *Cost recovery for emergency service at intentionally set fires.* The person or persons found to be responsible for intentionally setting an unlawful fire may be charged for the services provided by the villages and/or by the departments identified within the mutual aid agreement for the use of emergency fire and rescue vehicles, equipment, disposable supplies, such as firefighting foam, and other material used to remove a hazardous condition, as well as contracted services and services from other municipal departments within the villages, and shall pay for such services when rendered within the villages.

(c) *Cost recovery for emergency service provided at what is determined to be a false alarm.*

(1) When a person(s) is found to be responsible for a fire or rescue call that was falsely reported either verbally or through the activation of a fire alarm device, a fire detection device and/or a fire suppression system, that person may be charged for the services provided by the villages and/or by the departments identified within the mutual aid agreement for the use of emergency fire and rescue vehicles during the response to the incident described within.

(2) When the property owner fails to properly and adequately make prior notification that would prevent an unnecessary response by the fire department during a scheduled test, scheduled maintenance or scheduled repair of either a fire alarm device, fire detection device and/or fire suppression system, the property owner may be charged for the services provided by the villages and/or by the departments identified within the mutual aid agreement for the use of emergency fire and rescue vehicles.

(d) *Establishment of fees.* Fees to be charged for emergency service shall be established by resolutions of the village boards, from time to time.

(Ord. of 1-12-2009, § 3; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-30. Violations and penalties.

(a) Any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty, which shall be as follows:

(1) *First offense.* Any person who shall violate any provision of the chapter shall, upon conviction thereof, forfeit not less than $50.00 nor more than $500.00, together with the cost of prosecution, and in default of payment of such forfeiture, assessment and costs of prosecution shall be imprisoned in the county jail at a rate of one day for each $25.00 of forfeiture imposed, subject to a maximum period of imprisonment of 90 days.

(2) *Second offense.* Any person who shall violate any provision of the chapter shall, upon conviction thereof, forfeit not less than $100.00 nor more than $500.00, together with the cost of prosecution, and in default of payment of such forfeiture, assessment and costs of prosecution shall be imprisoned in the county jail at a rate of one day for each $25.00 forfeiture imposed subject to a maximum period of imprisonment of 90 days.

(b) Continued violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the villages from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(Ord. No. 2009-01, 1-26-2009; Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Sec. 26-31. Appeals.

(a) *Appeals.*

(1) The owner of a building or structure, or any other person who is aggrieved and directly affected ("person aggrieved"), may appeal from decisions or orders of the building inspector, fire chief or his designate relative to the application and interpretation of ("fire and rescue protection ordinance"), to the village board.

(2) All applications for appeal shall be in writing and must be received by the village clerk no later than 30 days after notice of the building inspector's, fire chief's or his designate's decision or order ("determination"). The request for review shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed.

(3) A determination or action subject to administrative or judicial review procedures set forth under the Wisconsin Administrative Code or state statutes or other provisions of this Code is not reviewable under this chapter.

(4) An application for an appeal shall be accompanied by a fee as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution made payable to the Village of Yorkville.

(5) The village board shall provide the person aggrieved with a hearing on an appeal within 30 days of receipt of the notice of appeal, providing the appellant with notice of the hearing at least ten days before such hearing, unless such notice is waived in writing by the appellant. At the hearing, the appellant and the village may be represented by counsel and may present evidence, call and examine witnesses and cross-examine witnesses of the other party.

(b) *Decision on appeals.*

(1) The board shall affirm, modify or reverse the decision of the building inspector, fire chief or his designate. Appeal of the action of the board shall be to circuit court.

(2) The board shall affirm the decision of the building inspector, fire chief or his designate unless it determines that:

a. The building inspector, fire chief or his designate has misinterpreted or misapplied the applicable ordinance, rule or code provision; or

b. The compliance time established by the building inspector, fire chief or his designate is unreasonable; or

c. An equally good or better form of construction can be used.

(3) The board shall send the applicant a written decision, including reasons for the decision. The building inspector, fire chief or his designate shall act immediately to carry out the board's decision.

(c) *Modification or waiver.*

(1) *Authority.* Where, in the judgment of the village board, it would be inappropriate to apply literally the provisions of an ordinance because an exceptional circumstance exists, the village board may waive or modify any requirements to the extent deemed just and proper. However, the village board does not have the authority to interpret or waive the requirements of the Wisconsin Administrative Code, as the department of commerce exercises jurisdiction with respect to such matters.

(2) *Application.* Application for any such modification or waiver shall be made by the person aggrieved in writing as part of the request for clarification or review of determination, stating fully all facts relied upon in requesting the modification or waiver, and shall be supplemented with any additional data that may aid the building board in the analysis of the proposed modification or waiver. This application may be supplemented at any time during the review process.

(3) *Considerations.* The village board may consider the following factors, in addition to any other factors deemed relevant by the village board:

a. Whether the request for a waiver or modification, if granted, would be consistent with the general intent of the ordinance.

b. Whether the request for a waiver or modification, if granted, would adversely affect any property owners in the village.

c. Whether the request for waiver or modification, if granted, would benefit the person aggrieved in a way that is not consistent with the village's interests.

d. Whether, instead of granting the request for a waiver or modification, the ordinance itself should be changed to accommodate the kind of situation presented by the person aggrieved.

e. Whether the conditions upon which the request for a modification or waiver is based are unique to the situation or property for which the modification or waiver is sought and are not applicable generally to other situations or property.

(4) *Conditions for granting.* The village board shall not grant a modification or waiver to an ordinance unless it makes findings based upon the evidence presented to it in each specific case and based upon the consideration of the above factors that the granting of the modification or waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the village. Any decision to grant a modification or waiver shall not be arbitrary, capricious, or prejudicial in nature.

(5) *Granting by village board.*

a. The village board, if it approves of the modification or waiver of an ordinance or any portion of it, shall do so only after a hearing.

b. Such relief shall be granted without detriment to the public good and without impairing the intent and purpose of the ordinance.

c. The reasons why such modification or waiver was granted shall be entered as part of the record of hearing.

d. If the village board grants a modification or waiver, the village board may also decide whether the ordinance itself be changed to accommodate the kind of situation presented by the person aggrieved.

(6) *Past noncompliance not waived.* A waiver or modification that is granted pursuant to a written request as described in this section shall not waive any fines, forfeitures or other penalties that may have accrued due to violations of the ordinance that took place prior to the date of the appeal, unless specifically stated otherwise in the decision of the village board.

(d) *Chapter 68 of the Wisconsin Statutes.* Pursuant to Wis. Stat. § 68.16, the Village of Yorkville elects not to be governed by those provisions of Chapter 68 which are in conflict with this chapter. In the event of any conflict between this chapter and Chapter 68, the provisions of this chapter shall govern.

(Ord. No. 2012-03, § 1(exh. A), 6-25-2012)

Chapter 27

PLANNING

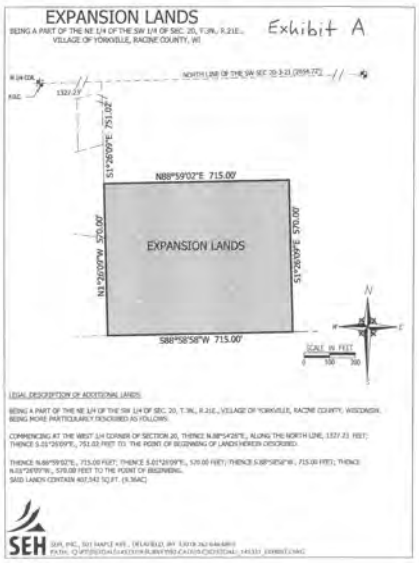
Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
Sec. 27-1.	Comprehensive plan.	07-2015 2018-05 2018-12	09/21/15 06/11/18 10/08/18

Sec. 27-1. Comprehensive plan.

The village board of the Village of Yorkville, Wisconsin, does, by the enactment of this chapter, formally adopt the document titled, "A Multi-Jurisdictional Comprehensive Plan for Racine County: 2035," incorporated herein by reference, pursuant to Wis. Stat. §66.1001(4)(c), as the Village of Yorkville comprehensive plan as well as the following amendments to the comprehensive plan:

(a) Amendment to parcel #018-03-21-01-024-000 located at 2036 N. Sylvania Avenue (W. Frontage Road) from Commercial to Industrial as set forth in Ordinance 2015-07 adopted by the Village Board on September 21, 2015 and subsequently approved by Racine County.

(b) Amend the land use map designation for the property located at 18917 Spring Street (CTH C) (Parcel ID # 018-03-21-20-040-000) in the A-2 (General Farming and Residential II) and B-3 (Commercial Service) Zoning Districts in the following manner: the Agricultural/Rural Residential/Open Land classification for the 9.36 acres transferred by lot line adjustment from the existing parcel located at this address to the parcel located to the west at 19031 Spring Street (CTH C) is hereby changed to the Commercial classification, as further depicted on the accompanying exhibit.



(c) Amend the land use map designation for the properties comprising tax parcels ID # 018-03-21-01-019-000 and ID # 018-03-21-01-020-000, located at 2232 North Sylvania Avenue and the vacant parcel immediately south of this parcel from “Urban Reserve” to “Industrial”, as further depicted on the accompanying exhibit.

Chapter 28
LAND DIVISION

Cross reference— Any ordinance regarding plats, land divisions or subdivisions saved from repeal, § 1-9(13); buildings and building regulations, ch. 10; mobile homes and mobile home parks, § 14-301 et seq.; environment, ch. 22; streets, sidewalks and other public places, ch. 38; utilities, ch. 54.

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
	Article I. In General		
Sec. 28-1.	Title.		
Sec. 28-2.	Purpose.	2021-05	04/12/21
Sec. 28-3.	Applicability and compliance.	2021-05	04/12/21
Sec. 28-4.	Conservation subdivisions.		
Sec. 28-5.	Condominium plats.		
Sec. 28-6.	Minor subdivisions.		
Sec. 28-7.	Land suitability.	2021-05	04/12/21
		2023-04	04/10/23
Sec. 28-8.	Remedies; exceptions.	2024-07	06/10/24
Sec. 28-9.	Definitions.	2021-05	04/12/21
Sec. 28-10.	Adoption of state statutes and county ordinance.		
Sec. 28-11.	Fees.		
Sec. 28-12.	Penalty.		
Secs. 28-13. – 28-40.	Reserved.		
	Article II. Required Improvements		
Sec. 28-41.	Water.	2021-05	04/12/21
Sec. 28-42.	Sewer.	2021-05	04/12/21
Sec. 28-43.	Streets.		
Sec. 28-44.	Lighting.		
Sec. 28-45.	Drainage.	2021-05	04/12/21
Sec. 28-46.	Street signs.		
Sec. 28-47.	Other utilities.		
Sec. 28-48.	Development agreement.	2016-01	05/09/16
		2021-05	04/12/21
Sec. 28-49.	Building permits.		
Sec. 28-50.	Monuments.		
Sec. 28-51.	Engineering, planning, legal and administrative costs; land division fee.	2021-05 2023-16	04/12/21 11/13/23
Secs. 28-52. – 28-80.	Reserved.		
	Article III. In Design Standards		
Sec. 28-81.	Streets.		
Sec. 28-82.	Easements; maintenance obligations.	2021-05	04/12/21
Sec. 28-83.	Blocks.		
Sec. 28-84.	Lots.	2021-05	04/12/21
Sec. 28-85.	Sites.		
Sec. 28-86.	Open space and conservation.		

Sec. 28-87.	Drainage.	2021-05	04/12/21
Sec. 28-88.	Minimum floor areas and foundation requirements for dwellings.	2024-10	08/12/24
Sec. 28-89.	Landscape plan.	2021-05	04/12/21
Secs. 28-90 – 28-120.	Reserved.		

Article IV. Condominium and Conservation Subdivision

Sec. 28-121.	Subdivision development.		
Sec. 28-122.	Concept plan required.	2021-05	04/12/21
		2023-16	11/13/23
Sec. 28-123.	Preliminary plat.		
Sec. 28-124.	Final plat.		
Sec. 28-125.	Conservation design and improvements.	2021-05	04/12/21
Secs. 28-126 – 28-150.	Reserved.		

Article V. Preliminary Plat

Sec. 28-151.	Filing application with village.	2021-05	04/12/21
		2023-16	11/13/23
Sec. 28-152.	Review and approval procedures.	2016-01	05/09/16
		2021-05	04/12/21
		2023-16	11/13/23
Sec. 28-153.	Requirements.		
Secs. 28-154 – 28-180.	Reserved.		

Article VI. Final Plat

Sec. 181.	Compliance with article.		
Sec. 182.	Filing of plat, letter of application; evidence of ownership.	2016-01	05/09/16
		2021-05	04/12/21
		2023-16	11/13/23
Sec. 28-183.	Objecting agencies.		
Sec. 28-184.	Final construction plans.		
Sec. 28-185.	Installation, protection and management plans.	2021-05	04/12/21
Sec. 28-186.	Referral.	2021-05	04/12/21
		2023-16	11/13/23
Sec. 28-187.	Village plan commission review.		
Sec. 28-188.	Village board review and approval.	2016-01	05/09/16
		2023-16	11/13/23
Sec. 28-189.	Requirements.		
Secs. 28-190. – 28-220.	Reserved.		

Article VII. Certified Survey Maps

Sec. 28-221.	Compliance.		
Sec. 28-222.	Preapplication conference.	2021-05	04/12/21
		2023-16	11/13/23
Sec. 28-223.	Initial application; preliminary certified survey maps.	2021-05	04/12/21
		2023-16	11/13/23
Sec. 28-224.	Proof of ownership.	2021-05	04/12/21
Sec. 28-225.	General requirements for final certified survey map.	2021-05	04/12/21
Sec. 28-226.	Detailed requirements.	2021-05	04/12/21

Sec. 28-227.	Final map review and approval procedures.	2021-05 2023-16	04/12/21 11/13/23
Sec. 28-228.	Plan commission review and informational meeting.	2021-05 2023-16	04/12/21 11/13/23
Sec. 28-229.	Plan commission recommendation.		
Sec. 28-230.	Board action.	2016-01 2021-05 2023-16	05/09/16 04/12/21 11/13/23
Sec. 28-231.	Public improvements.	2021-05 2023-16	04/12/21 11/13/23
Secs. 28-232 – 28-260.	Reserved.		

Article VIII. Modifications or Waivers

Sec. 28-261.	Authority; application.	2021-05 2023-16	04/12/21 11/13/23
Sec. 28-262.	Considerations.		
Sec. 28-263.	Granting by village board.	2023-16	11/13/23
Sec. 28-264.	Past noncompliance not waived.		

Article I. In General

Sec. 28-1. Title.

This chapter shall be known and cited as the "Land Division Control Ordinance of the Village of Yorkville," and is enacted pursuant to Wis. Stat. ch. 236.
(Ord. No. 2004-02, § 1(18.01(1)), 9-27-2004)

Sec. 28-2. Purpose.

This chapter is adopted for the following purposes to:

(1) Regulate and control the division of land within the village.

(2) Promote the public health, safety and general welfare of the community.

(3) Promote the conservation and wise use of the natural resource base and the sound physical, social, and economic development within the village to provide a pleasant and habitable environment.

(4) Guide the future growth and development of the community in accordance with the village's adopted comprehensive plan and land use map as contained in the document entitled “2020-2050 Village of Yorkville Comprehensive Plan” (“Comprehensive Plan”).

(5) Preserve the rural character of the village through the permanent preservation of meaningful open space and sensitive natural resources, including those areas identified in the village's resource inventory maps.

(6) Promote preservation of agricultural uses of land where appropriate and in accordance with the Comprehensive Plan.

(7) Protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and manage primary and secondary environmental corridors.

(8) Ensure that appropriate conservation lands will be identified, protected and restored during the development design process to meet future community needs for stormwater management, floodwater storage, and groundwater recharge.

(9) Use ecological planning principles in the design, construction and long-term management of conservation developments.

(10) Allow housing to be concentrated on portions of a parcel in order to protect, preserve and restore environmentally sensitive areas or agriculture-productive areas on other portions of the parcel.

(11) Preserve scenic views by minimizing visibility of new development from existing roads.

(12) Provide buffering between residential development and nonresidential uses.

(13) Provide commonly owned open space areas for passive and/or active recreational use by residents of the development and, where specified, the larger community.

(14) Preserve significant archaeological sites, historic buildings and their settings.

(15) Protect and preserve an interconnected network of open space throughout the village, and to help establish effective buffers around working farms, along boundaries of existing protected lands (such as parks) and along the boundary lines between other municipalities and the village.

(Ord. No. 2004-02, § 1(18.01(2)), 9-27-2004)

Sec. 28-3. Applicability and compliance.

(a) It is the goal of the village in adopting this chapter that residential development within the village shall occur through land divisions incorporating conservation themes wherever possible and that conservation subdivisions be proposed wherever possible.

(b) No person shall divide any land that results in a subdivision or a minor subdivision under the provisions of this chapter without compliance with all requirements of this chapter and the following:

(1) The village's land use plan and comprehensive plan as contained in the document entitled "2020-2050 Village of Yorkville Comprehensive Plan."

(2) The provisions of Wis. Stat. ch. 236.

(3) The rules of the state department of safety and professional services, contained in Wis. Admin. Code ch. SPS 383, for land divisions not served by public sewer.

(4) The rules of the division of transportation infrastructure development, state department of transportation, contained in Wis. Admin. Code ch. Trans 233, for subdivisions that abut a state trunk highway or connecting street.

(5) The rules of the state department of natural resources, contained in Wis. Admin. Code chs. NR 115, 116 and 117, for shoreland, shoreland-wetland and floodplain management.

(6) The land use and neighborhood plans where applicable and not inconsistent with the land use plan adopted by the village.

(7) All applicable local, county, and state regulations including zoning, subdivision, sanitary, utility, building and official mapping ordinances.

(10) All other applicable rules contained in the Wisconsin Administrative Code.

(11) Unless otherwise excepted in this chapter, where any provision of these regulations imposes restrictions different from those imposed by any other provision of law, the provision, which is more restrictive or imposes higher standards shall control.

(Ord. No. 2004-02, § 1(18.02(1)), 9-27-2004)

Sec. 28-4. Conservation subdivisions.

Conservation subdivisions are required for land divisions resulting in the creation of a subdivision on any parent parcel.
(Ord. No. 2004-02, § 1(18.02(2)), 9-27-2004)

Sec. 28-5. Condominium plats.

A condominium plat prepared under Wis. Stat. ch. 703, shall be reviewed by the village in the same manner as a conservation subdivision plat as set forth in this chapter and shall comply with the applicable design standards and required improvements of this chapter.
(Ord. No. 2004-02, § 1(18.02(3)), 9-27-2004)

Sec. 28-6. Minor subdivisions.

No person shall divide any land located within the limits of the village which shall result in a minor subdivision without complying with the provisions of this chapter with respect to minor

subdivisions, including, but not limited to required improvements under article II, design standards under article III, and certified survey map procedures under article VII.
(Ord. No. 2004-02, § 1(18.02(4)), 9-27-2004)

Sec. 28-7. Land suitability.

No land shall be subdivided which is held to be unsuitable for any proposed use if identified as environmentally sensitive. Areas identified as environmentally sensitive include, but are not limited to:

(1) All areas mapped as floodplain by the Federal Emergency Management Agency (FEMA), state department of natural resources, or other public or private entity.

(2) All wetlands as defined in Wis. Admin. Code § NR 103.02(5), including buffers as required under Wis. Admin. Code Ch. NR 151.

(3) All areas within 75 feet of the ordinary high-water mark of navigable streams and lakes, as identified by state department of natural resources.

(4) All areas having slopes greater than 20 percent.

(5) Areas that are known to provide habitat for rare, threatened, or endangered species.

(6) Burial sites and Indian mounds.

(7) Drainageways that contain running water during spring runoff, during storm events or when it rains. A 25-foot buffer from the edge of the drainageway shall be included.

(8) Areas otherwise determined by the village board to be unsuitable for such use by reason of bad drainage, adverse earth or rock formation or topography, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the community.

(9) Areas not designated for land divisions by the village's land use plan.

(10) Areas determined to be environmentally sensitive may be included as common open space in a conservation subdivision but shall not be included in the development yield analysis in section 28-122(a)(2) or in the net density calculation as defined in section 28-9 unless otherwise included or excluded in those sections. These lands shall be identified as an outlot or other designation that indicates the land is not available for land division.

The Village Plan Commission and Village Board in applying the provisions of this section shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use, after affording the subdivider an opportunity to present information regarding such suitability.

Sec. 28-8. Remedies; exceptions.

(a) Remedies. Failure to comply with the requirements of this chapter shall invalidate purported transfers of titles at the option of the purchaser in accordance with the provisions of Wis. Stat. § 236.31(3). The village may also take any action authorized under Wis. Stats. ch. 236. Building permits shall not be issued by the building inspector for construction on sites created in violation of these requirements.

(b) Exceptions. The provisions of this chapter shall not apply to:

(1) Transfers of interest in land by will or pursuant to court order.

(2) Cemetery plats under Wis. Stat. § 157.07.

(3) Assessors' plats made under Wis. Stat. § 70.27, but such plats shall comply with Wis. Stat. § 236.15(1)(a)-(g) and Wis. Stat. § 236.20(1),(2) (a)-(e).

(4) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this chapter, the Village's zoning ordinance or other applicable laws or ordinances ("Lot Line Adjustment"). Before conveyance documents related to a Lot Line Adjustment are signed or recorded in the Racine County Register of Deeds office, they must be reviewed and approved by the Village Administrator and Zoning Administrator pursuant to Section 28-8(b)(4)a.2. below.

a. Lot Line Adjustment Review and Approval. To ensure that additional lots are not created by Lot Line Adjustment and that the resulting lots are not reduced below the minimum sizes required by the Village's land division and zoning codes, or other applicable laws or ordinances, an application for review and approval of the proposed Lot Line Adjustment shall be made to the Village Administrator and Village Zoning Administrator on forms furnished by the Village Administrator.

1. Such applications shall include the following information:

i. Name, address, and phone number of the applicant, owner of the sites, and authorized agent.

ii. Description of the subject sites by lot, block and recorded subdivision or by metes and bounds; addresses of the subject sites; type of structure; existing and proposed use of the structure or sites; and the zoning district within which the subject sites lie and tax parcel numbers.

iii. A plat of survey and/or site plan layout consisting of a survey prepared by a professional land surveyor or other map drawn to scale and approved by the Administrator, showing the locations, boundaries, dimensions, uses and sizes of the following, as deemed appropriate by the

Administrator: subject sites, proposed parcel boundaries and parcel dimensions following adjustment; dimensions for applicable street, side, rear and shore yard setbacks following adjustment; existing and proposed structures; and the location and size of any septic field, well, utilities and roadways.

iv. A copy of the proposed deed or other document of conveyance to be recorded to accomplish the Lot Line Adjustment, if approved.

2. The Administrator and Zoning Administrator shall review and approve/deny the proposed Lot Line Adjustment within thirty (30) days of the date a complete application, as determined by the Village Administrator, is filed with the Village. The determinations of the Administrator and Zoning Administrator shall be in writing. If the application is denied by either the Administrator or Zoning Administrator, the Lot Line Adjustment shall not be completed and the applicant and/or property owners may not record a deed or other record of the proposed sale, conveyance or exchange with the Racine County Register of Deeds office. The applicant may seek relief from an adverse determination by seeking a waiver or modification under Section 28-261 or, where the applicant believes the determination is in error, by appeal to the Board of Appeals pursuant to Section 55-2.

3. Any person submitting to the Racine County Register of Deeds any document effecting the sale or exchange of parcels or portions thereof of land between owners of adjoining property without first obtaining review and approval as required under the provisions of this article shall be subject to the penalties set forth in Section 28-12.

4. The applicant seeking approval of a Lot Line Adjustment shall be responsible for reimbursement of the Village's engineering, planning, legal and administrative costs pursuant to Section 28-51.

Sec. 28-9. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section. All other pertinent terms shall be as defined in Wis. Stat. ch. 236. Words used in the present tense shall include the future tense. Words used in the singular form shall include the plural form. Words used in the plural form shall include the singular form. The word "shall" is mandatory, and the word "may" is permissive.

Certified survey map means a map showing a division of land, conforming to Wis. Stat. § 236.34 and the Village Code, and prepared by a land surveyor registered in the state.

Common facilities mean those facilities which are designated, dedicated, reserved, restricted or otherwise set aside for the use and enjoyment by residents of the development.

Common open space means undeveloped land within a subdivision, minor subdivision, or conservation subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development and for the preservation, restoration and management of historical, agricultural or environmentally sensitive features. Common open space shall not be part of individual residential lots. It shall be substantially free of structures, but may contain historical structures and archaeological sites including Indian mounds and/or such recreational facilities for residents as indicated on the approved development plan. It shall be restored and managed in accordance with a stewardship plan that shall be prepared for the open space.

Condominium means a community association combining individual unit ownership with shared use or ownership of common property or facilities, established in accordance with the requirements of the Condominium Ownership Act, Wis. Stats. ch. 703. A condominium is a legal form of ownership of real estate and not a specific building type or style. All sections of this chapter that apply to subdivisions shall apply to a condominium.

Conservation easement means a nonpossessory interest in real property designed to protect natural, scenic and open space values in perpetuity as defined in the Uniform Conservation Easement Act, Wis. Stat. § 700.40, and section 170(h) of the Internal Revenue Code.

Conservation subdivision means a subdivision in which dwelling units are concentrated and/or clustered in specific areas in order to allow other portions of the subdivision to be preserved for common open space, including restoration and management of historical, agricultural or environmentally sensitive features. All sections of this chapter that apply to subdivisions shall apply to a conservation subdivision.

Density factor means the number of dwelling units permitted per acre according to the village's land use plan, applicable neighborhood plans, the village's ordinances, and applicable zoning regulations.

Development envelopes mean areas within which pavement and buildings will be located.

Dwelling means a detached building designed or used exclusively as a residence or sleeping place, including a manufactured home located outside of a mobile home park, but does not include boardinghouses or lodging houses, motels, hotels, tenements, or cabins.

Ecological restoration means to protect, enhance, recreate or remediate functional and healthy plant and animal communities. Ecological restoration is accomplished by implementing a stewardship plan for uplands, wetland areas, and aquatic resource areas, which include specific remedial and management activities for sustainable maintenance of each of these areas and the planting of those varieties of plants that are indigenous to the area.

Flag lots means a lot with access to the public street only by a narrow strip of land, easement, or private right-of-way and with otherwise insufficient frontage to be considered

a buildable lot. Flag lots generally are not considered to conform to sound planning principles.

Homeowners' association means a community association, incorporated or not incorporated, combining individual home ownership with shared use or ownership of common property or common facilities.

Manufactured home means a structure certified and labeled as a manufactured home under 42 USC 5401-5426.

Minor subdivision means any division of land, whether by one or successive owners, which does not constitute a subdivision and which creates one or more parcels or building sites, any one of which is 15 acres or less in size. The remnant parcel, if any, shall count as one of the parcels or building sites created by said division.

Net density means the number of dwelling units permitted in the subdivision prior to calculating and adding any development yield bonus under section 28-125(a). This number is obtained by performing the following calculation:

(1) Derive the net acreage for the parent parcel by subtracting from the gross acreage of the parent parcel the acreage consisting of the following: any land defined to be unsuitable under section 28-7, existing, dedicated or reserved street rights-of-way, restrictive utilities rights-of-way, and navigable streams, ponds or lakes;

(2) Determine the density factor as permitted for the parent parcel, taking into account the village preference, if any is indicated on the land use plan, as well as adjustments made by the village board to ensure a density factor that is consistent with the surrounding neighborhood; and

(3) Multiply the net acreage result under subsection (1) of this definition times the applicable density factor under subsection (2) of this definition to obtain the net density for the parent parcel.

Nonprofit conservation organization means any charitable corporation, charitable association or charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

Owner includes the plural as well as the singular and may mean either a natural person, division, firm, association, syndicate, partnership, limited liability company, private corporation, public or quasi-public corporation or similar organization or any combination of these having legal title or sufficient proprietary interest to seek development of land. For purposes of successive division of a parcel of land by certified survey map, by one owner or successive owners, "owner" shall be taken to include any person, division, firm, association, syndicate, partnership, limited liability company, private corporation, public or quasi-public corporation or similar organization to whom conveyance has been made within seven years of application for approval of a certified survey map.

Parent parcel means the existing parcel of record, as of the effective date of the ordinance (i.e., September 27, 2004) from which this chapter is derived or the entire proposed development if combining any existing parcels.

Plan commission means the plan commission of the village.

Primary environmental corridor means a concentration of significant natural resources at least 400 acres in area, at least two miles in length, and at least 200 feet in width, as delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.

Professional ecological services means an individual or firm with professional qualifications to prepare and implement an ecological stewardship plan for upland, wetland areas, and aquatic resource areas, including specific remedial and management activities for sustainable management of each of these areas and the planting of those variety of plants that are indigenous to the area.

Village Land Division Ordinance means chapter 28 of the Village's Code, as amended from time to time.

Village Zoning Ordinance means chapter 55 of the Village's Code, as amended from time to time.

Secondary environmental corridor means a concentration of significant natural resources at least 100 acres in area and at least one mile in length. Where such corridors serve to link primary environmental corridors, no minimum area or length criteria apply. Secondary environmental corridors are delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.

Single-family dwelling means a building designed and/or used exclusively for residential purposes for one family only and containing not more than one dwelling unit.

Stewardship plan means a comprehensive management plan for the long-term enhancement and sustainability of natural ecosystems (uplands - including farmlands, woodlands, prairies, meadows, wetlands, shorelands, lakes, river systems and similar ecosystems). Such plans shall include but not be limited to management goals, implementation and monitoring schedules, identification and description of measures to be taken should degradation of the system(s) be noted, and programs for the removal and control of invasive vegetation species.

Stormwater treatment train means a combination of physical and biological features that are constructed or planted to convey, cleanse, and enhance stormwater quality before the remaining water is released to receiving waters.

Street means a public way for pedestrian and vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

Subdivide means the act of dividing land which constitutes a subdivision or minor subdivision under this chapter.

Subdivider means any person, corporation, partnership, association, individual, firm, trust or agent dividing or proposing to divide land resulting in a subdivision or minor subdivision.

Subdivision means the division of a lot, parcel or tract of land by the owners thereof or their agents, where:

(1) The act of division of a parent parcel creates four or more parcels or building sites; or

(2) The act of division creates four or more parcels or building sites by successive divisions within a period of seven years. The term includes resubdivision, and when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, whether by one owner or successive owners.

In determining the number of parcels or building sites created by the division of land, the remnant parcel, if any, shall count as one of the parcels or building sites created by said division.

Two-family dwelling means a building used for residential occupancy by two families living independently of each other.

(Ord. No. 2004-02, § 1(18.03), 9-27-2004; Ord. No. 2005-02, § 1, 10-10-2005)
Cross reference— Definitions generally, § 1-2.

Sec. 28-10. Adoption of state statutes and county ordinance.

Except as otherwise properly provided in this chapter, and subject to section 28-3(b)(11), the provisions of Wis. Stat. ch. 236 is hereby adopted by reference and made a part of this chapter.
(Ord. No. 2004-02, § 1(18.04), 9-27-2004)

Sec. 28-11. Fees.

The village board may, by resolution, establish reasonable fees for the administration of this chapter.
(Ord. No. 2004-02, § 1(18.12), 9-27-2004)

Sec. 28-12. Penalty.

Any person who shall violate any provision of this chapter or any order, rule or regulation made under this chapter shall be subject to a penalty as provided in section 1-14 as well as any other penalties as provided under Wis. Stat. ch. 236.
(Ord. No. 2004-02, § 1(18.13), 9-27-2004)

Sec. 28-13. Extraterritorial Plat Approval Jurisdiction.

(1) Jurisdiction. The jurisdiction of this chapter extends throughout the extraterritorial plat approval jurisdiction authorized by ss 236.10(1)(b), Wis. Stats. All minor subdivisions and all major subdivisions in the extraterritorial plat approval jurisdiction shall be subject to the approval of the Village Board and Plan Commission in accordance with the requirements of §§ 28-7 "Land suitability," 28-45 "Drainage," 28-51 "Engineering, planning, legal and administrative costs; land division fee," 28-82(c) and (d) "Easements, Maintenance Obligations" pertaining to drain tiles, 28-84 "Lots," 28-87 "Drainage," Article V "Preliminary Plat," Article VI. "Final Plat," Article VII. Certified Survey Maps" with the exception of § 28-231 "Public Improvements," and Article VIII. "Modifications or Waivers."

(2) Land Suitability. The Village Board and Plan Commission may consider the land suitability standards in section 28-7, especially those standards related to drainage, in its review of any plat or certified survey map within this area. The relationship of the Comprehensive Plan and Official Map to a proposed extraterritorial plat shall also be considered in determining a proposed plat or map should be approved or denied.

(3) Special Exception. A special exception to the requirements of this section may be granted by the Plan Commission or Village Board as expressly provided in an intergovernmental agreement, cooperative plan, or extraterritorial zoning ordinance between the Village and appropriate town.

(4) Application and Fees. No person shall divide any land located within the Village's extraterritorial jurisdiction without first filing an application, meeting all submittal requirements, and paying the Village's land division review fees contained in this chapter and the fee schedule. The timing for filing the application and paying the Village's review fees shall be the same as otherwise required for land divisions within the Village.

Secs. 28-14—28-40. Reserved.

Article II. Required Improvements

All land divisions must comply with the following improvements:

Sec. 28-41. Water.

Where public water service is available to the subdivision and required pursuant to Section 54-255, the subdivider shall install water facilities for connection with such public water facilities, including mains and laterals to the street water main lines. Such facilities shall be installed in accord with and subject to the specifications and inspection of the governmental body with jurisdiction over such public water utility. Water for a conservation subdivision shall be provided by a municipal water system where feasible, or by individual on-site wells or by one or more community wells meeting the permit requirements of the state and the village. Where municipal

water is not available, the use of shared or community wells are encouraged. Plans for shared or community wells shall include a wellhead protection plan with separation distances for the zone of influence and sources of pollution. The village may, in its discretion, require the subdivider and/or the homeowners' association to have the wells tested on an annual basis by a qualified consultant with a written report being delivered to the homeowners' association and the village.
(Ord. No. 2004-02, § 1(18.05(1)), 9-27-2004)

Sec. 28-42. Sewer.

Where public sanitary service is available to the subdivision and required pursuant to Section 54-95, the subdivider shall install adequate sanitary facilities, including mains and appurtenances thereto and laterals to the street sewer lines. Such facilities shall be installed in accord with and subject to the specifications and inspections of the governmental body with jurisdiction over such public sewer utility. If the public sanitary sewer facilities are not available to the subdivision, lot sizes shall be such that effective private disposal systems can be determined on the basis of recommendations of the agency or agencies of the state with jurisdiction over private sewage disposal systems. When a common sewage treatment and disposal unit is used, it should be jointly owned and maintained by the lot owners of the lots serviced. The village shall have no ownership interest in this type of sanitary sewer system. The subdivider, or its successors and assigns, shall be responsible for all maintenance of the system at its cost, and shall bear the costs of alterations to the system necessitated by any improvements to the streets under which any of the sewer lines run. The subdivider, or its successors and assigns, shall have the mound systems inspected annually by a qualified consultant with a written report being delivered to the homeowners' association and the village.
(Ord. No. 2004-02, § 1(18.05(2)), 9-27-2004)

Sec. 28-43. Streets.

(a) The subdivider shall construct and install all streets dedicated or provided for in such subdivision in accord with the standards for such streets as specified in the village ordinances or as otherwise specified by the governmental unit with jurisdiction over such streets. The obligation of the subdivider shall include the responsibility for construction of portions of streets dedicated by such plat as well as making improvements to existing streets where additional street right-of-way dedications are made to existing streets by the plat. All such street construction shall be completed only after installation of sewer and water mains, laterals and appurtenances, if the same are required to be installed per the terms of the development agreement.

(b) The developer shall be liable for the costs of the binder and surface course pavement in an amount necessary to achieve an average of 4½ inches of binder course and 1½ inches of surface course pavement for the width of the roadway and/or required diameter of any cul-de-sacs.

(Ord. No. 2004-02, § 1(18.05(3)), 9-27-2004)
Cross reference— Streets, sidewalks and other public places, ch. 38.

Sec. 28-44. Lighting.

As a condition of approval of a subdivision, the subdivider shall be liable for all costs of procurement and installation of streetlights to service the subdivision. The number and placement of the streetlights shall be at the discretion of the village board. Lighting design shall take into account surrounding properties and shall minimize the visual impact of the lighting on those properties to the extent possible.
(Ord. No. 2004-02, § 1(18.05(4)), 9-27-2004)

Sec. 28-45. Drainage.

The subdivider shall comply with all applicable provisions of Chapter 10, Article IX of the Code of Ordinances related to construction site erosion and sediment control and Chapter 10, Article X of the Code of Ordinances related to post-construction storm water management. In addition to any storm water improvements which may be required to be made by the subdivider, the subdivider shall make such improvements for the drainage of surface waters from, through and within such subdivision as the village board may require to properly provide for such drainage. In determining what kinds of improvements shall be made by the subdivider, the village board shall consider the drainage problems, both within and without the boundaries of such plat, resulting from the development of such subdivision. If deemed necessary for the resolution of such drainage problems, the village board may require that the subdivider obtain necessary easements outside the boundaries of the plat and require that the subdivider construct such required improvements even though the same may be outside the boundaries of the plat. A registered engineer shall prepare drainage plans.
(Ord. No. 2004-02, § 1(18.05(5)), 9-27-2004)

Sec. 28-46. Street signs.

The subdivider shall install at the intersection of all streets proposed to be dedicated a street sign of a design specified by the village engineer. The village may require additional signs to be installed within the subdivision as it deems necessary. The subdivider shall be liable for all costs associated with the procurement and installation of street signs within or adjacent to the subdivision; however, the village shall procure and install the street signs.
(Ord. No. 2004-02, § 1(18.05(6)), 9-27-2004)

Sec. 28-47. Other utilities.

(a) The subdivider shall cause gas, electrical power, and telephone and other communication facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision.

(b) Plans indicating the proposed location of all gas, electrical power, telephone, and other communications, distribution and transmission lines required to serve the subdivision shall be submitted to the village engineer.

(Ord. No. 2004-02, § 1(18.05(7)), 9-27-2004)

Sec. 28-48. Development agreement.

(a) As a condition of final approval of any plat, the subdivider shall enter into an agreement with the village, whereby the subdivider shall agree to install all such improvements required to be installed under the terms of this chapter. Such agreement shall be guaranteed by, at the subdivider's option, a surety bond or a letter of credit running to the village in the amount of 120% of the estimated total cost of the public improvements to ensure performance by the subdivider in accord with such development agreement within a reasonable period of time. The security shall be posted with the village as far before the commencement of the public improvements as the village board determines reasonably necessary, shall be reduced, upon substantial completion of the public improvements, to no more than estimated remaining construction costs plus 10%, and shall be released no more than 14 months after substantial completion of the public improvements. For purposes of this subsection, "substantial completion" shall mean the installation of the final road binder course or, for other than roadways, upon 90% completion. The development agreement shall include, but is not limited to, the following terms and conditions:

(1) The roads and highways and appurtenances thereto shall be constructed at the expense of subdivider in accordance with the provisions of the Code which are in effect at the time of such construction.

(2) In such cases where the subdivider shall own the land adjoining the roads and highways, the subdivider shall agree to prohibit the planting of shrubs or trees or the installation of fences of such construction as would obstruct vision on curves and intersections within such distances from the edge of the highway as is prescribed by the village board.

(3) Sanitary and water mains and laterals, and storm water drainage facilities, including drain tiles, shall be installed by the subdivider prior to submission of the roads to the village for acceptance.

(4) The subdivider shall agree to indemnify and hold the village and its agents harmless from and against claims related to the performance of work at or for the construction site.

(5) The subdivider's principals shall be personally responsible for reimbursement of costs to the village in the event the subdivider does not proceed with the actual installation of the subdivision improvements.

(6) The subdivider shall be responsible for payment of the village's costs, disbursements and attorney's fees in the event the village brings legal action to enforce compliance with the agreement and a final determination is made in favor of the village.

(7) The subdivider shall grant its permission, in advance, for the vacation of the plat in accordance with Wis. Stat. ch. 236 in the event improvements to the subdivision, for which the subdivider is responsible, are not completed within five years of final plat approval.

(8) The subdivider shall convey all necessary easements, including a conservation easement as required under the Village Code.

(9) Where recommended by the Village's consulting engineers, the subdivider shall agree to conduct at its expense a traffic impact analysis ("TIA") and implement at its expense the recommendations of the TIA.

(10) The subdivider shall warrant and guarantee public improvements for a period of two years ("the Guaranty Period"), commencing on the date the village approves and formally accepts the public improvements. The subdivider shall post a warranty bond, in an amount up to 10% of the initial security posted by the subdivider, which shall remain in place during the Guaranty Period.

(11) Other terms based upon the Village's Code of Ordinances, State and Federal laws and regulations.

(12) Other terms that the village shall deem appropriate pursuant to Wis. Stat. Section 61.34.

(b) The terms and conditions of the agreement of subsection (a) of this section shall extend to the heirs, administrators, successors in title and assigns of the subdivider, including personal liability. However, the subdivider may not assign its rights, duties and responsibilities under this agreement to any other third party without first obtaining the prior written consent of the village.

(Ord. No. 2004-02, § 1(18.05(8)), 9-27-2004)

Sec. 28-49. Building permits.

Until all improvements are installed as required by this article and the development agreement in section 28-48, including the binder course of asphalt, the building inspector shall issue no building permits for construction in such subdivision. However, upon written consent of the village board, the subdivider may develop the subdivision in such stages as approved by the village board, in which case the village board may provide that building permits may issue as to such portions of the subdivision wherein all such improvements have been installed.
(Ord. No. 2004-02, § 1(18.05(9)), 9-27-2004)

Sec. 28-50. Monuments.

All monuments erected, established or used in laying out and platting a subdivision, unless otherwise specifically provided by the village board, shall be oriented to the monuments erected with respect to State Highway 20 or County Trunk Highway A.
(Ord. No. 2004-02, § 1(18.05(10)), 9-27-2004)

Sec. 28-51. Engineering, planning, legal and administrative costs; land division fee.

(a) The subdivider and village shall enter into a predevelopment reimbursement agreement requiring the subdivider to pay to the village all reasonable costs for engineering, planning, legal and administrative expenses incurred by the village, retroactive to the day of submittal of the concept or preliminary plan by subdivider, in:

(1) Processing, reviewing, revising, and acting upon any applications, submittals, conceptual, preliminary or final development plans, including certified survey maps, preliminary and final plats and including consultation reasonably required to address issues and problems encountered during the application and review process for the development; and

(2) Processing, reviewing, revising, drafting and acting upon any agreements, easements, deed restrictions or other documents associated with the proposed development.

(3) Inspection and approval of all improvements constructed, installed or provided for in the development, including, but not limited to, consultation reasonably required to address problems encountered during the course of the design and construction of the development.

(b) Such costs shall include the costs of the village's own employees and outside services for attorneys, engineers, inspectors, planners, agents, ecologists, sub-contractors and consulting engineers. The cost for Village employees' time shall be based upon the classification of the employee and the rates established by the Village Board, from time-to-time, for each such classification. Such costs shall also include, but not be limited to, those for attendance at telephone conferences and meetings. The cost for outside services shall be the direct cost incurred by the Village.

(c) At the time of the submission or review of a conceptual plan, certified survey map, or preliminary plat, the subdivider shall execute a predevelopment reimbursement agreement and deposit with the clerk a fee for a subdivision plat or certified survey map as set forth in the schedule of fees on file in the village clerk's office, which may be revised by village board resolution. The village shall apply such funds toward payment of the above costs. If at any time such deposit becomes insufficient to pay expenses incurred by the village for the above costs, the subdivider shall deposit required additional amounts within 15 days of written demand by the village engineer. Until the required funds are received, the village as to the development plan under consideration will perform no additional work or review. The village may also reject any pending certified survey map, preliminary or final plat for nonpayment of the costs under this section. Within 60 days after final approval of the plat or certified survey map, and execution of any documents by all parties, or upon abandonment of the conceptual plan, certified survey map or plat and prior to final approval, including abandonment due to rejection by any reviewing agency, the village shall furnish the subdivider with a statement of all such costs incurred by it with respect to such conceptual plan, certified survey map or plat. Any excess funds shall be remitted to the subdivider, and any costs in excess of such deposit shall be paid by the subdivider. In the case of an approval of a plat or certified survey map, and if the development requires a written development agreement with the Village as to public infrastructure construction or any other public

financial considerations, the subdivider's deposit shall carry forward under the terms of the development agreement entered into between the parties. Any interest earned on such deposit shall remain the property of the village to partially offset administrative expenses associated with planning and development.

(d) In addition to reimbursement of the above costs, the subdivider shall be responsible for payment to the village of a land division fee per parcel created as set forth in the schedule of fees on file in the village clerk's office, which may be revised by village board resolution. Such fee shall be submitted at the time of execution by the subdivider of the development agreement required in section 28-48.

(e) In addition to any discretionary deposit required by the village board to cover expected costs associated with the submission of a certified survey map, any person submitting a CSM shall pay, at the time of submission, a nonrefundable land division fee for the proposed certified survey map as set forth in the schedule of fees on file in the village clerk's office and may be revised by village board resolution.

(f) If the Subdivider fails to replenish the required deposits or to reimburse the Village for costs the Village has incurred, the Village may impose a special charge upon the real property comprising the land division for any amounts due to the Village plus any costs the Village has incurred in attempting to collect the amounts due. This special charge shall become a lien upon the property.

(Ord. No. 2004-02, § 1(18.05(11)), 9-27-2004; Ord. No. 2008-01, § 23, 12-22-2008)

Secs. 28-52—28-80. Reserved.

Article III. Design Standards

All subdivisions and minor subdivisions must comply with the following design standards:

Sec. 28-81. Streets.

(a) *General.* Streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas. The subdivision or minor subdivision shall be such as to provide each lot by means of a public street satisfactory access to any existing public street.

(b) *Arrangement.*

(1) Major streets and highways shall be properly integrated with the existing and proposed system of major streets and highways and insofar as practicable shall be continuous in alignment with existing, planned or platted streets with which they are to connect.

(2) Collector streets shall be properly located to the mass transportation system, to special traffic generators such as schools, churches and shopping centers, to concentrations of population and to the major streets into which they feed.

(3) Minor streets shall be designed to conform to the topography to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems and to require the minimum street area necessary to provide safe and convenient access to abutting property.

(4) Proposed streets shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions, or unless in the opinion of the village board such extension is not necessary or desirable for the coordination of the layout of the subdivision or minor subdivision for the advantageous development of the adjacent tracts.

(c) *Intersections.*

(1) Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.

(2) The number of streets converging at one intersection shall be reduced to a minimum, preferably not more than two.

(3) The number of intersections along major streets shall be held to a minimum. Wherever practicable, the distance between such intersections shall not be less than 1,000 feet.

(d) *Minor streets.* Minor streets shall not necessarily continue across major or collector streets, but if the centerlines of such minor streets approach the major from opposite sides thereof, within 300 feet of each other measured along the centerline of the major or collector street, their location shall be adjusted so that the alignment across the major or collector street is continuous and a jog is avoided.

(e) *Widths of streets and pavements.*

(1) The minimum right-of-way of all proposed streets shall be 66 feet.

(2) All cul-de-sac streets shall terminate in a circular turn around having a minimum right-of-way diameter of 150 feet.

(f) *Half streets.* Where an existing dedicated or platted half street is adjacent to the tract being subdivided, the other half of the street shall be dedicated by the subdivider. Plats with half streets less than 33 feet in width on the borders of the subdivision shall not be approved unless the owner places on record an agreement running with the land which shall state in effect that lots which are dependent upon the half street of less than 33 feet for ingress and egress purposes shall not be sold, and stating further that no structures shall be erected on such lots with ingress and egress facilities facing the half street until the full width of the street of at least 66 feet shall have been opened, constructed, improved and accepted by the village.

(g) *Street names.* New street names shall not duplicate or be similar to existing street names, and existing street names shall be projected wherever possible.

(Ord. No. 2004-02, § 1(18.06(1)), 9-27-2004)
Cross reference— Streets, sidewalks and other public places, ch. 38.

Sec. 28-82. Easements; Maintenance Obligations.

(a) The village board may require easements of widths deemed adequate by the board for the intended purpose on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, or other utility lines. Wherever possible, the stormwater drainage shall be maintained by either landscaped open channels or enclosed conduits of adequate size and grade to hydraulically accommodate maximum potential volumes of flow.

(b) Where a subdivision or minor subdivision is traversed by a watercourse, drainageway, channel or stream, an adequate drainageway or easement, and storm water management agreement, shall be provided as required by the village board, and recorded with the Racine County Register of Deeds Office. The location, width, alignment and improvement of such drainageway or easement, as well as the terms of the storm water management agreement, shall be subject to the approval of the village board.

(c) Where a subdivision is traversed by a public or private drainage tile line, the subdivider shall investigate and determine, to the extent possible, the location of the tile lines and provide the village with as-built plans showing the precise location of the tile lines, and shall provide easements to the village as specified by the village board. In addition, the Subdivider shall reconstruct, relocate or replace any tile line which may be disturbed by the development of such subdivision so as to provide for the continued operation of such tile line as before development of such subdivision. The Subdivider, until such time as the obligations have been transferred to individual owners and/or a homeowner's or condominium association, shall be responsible for the future maintenance, operation, and replacement of all private storm/surface water facilities, including drain tiles whether previously mapped or subsequently discovered.

(d) Where a minor subdivision is traversed by a public or private drainage tile line, the location of the drainage tile line must be shown on the face of the Certified Survey Map and an easement provided to the Village with respect to said drain tile as specified by the village board. In addition, the owner shall reconstruct, relocate or replace any tile line which may be disturbed by the development of a lot created by a minor subdivision so as to provide for the continued operation of such tile line as before development of such lot. The lot owner shall be responsible for the future maintenance, operation, and replacement of all private storm/surface water facilities, including drain tiles whether previously mapped or subsequently discovered.

(Ord. No. 2004-02, § 1(18.06(2)), 9-27-2004)

Sec. 28-83. Blocks.

The lengths, widths and shapes of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access, control and safety of street traffic and the limitations and opportunities of topography.
(Ord. No. 2004-02, § 1(18.06(3)), 9-27-2004)

Sec. 28-84. Lots.

(a) In addition to complying with applicable provisions of this section, a lot created by subdivision or condominium plat shall comply with the additional lot requirements set forth in section 28-125.

(b) The size, shape and orientation of the lots shall be appropriate for the location of the subdivision or minor subdivision and for the type of development and use contemplated. The lots shall be designed to provide an aesthetically pleasing building site, and a proper architectural setting for the buildings contemplated.

(1) *Shape.* Lots shall be approximately rectangular, with the exception of lots located on a curved street or on a cul-de-sac turnabout.

(2) *Flag lots.* Flag lots shall not be approved.

(c) Every lot shall front or abut on a public street, or other officially approved means of access.

(d) Except as otherwise provided in this section, lot dimensions shall conform to the minimum requirements of the village zoning ordinance, as amended from time to time and any applicable statutes and regulations, provided that:

(1) A lot created by certified survey map and served by public sanitary sewer shall have an area of not less than one acre, exclusive of areas dedicated for public rights-of-way, and at least 150 feet of frontage on a public street and at the setback line as measured from side lot line to side lot line.

(2) A lot created by certified survey map and not served by public sanitary sewer shall have an area of not less than three acres, exclusive of areas dedicated for public rights-of-way, and at least 300 feet of frontage on a public street or at the setback line as measured from side lot line to side lot line.

(3) The ratio of the length of the side of a residential lot to the frontage on the public street shall not be greater than 2.5:1.

(4) A lot on a cul-de-sac must satisfy the front footage requirements on the right-of-way or at the setback line.

(5) If the above density, area or front footage requirements conflict with the village's land use plan, the provision which is more restrictive or imposes higher standards shall control.

(e) Side lot lines shall be at approximate right angles to straight street lines or radial to curved street lines on which the lots face.

(Ord. No. 2004-02, § 1(18.06(4)), 9-27-2004)

Sec. 28-85. Sites.

(a) *Public reservation.* In the design of the plat, due consideration shall be given to the reservation of suitable sites of adequate area for future schools, parks, playgrounds, drainage ways and other public purposes.

(b) *Scenic and historic preservation.* In the design of the subdivision or minor subdivision, consideration shall be given to the preservation of scenic, historic and archaeological sites, including historic buildings and their settings.

(Ord. No. 2004-02, § 1(18.06(5), (6)), 9-27-2004)

Sec. 28-86. Open space and conservation.

(a) *Consideration.* Every subdivider shall consider the creation, preservation, and restoration of open and natural spaces within a subdivision and a minor subdivision, including farmland and agricultural soils, natural habitats for rare, threatened and endangered species, wildlife habitat areas, parklands, prairies, stands of trees and woodlands, marshes, lakes, streams, ponds, watercourses, watersheds and other wetland areas, ravines, and outdoor recreation areas.

(b) *Required.* Subdividers proposing to subdivide land on parent parcels shall create a conservation subdivision and comply with article IV of this chapter in addition to all other applicable provisions of this chapter.

(Ord. No. 2004-02, § 1(18.06(7)), 9-27-2004)

Sec. 28-87. Drainage.

The subdivider shall comply with all applicable provisions of Chapter 10, Article IX of the Code of Ordinances related to construction site erosion and sediment control and Chapter 10, Article X of the Code of Ordinances related to post-construction storm water management.

(Ord. No. 2004-02, § 1(18.06(8)), 9-27-2004)
Cross reference— Utilities, ch. 54.

Sec. 28-88. Single-family and two-family dwelling requirements.

No single-family or two-family dwelling shall be erected or installed in any zoning district where single family dwellings or two-family dwellings are shown as permitted or conditional uses unless it meets all of the following:

(a) *Floor area for single-family and two-family dwelling units.*

(1) *Single Family Dwelling Units*. The floor area of all one-floor single family dwelling units, exclusive of attics, open porches, basements, crawl spaces, sheds, decks, garages, and other appurtenances, shall not be less than 1,400 square feet. For structures with multiple floors, the total square footage of all the floors combined, exclusive of attics, open porches, basements, crawl spaces, sheds, decks, garages, and other appurtenances, shall not be less than 1,400 square feet with a minimum of 1,000 square feet on the first floor.

(2) *Two Family Dwelling Units*. For two family dwelling units, the total square footage of all the floors combined, exclusive of attics, open porches, basements, crawl spaces, sheds, decks, garages, and other appurtenances, shall not be less than 1,400 square feet per family, with a minimum of 1,000 square feet per family on the first floor.

(3) *Measurement for Split Level Structures*. In measuring square footage for a split-level residence, all areas without a living area beneath shall be used in computing the first-floor area.

(b) Foundation requirements for dwellings. All dwellings must be set on an enclosed foundation in accordance with Subchapters III, IV and V of Wis. Admin. Code Ch. SPS 321 or is set on a comparable enclosed foundation system approved by the building inspector. The building inspector may require a plan certified by a registered architect or registered professional engineer to be submitted in order to ascertain that a proposed comparable foundation system provides proper support for the home structure.

(c) *Utility connection.* All dwellings must be properly connected to utilities.

(d) *Manufactured dwellings, manufactured homes, and modular homes.* Manufactured dwellings, manufactured homes, and modular homes that are installed in accordance with the manufacturer's instructions or a plan certified by a registered architect or registered professional engineer so as to ensure proper support for the home, are permitted in any district where single family dwellings or two-family dwellings are shown as permitted or conditional uses.

Sec. 28-89. Landscape plan.

(a) A landscape plan shall be required for all subdivisions and minor subdivisions, except those preparing a stewardship plan under in section 28-125(f)(8). Five full-size copies of a landscape plan shall be submitted with the final certified survey map or the final plat. The landscape plan shall be prepared on paper of good quality at a map scale of not more than 100 feet to one inch and shall show correctly the following information:

(1) The proposed name of the certified survey map or subdivision.

(2) The location of the proposed certified survey map or subdivision.

(3) The names, addresses, and telephone numbers of the owners and/or subdividers and of the designer of the plan.

(4) The boundary line of the site with dimensions, indicated by a solid line, and the total land area encompassed by the site.

(5) The boundary lines of all proposed lot lines and open space areas.

(6) The location, extent, type (common name and scientific name in the case of plant materials), and sizes of all existing trees and natural resource features in all areas of subdivision or minor subdivision to be maintained and credited toward the landscaping requirements of this chapter. If any existing vegetation or other natural resource features are to be demolished or mitigated, the extent of such demolition or area to be mitigated shall also be clearly delineated and so noted on the plan.

(7) The location, extent, type (common name and scientific name in the case of plant materials), and sizes of proposed landscaping and landscape planting in all areas, including any landscaped entrances or other special landscaped features of the subdivision or minor subdivision.

(b) All new landscape plant material shall be grown in a nursery located in plant hardiness zone 4 and shall conform to the applicable requirements as specified in the current edition of American Standard for Nursery Stock as approved by the American National Standards Institute, Inc., and sponsored by the American Association of Nurserymen, Inc. The American Joint Committee on Horticultural Nomenclature shall in accordance with the current edition of Standardized Plant Names prepare botanical plant names.

(c) Areas of a subdivision or minor subdivision designated as landscape easement areas shall be maintained and kept free of all debris, rubbish, and noxious weeds by the property owner or condominium/homeowner's association.

(Ord. No. 2004-02, § 1(18.06(10)), 9-27-2004)

Secs. 28-90—28-120. Reserved.

Article IV.
Condominium and Conservation Subdivision

Sec. 28-121. Subdivision development.

All proposed condominium developments or subdivisions, whether by condominium or subdivision plat, are required to be developed as a conservation subdivision. A condominium or conservation subdivision plat must comply with the requirements of this article in addition to all other applicable sections of this chapter.

(Ord. No. 2004-02, § 1(18.07(intro. ¶)), 9-27-2004)

Sec. 28-122. Concept plan required.

(a) *Submission.* The subdivider shall submit a series of maps and descriptive information, development yield analysis, and concept plan according to the criteria set forth in this section. Mapping can be done in any combination of features as long as individual map components can be distinguished and the relationship between map components can be determined.

(1) *Inventory and mapping of existing resources.* The subdivider shall include the following mapped at a scale of no less than one inch equals 50 feet:

a. Topographic contours at two-foot intervals.

b. United States Department of Agriculture, Natural Resource Conservation Service soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock and water table, and suitability for wastewater disposal systems. Identification of hydric soils (wetland soils). Type and stability of bedrock should also be noted, particularly in Karst areas and areas with high potential for groundwater contamination due to fractured bedrock or the presence of arsenic and mercury.

c. Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas (using existing data from local, state and federal sources; i.e., no new field work is required), wetlands, natural swales, drainageways, and slopes of 20 percent or greater.

d. Land cover on the site, according to general cover type (pasture, woodland, etc.), and stand-alone trees with a caliper of more than 24 inches measured four feet off the ground. The inventory shall include comments on the health and condition of the vegetation. Woodlands shall be classified as deciduous, coniferous, or mixed. Use state land or comparable cover type classifications and do on-site cover type analysis.

e. Known critical habitat areas for rare, threatened or endangered species.

f. Views of the site, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating the location where the photographs were taken.

g. Mapping of offsite adjacent ecological, hydrological, recreational and cultural resources.

h. Unique geological resources, such as rock outcrops and glacial features.

(2) *Development yield analysis.* The subdivider shall submit a development yield analysis as calculated under section 28-125(a), showing the net density calculation and including any development yield bonus requested under 28-125(a)(2).

(3) *Site analysis and concept plan.* The subdivider shall submit a concept plan including at least the information set forth below at a scale of no less than one inch equals 50 feet. The concept plan shall be submitted as an overlay to the inventory map.

a. Open space areas indicating which areas are to remain undeveloped, areas for interior open space, and trail location.

b. Boundaries of areas to be developed and proposed general street and lot layout.

c. Number and type (i.e., single-family, multifamily) of housing units proposed.

d. Proposed methods for and location of water supply, stormwater management (e.g., best management practices) and sewage treatment.

e. Inventory of preserved and disturbed natural features and prominent views.

f. Preliminary development envelopes showing areas for lawns, pavement, buildings, and grading.

g. Proposed methods for ownership and management of open space.

h. Formal open spaces indicating parks, easements, trail routing and drainage easements.

i. Integration of ecological restoration, buffers, and stormwater treatment train.

(4) *General location map.* The subdivider shall submit a map showing the general outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of no less than 1 inch: 400 feet.

(5) *Evidence of ownership and survey required.* The subdivider shall submit a report of title from a title company acceptable to the village showing current ownership of the property proposed to be developed and all encumbrances, together with copies of all easements, covenants, liens and any other encumbrances, defects or clouds on the title appearing in the public record or known to the subdivider or owner of record and shall provide a land survey by a registered land surveyor showing encumbrances of record including the requirements as specified in this section. A copy of the report of title and survey shall be delivered to the village attorney and the proposed conservation easement holder at the same time it is delivered to the village engineer.

(6) *Phase I environmental site assessment.* The subdivider shall have a phase I environmental site assessment in compliance with ASTM Standard E1527-00 "Standard Practice for Environmental Site Assessments: Phase I Environmental

Site Assessment Process" and shall provide a copy of the assessment to the village and to the proposed conservation easement holder. All costs incurred for this assessment shall be the responsibility of the subdivider.

(b) *Review of concept plan.*

(1) The village engineer shall make the determination of whether the entire submittal is complete within 30 days following the filing of a submittal. If it is incomplete, the village engineer will contact the subdivider regarding the additional information required. No action will be taken by the village on incomplete submittals.

(2) Within 60 days of the determination of a complete submittal, the clerk shall place the submittal on the agenda of the next regularly scheduled joint plan commission/village board meeting.

(3) Prior to the joint meeting, the village engineer and any other municipal officers may schedule a site visit with the subdivider to review the existing features of the site and the concept plan. As a condition of further review of the concept plan, the subdivider shall and hereby does grant permission for village officers, employees and agents to enter upon the subject property in furtherance of their official duties. The village engineer shall provide a written report informing the subdivider and the plan commission of his evaluation of the submittal and any additions, changes, or corrections to the concept plan.

(4) Staff from appropriate county and state agencies may also be requested by the village to review the submittal under this section.

(5) At the cost of the subdivider, the village clerk shall provide written notice of the joint meeting to all adjacent landowners to the parent parcel, and all landowners within 500’ of the parent parcel, at least seven days in advance of the meeting to permit members of the public an opportunity to speak as to the proposed concept plan.

(6) The plan commission and village board shall review the concept plan and other documents submitted and provide feedback to the subdivider, based upon the village engineer's report, consideration of the natural features of the site, the village's land use plan, available neighborhood plans, available or anticipated infrastructure, and the density of the surrounding areas. The village board is not bound by discussions at the concept plan stage or feedback provided.

(Ord. No. 2004-02, § 1(18.07(1)), 9-27-2004)

Sec. 28-123. Preliminary plat.

The preliminary plat shall be submitted and reviewed pursuant to article V of this chapter.
(Ord. No. 2004-02, § 1(18.07(2)), 9-27-2004)

Sec. 28-124. Final plat.

The final plat shall be submitted and reviewed pursuant to article VI of this chapter.
(Ord. No. 2004-02, § 1(18.07(3)), 9-27-2004)

Sec. 28-125. Conservation design and improvements.

(a) *Development yield.* The number of residential units for a parent parcel shall be determined in accordance with the following:

(1) *Base development yield.* The base development yield shall equal the net density of the parent parcel.

(2) *Bonus.* The base development yield may, at the discretion of the village board, be increased by the addition of a bonus or bonuses if the development complies with one or more of the standards of this subsection. Except as noted each standard provides a bonus of up to two percent of the base development yield. The maximum bonus permitted is ten percent. No bonus shall be allowed for any subdivision that is located within primary or secondary environmental corridors. The standards are as follows:

a. Preserving 50 percent of the common open space as prime agricultural soils and farmland provides a bonus of up to four percent of the base development yield

b. Encouraging public trail connection by linking new trails within the development to existing local or regional public recreational trails, parks, primary or secondary environmental corridors, or other recreational facilities acceptable to the village board provides a bonus of up to two percent of the base development yield.

c. Reusing historical buildings and structures, including those sites inventoried by the State Historical Society of Wisconsin. The U.S. Department of Interior's Standards for Rehabilitation of Historic Properties shall apply provides a bonus of up to two percent of the base development yield.

d. Providing for more than 75 percent of the lots within a neighborhood to abut significant open space on at least one side. If awarded, a bonus under this subsection shall be prorated on the basis for one half percent of each five percent over the minimum as follows:

80 % = ½ % bonus
85 % = 1% bonus
90 % = 1½ % bonus
95 % = 2 % bonus

(3) *Total development yield.* The base development yield, plus any bonus, shall equal the total development yield for the subdivision. Any fractional development yield amounts shall be determined by conventional rounding principles such that

if the addition of the development yield bonus results in a number of 0.5 or greater, this number is rounded to the next highest whole number.

(4) *Permitted allowable density.* For those areas that are subject to a range of permitted density as set forth on the village's land use plan, the total development yield shall not exceed the maximum allowable density permitted under the plan for that area.

(b) *Standards.*

(1) Conservation subdivisions shall identify a conservation theme or themes. Their themes shall be identified at the time of the concept plan. Conservation themes may include, but are not limited to, forest stewardship, water quality preservation and enhancement, farmland preservation, natural habitat restoration, viewshed preservation, archaeological and historic properties preservation, integration of ecological resources, or passive recreational uses. The village board, upon recommendation of the plan commission, shall have the authority to specify which areas shall be preserved.

(2) Conservation subdivisions shall preserve, restore, if needed, and/or create environmentally sensitive areas such as wetlands, natural habitats for rare, threatened and endangered species, woodlands, shorelands, rain gardens, prairies, meadows, primary or secondary environmental corridors, parklands and viewsheds and establish plans and the means to restore, if needed, manage and maintain such areas.

(3) Common open space shall, to the extent practicable, include open space areas in addition to water bodies, ponds, or mapped wetlands that have been identified.

(c) *Residential lot requirements.*

(1) Areas to be served by public sanitary sewer shall be zoned for a planned unit development (PUD) per the Zoning Code. The principal building setbacks, front-footage requirements, accessory building setbacks, rear lot line, and maximum building height shall be as established for a PUD. A lot shall have an area of not less than one acre, exclusive of areas dedicated for public rights-of-way.

(2) Areas not served by public sanitary sewer shall be zoned for a C-2 conditional use development per the Zoning Code. The front-footage requirements, principal building setbacks, accessory building setbacks, rear lot line, and maximum building height shall be as established for a C-2 development. Areas not served by sewer shall have a minimum net density of one dwelling unit per five acres. A lot shall have an area of not less than one acre, exclusive of areas dedicated for public rights-of-way, unless a larger lot is necessary to accommodate a private on-site wastewater treatment facility in accordance with section 28-42.

(3) All areas shall comply with the following:

a. Most lots shall have access from interior local streets. However, any existing farmstead that is to be preserved that has a driveway, as part of the historic landscape and that does not access a local street, should also

be preserved; and a farmstead that requires a driveway that does not access a local street should be allowed.

b. Lots shall be configured to minimize the amount of impervious surface including street length and width required for the subdivision.

c. Development envelopes shall be configured to minimize loss of woodlands. However, when the objective is to preserve prime farmland soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than 20 percent of a single lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and private on-site waste treatment system.

d. If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the usable area remaining for such agricultural uses with appropriate buffers between agricultural uses and residential structures.

e. At least 75 percent of the lots within a neighborhood shall abut common open space on at least one side. A local street may separate lots from the common open space.

f. Lots shall be adjacent to or around one or more of the following:

    1. A central green or square; and/or

    2. A physical amenity such as a meadow, a stand of trees, a stream or other water body, or some other natural or restored feature.

g. To the greatest extent possible, development envelopes should be screened from peripheral public streets or other visually prominent areas and should not be located on ridges or hilltops.

h. A 30-foot area of native vegetation shall be maintained around open water areas, unless a specific common beach or grassed area is identified.

i. Stormwater management.

    1. Minimize the use of curb and gutter and maximize the use of open swales.

    2. Roof down spouts should drain to porous surfaces.

    3. Landscape plantings should be used to increase infiltration and decrease runoff where soil conditions are suitable and building foundation problems or sanitary sewer infiltration problems will not be created.

4. Preserve natural open drainage systems and incorporate them into the stormwater management system of the subdivision where permitted by the department of natural resources guidelines.

5. The subdivider shall comply with all applicable provisions of Chapter 10, Article IX of the Code of Ordinances related to construction site erosion and sediment control and Chapter 10, Article X of the Code of Ordinances related to post-construction storm water management.

If the density, area or front-footage requirements of this subsection (c) conflict with the village's land use plan, the provision which is more restrictive or imposes higher standards shall control.

(d) *Residential dwellings siting standards.* The siting standards for residential dwellings shall be as follows:

(1) Residential dwellings shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses.

(2) Residential dwellings shall avoid encroaching on rare plant communities, high quality sites, or endangered species identified by the department of natural resources.

(3) House design should minimize the visible obtrusiveness of the garage from the street view, including, but not limited, to the use of setback or side-entry design garages, where possible.

(4) Whenever possible, common open space shall connect internally and with existing or potential common open space lands on adjoining parcels and local or regional recreational trails, public parks or public open spaces.

(5) Residential dwellings should be sited to achieve the following goals, to the extent practicable:

a. Minimize impacts to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.

b. Minimize disturbance to woodlands, wetlands, grasslands, primary or secondary environmental corridors, mature trees or other significant native vegetation.

c. Prevent downstream impacts due to runoff through adequate on-site stormwater management practices.

d. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.

e. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.

(6) Landscaping around the proposed residential dwellings may be necessary to reduce off site views of residences.

(e) *Open space design.*

(1) Common open space shall be designated as part of the subdivision. The minimum required common open space is 64 percent of the gross acreage.

(2) The minimum common open space required shall be owned and managed under one of the alternatives listed in subsection (f) of this section, as approved by the village. The uses within the common open space shall be accessible to the residents of the subdivision, as appropriate. These uses may also be available to the general public providing the proper approvals are received. The required common open space shall be undivided and restricted from further development, as specified in subsection (f) of this section.

(3) Common open space conservation ranking (in order of significance). The areas to be preserved shall be identified on a case-by-case basis in an effort to conserve and provide the best opportunities to restore and enlarge the best quality natural features of each particular site.

a. First priority will be given to farmland preservation, intact natural communities, rare, threatened and endangered species, primary or secondary environmental corridors, natural and restored prairies, significant historic and archaeological properties, and slopes of 20 percent or greater.

b. Second priority will be given to areas providing some plant and wildlife habitat and common open space values.

c. Third priority will be given to areas providing little habitat but providing viewshed, recreation, or a sense of common open space.

(4) The following areas or structures may be located within the common open space area and shall be counted toward the overall common open space percentage required:

a. Parking areas for access to and use of the common open space developed at a scale limited to the potential users of the common open space.

b. Privately held buildings or structures provided they are accessory to the use of the common open space.

c. Shared septic systems and shared potable water systems located on common open space.

(5) Road rights-of-way shall not be counted towards the required minimum common open space, except that common open space within landscaped cul-de-sac islands and medians of boulevards may be counted upon recommendation by the plan commission and approval of the village board.

(6) That portion of common open space designed to provide plant and animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.

(7) Accessible common open space in upland areas shall be available for recreational uses such as trails, play fields, or community gardens but should be designed in a manner that avoids adversely impacting archaeological sites.

(8) A pathway system connecting common open space areas accessible to neighborhood residents and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall, if applicable, be identified in the plan.

(9) The design shall provide for the connection of internal open spaces, whenever possible and connection with existing or potential open space lands or adjoining parcels outside of the development.

(10) Common open space in condominium plats. In condominium plats where the subdivider proposes a condominium in which the unit will encompass only the building pod and the remaining areas will be limited common areas and/or facilities or common areas and/or facilities, the side, back and front yards shall not be counted toward the required minimum common open space.

a. *Purpose.* The purpose of this section is to exclude side, back and front yards as common open space because inclusion of these areas does not fulfill the definitional requirement of common open space or meet the purposes of this ordinance.

b. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection:

1. *Building pod.* The area of a lot including the house, garage, patio, deck, air conditioning unit and other similar improvements attached or abutting the house.

2. *Building envelope.* The area of a lot including a building pod in addition to setbacks of 7.5 feet for each side of the building pod and 25 feet each for the front and back yards.

3. *Calculation.* If the subdivider is proposing a condominium in which the lot will encompass only the building pod and the remaining areas will be limited common areas and/or facilities or common areas and/or facilities, then one of the following shall not be counted toward the minimum common open space requirements:

i. If the actual square footage of the building pod and building envelope are not known, subtract 4,000 square feet for each proposed unit, the calculation being: # of units multiplied by 4,000 square feet for the total amount of square feet not to be included in common open space.

ii. If the actual square footage of the building pod is known, then perform the following: (1) Calculate the total area of setbacks around the building pod of 7.5 feet for each side yard and 25 feet each for the front and back yards for each proposed unit; and (2) Add together the total area encompassing the setbacks for each unit for the total amount of square feet to be excluded from the common open space.

(f) *Common open space and common facilities, ownership and maintenance.*

(1) *Alternatives.* The designated common open space and/or common facilities may be owned and managed by one or a combination of the following:

a. A homeowners' association. A homeowners' association shall be established if the common open space and/or common facilities are proposed to be owned by a homeowners' association. Membership in the association is mandatory for all purchasers of homes in the development and their successors. The homeowners' association bylaws, guaranteeing continuing management of the common open space and/or other common facilities, and the declaration of covenants, conditions and restrictions of the homeowners' association shall be submitted for approval to the village as part of the information required for the preliminary plat. The homeowners' association bylaws or the declaration of covenants, conditions and restrictions of the homeowners' association shall contain the following information:

i. The legal description of the proposed common open space;

ii. A description of common facilities;

iii. The restrictions placed upon the use and enjoyment of the common open space and/or common facilities;

iv. Persons or entities entitled to enforce the restrictions;

v. A mechanism to assess and enforce the common expenses for the common open space and/or common facilities including upkeep and management expenses, real estate taxes and insurance premiums;

vi. A mechanism to implement restoration, maintenance and management of the common open space and/or common facilities;

vii. A mechanism for resolving disputes among the owners or association members;

viii. The conditions and timing of the transfer of ownership and control of common open space and/or common facilities to the association;

ix. Any other matter the subdivider or village deems appropriate.

b. A condominium association established in accordance with the Condominium Ownership Act, Wis. Stats. ch. 703. If the common open space and/or common facilities are to be held under the Condominium Ownership Act, Wis. Stats. ch. 703, the condominium instruments shall identify the restrictions placed upon the use and enjoyment of the common open space and/or common facilities. The condominium instruments shall be submitted for approval to the village as part of the information required for the preliminary plat and shall comply with subsection (3) of this section. All common open space and common facilities shall be held as a "common element" as defined in Wis. Stat. § 703.02(2).

c. A nonprofit conservation organization. If the common open space and/or common facilities are to be held by a nonprofit conservation organization, the organization must be acceptable to the village. The conveyance to the nonprofit conservation organization must contain appropriate provisions for reversion or succession to a subsequent nonprofit conservation organization or other acceptable entity in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.

d. The village or another governmental body empowered to hold an interest in real property. The village may accept the dedication of a conservation easement or fee title to the common open space and/or common facilities; provided:

i. The common open space and/or common facilities are as accessible to the residents of the village as they are to members of the general public.

ii. The village agrees to and has access to maintain and manage the common open space and/or common facilities

e. An individual who will use the land for common open space purposes as provided by a conservation easement. An individual may hold fee title to the land while a nonprofit conservation organization or other qualified organization holds a conservation easement prescribing the acceptable uses and obligations for the common open space and/or common facilities.

(2) *Conservation easement.* Common open space and/or common facilities shall be subject to a conservation easement conveyed to a qualified holder as defined by Wis. Stat. Section 700.40.

(3) *Sterwardship plan.* Every conservation subdivision must include a plan that provides a means to properly manage the common open space in perpetuity, and the long-term means to properly manage and maintain all common facilities. The village in conjunction shall approve the plan with the development agreement prior to or as a condition of final plat approval.

a. The plan shall do the following:

i. Designate the ownership of the common open space and/or common facilities in accordance with subsection (f)(1) of this section.

ii. Establish necessary regular and periodic operation and management responsibilities.

iii. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.

iv. Include a land stewardship plan specifically focusing on the long-term management of common open space lands. The land stewardship plan shall include a narrative, based on the site analysis required in section 28-122(a)(3) describing:

a) Existing conditions including all natural, cultural, historic, and scenic elements in the landscape. This baseline documentation of existing site conditions shall be agreed upon at the time of execution of the conservation easement.

b) The proposed end state for each common open space area; and the measures proposed for achieving the end state.

c) Proposed restoration measures, including: measures for correcting increasingly destructive conditions, such as erosion; and measures for restoring historic features and habitats or ecosystems.

d) The operations needed for managing the stability of the resources for five years, including but not limited to: mowing schedules; weed control; planting schedules; assessment schedule; and clearing and cleanup. At the village's discretion, the applicant may be required to place in escrow sufficient funds for the management and operation costs of the common open space and/or common facilities for a maximum of five years.

e) Education component for educating the homeowners on the stewardship plan and status of the common open space. The holder of the conservation easement shall determine the content of the educational component; however, the holder shall hold an educational meeting with the homeowners at least annually after the annual assessment is conducted.

f) Any stewardship plan of an abutting subdivision that has a stewardship plan in place and addressing any impact that stewardship plan may have on the proposed subdivision.

v. If ownership is vested in a homeowners' association or a condominium association, then the association must contract with a competent contractor, such as a professional ecological service, as approved by the village to oversee and sustain the plan. The village's approval shall not be unreasonably withheld.

b. In the event that the organization established to own and manage the common open space and/or common facilities, or any successor organization, fails to manage all or any portion of the common open space and/or common facilities in reasonable order and condition in accordance with the stewardship plan and all applicable laws, rules, and regulations, the village may serve written notice upon such organization and upon the residents and owners of the common open space and/or common facilities, setting forth the manner in which the organization has failed to manage the common open space and/or common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this chapter, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended. The village may enter the premises and take corrective action.

c. The costs of corrective action by the village shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common open space and/or common facilities and shall become a lien on said properties. The village, at the time of entering upon such common open space and/or common facilities for the purpose of management, shall file a notice of such lien in the office of the county register of deeds upon the properties affected by such lien.

d. Stewardship plans may be amended by the owner identified under subsection 28-125(f)(1) of this section with the approval of the village board.

e. The village may require the common open space to be inspected and assessed annually by the holder of the conservation easement or an independent professional ecologist, or may contract with an independent individual, organization, or business, for a periodic assessment of the common open spaces and/or common facilities of the development to ensure compliance with the stewardship plans. The cost for this periodic assessment of the common open spaces and/or common facilities shall be specially assessed, equally against the properties that have the right of enjoyment of the common open spaces and/or common facilities and shall become a lien on such properties if not paid.

(Ord. No. 2004-02, § 1(18.07(4)), 9-27-2004)

Secs. 28-126—28-150. Reserved.

Article V. Preliminary Plat

Sec. 28-151. Filing application with village.

The subdivider shall file with the village an application for review and approval of a preliminary plat prepared in accordance with this chapter along with a completed checklist and 5 copies of the preliminary plat for review by the village. An additional copy of the preliminary plat shall be provided to the proposed conservation easement holder. Electronic copies of the preliminary plat and additional submittals shall be provided to the clerk. The village engineer may require in his/her discretion, the submittal of complete road, grading and/or drainage plans at the time of submission of the preliminary plat. No preliminary plat shall be accepted for review unless the subdivider has completed the concept plan requirements set forth in section 28-122. If the preliminary plat is not complete or is not submitted in accordance with applicable statutes or ordinances, it shall not be considered filed.
(Ord. No. 2004-02, § 1(18.08(intro. ¶)), 9-27-2004)

Sec. 28-152. Review and approval procedures.

(a) *Referral; administrative staff and utility commission reviews.* The subdivider shall provide copies of the preliminary plat to the appropriate objecting agencies under Wis. Stat. § 236.12, and to the appropriate utilities for their review and comment. The village staff and utility comments will be forwarded to the village plan commission and village board for consideration during the review process.

(b) *Village plan commission review; informational meeting.* The clerk shall give notice of the plan commission's review of the preliminary plat by listing it as an agenda item in the plan commission's meeting notice. The notice shall include the name of the subdivider, the address of the parent parcel, and the requested action. The clerk may schedule an informational meeting on the preliminary plat prior to plan commission review. The clerk shall provide written notice of the plan commission review and/or the informational meeting to all adjacent landowners to the parent parcel, and all landowners within 500' of the parent parcel, at least seven days in advance of such meeting. The cost for such written notice shall be borne by the subdivider.

(c) *Plan commission recommendation.* After review of the preliminary plat and discussions with the subdivider on changes and the kind and extent of public improvements that will be required, the plan commission shall recommend to the village board disapproval, approval, or conditional approval of the preliminary plat within 60 days of the filing date. Any preliminary plat recommended for approval shall be deemed to include conditions, to the extent applicable, of a development agreement, conservation easement, and stewardship plan in forms acceptable to the village board and in compliance with the village ordinances.

(d) *Board action.* After receipt of the village plan commission's recommendation, the village board shall, within 90 days of the date the preliminary plat was filed with the village, approve, approve conditionally, or reject such preliminary plat and shall state, in writing,

conditions of approval or reasons for rejection. Unless the time is extended by agreement with the subdivider, failure of the village board to act within 90 days or extension thereof shall constitute an approval of the preliminary plat, unless other authorized agencies object to the plat. The clerk shall communicate to the subdivider the action of the village board. If the preliminary plat is approved, the village president shall endorse it for the village board. Any preliminary plat recommended for approval shall be deemed to include conditions, to the extent applicable, of a development agreement, conservation easement, and stewardship plan in forms acceptable to the village board and in compliance with the village ordinances.

(e) *Effect of approval.* Approval of a preliminary plat shall be valid for 36 months from the date of approval or conditional approval. Subject to Wis. Stat. § 236.11(1)(b), approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat, which will be subject to further consideration by the plan commission and village board at the time of its submission.

(f) *Amendment.* If the subdivider desires to amend the preliminary plat as approved, the subdivider may resubmit the amended plat, unless the amendment is, in the opinion of the village board, of such scope as to constitute a new plat, in which case it shall be refiled. The village reserves the right to require an additional fee where, in the opinion of the village board, such amendment requires significant additional village resources.

(Ord. No. 2004-02, § 1(18.08(1)), 9-27-2004)

Sec. 28-153. Requirements.

A licensed land surveyor or engineer shall prepare the preliminary plat at a convenient scale not less than one inch equals 100 feet. A preliminary plat shall be prepared in accordance with applicable state statutes and this chapter. More than one sheet may be used to present the following required information:

(1) *Name of the proposed subdivision.* The proposed name of the subdivision shall not duplicate or be alike in pronunciation of the name of any plat previously recorded in the county.

(2) *Project ownership and development information.*

a. Name, address, and telephone number of the legal owner of the parent parcel and, if applicable, agent of the property.

b. Name, address, and telephone number of the professional persons responsible for subdivision design, for the design of public improvements, and for surveys.

c. Date of preparation.

(3) *Existing site conditions.* Provide this information on a property survey map. It is the responsibility of the subdivider to verify the accuracy of information and resources relied upon to compile the following information:

a. Boundary line of the proposed site and all property to be subdivided. Include all contiguous land owned or controlled by the subdivider.

b. Location, width, and names of all existing platted streets and rights-of-way to a distance of 300 feet beyond the site.

c. Show the type, width and condition of street improvements; railroad or major utility rights-of-way, parks and other public open spaces, location and widths of existing snowmobile or other recreation trails; and permanent buildings and structures to a distance of 300 feet beyond the site, if any.

d. Location, widths, and names of all existing public and private easements to a distance of 300 feet beyond the site.

e. Identify by name and ownership boundary lines of all adjoining lands within 100 feet of the proposed plat.

f. Topographic data including contours at vertical intervals of not more than two feet. Elevation values shall be based on the National Geodetic Vertical Datum of 1929 (NGVD) or the North American Vertical Datum of 1988 (NAVD 88) or future adjustments to NAVD 88 as defined by the National Geodetic Survey, if applicable for that parcel, and should also be so noted on the plat.

g. Significant natural resource features on the site, including: jurisdictional wetlands, floodplains, watercourses, existing wooded areas, slopes of 20 percent or greater, drainageways, rare, threatened and endangered species, all environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission and official mapping on file with the county, and other natural resource features, views and other prominent visual features. Where steep slopes may be present, the village may require a survey by a registered land surveyor of the areas containing slopes. This survey shall be referenced to the proposed cross section of the adjacent road.

h. Burial sites categorized under Wis. Stat. § 157.70, Indian mounds, national and state register listed properties, and locally designated historic properties.

i. Existing soil classifications including identification of poor, hydric soils.

j. Legal description of the property.

k. Existing zoning classifications for land in and abutting the subdivision.

l. Total acreage of the proposed site.

m. Provide graphic scale, north arrow, and date.

n. Conservation easements.

o. Restoration zones, including association land included in native landscaping, buffers, and drainage easements.

(4) *Subdivision design features.* Provide the following information on the preliminary plat:

a. Layout of proposed streets, showing right-of-way widths, pedestrian walkways, types of improvements, street surface widths, and proposed street names.

b. Locations and type of proposed public easements (i.e., drainage, utility, pedestrian, public access to waterways, etc.); and all conservation easements.

c. Layout of proposed blocks and lots within the plat.

d. Basic data regarding proposed and existing (if applicable) lots and blocks, including numbers, dimensions, area.

e. Minimum front, side and rear yard building setback lines for all lots.

f. Indication of the use of any lot.

g. Location and size of all proposed and existing sanitary sewer lines and water mains, proposed community sewer and water system, or individual on-site septic systems and potable water sources.

h. Location and size of all proposed and existing storm sewers (lines, drain inlets, manholes), culverts, retention ponds, swales, infiltration practices and areas, and other stormwater facilities within the plat and to a distance of 100 feet beyond the site.

i. Common open space areas, other than pedestrian ways and utility easements, intended to be dedicated or reserved for use by the residents of the development, including the size of such area or areas in acres. Provide information on the conditions, if any, of the dedication or reservation.

j. Proposed preservation, if any, of historical buildings and structures.

k. Development envelopes showing areas for grading, lawns, pavement and buildings.

l. Stewardship plan for restoration and long-term management of the open space areas.

(5) *Preliminary construction plans.* Provide the following information on one or more sheets:

a. *Plan and profile.* Proposed street centerline profile grades, showing the existing and proposed profile grade lines.

b. *Grading and erosion control plan.* A plan showing existing and proposed grades, drainage patterns, and stormwater facilities. The plan shall show the location and extent of grading activities in and adjacent to the plat, overall area of the site in acres, total impervious surface area of project, total pervious area, stockpile locations, erosion and sediment control facilities, and a schedule for erosion and sediment control practices, including site specific requirements to prevent erosion at the source. Major trees to be preserved, with a diameter of four inches or more measured 12 inches above ground level, shall be shown on the preliminary grading and erosion control plan. Adequate measures for protecting major trees shall be shown on the plan.

c. *Disposal, management and flood control.* Provisions for sewage disposal, water supply, stormwater management, and flood control.

(6) *Easements.* No plat or subdivision shall be accepted by the village unless the plat or subdivision provides for an easement across the rear 12 feet of each lot abutting upon a lot in the same plat subjected to a similar easement, making it all an easement of 24 feet. The easement shall be established for the installation of all public utilities. In the event such lot does not abut upon a lot subjected to a similar easement, such nonabutting lot shall be subject to an easement of at least 12 feet in width for the same purposes as hereinbefore set forth. In the event compliance with this requirement is not practicable in the opinion of the village board, the village board may waive the requirements herein provided. The subdivider shall dedicate such other lands or grant such other easements as the village board determines to be reasonably required in accord with state statutes, to provide for public utilities and public uses and needs with respect to such subdivision development.

(Ord. No. 2004-02, § 1(18.08(2)), 9-27-2004)

Secs. 28-154—28-180. Reserved.

Article VI. Final Plat

Sec. 28-181. Compliance with article.

A final subdivision plat shall be filed in accordance with the requirements of this article.
(Ord. No. 2004-02, § 1(18.09(intro.)), 9-27-2004)

Sec. 28-182. Filing of plat, letter of application; evidence of ownership.

The subdivider shall prepare a final plat, a checklist, and a letter of application in accordance with this chapter and shall file 5 copies of the plat and the application with the clerk at least 21 days prior to the joint meeting of the plan commission and village board at which action is desired. An additional copy of the final plat shall be provided to the proposed conservation

easement holder. Electronic copies of the final plat and additional submittals shall be provided to the clerk. The owner or subdivider shall file the final plat not later than 36 months after the date of approval of the preliminary plat; otherwise, the preliminary plat and final plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the village. The subdivider shall also submit at this time a current certified abstract of title or such other evidence as the village may require showing ownership or control in the applicant. Preparation of the final plat shall be in accordance with applicable state statutes and this chapter, provided, however, that the final plat need only comply with village ordinances in effect as of the date the preliminary plat (if any) was submitted. If the final plat is not complete or is not submitted in accordance with applicable statutes or ordinances, it shall not be considered filed.

Sec. 28-183. Objecting agencies.

The subdivider shall submit the original plat to the plat review section, state department of administration, which shall forward two copies to each of the agencies authorized to object under Wis. Stat. § 236.12(2). The department shall have the required number of copies made at the subdivider's expense.
(Ord. No. 2004-02, § 1(18.09(1)(b)), 9-27-2004)

Sec. 28-184. Final construction plans.

Simultaneously with the filing of the final plat, the subdivider shall file with the village four copies of the final plans and specifications of public improvements required by the village.
(Ord. No. 2004-02, § 1(18.09(1)(c)), 9-27-2004)

Sec. 28-185. Installation, protection and management plans.

The subdivider shall also submit stewardship plans prepared by a professional ecological service for areas to be protected and/or into which native vegetation will be introduced or in the alternative a landscape plan pursuant to section 28-89. The village may provide information to guide the subdivider and the village will set minimum standards which may be amended from time to time by resolution of the village board. Village approval shall be required of the professional ecological service to be used; the village's approval shall not be unreasonably withheld. The stewardship plan shall be reviewed by the proposed easement holder if it has a qualified ecologist on staff and acceptable to the village. If the proposed easement holder does not have a qualified staff person, then a qualified professional ecologist acceptable to the village and unaffiliated shall review the plan with the drafter of the stewardship plan. The reviewer shall provide a written report and any recommended revisions to the village engineer at the time the final plat is submitted for approval. The plan shall be revised, if deemed necessary by the village board prior to consideration of the final plat. Any costs incurred for the review of the stewardship plan by the easement holder or a qualified professional ecologist shall be the responsibility of the subdivider. The final stewardship plan shall be submitted to the plan commission and village board, along with the written report, for their information and reference, when they review the final plat.
(Ord. No. 2004-02, § 1(18.09(1)(d)), 9-27-2004)

Sec. 28-186. Referral.

The subdivider shall provide copies of the final plat to the appropriate utilities for their review and comment. The village staff and utility comments will be forwarded to the village plan commission and village board for their consideration during the review process. Prior to the referral of the final plat by the clerk, the final drainage plans must have received their necessary approvals.
(Ord. No. 2004-02, § 1(18.09(1)(e)), 9-27-2004)

Sec. 28-187. Village plan commission review.

(a) *Examination of conformance; condition of approval.* The plan commission shall examine the final plat as to its conformance with the preliminary plat; any conditions of approval of the preliminary plat; this chapter; and all applicable ordinances, rules, regulations, the stewardship plan, and the village's land use plan elements that may affect it and shall recommend approval or rejection of the plat to the village board.

(b) *Recommendation of approval or rejection; review period extension request.* The plan commission shall, within 30 days of the date of filing of the final plat, recommend approval or rejection of the plat and shall transmit the final plat and application along with its recommendations to the village board. Any condition of approval of the preliminary plat that has not been complied with shall remain a condition if the village board approves the final plat. Plats with incomplete or inadequate information shall be rejected unless an extension of the review period is requested by the subdivider and agreed to in writing by the plan commission.

(Ord. No. 2004-02, § 1(18.09(1)(f)), 9-27-2004)

Sec. 28-188. Village board review and approval.

The clerk shall provide a copy of the final plat, the recommendation of the plan commission, a draft of the proposed conservation easement and the stewardship plan to the village board for its review, consideration and possible approval. The village engineer shall also give an opinion, orally or in writing, to the village board regarding whether the final plat conforms substantially to the preliminary plat, along with a recommendation as to approval of the final plat. The village engineer's opinion and recommendation shall become part of the record of the village board's proceedings with respect to the final plat. The village board shall, within 60 days of the date of filing the original final plat, approve or reject such plat unless the time is extended by agreement with the subdivider. If the plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The village board may not inscribe its approval on the final plat unless the clerk certifies on the face of the plat that the copies were forwarded to objecting agencies as required in section 28-183, in the date thereof, and that no objections have been filed within 20 days or, if filed, have been met.

(1) The village board shall, when it determines to approve a final plat, give at least ten days prior written notice of its intention to the municipal clerk of any municipality within 1,000 feet of the final plat.

(2) If the village board fails to act within 60 days, without a time extension and no unsatisfied objections having been filed, the plat shall be deemed approved.

(3) After the final plat has been approved by the village board and required improvements either installed or a contract and sureties ensuring their installation is filed, the clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording with the county register of deeds, along with all conservation easements and deed restrictions. The final plat can be recorded when it has received all required approvals pursuant to applicable state statutes and this chapter. The register of deeds cannot record the plat unless it is offered within 12 months from the date of the village board's final approval and within 36 months after the first approval.

(4) The subdivider shall file eight copies of the final plat with the clerk for distribution to the approving agencies, affected utility districts, and other affected agencies for their files. The subdivider shall also provide a copy of the recorded final plat to the conservation easement holder and village attorney.

(Ord. No. 2004-02, § 1(18.09(1)(g)), 9-27-2004)

Sec. 28-189. Requirements.

(a) A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply with the requirements of Wis. Stat. § 236.20 and this chapter.

(b) In addition to the information required by Wis. Stat. § 236.20, the final plat shall show correctly on its face, have attached to it, or submitted with it, the following:

(1) Exact length and bearing of the centerline of all streets.

(2) Exact street width along the line of any obliquely intersecting street.

(3) Exact location and description of utility and drainage easements.

(4) Railroad rights-of-way within and abutting the plat.

(5) All lands reserved for future public acquisition or reserved for the common use of property owners within the plat, including public access to waterways.

(6) Restrictions relating to access control along public ways.

(7) Setback or building lines.

(8) Any restrictive covenants, deed restrictions, or conservation easements for the proposed subdivision.

(9) The legal instruments detailing the ownership of the common open space, as required in section 28-125.

(10) All the surveying and monumenting requirements of Wis. Stat. § 236.15.

(11) State plane coordinate system. Where the plat is located within a quarter section, the corners of which have been relocated, monumented, and coordinated by the village, the plat shall be tied directly to two of the section or quarter corners so relocated, monumented, and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat.

(12) Certificates. All final plats shall provide all the certificates required by Wis. Stat. § 236.21. In addition, the surveyor shall certify that the surveyor has fully complied with all sections of this chapter.

The final plat shall be recorded as required by Wis. Stat. § 236.25.

(Ord. No. 2004-02, § 1(18.09(2)), 9-27-2004)

Secs. 28-190—28-220. Reserved.

Article VII. Certified Survey Maps

Sec. 28-221. Compliance.

A certified survey map is required for all minor subdivisions. Certified survey maps shall incorporate conservation values, themes, and goals into their design to meet the purposes of the chapter as indicated under sections 28-2 and 28-86.
(Ord. No. 2004-02, § 1(18.10(1)), 9-27-2004)

Sec. 28-222. Preapplication conference.

Prior to the filing of an application for the approval of a certified survey map, and conditioned upon the subdivider entering into a predevelopment agreement with the village, the subdivider may consult with village staff and, as directed by the administrator, village consultants to obtain assistance in planning to obtain information concerning this chapter, village ordinances, the village's land use plan as contained within its comprehensive plan, and applicable neighborhood plans.
(Ord. No. 2004-02, § 1(18.10(2)), 9-27-2004)

Sec. 28-223. Initial application; preliminary certified survey maps.

(a) After the preapplication conference (if any), the subdivider shall submit an executed predevelopment agreement, the fees required above, the checklist for certified survey maps and the preliminary certified survey map to the village clerk for review by village staff, and village consultants as deemed necessary by the administrator. As a condition of further review of the preliminary certified survey map, the subdivider shall and hereby does grant permission for village officers, employees and agents to enter upon the

subject property in furtherance of their official duties. The village may require the subdivider to submit at the time of the initial application a complete inventory of items listed under section 28-226 as an attachment to the preliminary certified survey map or delineated directing on the map if within 100 feet of the proposed building envelopes.

(b) Before submission of the final certified survey map, the plan commission shall review and discuss the preliminary certified survey map along with recommendations from village staff and consultants. The public shall have an opportunity to speak as to the preliminary map. Notice of the meeting shall be sent in accordance with the procedure set forth in section 28-122(b).

(Ord. No. 2004-02, § 1(18.10(3)), 9-27-2004)

Sec. 28-224. Proof of ownership.

The subdivider shall submit documentation to the village showing current ownership of the property proposed to be divided and all encumbrances, if any, shall be detailed on the certified survey map when submitted.

(Ord. No. 2004-02, § 1(18.10(4)), 9-27-2004)

Sec. 28-225. General requirements for final certified survey map.

(a) The final certified survey map shall comply with the provisions of Wis. Stat. § 236.34, and shall describe the entire lands involved in the process of division, except that any remnant parcel over 35 acres in size need not be depicted on the certified survey map unless specifically required by the village board after consideration of the preliminary certified survey map.

(b) If any lots in the certified survey map are not served by municipal sanitary sewer, soil and site evaluations shall be submitted for approval to the county code administration office and/or the department of commerce according to the procedure and standards established under the applicable rules of Wis. Admin. Code ch. SPS 383.

(c) Where the subdivider owns or controls land that is contiguous to the land being divided, a conceptual development plan shall be submitted along with the proposed final certified survey map when required by the village board after review of the preliminary certified survey map. The plan shall be drawn to scale, and shall identify proposed future development of the parcels, including approximate street, driveway and building locations.

(Ord. No. 2004-02, § 1(18.10(5)), 9-27-2004)

Sec. 28-226. Detailed requirements.

A certified survey map shall comply with the provisions of Wis. Stats. § 236.34, applicable sections of this chapter, and shall set forth the following:

(1) Date of map.

(2) Graphic scale, location map and north point.

(3) Name and address of the owner, subdivider, and surveyor.

(4) All existing buildings, watercourses, drainage ditches, existing and required easements, and other features pertinent to proper division.

(5) Names of adjoining streets, highways, parks, cemeteries, subdivisions, ponds, streams, lakes, flowages and wetlands.

(6) Soil boring locations on sites to be served with a private on-site wastewater treatment system.

(7) All lands reserved for future public acquisition or dedication.

(8) Floodland and shoreland boundaries and the contour line lying at a vertical distance of two feet above the elevation of the 100-year recurrence interval flood.

(9) Significant natural resource features on the site, including wetlands, floodplains, watercourses, shoreland boundaries, existing wooded areas, slopes of 20 percent or greater, drainageways, rare, threatened and endangered species, all environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission ("SEWRPC") and the county, and other natural resource features, views and other prominent visual features.

(10) Where the map is located within a quarter section, the corners of which have been relocated, monumented and placed on the Wisconsin State Plan Coordinate System by the state department of transportation, Southeastern Wisconsin Regional Planning Commission, the county or any city, village or village, the map shall be tied directly to one of the section or quarter corners so coordinated. The exact grid bearings and distance of such tie shall be determined by field measurements, and the material and Wisconsin State Plan Coordinate System, south zone, and adjusted to the county control survey.

(11) The surveyor shall certify on the face of the map that it fully complies with all the provisions of this chapter.

(12) The location of known drain tiles.

(13) Any additional information required by the village board.

(Ord. No. 2004-02, § 1(18.10(6)), 9-27-2004)

Sec. 28-227. Final map review and approval procedures.

(a) *Subdivider to file with village clerk.* Following review of the preliminary certified survey map by the plan commission and village board, the subdivider shall file with the village clerk 5 copies of the proposed final certified survey map, along with an application for review and approval of a certified survey map by the village board. Electronic copies of

the final certified survey map and additional submittals (if any) shall be provided to the clerk.

(b) *Referral; administrative staff and utility commission reviews.* The subdivider shall provide copies of the certified survey map to the appropriate utilities for their review and comment. The village staff and utility comments will be forwarded to the village plan commission and village board for consideration during the review process.

(Ord. No. 2004-02, § 1(18.10(7)), 9-27-2004)

Sec. 28-228. Plan commission review and informational meeting.

The clerk shall give notice of the review of the certified survey map at a joint meeting of the plan commission and village board by listing it as an agenda item in the meeting notice. The notice shall include the name of the applicant, the address of the property in question, and the requested action. The clerk may schedule an informational meeting. Notice of the informational meeting (if any) and review by the plan commission and village board shall be sent to all adjacent landowners to the parent parcel, and all landowners within 500' of the parent parcel in accordance with the procedures set forth in article V of this chapter. The cost for such written notice shall be borne by the subdivider.

(Ord. No. 2004-02, § 1(18.10(8)), 9-27-2004)

Sec 28-229. Plan commission recommendation.

After review of the certified survey map and discussions with the subdivider on changes and the type and extent of public improvements that will be required, if any, the plan commission shall recommend to the village board disapproval, approval, or conditional approval of the certified survey map within 45 days of the filing date of the proposed final certified survey map.

(Ord. No. 2004-02, § 1(18.10(9)), 9-27-2004)

Sec. 28-230. Board action.

After receipt of the village plan commission's recommendation, the village board shall, within 90 days of the date the proposed final certified survey map was filed with the village clerk, approve, approve conditionally, or reject such certified survey map and shall state, in writing, conditions of approval or reasons for rejection. Unless the time is extended by agreement with the subdivider, failure of the village board to act within 90 days or extension thereof shall constitute an approval of the proposed final certified survey map. The clerk shall communicate to the subdivider the action of the village board. If the certified survey map is approved, the village engineer shall endorse it for the village board. The certified survey map shall be recorded with the register of deeds office for the county within 12 months after final village board approval and within 36 months after the first approval of the map.

Sec. 28-231. Public improvements.

In the event public improvements are required, plans, computations and specifications, which conform to the provisions required for subdivision improvements, shall be submitted to the

village clerk at the time of submission of the proposed certified survey map. Such plans must be approved by the village engineer before village board approval of the certified survey map. Prior to, or as a condition of, village board approval of the certified survey map, the subdivider shall enter into a development agreement pursuant to section 28-48 and deposit required fees (the "Development Agreement"). In cases where public lands or rights-of-way are reserved or dedicated for future construction of public improvements, the subdivider shall enter into an agreement with the village concerning future costs and liability prior to, or as a condition of, certified survey map approval.
(Ord. No. 2004-02, § 1(18.10(11)), 9-27-2004)

Secs. 28-232—28-260. Reserved.

Article VIII. Modifications or Waivers

Sec. 28-261. Authority; application.

(a) Where, in the judgment of the village board, it would be inappropriate to apply literally the provisions of this chapter because an exceptional circumstance exists, the village board may waive or modify any requirements to the extent deemed just and proper.

(b) Application for any such modification or waiver shall be made in writing by the subdivider at the time when the preliminary certified survey map or preliminary plat is filed for consideration, stating fully all facts relied upon by the subdivider, and shall be supplemented with maps, plans, or other additional data that may aid the village board in the analysis of the proposed project.

(c) Before the village board may act on a request for modification or waiver, the application and all supporting material must first be presented to the plan commission for its review and recommendation based upon the factors set forth in section 28-262. The clerk shall, within 45 days of receipt of the application for a modification or waiver, place the matter on a village plan commission agenda for review and action.
(Ord. No. 2004-02, § 1(18.11(1)), 9-27-2004)

Sec. 28-262. Considerations.

The village board shall consider the following factors, in addition to any other factors deemed relevant by it:

(1) Whether the request for a waiver or modification, if granted, would be consistent with the general intent of the chapter.

(2) Whether the request for a waiver or modification, if granted, would adversely affect property owners in the surrounding area.

(3) Whether the request for waiver or modification, if granted, would benefit the subdivider's project in a way that is not consistent with the village's interests.

(4) Whether the subdivider is in full compliance with other applicable ordinances and agreements with the village.

(5) Whether, instead of granting the request for a waiver or modification, the chapter itself should be changed to accommodate the kind of situation presented by the subdivider.

(6) Whether the conditions upon which the request for a modification or waiver is based are unique to the situation or property for which the modification or waiver is sought and are not applicable generally to other situations or property.

(7) Whether the request for modification or waiver, if granted, would be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

(Ord. No. 2004-02, § 1(18.11(2)), 9-27-2004)

Sec. 28-263. Granting by village board.

(a) The village board, if it approves of the modification or waiver of the application of this chapter or any portion of it, shall do so by motion or resolution and shall instruct the clerk to notify the subdivider.

(b) A majority vote of the village board shall be required to grant any modification or waiver to this chapter. The reasons why such modification or waiver was granted shall be entered in the minutes.

(Ord. No. 2004-02, § 1(18.11(4)), 9-27-2004)

Sec. 28-264. Past noncompliance not waived.

A waiver or modification that is granted pursuant to a written request as described in this article shall not waive any fines, forfeitures or other penalties that may have accrued due to violations of this chapter that took place prior to the date of the request being granted, unless specifically stated otherwise in the decision of the village board.

(Ord. No. 2004-02, § 1(18.11(5)), 9-27-2004)

Chapter 29 RESERVED

Chapter 30
MISCELLANEOUS OFFENSES

Cross reference— Traffic and vehicles, ch. 50.
State Law reference— Crimes, Wis. Stat. chs. 939—948.

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
	Article I. In General		
Sec. 30-1.	Offenses against state laws subject to forfeiture.		
Sec. 30-2.	Obedience to officers.		
Sec. 30-3.	Penalties.		
Sec. 30-4. – 30-30.	Reserved.		
	Article II. Crimes Against Public Safety		
	Division 1. Generally		
Sec. 30-31.	Throwing or shooting missiles and projectiles.		
Sec. 30-32.	Open cisterns, wells, basements or other dangerous excavations prohibited.		
Sec. 30-33.	Abandoned or unattended refrigerators, etc., prohibited.		
Secs. 30-34. – 30-50.	Reserved.		
	Division 2. Use of Firearms and Dangerous Weapons		
Sec. 30-51.	Definition.	04-2016 2021-06	12/12/16 07/12/21
Sec. 30-52.	Use of Firearms and Dangerous Weapons regulated.	04-2016 2021-06	12/12/16 07/12/21
Secs. 30-53. – 30-70.	Reserved.	2021-06	07/12/21
	Division 3. Fireworks		
Sec. 30-71.	Fireworks prohibited.	05-2014	06/09/14
Sec. 30-72.	Penalty.	05-2014	06/09/14
Secs. 30-73. – 30-90.	Reserved.	05-2014	06/09/14
	Division 4. Obstructing, Loitering		
Sec. 30-91.	Obstructing streets and sidewalks prohibited.		
Sec. 30-92.	Loitering.		
Secs. 30-93. – 30-129.	Reserved.		

Article III. Sex Offender Restrictions

Sec. 30-130.	Residency restrictions for sexual offenders.	02-2015	05/11/15
		01-2017	07/10/17
Sec. 30-131.	Loitering restrictions for sex offenders.	06-2014	06/09/14
		02-2015	05/11/15
		01-2017	07/10/17
Sec. 30-132.	Penalty.	02-2015	05/11/15
Secs. 30-133. – 30-134.	Reserved	02-2015	05/11/15

Article I. In General

Sec. 30-1. Offenses against state laws subject to forfeiture.

The following statutes defining offenses against the peace and good order of the state are adopted by reference to define offenses against the peace and good order of the village provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under section 1-14:

29.601(3)	Throwing noxious substances in waters
110.075(7)	Producing/manufacturing/using inspection sticker fraudulently
134.06	Bonus to chauffeurs for purchases, forbidden
175.25	Illegal storage of junked automobiles
218.0145	Used cars/prohibited acts
218.0146	Odometer readings
218.0147	Purchase or lease of motor vehicles by minor
97.627	Causing fires by tobacco smoking
285.30	Motor vehicle emissions, limitations; inspections
287.81	Littering
939.22	Words and phrases defined
941.10	Negligent handling of burning materials
941.12(2), (3)	Interfering with firefighting
941.13	False alarms
943.01(1)	Criminal damage to property (value under $500.00)
943.13	Trespass to land
943.14	Criminal trespass to dwellings
946.40	Refusing to aid officer
946.41	Resisting or obstructing officer
946.70	Impersonating peace officer
946.72(2)	Tampering with public records and notices
947.01	Disorderly conduct
947.06	Unlawful assemblies
951.01—951.15	Crimes against animals

(Code 1982, § 9.01)

Sec. 30-2. Obedience to officers.

No person shall resist or interfere with any officer of the village while such officer is doing any act in his/her official capacity and with lawful authority, nor shall any person refuse to assist an officer in carrying out his/her duties when so requested by the officer.
(Code 1982, § 9.11)

Sec. 30-3. Penalties.

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in section 1-14. In addition to any penalty imposed for violation of Wis. Stat. § 943.01(1), any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent of any unemancipated minor child who violates Wis. Stat. § 943.01(1) may also be held liable for the cost of repairing such damaged or destroyed property in accordance with Wis. Stat. § 895.035.
(Code 1982, § 9.20)

Secs. 30-4—30-30. Reserved.

Article II. Crimes Against Public Safety

Sec. 30-31. Throwing or shooting missiles and projectiles.

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or any other means, at any person, or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the village.
(Code 1982, § 9.03)

Sec. 30-32. Open cisterns, wells, basements or other dangerous excavations prohibited.

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fastened in such manner as to prevent injury to any person; and any cover shall be of such design, size and weight that the cover cannot be removed by small children.
(Code 1982, § 9.12)
State law reference— Capping and filling wells, etc., Wis. Stat. § 167.27.

Sec. 30-33. Abandoned or unattended refrigerators, etc., prohibited.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other

container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside unless such door or lid, snap lock or other locking device has been removed from such icebox, refrigerator or container or unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.
(Code 1982, § 9.13)
State law reference— Refrigerators and iceboxes, Wis. Stat. § 167.25.

Secs. 30-34-30-50. Reserved.

Division 2. Use of firearms and dangerous weapons

State Law reference— Authority to regulate, Wis. Stat. § 66.0409; safe use and transportation, Wis. Stat. § 167.31; firearms, Wis. Stat. ch. 941; local regulation of hunting, Wis. Stat. § 29.038(3); Definition of firearm, Wis. Stat. § 167.31(1)(c); Definitions generally, § 1-2.

Sec. 30-51. Definition.

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

Building means (1) a permanent structure used for human occupancy and includes a manufactured home, as defined in Wis. Stat. Sec. 101.91(2), but does not include any tent, bus, truck, vehicle or similar portable unit or (2) a permanent structure used for commercial purposes on non-residentially zoned property.

Dangerous Weapon means bow and arrow, crossbow, slingshot, blow gun, pellet gun, air rifle and other similar weapons.

Firearm means a weapon that acts by force of gunpowder.

Sec. 30-52. Use of firearms and dangerous weapons regulated.

(a) *Exceptions.* The provisions of this Section shall not prohibit the discharge of Firearms and Dangerous Weapons in the following cases:

(1) By a public official, including a law enforcement officer or police officer, in the lawful discharge of official duties.

(2) By a member of the Armed Forces of the United States or of the National Guard of the State of Wisconsin while in the lawful discharge of official duties.

(3) By a person in the lawful defense of his/her person or property.

(4) By a person at an approved target range, legal game preserve, licensed shooting facility under Section 14-862, or a sport shooting range authorized pursuant to Wis. Stat. Section 895.527.

(5) The restriction on discharge of a Firearm does not apply and may not be enforced if the actor's conduct is justified or, had it been subject to a criminal penalty, would have been subject to a defense described in Wis. Stat. §939.45.

(6) The honorary discharge of a firearm that involves the use of only blanks and that is part of any of the following:

a. An event, including a funeral, honoring a current or former member of the military, law enforcement officer, or professional fire fighter.

b. Military honors provided at a cemetery on Memorial Day or Veterans Day.

c. Military honors provided at a veterans memorial site.

(b) It shall be unlawful for any person to discharge any Firearm or Dangerous Weapon within the boundaries of the village in a careless and heedless manner and in willful and wanton disregard for the rights and safety of others, or without the due caution or in a manner so as to endanger or be likely to endanger property or any person.

(c) It shall be unlawful for any person to use or discharge:

(1) A Firearm or Dangerous Weapon within 300 feet of a Building without the permission of the person who owns the land on which the Building is located.

(2) A Firearm or Dangerous Weapon within 300 feet of any residential zoning district.

(3) A Firearm or Dangerous Weapon within a distance of 50 feet from the centerline of any public highway or public road surfaced with gravel, concrete or blacktop.

(4) A Firearm or Dangerous Weapon in any public park, parking area or other area marked by signs prohibiting such use or discharge.

(5) A Firearm so that the projection of shot or shell is above or into another's land without the permission of the person who owns the land.

Secs. 30-53 to 30-70. Reserved.

Division 3. Fireworks

Cross reference— Fireworks, § 14-431 et seq.
State Law reference— Fireworks, Wis. Stat. § 167.10.

Sec. 30-71. Fireworks prohibited.

No person shall sell, use, keep, discharge or explode any fireworks, except as provided in Section 14-431 et seq.

Sec. 30-72. Penalty.

A person, or a parent or legal guardian of a minor who consents to the use of fireworks by the minor, who violates this Division shall forfeit not more than $1,000.00.

Secs. 30-73 to 30-90. Reserved.

Division 4. Obstructing, Loitering

Sec. 30-91. Obstructing streets and sidewalks prohibited.

No person shall stand, sit, loaf or loiter, or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the village in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon, or to prevent or hinder free ingress to or egress from any place of business or amusement, or any church, public hall or meeting place. (Code 1982, § 9.05)

Cross reference— Streets, sidewalks and other public places, ch. 38.
State law reference— Unlawful assembly, obstructing highway, Wis. Stat. § 947.06.

Sec. 30-92. Loitering.

(a) *Loitering or prowling prohibited, generally.* No person shall loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this subsection, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting identification and an explanation for the person's presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

(b) *Obstruction of traffic by loitering.* No person shall loaf or loiter in a group or crowd upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the village in such manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, alleys, sidewalks, street crossings or bridges or other public places by persons passing along and over such public streets, alleys, sidewalks, street crossings or bridges or other public places.

(c) *Loitering after being requested to move.*

(1) *In groups or crowds.* No person shall loaf or loiter in a group or a crowd upon the public streets or sidewalks or in adjacent doorways or entrances, on street crossings or bridges or in any other public place or on any private premises without invitation from the owner or occupant, after being requested to move by any peace officer or by any person in authority at such places.

(2) *In places of public assembly or use.* No person shall loiter, lounge or loaf in or about any depot, theater, dancehall, restaurant, store, public sidewalk, public parking lot or other place of assembly or public use after being requested to move by any peace officer. Upon being requested to move, a person shall immediately comply with such request by leaving the premises or the area thereof.

(3) *Obstructing highways.* No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the street, bridge, sidewalk or crossing after being requested to move on by any peace officer.

(Code 1982, § 9.07)
State law reference— Vagrancy, Wis. Stat. § 947.02.

Secs. 30-93 to 30-129. Reserved.

Article III. Sex Offender Restrictions

Sec. 30-130. Residency restrictions for sexual offenders.

(a) *Recitals*.

(1) Whereas, after reviewing and discussing examples of sex offender residency restriction ordinances from several other Towns and Villages, including maps of prohibited locations for the residency of sex offenders corresponding to such ordinances, the locations of places where children are known to congregate in the Village and a power point presentation on Sex Offender Residency Restrictions, at four public meetings, the Village Board adopted the first version of this ordinance on November 14, 2011.

(2) Whereas, on June 9, 2014, the Village made a minor amendment to the ordinance to change the reference from law enforcement officer to code enforcement officer.

(3) Whereas, upon request by residents of the Village, the Village Board again reviewed additional materials related to the sex offender residency restrictions in this ordinance including information from the Racine County Sheriff's Department and the Wisconsin Department of Corrections on the Sex Offender regulations and the notification process, similar ordinances from municipalities in Southeastern Wisconsin, and locations where children congregate in the Village. The Village Board adopted revisions to this ordinance again on May 11, 2015 to address the concerns raised by its residents, including concerns about recidivism and the burden upon the Village from having too many sex offenders locate in the Village if they cannot locate in other municipalities, after having significant discussions at six public meetings and receiving input from

members of the public, Sandy Cornell, a Sex Offender Registration Specialist from the Wisconsin Department of Corrections and Captain Daniel Adams of the Racine County Sheriff's Office

(4) Whereas, after receipt and review of an Order in the case of Hoffman, et al. v. Village of Pleasant Prairie, Case No. 16-CF-697-JPS from the United States District Court, Eastern District of Wisconsin, the Village Board determined that it would again review this ordinance in light of this most recent court decision and determined that additional revisions should be made to the ordinance.

(5) Whereas, on June 26, 2017, the Village held a public hearing on this ordinance after publication of a Notice of Public Hearing two times each in the Westine Report and the Racine Journal Times, both newspapers of general circulation within the Village. At this public hearing, the Village Board heard comments on the ordinance from members of the public and reviewed and discussed the ordinance as well as the following written materials:

a. "Recidivism of Adult Sexual Offenders." U.S. Department of Justice, July 2015, SOMAPI (Sex Offender Management Assessment and Planning Initiative); and

b. "An Overview of Sex Offender Management." July 2002, U.S. Department of Justice, CSOM (Center for Sex Offender Management); and

c. "There goes the Neighborhood? Estimates of the Impact of Crime Risk on Property Values from Megan's Laws." May 2006, National Bureau of Economic Research; and

d. Order of the Honorable J.P. Stadtmueller of the United Stated District Court, Eastern District of Wisconsin, Hoffman et al. v. Village of Pleasant Prairie, Case No. 16-CF-697-JPS.

(b) *Findings and intent.* This Article III is a regulatory measure aimed at protecting the health and safety of children in the Village from the risk that convicted sex offenders may reoffend in locations close to their residences. The village board finds and declares that repeat sexual offenders who use physical violence and sexual offenders who prey on children, are sexual offenders who present an extreme threat to the public safety and the health of children. Sexual offenders are extremely likely to use physical violence and to repeat their offenses; and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large and the community where they reside, while incalculable, clearly exorbitant. It is further believed that such persons present an alarmingly high risk of re-offending once released. As such, the Village hereby establishes regulations which restrict certain offenders from residing or congregating in areas that are at or near where there is a high concentration of children in order to provide better protection for children in the Village by minimizing immediate access and proximity to children and thereby reducing opportunity and temptation for recidivism.

It is not the intent of the village board to punish sex offenders, but rather to serve the village's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the village by creating areas around locations where children regularly congregate in concentrated numbers, wherein, certain sexual offenders are prohibited from establishing temporary or permanent residence. Due to the high rate of recidivism

for sexual offenders, and because reducing both opportunity and temptation would help minimize the risk of reoffense, there is a compelling need to protect children where they congregate or play in public places.

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

(1) *Child* or *Children* means person(s) under the age of eighteen (18) years for purposes of this Ordinance.

(2) *Crime Against Children* shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction or adjudication, respectively: § 940.22(2) Sexual Exploitation by Therapist; § 940.30 False Imprisonment where victim was a minor and not the offender's child; § 940.31 Kidnapping where victim was a minor and not the offender's child; § 944.01 Rape (prior statute); § 944.06 Incest; § 944.10 Sexual Intercourse with a Child (prior statute); § 944.11 Indecent Behavior With a Child (prior statute); § 944.12 Enticing Child for Immoral Purposes (prior statute); § 948.02(1) First Degree Sexual Assault of a Child; § 948.02(2) Second Degree Sexual Assault of a Child; § 948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child; § 948.05 Sexual Exploitation of a Child; § 948.055 Causing a Child to View or Listen to Sexual Activity; § 948.06 Incest with a Child; § 948.07 Child Enticement; § 948.075 Use of a Computer to Facilitate a Child Sex Crime; § 948.08 Soliciting a Child for Prostitution; § 948.095 Sexual Assault of a Student by School Instructional Staff; § 948.11(2)(a) or (am) Exposing Child to Harmful Material, felony sections; § 948.12 Possession of Child Pornography; § 948.13 Convicted Child Sex Offender Working with Children; § 948.30 Abduction of Another's Child; § 971.17 Not Guilty by Reason of Mental Disease, of an included offense; and § 975.06 Sex Crimes Law Commitment.

(3) *Designated Offender* means any person who (1) has been convicted of a Crime Against Children; (2) has been adjudicated delinquent for a Crime Against Children; (3) is or was required to register under Section 301.45, Wisconsin Statutes, for any sexual offense; or (4) any person who is or was required to register under Section 301.45, Wisconsin Statutes, and who has been designated a Special Bulletin (SBN) sex offender pursuant to Sections 301.46(2) and (2m), Wisconsin Statutes.

(4) *Juvenile* means a person under the age of eighteen (18) years.

(5) *Permanent Residence* means a place where the Designated Offender lodges or resides for fourteen (14) or more consecutive days.

(6) *Temporary Residence* means either: (a) a place where the person abides, lodges or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person’s Permanent Residence; or, (b) a place where the person routinely abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person’s Permanent Residence.

(7) *Protected Location* means any Athletic Fields, Day Care Center, Library, Park, Place of Worship, Playground, Recreational Trail, School Property, and Swimming Pool, or any other place designated in the Map adopted by the Village under Section 30-130(c)(3) as a place where children are known to congregate. The defined terms included in the definition of Protected Location are:

a. *Athletic Fields* means fields used by Children for organized sporting activities. This definition includes all public athletic fields and private athletic fields if they are open to the public.

b. *Day Care Center* means a facility that has been licensed under Wis. Stat. § 48.65 to provide care and supervision of children and includes "before- and after-school daycare," which has the meaning as defined by Wis. Stat. § 120.125(1).

c. *Library* means any library that is held open for use by the public where such library includes a collection of material specifically intended for use by children.

d. *Park* means any area held open for use by the public for active or passive leisure purposes, including, but not limited to, any park, recreation area or beach. "Park" shall also mean any privately owned neighborhood parks and open spaces where children congregate such as those owned by a homeowners association of a subdivision.

e. *Place of Worship* means a church, synagogue, mosque, temple or any other building where congregations gather for prayer.

f. *Playground* means any public outdoor area set aside for recreation and play and includes any area with playground equipment including, but not limited to, swings, slides, sandboxes, and seesaws.

g. *Private Places* means a property owned by a private person or entity but open to the public to provide a service and where children regularly congregate, whether supervised or unsupervised. For example and to show the intent of this definition: the restaurant and facility named Apple Holler, 5006 S. Sylvania Avenue in the Village of Yorkville.

h. *School Property* means any public school as defined by Wis. Stat. § 115.01(1); a private school as defined by Wis. Stat. § 115.001(3r); a charter school as defined by Wis. Stat. § 115.001(1); a specialty school, including, but not limited to, a Montessori school, a gymnastics academy, dance academy, or music school.

i. *Swimming Pool* means where children swim or wade in a pool or other aquatic facility held open for use by the public or where no lifeguard is on duty and children are known to congregate.

j. *Recreational Trail* means a trail where children regularly walk, ride bicycles, or ride horses, and that is dedicated to the public for recreational purposes.

(d) *Child Safety Zones.*

(1) *Restrictions.* In absence of a court order specifically exempting a Designated Offender from the residency restriction in this subsection, a Designated Offender shall not establish a permanent or temporary residence within 1,000 feet of any Protected Location. No Designated Offender may establish a Permanent Residence or Temporary Residence within a one thousand (1,000) foot radius of an existing Permanent Residence or Temporary Residence of another Designated Offender. This one thousand (1,000) foot area is referred to herein as the "Child Safety Zone(s)".

(2) *Determination of Minimum Distance Separation*. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the nearest outer property line of the Permanent Residence or Temporary Residence of a Designated Offender to the nearest outer property line of a Protected Location.

(3) *Maps.* A map depicting the above Protected Locations and the resulting residency restriction distances known as Child Safety Zones shall be adopted by Resolution of the Village Board, and which map may be amended from time-to-time, is on file in the Office of the Village Clerk for public inspection. This Map is a tool that the Village chooses to utilize to provide notice to the public of the requirements of the Ordinance. In the event of a conflict between the Map and this Ordinance where a Protected Location is inadvertently omitted from the Map, the written provisions of this Ordinance shall control.

(4) *Notification.* A Designated Offender must notify the Village Clerk a minimum of twenty-eight (28) days prior to establishing either a Permanent Residence or Temporary Residence within the Village of Yorkville.

(e) *Residency restriction exceptions.* A Designated Offender residing within a Child Safety Zone as described in subsection (d) does not commit a violation of this ordinance if any of the following apply:

(1) The Designated Offender established a Permanent Residence or Temporary Residence and reported and registered the residence if required to under Wis. Stat. § 301.45, before the effective day of this ordinance, that being December 3, 2011, the day after the date of publication of the adopted ordinance.

(2) The Designated Offender was under 17 years of age and is not required to register under Wis. Stat. § 301.45 or 301.46.

(3) The Prohibited Location within 1,000 feet of the Designated Offender's Permanent Residence or Temporary Residence was opened after the person established the Permanent Residence or Temporary Residence and reported and registered the residence if required under Wis. Stat. § 301.45.

(4) The Designated Offender is required to serve a sentence at a jail, juvenile facility or other correctional institution or facility located within a Child Safety Zone.

(5) The Designated Offender is:

a. A Juvenile who was adjudicated delinquent of (or found guilty of) a Crime Against Children in juvenile court and placed with a guardian or meets the definition of a Designated Offender and placed with a guardian;

b. A Juvenile placed with a guardian;

c. A ward under guardianship, placed in accordance with the guardianship orders, and residing with the appointed guardian;

d. The person had not attained the age of 19 at the time of the offense, was determined by the court to meet the criteria under Wis. Stat. § 301.45(1m)(a) and is not required to register pursuant to Wis. Stats. § 301.45 or § 301.46.

e. The residence is also the primary residence of the designated sex offender's parents or spouse, provided that such person established the residence at least one year before the designated sex offender established residence at the location.

(6) In such cases involving a Juvenile placed in accordance with this exception, when the Juvenile turns 18 years of age, the Juvenile would be allowed to continue to reside at the already established residence.

(7) The person is a Designated Offender that has been adjudicated a sexually violent person pursuant to Wisconsin Statutes Chapter 980 if the Designated Offender is subject to supervised release under Wisconsin Statutes Chapter 980, the Designated Offender is residing where he or she is ordered to reside under Wis. Stat. §980.08, and the Sex Offender is in compliance with all court orders issued under Wis. Stat. Ch. 980.

(f) *Property Owners Prohibited From Renting Real Property To Certain Sexual Offenders and Sexual Predators.* It shall be unlawful for any property owner to lease or rent any place, structure, mobile home, trailer or any part thereof, with the knowledge that it will be used as a Permanent Residence or Temporary Residence by any Designated Offender prohibited from establishing a Permanent Residence or Temporary Residence therein pursuant to this Ordinance, if such place, structure, or mobile home, trailer or any part thereof, is located within a Child Safety Zone as defined in Subsection (d) .

(g) *Public Nuisance.* Any violation of this Chapter shall be deemed a public nuisance affecting peace and safety and the Village may proceed under Section 22-118 of the Code of Ordinances and/or Wis. Stat. Ch. 823 of the Wisconsin Statutes to abate the nuisance.

(h) *Injunction for Violation of Residency Restrictions.* If a Designated Offender establishes a Permanent Residence or Temporary Residence in violation of subsection (d) above, the Code Enforcement Officer may refer the matter to the Village Attorney. The referral shall include a written determination by the Code Enforcement Officer that, upon all of the facts and circumstances and the purpose and intent of this Ordinance, such violation interferes substantially with the comfortable enjoyment of life, health, and safety of another or others. Upon such referral, the Village Attorney shall bring an action in the name of the Village in Circuit Court to permanently enjoin such residency as a public nuisance after review and approval by the Village Board.

(i) *Severability.* Should any section, paragraph, sentence, clause or phrase of this Section be declared unconstitutional or invalid, or be repealed, it shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or repealed.

(j) *Appeal for an exemption*.

(1) A designated offender may seek an exemption from this Sec. 30-130 by appealing to the sex offender residency board (the "Appeals Board").

(2) The Appeals Board shall consist of three citizens and one alternate. For the initial appointments to the Appeals Board, the Village President shall appoint three members to staggered terms of one, two or three years, subject to confirmation by the Village Board and one alternate for a term of three years. After the initial appointment of members to a term of one, two and three years respectively, the Village President shall annually, between the last Monday of April and the first Monday of May, appoint one member for a term of three years and one alternate for a term of three years every third year, subject to confirmation by the Village Board. At the first meeting held of the Appeals Board after the first Monday of May of each year, the members of the Appeals Board shall vote by majority vote to select a chair for its meetings and appeals that come before it

(3) The Appeals Board shall approve of an official appeal form. An offender shall complete this official form and submit it to the Village Clerk, who shall forward it to the Appeals Board. Notice in the form of an agenda shall be posted and/or published as required by law and provided to the Appeals Board, the property owner if not the applicant, and published on the Village's website at least seven days prior to the hearing date.

(4) The Village elects not to be bound by Wis. Stat. Ch. 68 with respect to administrative procedure in the appeals process. The Appeals Board shall hold a hearing on each appeal to conduct an individual risk assessment in each case, during which the Appeals Board may review any pertinent information and may accept oral and written statements from any person. The Appeals Board shall consider the public interest as well as the applicant's presentation and concerns, giving the applicant a reasonable opportunity to be heard. The Appeals Board shall also consider any oral, emailed, and written statements from any person at the hearing or received in advance of the hearing. The Appeals Board shall consider the specific facts and circumstances of each applicant and determine whether the applicant presents a threat to public safety if he or she resides at that proposed location. The Appeals Board shall consider factors which may include, but are not limited to, the following:

a. Circumstances surrounding the offense.
b. Relationship of offender and victim.
c. Presence or use of force.
d. Presence of enticement.
e. Need to protect victim or similarly situated individuals.
f. Current dangerousness of the offender.
g. Proximity in time from original offense.

h. Any criminal offenses or rule violations committed since original offense.
i. Time out of incarceration.
j. Current supervision status by the Department of Corrections.
k. Counseling and treatment history.
l. Credibility of offender.
m. Remorse.
n. Proximity of proposed residence to a child safety zone.
o. Support network of offender near proposed residence
p. Alternative options for housing.

(5) The Appeals Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or be conditional to a certain address or period of time. In the case of an approval or denial, the Appeals Board shall provide a written copy of the decision containing the reasons therein for its decision to the Code Enforcement Officer assigned to the Village and to the applicant. The decision of the Appeals Board may be appealed to the Racine County Circuit Court by any aggrieved party within 30 days of receipt of the final decision. The review shall be a review by certiorari and the Circuit Court may affirm or reverse the final decision, or remand to the decision maker for further proceedings consistent with the Court's decision.

Sec. 30-131. Loitering restrictions for sex offenders.

(a) *Loitering.*

(1) *Offense.* It shall be unlawful for any Designated Offender as defined in subsection 30-130(c)(3), to loiter or prowl within 200 feet of a Protected Location as defined under Sec. 30-130(c)(7) of this Code or other location where children regularly congregate; in a place, at a time, or a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a code enforcement officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstances makes it impractical, a code enforcement officer shall, prior to any citation for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself, or explain his or her presence and conduct at the aforementioned locations. No person shall be convicted of an offense under this section if the code enforcement officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true, and, if believed by the code enforcement officer at the time, would have dispelled the alarm.

(2) *Exceptions*. The prohibitions set forth in subsection (1) shall not apply where:

a. The actor was a juvenile or ward with his or her parent or other adult person having his or her care, custody or control; or the actor was exercising First

Amendment rights protected by the United States Constitution, including freedom of speech, free exercise of religion and the right of assembly.

b. The actor is on the property for a legitimate purpose, including but not limited to visits for employment, education, or health purposes, and the property owner has given prior written permission for the offender to be present on the property during such times and dates.

Sec. 30-132. Penalty.

(a) A person who violates provisions of Section 30-130 shall be subject to a forfeiture of not less than $500.00 and no more than $1,000.00 for each violation. Each day a violation continues shall constitute a separate offense. The Village may also seek equitable relief to gain compliance.

(b) Any person violating Section 30-131 shall forfeit not less than $500.00 and no more than $1,000.00 for each violation.

Sec. 30-133 to 30-134. Reserved.

Chapters 31 - 33 RESERVED

Chapter 34
SOLID WASTE

Cross reference— Buildings and building regulations, ch. 10; mobile homes and mobile home parks, § 14-301 et seq.; environment, ch. 22; littering, § 22-1; utilities, ch. 54.
State Law reference— Solid waste, Wis. Stat. chs. 287, 289, 291.

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Article I. In General

Sec. 34-1. Penalty.

Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter, or any order, rule or regulation made hereunder, upon conviction thereof, shall be subject to a penalty as provided in section 1-14.
(Code 1982, § 11.10)

Secs. 34-2-34-30. Reserved.

Article II. Collection And Disposal

Division 1. Generally

Sec. 34-31. Purpose.

The purpose of this article is to regulate the dumping or disposal of waste, garbage, refuse and sludge by individuals, corporations, municipalities and counties within the village. Because of the possible danger to the health, safety and welfare of the public, such dumping or disposal within the village shall only be permitted under the terms and conditions set forth in this article, and such terms and conditions shall constitute preexisting local approvals as authorized by law. This article shall apply to any dump or disposal site located in the village and to the expansion of any dump or disposal sites which may exist in the village on the date of the adoption of the ordinance from which this article derives.
(Code 1982, § 11.07(1))

Sec. 34-32. 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:

Discharge means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping.

Disposal means, but is not limited to, the discharge, deposit, injection, dumping or placing of any waste, garbage, refuse or sludge into or on any land or water in any manner which may permit the waste, garbage, refuse or sludge, or any constituent thereof, to be admitted into the air, to be discharged into any waters of the state or otherwise to enter the environment. The term "disposal" does not include transportation, storage or treatment of waste, garbage, refuse or sludge.

Disposal site. See "Dump."

Disposer. See "Dumper."

Dump means the facility for waste treatment, waste storage or waste disposal, and includes commercial, industrial, municipal, state and federal establishments or operations such as, without limitation because of enumeration, sanitary landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, collection and transportation services and processing, treatment and recovery facilities. The term "dump" includes the land where the facility is located. This term "dump" does not include a facility for the processing of scrap iron, steel or nonferrous metal using large machines to process a principal product of scrap metal for the sale or use for remelting purposes; a facility which uses large machines to sort, compact or bale clean wastepaper, fibers or plastic, not mixed with other waste for sale or use for recycling purposes; nor any auto junkyard or scrap metal salvage yard.

Dumper means any individual, corporation, municipality or county who, or which, performs the act of dumping or disposal as defined in this section.

Dumping means, but is not limited to, unloading, throwing away, discarding, emptying, abandoning, discharging, burning or burying waste, garbage, refuse or sludge on, into or under any property or lands, whether publicly or privately owned, within the village.

Fly ash means the powdery mineral residue removed from the noncombustible portion of fuel that escapes with the exhaust gas and is collected by air pollution control equipment.

Garbage means discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

Leachate means water or other liquid which has been contaminated by dissolved or suspended materials due to contact with waste or gases therefrom.

Municipality means any town, village, city or county, as well as any utility district, sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.

Open burning means combustion of solid waste where the products of combustion are admitted directly to the ambient air without passing through a stack or chimney. The term "open burning" does not include the combustion occurring at a properly operated air curtain destructor or incinerator.

Person means an individual, corporation, municipality or other legal entity, partnership and any unincorporated association.

Refuse means combustible and noncombustible discarded material including, but not limited to, trash, rubbish, paper, wood, metal, glass, plastic, rubber, cloth, ashes, litter and street rubbish, industrial waste, dead animals, mine tailings, gravel pit and quarry spoils, toxic and hazardous wastes, and material and debris resulting from construction or demolition.

Sludge means any solid, semisolid or liquid residue generated from municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility.

Storage means the holding of waste for a temporary period at the end of which the waste is to be treated or disposed.

Treatment means a method, technique or process which is designed to change the physical, chemical or biological character or composition of waste. The term "treatment" includes incineration.

Waste means garbage, refuse and all other discarded or salvageable materials, including waste materials resulting from industrial, commercial and agricultural operations and from domestic use and public service activities.

Waste, hazardous, means any waste identified by the state department of natural resources as hazardous.

(Code 1982, § 11.07(2)) Cross reference - Definitions generally, § 1-2.

Secs. 34-33 - 34-50. Reserved.

Division 2. Disposal

Sec. 34-51. State law to apply.

Nothing contained in this division shall be deemed to limit or restrict the application of any state law or administrative regulation of any state agency regulating the subject of this article.
(Code 1982, § 11.07(15))

Sec. 34-52. References.

References to the terms "person," "individual," or like references shall be deemed to refer to a person, sole proprietorship, corporation and a municipality, and also to a responsible member, officer or managing agent of any single proprietorship, partnership, corporation or municipality, unless the context clearly indicates otherwise.
(Code 1982, § 11.07(16))

Sec. 34-53. Public and private nuisance.

Notwithstanding any provision of this article, the village, or its citizens, may maintain an action under Wis. Stat. § 841.01 or Wis. Stat. ch. 823 for public or private nuisance or physical injury to their property caused by or alleged to have been caused by the dump or disposal site.
(Code 1982, § 11.07(17))

Sec. 34-54. Prohibited discharges.

No person shall discharge or cause to be discharged, leaked, leached or spilled upon any public street, alley or public property or onto the ground, surface waters, subsurface waters or aquifers or on any private property within the village, except those areas specifically licensed for waste disposal or landfill activities and to receive such materials; any explosive, flammable or

combustible solid, liquid or gas; any radioactive material at or above nuclear regulatory restriction levels, etiologic agents; or any solid, liquid or gas creating a hazard, potential hazard or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.
(Code 1982, § 11.08(1))

Sec. 34-55. Containment, cleanup and restoration.

Any person in violation of section 34-54 shall, upon direction of any emergency government officer, begin immediate actions to contain, cleanup and remove to an approved repository the offending materials and restore the site to its original condition, with the offending person being responsible for all expenses incurred. Should any person fail to engage the necessary men and equipment to comply or to complete the requirements of this division, the office of emergency government may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the village from the offending person.
(Code 1982, § 11.08(2))

Sec. 34-56. Site access.

Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to emergency government officers and staff, health department personnel, law enforcement and fire department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.
(Code 1982, § 11.08(3))

Sec. 34-57. Public protection.

Should any prohibited discharge occur that threatens the life, safety or health of the public at, near or around the site of a prohibited discharge and should the situation be so critical that immediate steps must be taken to protect life and limb, the emergency government coordinator, his/her assistant or the senior village police or fire officer on the scene of the emergency may order an evacuation of the area or take other appropriate protective steps for a period of time until the village board can take appropriate action.
(Code 1982, § 11.08(4))

Sec. 34-58. Enforcement.

The emergency government coordinator and deputies, as well as the code enforcement officer or Racine County Sheriff's Department, shall have authority to issue citations or complaints under this division.

Sec. 34-59. Civil liability.

Any person in violation of this division shall be liable to the village for any expenses incurred by the village or loss or damage sustained by the village by reason of such violation.
(Code 1982, § 11.08(6))

Sec. 34-60. Substitute performance.

If, after reasonable demand by the village board, a dumper/disposer does not comply with the terms and conditions of this division or the dumping or disposal plan for the dump or disposal site, the village board shall have the right (but shall not be required) to correct the violation and charge the expense of such correction to the dumper/disposer, including levying against any bond provided by the dumper/disposer. If the dumper/disposer fails to act after reasonable notice is given by the village board, his/her application for a dumping or disposal permit shall grant the village the right to go on the land or disposal site and carry out the dump or disposal plan or perform the duties of dumper/disposer as imposed by this division.
(Code 1982, § 11.07(6))

Sec. 34-61. Reimbursement for expenses.

All dumpers/disposers shall reimburse the village within 30 days of receipt of documented invoices for all reasonable expenses, including fees and disbursements for legal, consulting and expert advice incurred by the village as a result of the construction, transportation to and from, operation, maintenance, closure and long term care of a dump or disposal site located within the village, or as a result of the enforcement of this division in connection with a dump or disposal site located within the village. As used in this section, the term "expenses" may include, but are not limited to, the following:

(1) Per diem costs of village officers and village employees' salaries.

(2) Fire protection.

(3) Police protection.

(4) Ambulance protection.

(5) Municipal insurance protection.

(6) Roadway repair, maintenance and construction.

(7) Arbitration expenses.

(Code 1982, § 11.07(7))

Secs. 34-62-34-80. Reserved.

Subdivision II. Permit

Sec. 34-81. Required.

(a) Except as expressly permitted in section 34-82, no individual, corporation, municipality or county shall dump or dispose of waste, garbage, refuse or sludge within the village unless

a permit to engage in such dumping or disposal is first obtained from the village under the conditions prescribed in this subdivision.

(b) Except as expressly permitted in section 34-82, no individual, corporation, municipality or county shall maintain or operate a dump or disposal site, or any place for the disposal, storage or treatment of waste, garbage, refuse or sludge within the village unless a permit for such operation is first obtained from the village under the conditions prescribed in this subdivision, and no individual, corporation, municipality or county shall maintain, operate or permit the maintenance or operation of any such place in violation of any provision of this article.

(Code 1982, § 11.07(3))

Sec. 34-82. Exceptions.

The following shall not be deemed to come within the scope or meaning of this division:

(1) A site used for the dumping or disposal of waste, garbage or refuse from a single family or household, a member of which is the owner, occupant or lessee of the property, provided the waste, garbage or refuse is placed in suitable containers or stored in such other way as not to cause a public or private nuisance.

(2) The use of sanitary privies and what are commonly known as seepage beds or septic tanks, which conform to the applicable ordinances of the village, or the discharge of human waste products into any public sewage system located within the village.

(3) A farm on which only animal waste resulting from the operation of the farm is disposed.

(4) Any dumping operation under the direction and control of the village.

(Code 1982, § 11.07(4))

Sec. 34-83. Application.

Applications for permits under this division shall be filed on a form provided by the clerk along with the appropriate bond and/or insurance and application fees, which application shall contain the following information:

(1) Name, address and telephone number of applicant.

(2) Location and legal description of the proposed dump or disposal site.

(3) Name, address and telephone number of responsible agent for applicant.

(4) Name, address and telephone number of engineer for applicant.

(5) The type, source of and amount of waste estimated on a daily basis for the projected dump or disposal site.

(6) Estimated times of construction, operation and closure of the proposed dump or disposal site.

(7) Estimated total acreage for the proposed dump or disposal site and estimated active fill area during the life of the proposed dump or disposal site.

(8) Prior experiences in construction, operation and maintenance of a dump or disposal site, citing specifically names, dates and locations of those facilities.

(9) Any available initial site reports, feasibility reports or plan of operations filed with the state department of natural resources.

(10) Statement authorizing the village board and its agents to enter the proposed dump or disposal site for inspection of premises during the periods of application, operation, construction, maintenance and closure of the dump or disposal site.

(11) A signed statement by the applicant in a form satisfactory to the village board wherein the applicant agrees that the applicant, its agents and servants will save harmless, indemnify and defend the village, its officers, agents and servants from any costs and expenses incurred through the failure of the applicant, its agents and servants to transport to and from, construct, operate, maintain and close the dump or disposal site as required by this division, federal and state law and regulation during the time of the requested permit and thereafter, and wherein the applicant further agrees to save harmless, indemnify and defend the village, its officers, agents or servants from any claim for damages due to the negligence and/or an intentional act of the applicant, its agents or servants during the period of the requested permit or thereafter.

(Code 1982, § 11.07(8))

Sec. 34-84. Public hearing.

There shall be a public hearing on any application for a permit to engage in dumping or disposal operations. The application shall be on file with the clerk at least 60 days before the public hearing. The public hearing shall be conducted under the following terms:

(1) Notice shall be given as a class 3 notice as described in Wis. Stat. § 985.07.

(2) The cost of publication of such notice shall be deposited by the applicant in advance.

(3) A public hearing shall be held on the date specified in the notice or any adjourned date; however, such public hearing shall be merely advisory in regard to affecting any action which may be taken by the village board upon such application.

(Code 1982, § 11.07(9))

Sec. 34-85. Bond.

(a) The village board shall have the right to require the applicant to furnish the village with a bond and/or an insurance policy in such amounts as shall be determined by the village board, to ensure the following:

(1) The applicant, its agents and servants, will comply with all of the terms, conditions, requirements and specifications contained in this division.

(2) The applicant, its agents and servants, will faithfully operate the dump or disposal site for which the permit is issued in accordance with the provisions of this division.

(3) The applicant, its agents and servants, will save harmless, indemnify and defend the village from any costs or expenses incurred through the failure of the applicant, its agents and servants, to operate, construct, transport to and from, maintain and close the dump or disposal site as required by this division, federal and state law and regulation, including any cost or expense the village may be put to for correcting any condition or violation of this division whenever the village board determines it is necessary for the village to correct any condition or violation of this division, or from any damages due to the negligence and/or an intentional act of the applicant, its agents or servants.

(4) The applicant, its agents and servants will pay any and all penalties imposed as a result of the failure of the applicant, its agents and servants to comply with all of the terms, conditions, requirements and specifications contained in this division.

(b) Before acceptance, all bonds and/or insurance policies shall be approved by the village board. If a corporate bond or insurance policy is issued, it shall be executed by a company authorized to transact business in the state as a surety. If a cash bond is offered, it shall be deposited with the clerk who shall give official receipt therefor, reciting that such cash has been deposited in compliance with and subject to the provisions of this division. Failure to maintain an approved bond and/or insurance policy during the period of the permit shall automatically invalidate the permit and the village board shall have the right to obtain a court order terminating the dumping or disposal operation.

(Code 1982, § 11.07(10))

Sec. 34-86. Issuance.

(a) The application for a permit shall be processed within 120 days of the receipt thereof, and shall be issued if the village board is satisfied that there has been and will be reasonable compliance with the conditions and regulations enumerated in this division.

(b) If Wis. Stat. ch. 289 is applicable to the applicant, the village board shall specify all local approvals, including this division. The village board shall then adopt a citing resolution and commence the negotiation/arbitration process prior to any approval or disapproval under this division. The 120-day period for the application process shall not be applicable under such circumstances until a negotiated agreement has been signed or until an arbitration award has been forwarded to the village board.

(c) All permits under this division shall be effective and issued for the period from July 1 to June 30 of each year. All applicants shall reapply to the clerk for the annual license at least 120 days in advance of the June 30 deadline. The criteria established for reapplication and issuance shall be the same as the criteria established for the initial license.

(d) If approved by the village board, the permit shall be issued by the clerk upon the applicant's compliance with any and all conditions placed upon the issuance of the permit by the village board.

(Code 1982, § 11.07(11))

Sec. 34-87. Application fees.

At the time the application or renewal application is filed, the applicant shall pay fees as set forth in the schedule of fees on file in the village clerk's office and may be revised by village board resolution.

(Code 1982, § 11.07(12); Ord. No. 2008-01, § 22, 12-22-2008)

Sec. 34-88. Revocation.

Any permit issued under the provisions of this subdivision may be revoked by the village board for any violation of law or ordinance pertaining to the dumper/disposer or the transportation to or from, construction, operation, maintenance and closure of the dump or disposal site. The permit issued under this subdivision may be revoked by the village board only after a public hearing held by the village board upon a published class 1 notice as defined in Wis. Stat. § 985.07. The village board, if necessary, may, at any time, seek a court order terminating the transportation to and from, storage, treatment or disposal at the dump or disposal site for any violation of this division, or due to the establishment of a public nuisance.
(Code 1982, § 11.07(13))

Secs. 34-89 - 34-110. Reserved.

Subdivision III. Regulations Generally

Sec. 34-111. Compliance with regulations.

Except as otherwise provided in this subdivision, individuals, corporations, municipalities and counties who are permitted to dump or dispose of waste, garbage, refuse or sludge within the village or engage in dumping or disposal operations within the village, shall be subject to the regulations in this subdivision.
(Code 1982, § 11.07(5))

Sec. 34-112. Nuisance prohibited.

The dumping or disposal operation shall be conducted in such a way as to not constitute a public or private nuisance.
(Code 1982, § 11.07(5)(a))

Sec. 34-113. Disposal operations permitted in agricultural or industrial zoned areas.

The dumping or disposal operations shall be permitted only in the agriculturally or industrially zoned areas as set forth on the official zoning map of the Village.

Sec. 34-114. Hours of disposal operations.

Any dumping or disposal operations within the village may be open for business only between 7:30 a.m. and 4:30 p.m. from Monday through Saturday and shall be closed for business for all other hours and days including legal holidays.
(Code 1982, § 11.07(5)(c))

Sec. 34-115. Attendants at dump or disposal site.

The dumper/disposer shall maintain an attendant at the dump or disposal site at all times when opened to the public and shall provide an "on call" attendant during times and dates when the dumping or disposal operation will be closed. The dumper/disposer shall inform the clerk in writing of the names, telephone numbers and addresses of all attendants and the name, telephone number and address of the responsible agent for the dumper/disposer and shall further notify the clerk in writing of any changes therein within 48 hours of any such change.
(Code 1982, § 11.07(5)(d))

Sec. 34-116. Maximum height of dump or disposal site; filling of holes or ponds.

The dumper/disposer shall not extend the maximum height of the dump or disposal site higher than the height required to comply with the slope requirements of the state department of natural resources. All holes or ponds shall be filled by the dumper/disposer to existing topography, except for active fill areas.
(Code 1982, § 11.07(5)(e))

Sec. 34-117. Distance from property lines of dump or disposal site.

The dumper/disposer shall not construct or operate the active fill area of a dump or disposal site closer than 100 feet from adjacent property lines.
(Code 1982, § 11.07(5)(f))

Sec. 34-118. Perimeter fences for disposal site.

The dumper/disposer shall build and maintain all line fences around the perimeter of the dump or disposal site for security and safety, which fences shall be at least five feet in height.
(Code 1982, § 11.07(5)(g))

Sec. 34-119. Mobile chainlink fences for disposal site.

The dumper/disposer shall build and maintain mobile chainlink fences at least eight feet in height around the active fill area in the dump or disposal site to prevent windblown paper and waste, garbage or refuse from leaving the active fill area.
(Code 1982, § 11.07(5)(h))

Sec. 34-120. Signage for disposal site.

The dumper/disposer shall post no signs in the village noting the existence of the dump or disposal site, or its location, except one sign at the entrance to the dump or disposal site. The sign shall be built and posted prior to the commencement of the operation of the dump or disposal site and shall be maintained until closure. The sign shall contain in large letters "NO HAZARDOUS WASTE, FLY ASH OR SLUDGE ALLOWED."
(Code 1982, § 11.07(5)(i))

Sec. 34-121. Maintenance of disposal site roads.

The dumper/disposer shall construct and maintain all roads within the dump or disposal site with an all-weather blacktop surface which shall be maintained dust free.
(Code 1982, § 11.07(5)(j))

Sec. 34-122. Locking of gates at dump or disposal site.

The dumper/disposer shall keep all gates to the dump or disposal site closed and locked, except during business hours.
(Code 1982, § 11.07(5)(k))

Sec. 34-123. Cutting of weeds and grass within dump or disposal site.

The dumper/disposer shall cut weeds and grass within the dump or disposal site in accordance with the requirements of the weed ordinances of the village.
(Code 1982, § 11.07(5)(l))

Sec. 34-124. Maintenance of removed topsoil.

The dumper/disposer shall maintain at the dump or disposal site all topsoil removed during construction, operation and maintenance of the dumping or disposal operation.
(Code 1982, § 11.07(5)(m))

Sec. 34-125. Berms around disposal site.

The dumper/disposer shall establish berms around the active fill area within the dump or disposal site and those berms shall be at least eight feet above the active fill area at all times. (Code 1982, § 11.07(5)(n))

Sec. 34-126. Runoff or erosion from disposal site.

The dumper/disposer shall not cause, suffer or permit surface water runoff or erosion onto adjacent landowners from the dump or disposal site and upon notice from an adjacent landowner or the village board to the dumper/disposer of any surface water runoff or erosion, the dumper/disposer shall, within seven days, abate the runoff or erosion. No standing water shall be allowed at the dump or disposal site.
(Code 1982, § 11.07(5)(o))

Sec. 34-127. Compaction of waste and refuse.

The dumper/disposer shall, on at least a daily basis, compact all waste, garbage and refuse, and cover the waste, garbage and refuse with at least six inches of soil. The dumper/disposer shall immediately cover with at least 12 inches of soil all putrescible materials. The dumper/disposer shall ensure proper compaction by balling the waste, garbage and refuse, and/or a minimum of five passes by compacting equipment over each layer of waste, garbage and refuse.
(Code 1982, § 11.07(5)(p))

Sec. 34-128. Firefighting equipment at disposal site.

The dumper/disposer shall keep and maintain adequate fire fighting equipment at the dump or disposal site. The dumper/disposer shall not allow open burning at the dump or disposal site.
(Code 1982, § 11.07(5)(q))

Sec. 34-129. Control and extermination of insects and rodents at disposal site.

The dumper/disposer shall control and exterminate the insects and rodents at the dump or disposal site.
(Code 1982, § 11.07(5)(r))

Sec. 34-130. Security personnel for disposal site.

The dumper/disposer shall provide adequate security personnel for the dump or disposal site and shall provide automatic security lights within the dump or disposal site for use during hours of darkness.
(Code 1982, § 11.07(5)(s))

Sec. 34-131. Cleaning of leachate collecting systems.

The dumper/disposer shall clean all leachate collecting systems as needed so as to prevent the overflow, spilling, leaking and/or seepage of leachate onto and/or into the surrounding soils. Leachate removed from any leachate collecting system shall be tested immediately following each cleaning and the dumper/disposer shall file the test results with the clerk within three days after receipt of the results.
(Code 1982, § 11.07(5)(t))

Sec. 34-132. Recycling, source separation and baling.

The dumper/disposer shall implement at the dump or disposal site recycling, source separation and baling to reduce the amount and volume of waste, garbage or refuse disposed in the dump or disposal site.
(Code 1982, § 11.07(5)(u))

Sec. 34-133. Storage of materials at disposal site.

The dumper/disposer shall attempt to obtain from the state department of natural resources an exemption to allow for separate storage of recycled materials. These materials shall be stored not to exceed the storage requirements established by the state department of natural resources or the village board, whichever are more stringent. Materials stored at the dump or disposal site shall be stored to prevent harborage.
(Code 1982, § 11.07(5)(v))

Sec. 34-134. Use of incinerators, air curtain destructors or compactors; approval.

The dumper/disposer shall obtain an operating license for the use of incinerators, air curtain destructors and/or compactors from the state department of natural resources under Wis. Admin. Code ch. NR 506, or its successors, prior to application for a permit under this division. Any dumper/disposer exempt under the provisions of Wis. Admin. Code ch. NR 506, or its successors, shall gain approval from the village board for use of these devices at the time of application.
(Code 1982, § 11.07(5)(w))

Sec. 34-135. Routes of travel to disposal site.

The dumper/disposer, as well as all individuals, corporations, municipalities and counties transporting to and from the dump or disposal site, shall be required to use only the routes of travel as authorized by the village board.
(Code 1982, § 11.07(5)(x))

Sec. 34-136. Limitation on hours of transportation to disposal site.

No individual, corporation, municipality or county transporting to or from a dump or disposal site within the village shall travel to or from the site before 7:00 a.m. and after 5:00 p.m. on authorized

days of operation. The village board may establish and limit the time and number of vehicles entering and exiting the dump or disposal site.
(Code 1982, § 11.07(5)(y))

Sec. 34-137. Removal of litter, waste and garbage on designated disposal roadways.

The dumper/disposer shall police, on a daily basis, the designated or alternate roadways and other rights-of-way to the dump or disposal site and remove any litter, waste, garbage, mud or debris on the designated roadways, alternate roadways and rights-of-way.
(Code 1982, § 11.07(5)(z))

Sec. 34-138. Removal of discharges associated with disposal site.

The dumper/disposer shall be responsible for removal and any damages resulting from any and all discharges of waste, garbage, refuse or sludge on the designated or alternate roadways and rights-of-way and public or private lands within the village, due to transportation to and from the dump or disposal site. The dumper/disposer shall immediately notify the clerk and state department of natural resources as to any discharges. Discharges shall be removed within 48 hours of notice of such discharge.
(Code 1982, § 11.07(5)(aa))

Sec. 34-139. Maintenance and repair of roadways to disposal site.

The dumper/disposer shall be required to maintain and repair, to village standards, those portions of the designated or alternate roadways and rights-of-way under village jurisdiction which are used by vehicles to transport to and from the dump or disposal site.
(Code 1982, § 11.07(5)(ab))

Sec. 34-140. Compliance with weight limitations and traffic regulations on roadways to disposal site.

The dumper/disposer shall comply with all village regulations and orders regarding the applicable roadways under village jurisdiction for all special or seasonal weight limits, routes for designated or alternate roadways, special traffic, speed or road closure regulations.
(Code 1982, § 11.07(5)(ac))

Sec. 34-141. Wind-carried dust and debris from disposal site prohibited.

The dumping or disposal operations shall be conducted in such a way that dust, dirt, debris or other materials or substances will not be carried by wind across the boundary of the parcel of land being used for the dump or disposal site.
(Code 1982, § 11.07(5)(ad))

Sec. 34-142. Removal of litter and garbage along fencelines and gates of disposal site.

The dumper/disposer shall police, on a daily basis, the fence lines at the dump or disposal site and remove litter, waste, garbage, mud or debris and provide maintenance of fences and gates at the dump or disposal site.
(Code 1982, § 11.07(5)(ae))

Sec. 34-143. Collection and removal of litter, waste and garbage attributable to disposal site.

The dumper/disposer shall, at least weekly and within a one-half mile radius of the dump or disposal site, collect and remove all litter, waste, garbage or debris reasonably attributable to the dumping or disposal operation of the dumper/disposer.
(Code 1982, § 11.07(5)(af))

Sec. 34-144. Hazardous waste prohibited at disposal site.

No hazardous waste, regardless of quantity, shall be accepted, received, stored, treated, disposed or transported to any dump or disposal site within the village.
(Code 1982, § 11.07(5)(ag))

Sec. 34-145. Waste and refuse from other dumps and disposal sites prohibited.

The dumper/disposer shall not accept, receive, store, treat or dispose of any waste, garbage or refuse at the dump or disposal site from any other dump or disposal site.
(Code 1982, § 11.07(5)(ah))

Sec. 34-146. Fly ash and sludge prohibited at disposal site.

The dumper/disposer shall not accept, receive, store, treat or dispose of any fly ash or sludge at the dump or disposal site.
(Code 1982, § 11.07(5)(ai))

Sec. 34-147. List of authorized transporters to dump and disposal site.

The dumper/disposer shall provide to the clerk a list of the names, addresses and phone numbers of all authorized transporters to the dump or disposal site. No person shall transport, dispose, store or treat waste, garbage or refuse at the dump or disposal site unless authorized by permit and listed with the clerk.
(Code 1982, § 11.07(5)(aj))

Sec. 34-148. Form identifying contents and origin of waste required before use of dump or disposal site.

The dumper/disposer shall require that all persons, corporations, municipalities or counties transporting waste, garbage or refuse to and from the dump or disposal site, shall, prior to storing, treating or disposing of the waste, garbage or refuse in the dump or disposal site, sign a form noting:

(1) The source of the waste;

(2) Type of waste;

(3) Amount of waste;

(4) Date of disposal at the dump or disposal site;

(5) Name and address of the transporter;

(6) Name of the driver; and

(7) Signature of the driver.

In addition, the person, corporation, municipality or county transporting to the dump or disposal site shall sign on the same form that they understand that they shall not transport to and from, store, treat or dispose, or permit the transportation to and from, storage, treatment or disposal of any hazardous waste, fly ash or sludge in the dump or disposal site and should they transport to and from, store, treat, dispose or permit the transportation to and from, storage, treatment or disposal of any hazardous waste, fly ash or sludge in the dump or disposal site, they subject themselves to possible forfeiture. The village board hereby reserves the right to disallow persons, corporations, municipalities or counties the right to transport, store, treat or dispose at the dump or disposal site should they violate this provisions.
(Code 1982, § 11.07(5)(ak))

Sec. 34-149. Notification of hazardous waste, fly ash or sludge.

The dumper/disposer shall inform the clerk orally and in writing immediately of any hazardous waste, fly ash or sludge, or any suspected hazardous waste, fly ash or sludge that has been accepted, received, stored, treated or disposed at the dump or disposal site.
(Code 1982, § 11.07(5)(al))

Sec. 34-150. Acceptance of leachate, residue or waste removed from dump or disposal site prohibited.

The dumper/disposer shall not dispose, store or treat within the village any leachate, residue, solid or hazardous waste which has been removed from the dump or disposal site, nor shall the dumper/disposer accept, receive, store, treat or dispose at the dump or disposal site any leachate, residue, solid or hazardous waste from any other dump or disposal site.
(Code 1982, § 11.07(5)(am))

Sec. 34-151. Notification of temporary or emergency closing of disposal site.

The dumper/disposer shall notify the clerk orally and in writing immediately of any temporary or emergency closing of the dump or disposal site by the dumper/disposer or by any government order and the reasons for the closing.
(Code 1982, § 11.07(5)(an))

Sec. 34-152. Notification of permanent closing of disposal site.

The dumper/disposer shall notify the clerk in writing at least 120 days prior to the permanent closure of the dump or disposal site and dumper/disposer shall completely comply with the provisions of Wis. Admin. Code ch. NR 506, or its successor as to closure and long term care. Copies of all closure plans shall be filed with the clerk in advance of the commencement of steps to close the dump or disposal site.
(Code 1982, § 11.07(5)(ao))

Sec. 34-153. Notification of change in ownership, possession or operation of disposal site.

The dumper/disposer shall notify the clerk in writing prior to the transfer and change of ownership, possession or operation of any dump or disposal site describing the reasons for the transfer or change, the names, addresses and telephone numbers of the prospective parties receiving ownership, possession or operation and the dates of transfer or change. Upon transfer or change of ownership, possession or operation, the current permit shall be void and a new application for permit shall be required prior to continued operation of the dump or disposal site. (Code 1982, § 11.07(5)(ap))

Sec. 34-154. Groundwater monitoring wells around disposal site; testing.

All dumpers/disposers shall establish groundwater monitoring wells within the dump or disposal site not to be less than six in number. These wells shall be tested on a quarterly basis. The results of these tests shall be filed with the clerk within three days after receipt of the results by the dumper/disposer. If these test results do not meet primary and secondary drinking standards, written notice shall be immediately forwarded by the dumper/disposer to all well owners within a two-mile radius of the perimeter of the dump or disposal site informing them of the results and requesting permission to test their wells within 48 hrs. With permission of the owners, the dumper/disposer shall test these wells immediately and file the results with the clerk within three days after receipt of the results by the dumper/disposer.

(1) The dumper/disposer, with permission of the owners, shall test, at its own expense and prior to operation of the dump or disposal site and on a quarterly basis thereafter, all active wells within a one-mile distance of the outer perimeters of the dump or disposal site. Water quality shall be tested by an independent laboratory selected by the village board. Test materials shall be furnished by the dumper/disposer who shall be responsible for receiving samples from well owners and providing results to well owners and the clerk. Those results shall be filed with the clerk within three days after receipt of the results by the dumper/disposer and

shall be maintained and kept by the clerk. The test perimeters are field pH, field conductivity, COD, dissolved iron and chloride. If any of these test results do not meet primary and secondary drinking standards, written notice shall be immediately forwarded by the dumper/disposer to all well owners within a two-mile radius of the perimeter of the dump or disposal site informing them of the results and requesting permission to test their wells within 48 hours. With permission of the owners, the dumper/disposer shall test these wells immediately and file the results with the clerk within three days after receipt of the results by the dumper/disposer.

(2) If any well within a two-mile radius of the perimeter of the dump or disposal site shall fail because of contamination, pollution, unfitness for human consumption or recommendation not to be consumed by the state department of natural resources, or has been unapproved by any state agency, it shall be presumed that the failure of the well resulted from the dumping or disposal operation and the dumper/disposer upon notice by the village board shall be responsible within 24 hours to provide to the failed well owner an alternative and adequate source of water for domestic, commercial and agricultural consumption. All dumpers/disposers shall, within 30 days after notice, repair or replace, with permission of owner, the failed well. Moreover, all dumpers/disposers shall assume all of the responsibilities of the village under Wis. Stat. § 292.51, for any damages to any water supply at the dump or disposal site. All dumpers/disposers shall be responsible, if possible, to determine the cause of the failure of the well. If the failure was caused by any other source other than the transportation to and from, construction, operation, maintenance or closure of the dump or disposal site, the dumpers/disposers may seek reimbursement of its costs and expenses incurred under this section from the individual well owner.

(Code 1982, § 11.07(5)(aq))

Sec. 34-155. Air quality stations; measurement of air quality; objectionable odor control and abatement.

All dumpers/disposers shall establish, prior to operation of the dump or disposal site, an air quality station, designed to measure the ambient air quality at the site to ensure conformity with Wis. Stat. § 285.21, and the regulations promulgated by the state department of natural resources. Prior to operation, a test shall be taken of air quality with a copy of the results of the tests filed with the clerk within three days after receipt of the results by the dumper/disposer. Thereafter, on an annual basis, air quality monitoring shall be performed until 20 years after closure with the cost of the tests to be paid by the dumper/disposer. The results of the tests shall be filed with the clerk within three days after receipt of the results by the dumper/disposer.

(1) All dumper/disposers shall not cause, suffer, allow or permit emissions into the ambient air of any substance or combination of substances in quantities such that objectionable odor results. Preventative measures satisfactory to the state department of natural resources and the village board shall be taken to abate or control such emissions. An odor shall be deemed objectionable at the dump or disposal site when 50 percent of the individuals residing within a two-mile radius of the perimeter of the dump or disposal site claim the odors to be objectionable through a verified petition to the dumper/disposer and the clerk.

(2) Upon receipt of the verified petition, the dumper/disposer shall immediately remove or dispose of the odorous materials. Upon failure of the dumper/disposer to remove or dispose of all odorous materials within two days after receipt of the petition, the village board may close the dump or disposal site until odors are abated or controlled. The village board shall solely determine when and if odors have been abated or controlled.

(Code 1982, § 11.07(5)(ar))

Sec. 34-156. Installation and maintenance of devices to detect affects of leachate on groundwater.

Prior to the operation of a dump or disposal site, the dumper/disposer shall install and maintain with permission of the owners, within one mile of the perimeters of the dump or disposal site, leachate monitoring wells, lysimeters, moisture probes, automatic leachate systems with alarms, automatic gas detection systems with alarms or any similar devices requested by the village board to detect the affects of leachate on the groundwater. The dumper/disposer shall pay for the cost for installation and testing, and shall file test results with the clerk within three days after receipt of results by the dumper/disposer. Testing shall be conducted on such a basis (i.e., monthly, quarterly, semiannually, annually, etc.) as shall be directed by the village board and shall continue for 20 years after closure of the dump or disposal site. Any changes in the groundwater quality shall immediately be noticed by the dumper/disposer to the clerk and the affected owners of real property.

(Code 1982, § 11.07(5)(as))

Sec. 34-157. Reports required of disposal site.

From the construction date until closure of the dump or disposal site, the dumper/disposer shall file with the clerk a sworn, typed, monthly and yearly report as a public record on forms provided by the village, due ten days after the end of each month and 30 days after the end of the calendar year, respectively.

(1) The following information, or copies of the following documents, shall be provided:

a. The name of the owner of the dump or disposal site.

b. The names, addresses and positions of responsibility of the persons employed by the dumper/disposer at the dump or disposal site and the names, addresses and positions of responsibility of any independent contractor employed at the dump or disposal site.

c. The names, addresses and telephone numbers of the person responsible for the daily operation, reports and emergency response at the dump or disposal site.

d. The amount of waste in gross tonnage, type of waste, source of waste disposed at the dump or disposal site, and the names and addresses of the

persons transporting waste to and from the dump or disposal site and copies of the forms required under section 34-148.

e. Copies of all reports and correspondence submitted or to be submitted to the state department of natural resources regarding the dump or disposal site.

f. Copies of all reports, legal documents, citations, court documents and judgments received by the dumper/disposer regarding the dump or disposal site from the state department of natural resources or any other regulatory, law enforcement or judicial authority of this state or the United States.

g. Copies of all engineering and consulting reports received by the dumper/disposer from its engineers and consultants regarding the dump or disposal site.

h. The names, addresses and telephone numbers along with a copy of any written contract with the parties that will receive any leachate, residue or other waste removed from the dump or disposal site.

i. The amounts of waste in gross tonnage, type of waste and source of waste and any revenue received from recycled or recovered solid waste at the dump or disposal site.

(2) Each report shall be accompanied by the following sworn statement signed by an authorized representative of the dumper/disposer:

That the undersigned is a dumper/disposer or agent of a dumper/disposer of a dump or disposal site located in the Village of Yorkville, Racine County, Wisconsin, which site is commonly known as _____.

That pursuant to the ordinance of the Village of Yorkville, the undersigned, as the dumper/disposer or as the agent of the dumper/disposer is requested to provide certain records, reports, documents and information to the Village of Yorkville.
That the undersigned has provided those records, reports, documents and information to the Village of Yorkville.

That after consultation with county employees, transporters, independent contractors, engineers, consultants, attorneys and accountants, the material provided to the Village of Yorkville is accurate, complete and truthful.

That the undersigned understands these records, reports, documents and information are necessary for the Village of Yorkville to monitor the dumping or disposal operation. That the undersigned understands that the undersigned is under oath and that the undersigned is subject under Wis. Stat. §§ 943.39 and 946.32, to possible criminal penalties for false swearing and fraudulent writings should these records, reports, documents and information be false, inaccurate or incomplete.

Dated this ____ day of _____, 20_____.

Signed:_____

Title: _____

Subscribed and sworn on this ____ day of _____, 20_____.

_____
County of _____
State of Wisconsin
My Commission: _____

(Code 1982, § 11.07(5)(at))

Sec. 34-158. Injury or damage in connection with disposal site.

Should injury or damage occur in connection with a dump or disposal site within the village, such injury or damage shall be legally presumed to have been proximately caused by the dumper/disposer operating such dump or disposal site.
(Code 1982, § 11.07(5)(au))

Sec. 34-159. Liability for additional insurance expenses.

The dumper/disposer shall be liable to the village for any additional liability insurance expenses made reasonably necessary by the location of his dump or disposal site within the village.
(Code 1982, § 11.07(5)(av))

Sec. 34-160. Environmental impairment policy.

The dumper/disposer shall furnish the village with an environmental impairment policy covering his dump or disposal site within the village.
(Code 1982, § 11.07(5)(aw))

Sec. 34-161. Other conditions and requirements for disposal site.

The village board shall have the authority to impose any other conditions as a requirement of granting a permit to operate a dump or disposal site within the village, so long as such requirements are consistent with and at least as restrictive as the Natural Resources Code of the Wisconsin Administrative Code (Wis. Admin. Code ch. NR 500 et seq.).
(Code 1982, § 11.07(5)(ax))

Secs. 34-162 - 34-180. Reserved.

Subdivision IV. Infectious or Hazardous Waste Regulation

Cross reference— Environment, ch. 22.

Sec. 34-181. Qualifications of provisions regarding infectious waste treatment.

Subject to the following qualifications, the provisions of division 2, subdivision III of this article shall apply to infectious waste treatment facilities. The following sections of division 2, subdivision III of this article shall not be applied to a facility which treats, other than by incineration, infectious wastes for the purpose of destroying pathogens or other infectious matters contained therein, if such treatment is conducted within a building and such wastes are not disposed of at the site:

(1) Section 34-114. The village board may establish hours for the operation of the site.

(2) Section 34-116.

(3) Section 34-117.

(4) Section 34-118. The dumper/disposer shall enclose within an eight-foot high chain link fence any areas outside of a building where vehicles containing infectious wastes may be parked.

(5) Section 34-119.

(6) Section 34-122. The doors to the building in which the operation is conducted and the gates in any fence at the facility shall be locked and secured when the waste treatment operation is not being conducted.

(7) Section 34-124.

(8) Section 34-125.

(9) Section 34-127.

(10) Section 34-132. The dumper/disposer shall comply with any recycling requirements imposed by the state department of natural resources.

(11) Section 34-133.

(12) Section 34-136. The village board may establish the hours during which vehicles may enter or leave the site to transport wastes to and from the site.

(13) Section 34-143. The dumper/disposer shall immediately clean up all wastes which may be spilled or otherwise released, whether on or off the site where treated.

(14) Section 34-145. The dumper/disposer shall not accept any wastes from any landfills, disposal sites, incinerators or like facilities, but may accept infectious wastes from transfer stations, temporary storage facilities or medical facilities which pretreat wastes or, in emergencies, from other similar treatment facilities.

(15) Section 34-154. The dumper/disposer shall establish and maintain as many monitoring wells as shall be determined by the village board. The water from such wells shall be tested periodically as provided by the village board and test results shall be filed with the clerk within three days of receipt. Subject to obtaining permission of the respective owners, the dumper/disposer, at his own cost and expense, shall cause a baseline test to be made of all wells within one mile of the outer perimeter of the treatment site within two months of the approval of the permit. Tests shall be made by an independent laboratory selected by the village board. Test parameters shall be as determined by the village board. Test results shall be furnished to the clerk, well owners and dumper/disposer.

(16) Section 34-155. The provisions of sections 34-155(1) and (2) shall be applicable to such a facility.

(17) Section 34-156.

(18) Section 34-157. The dumper/disposer shall maintain all information required under Section 34-157 at his offices, permit inspection and copying by the village at all reasonable times and furnish any requested copies to the village by the next business day. The dumper/disposer shall file with the clerk the annual report as provided in section 34-157 and copies of all reports filed by him with the state department of natural resources.

(Code 1982, § 11.07(5a))

Secs. 34-182 - 34-200. Reserved.

Subdivision V. Sludge Regulations

Sec. 34-201. Special sludge permit required.

Notwithstanding any provision contained in this division, sludge may be transported within the village for the purpose of dumping or disposal, or may be dumped or disposed on lands within the village upon the issuance of a special sludge permit under this division by the village board.
(Code 1982, § 11.07(14))

Sec. 34-202. Sludge regulations.

(a) No permit shall be granted for the dumping of sludge until after the applicant has obtained a site approval permit from the state department of natural resources pursuant to Wis. Stat. § 283.31.

(b) No permit shall be granted for the dumping of sludge on any land other than cropland.

(c) No permit shall be granted for the placing or dumping of sludge if the quantity to be dumped on the land in question shall be greater than one acre/inch for a 12-month period or the needs of the crop growing or to be grown on the land during the 12-month period, whichever is less.

(d) No permit shall be granted for the dumping of untreated sewage.

(e) No permit shall be granted for the dumping of sludge in excess of 10,000 gallons per acre over a 24-hour period.

(f) No permit shall be granted for the dumping of sludge on land where sludge or sewage has been dumped in the six-month period immediately preceding such dumping, however, nothing contained in this division shall prevent a permit from being granted permitting the reapplication of sludge on the land covered by the permit within six months of the initial application of sludge or treated sewage to the land pursuant to such permit provided such reapplication does not exceed the needs of the crop growing or to be grown.

(g) No permit shall be granted for the dumping of sludge on soil that is not approved by the state department of natural resources and/or the county sanitarian as being a type of soil that will readily assimilate the sludge.

(h) No permit shall be granted for the dumping of sludge during rainy weather or where the soil to which the sludge is to be applied is waterlogged or frozen.

(i) No permit for dumping sludge shall be granted where the lands to which it is to be applied are drainageways, undrained or ponded areas.

(j) No permit for dumping of sludge shall be granted without restricting such dumping by prohibiting any dumping within 250 feet from any building occupied or used by humans and within 50 feet from any roads or highways within the village.

(k) No sludge shall be transported within the village unless in vehicles so designed as to prevent the dropping of any such materials on the highways or roadways within the village. Any sludge which is dropped on a highway shall be removed within four hours of the time that notice is given to the person holding the permit for transportation or dumping. The village board may not issue a permit for dumping or transportation under this division to any person who has not complied with a removal order set forth in this subdivision.

(Code 1982, § 11.07(14)(a))

Sec. 34-203. Application for special sludge permit.

Application for a special sludge permit to transport or dump sludge within the village, as required in this division, shall be made to the village board. Such application shall be filed on a form provided by the clerk and shall contain the following information:

(1) Name, address and telephone number of applicant.

(2) A description of the material to be transported or dumped.

(3) The source of the material to be transported or dumped.

(4) The quantity of material to be transported or dumped.

(5) The description of the roads over which it will be transported and/or the lands on which it will be dumped.

(6) If the permit is for dumping or placing the material on lands within the village:

a. The quantity which has already been placed on such lands in the previous 12-month period and the dates on which the material was previously placed on such lands.

b. The manner in which the material will be applied or placed on such lands.

c. The names and addresses of the owners of all property lying within 200 feet of the land on which the material is to be dumped or placed.

(7) A signed statement by the applicant in form satisfactory to the village board wherein applicant agrees that the applicant, its agents and servants, will save harmless, indemnify and defend the village, its officers, agents and servants from any cost and expense incurred through the failure of the applicant, its agents and servants, to transport to and from, and to apply the sludge as required by this division, federal and state law, and regulation during the time of the requested permit and thereafter, and wherein the applicant further agrees to save harmless, indemnify and defend the village, its officers, agents and servants, from any claim for damages due to the negligence and/or an intentional act of the applicant, its agents and servants during the period of the requested permit or thereafter. (Code 1982, § 11.07(14)(b))

Sec. 34-204. Notice and public hearing.

Before issuing a special sludge permit under this subdivision, the village board shall hold a public hearing. Notice of such public hearing specifying the time, place and matters to come before the village board shall be given as a class 1 notice as referred to in Wis. Stat. ch. 985. In addition, if the hearing is in connection with an application for a period for the dumping of sludge on land within the village, the clerk shall notify, in writing, all property owners within 200 feet of the land in question of the hearing at least five days prior to such hearing.
(Code 1982, § 11.07(14)(c))

Sec. 34-205. Special sludge permit fee.

The application fee for a special sludge permit shall be as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution and shall be paid upon filing the application with the clerk.
(Code 1982, § 11.07(14)(d))

Sec. 34-206. Bond.

(a) The village board shall have the right to require the applicant to furnish the village with a bond and/or an insurance policy in such amounts as shall be determined by the village board, to ensure the following:

(1) The applicant, its agents and servants, will comply with all of the terms, conditions, requirements and specifications contained in this division.

(2) The applicant, its agents and servants, will faithfully transport and/or dump the sludge for which the special sludge permit is issued in accordance with the provisions of this division.

(3) The applicant, its agents and servants, will save harmless, indemnify and defend the village for any costs or expenses incurred through the failure of the applicant, its agents and servants to transport and/or dump the sludge as required by this division, federal and state law and regulation, including any cost or expense the village may be put to for correcting any condition or violation of this division whenever the village board determines it is necessary for the village to correct any condition or violation of this division or from any damages due to the negligence and/or intentional act of the applicant, its agents or servants.

(4) The applicant, its agents and servants, will pay any and all penalties imposed as a result of the failure of the applicant, its agents and servants, to comply with all the terms, conditions, requirements and specifications contained in this division.

(b) Before acceptance, all bonds and/or insurance policies shall be approved by the village board. If a corporate bond or insurance policy is issued, it shall be executed by a company authorized to transact business in the state as a surety. If a cash bond is offered, it shall be deposited with the clerk who shall give official receipt therefor, reciting that such cash has been deposited in compliance with and subject to the provisions of this division. Failure to maintain an approved bond and/or insurance policy during the period of the special sludge permit shall automatically invalidate the permit and the village board shall have the right to revoke the permit and/or to obtain a court order terminating the transportation and/or dumping operation within the village.

(Code 1982, § 11.07(14)(e))

Sec. 34-207. Revocation.

Any permit issued under the provisions of this subdivision may be revoked by the village board for any violation of law or ordinance pertaining to the applicant or the transportation to and/or dumping of sludge within the village. The permit shall be deemed revoked by the village board upon the mailing of written notice of revocation to the applicant. The village board, if necessary, may, at any time, seek a court order terminating the transportation and/or dumping of sludge within the village for any violation of this division or due to the establishment of a public nuisance. (Code 1982, § 11.07(14)(f))

Secs. 34-208-34-239. Reserved.

Article III. Recycling

Sec. 34-240. Title.

Recycling Ordinance for the Village of Yorkville, County of Racine, State of Wisconsin.

Sec. 34-241. Purpose.

The purpose of this ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in Wis. Stat. § 287.11 and Wis. Adm. Code ch. NR 544.

Sec. 34-242. Statutory Authority.

This ordinance is adopted as authorized under Wis. Stat. §§ 61.345 and 287.09(3)(b).

Sec. 34-243. Abrogation and Greater Restrictions.

It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.

Sec. 34-244. Interpretation.

In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in ch. NR 544, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the ch. NR 544 standards in effect on the date of the adoption of this ordinance, or in effect on the date of the most recent text amendment to this ordinance.

Sec. 34-245. Severability.

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

Sec. 34-246. Applicability.

The requirements of this ordinance apply to all persons within the village.

Sec. 34-247. Administration.

The provisions of this ordinance shall be administered by the village board.

Sec. 34-248. Effective Date.

The provisions of this ordinance shall take effect on December 1, 2025.

Sec. 34-249. Definitions.

For the purpose of this ordinance:

(a) “Bi-metal container” means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

(b) “Container board” means corrugated paperboard used in the manufacture of shipping containers and related products.

(c) “Foam polystyrene packaging” means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

(1) Is designed for serving food or beverages.

(2) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

(3) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

(d) “Glass Container” means a glass bottle, jar or other packaging container used to contain a product that is the subject of a retail sale and does not include ceramic cups, dishes, oven ware, plate glass, safety and window glass, heat-resistant glass such as pyrex, lead based glass such as crystal, or TV tubes.

(e) “HDPE” means high density polyethylene, labeled by the resin code # 2.

(f) “LDPE” means low density polyethylene, labeled by the resin code # 4.

(g) “Magazines” mean magazines and other materials printed on similar paper.

(h) “Major appliance” means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater or stove.

(i) “Multiple-family dwelling” means a structure containing 5 or more residential units, including units that are occupied seasonally.

(j) “Newspaper” means a newspaper and other materials printed on newsprint.

(k) “Non-residential facilities and properties” mean commercial, retail, industrial, institutional and government facilities and properties. Non-residential facilities and properties include any location at which goods or services are provided or manufactured, including locations under construction, demolition, or remodeling, or used for special events such as fairs, festivals, sport venues, conferences, and exhibits. This term does not include multiple family dwellings.

(l) “Office paper” means a variety of high-grade printing and writing papers. This term does not include industrial process waste, newspaper or packaging.

(m) “Other resins or multiple resins” mean plastic resins labeled by the resin code # 7.

(n) “Person” includes any individual, corporation, limited liability company, partnership, association, local government unit, as defined in Wis. Stat. § 66.0131(1)(a), state agency or authority or federal agency.

(o) “PETE” or “PET” means polyethylene terephthalate, labeled by the resin code # 1.

(p) “Plastic container” means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

(q) “Postconsumer waste” means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Wis. Stat. § 291.01(7), waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in Wis. Stat. § 289.01(17).

(r) “PP” means polypropylene, labeled by the resin code # 5.

(s) “PS” means polystyrene, labeled by the resin code # 6.

(t) “PVC” means polyvinyl chloride, labeled by the resin code # 3.

(u) “Recyclable materials” include lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins; steel containers; waste tires; and bi-metal containers.

(v) “Solid waste” has the meaning specified in Wis. Stat. § 289.01(33).

(w) “Solid waste facility” has the meaning specified in Wis. Stat. § 289.01(35).

(x) “Solid waste treatment” means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. “Treatment” includes incineration.

(y) “Waste tire” means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

(z) “Yard waste” means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than 6 inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

Sec. 34-248. Separation requirements exempted.

The separation requirements of Section 34-247 do not apply to the following:

(1) Occupants of single-family and two-unit to four-unit residences, multifamily dwellings and nonresidential facilities and properties that send their postconsumer waste to a processing facility licensed by the state department of natural resources

that recovers the materials specified in Section 34-247 from solid waste in as pure a form as is technically feasible.

(2) Solid waste which is burned as a supplemental fuel at a facility if less than 30 percent of the heat input to the facility is derived from the solid waste burned as supplemental fuel.

(3) A recyclable material specified in Section 34-247 for which a variance of exemption has been granted by the state department of natural resources under Wis. Stat. § 287.07 or Wis. Stat. § 287.11(2m) or Wis. Admin. Code § NR 544.14.

(Code 1982, § 11.09(10))

Sec. 34-249. Care of separated recyclable materials.

To the greatest extent practicable, the recyclable materials separated in accordance with section 34-247 shall be clean and kept free of contaminants such as food or product residue, oil, grease or other nonrecyclable materials, including but not limited to household hazardous waste, medical waste and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain and other inclement weather conditions.
(Code 1982, § 11.09(11))

Sec. 34-250. Separation of Recycable Materials.

Occupants of single family and 2-to-4-unit residences, multiple-family dwellings and non-residential facilities and properties shall separate the following materials from postconsumer waste:

(a) Lead acid batteries

(b) Major appliances

(c) Waste oil

(d) Yard waste

(e) Aluminum containers

(f) Bi-metal containers

(g) Corrugated paper or other container board

(h) Foam polystyrene packaging

(i) Glass containers

(j) Magazines

(k) Newspaper

(l) Office paper

(m) Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins

(n) Steel containers

(o) Waste tires

Sec. 34-251. Separation Requirements Exempted.

The separation requirements of § 34-250 do not apply to the following:

(a) Occupants of single family and 2-to-4-unit residences, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in § 34-250 from solid waste in as pure a form as is technically feasible.

(b) Solid waste which is burned as a supplement fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplement fuel.

(c) A recyclable material specified in § 34-250 (5) through (15) for which a variance has been granted by the Department of Natural Resources under Wis. Stat. § 287.11(2m), or Wis. Adm. Code NR § 544.14.

Sec. 34-252. Care of Separated Recyclable Materials.

To the greatest extent practicable, the recyclable materials separated in accordance with § 34-250 shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

Sec. 34-253. Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste

Occupants of single family and 2-to-4-unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

(a) Lead acid batteries shall be deposited at a facility allowing for such disposal. Lead acid batteries shall not be deposited at the collection site.

(b) Major appliances shall be deposited at the collection site in a container marked for such materials.

(c) Waste oil shall be deposited at the Ives Grove county highway building in a waste oil container located on County Trunk Highway "C".

(d) Yard waste shall be composted at the resident's own site or hauled to and deposited at a commercial compost site at the owner's expense. Yard waste shall not be deposited at the collection site.

Sec. 34-254. Preparation and Collection of Recyclable Materials.

Except as otherwise directed by the village board or an attendant at the collection site, occupants of single family and 2-to-4-unit residences shall do the following for the preparation and collection of the separated materials specified in § 34-250 (5) through (15):

(a) Aluminum containers shall be deposited at the collection site in a container marked for such materials.

(b) Bi-metal containers shall be deposited at the collection site in a container marked for such materials.

(c) Corrugated paper or other container board shall be deposited at the collection site in a container marked for such materials.

(d) Foam polystyrene packaging shall be deposited at the collection site in the solid waste compactor or as otherwise directed by the attendant.

(e) Glass containers shall be deposited at the collection site in a container marked for such materials.

(f) Magazines shall be deposited at the collection site in a container marked for such materials.

(g) Newspaper shall be deposited at the collection site in a container marked for such materials.

(h) Office paper shall be deposited at the collection site in a container marked for such materials.

(i) Rigid plastic containers shall be deposited at the collection site in a container marked for such materials.

(j) Steel containers shall be deposited at the collection site in a container marked for such materials.

(k) Waste tires shall be deposited at the collection site in a container marked for such materials or as otherwise directed by the attendant. The village board shall limit the number of tires which may be disposed of at the collection site and shall establish any charge for such disposal.

Sec. 34-255. Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings.

(a) Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in § 34-250 (5) through (15):

(1) Provide adequate, separate containers for the recycling program established in compliance with the ordinance. The number of recycling containers shall equal or be greater than the number of trash containers and at least one of the following shall be met:

a. The minimum total volume of recycling container space is equal to 20 gallons per week per dwelling unit.

b. The ratio of trash container volume to recycling container volume is at most 2:1.

c. An alternative method that does not result in the overflow of a recycling container during the time period between collection of materials and delivery to a recycling facility.

(2) Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.

(3) Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.

(4) Notify tenants which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, and locations of drop-off collection sites to recycle materials not collected on-site.

(b) The requirements specified in 1) do not apply to the owners or designated agents of multiple-family dwellings if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in § 34-250 (5) through (15) from solid waste in as pure a form as is technically feasible.

Secs. 34-256. Responsibilities of Owners or Designated Agents of Non-Residential Facilities and Properties

(a) Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in § 34-250 (5) through (15):

(1) Provide adequate, separate containers for the recycling program established under this section. The total volume of recycling containers shall be sufficient to avoid overflow during the time period between collection of materials and delivery to a recycling facility.

(2) Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.

(3) Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.

(4) Notify users, tenants and occupants which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, and locations of drop-off collection sites to recycle materials not collected on-site.

(b) The requirements specified in 1) do not apply to the owners or designated agents of non-residential facilities and properties if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in § 34-250 (5) through (15) from solid waste in as pure a form as is technically feasible.

Sec. 34-257. Prohibitions on Disposal of Recyclable Materials Separated for Recycling.

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in § 34-250 (5) through (15) that have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

Sec. 34-258. Enforcement.

(a) For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee or representative of the village may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the village who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

(b) Any person who violates a provision of this ordinance may be issued a citation by a person authorized under Section 1-14(d) to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.

(c) Penalties for violating this ordinance may be assessed as follows:

(1) Any person who violates § 34-257 may be required to forfeit $50 for a first violation, $200 for a second violation, and not more then $2000 for a third or subsequent violation.

(2) Any person who violates a provision of this ordinance, except § 34-257, may be required to forfeit not less than $10 or more than $1000 for each violation.

Secs. 34-259 - 34-280. Reserved.

Article IV. Solid Waste And Recycling Haulers

Sec. 34-281. Registration of haulers; fee.

Any person or entity wishing to haul, for profit, recyclable material, or garbage, refuse, or other solid waste, must register annually with the village and pay the applicable registration fee, as may be set periodically by the village board. Any person or entity hauling such material without a valid registration is subject to the penalty set forth in section 34-1.
(Ord. of 4-22-2002, § 1(11.09(18)(a)))

Sec. 34-282. Haulers of solid waste to also pick up recyclable materials.

Any person or entity who hauls, for profit, garbage, refuse, or other solid waste must also provide curbside pickup of recyclable materials for its customers within the village. This pickup of recyclables shall occur at regularly scheduled and interspaced intervals, and in no event less than twice monthly.
(Ord. of 4-22-2002, § 1(11.09(18)(b)))

Sec. 34-283. Report of recyclable material collections.

Any registrant under this section shall file a report with the village no later than February 1 of each year. This report shall indicate the classifications (single-family, two-family, or multifamily residential, commercial, or industrial) and number of the registrant's customers in the village, the tonnage of recyclable materials collected within the village, broken down using the types of recyclable material set forth in Section 34-247, and the final disposal site for all such materials collected within the village. Failure to timely file this report will result in revocation of the party's registration.
(Ord. of 4-22-2002, § 1(11.09(18)(c)))

Chapters 35 - 37 RESERVED

Chapter 38

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES[1]

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
	Article I. In General		
Sec. 38-1.	Penalty.		
Secs. 38-2. – 38-30.	Reserved.		
	Article II. Streets		
	Division 1. Generally		
Sec. 38-31.	Sale of abutting lands.		
Secs. 38-32 – 38-50.	Reserved.		
	Division 2. Standards		
Sec. 38-51.	Acceptance of highways in subdivisions.		
Sec. 38-52.	Acceptance of highways other than in subdivisions.		
Sec. 38-53.	Highway design standards.		
Sec. 38-54.	Survey required.		
Sec. 38-55.	Right-of-way width.		
Sec. 38-56.	Cross sections.	2023-16	11/13/23
Sec. 38-57.	Plans.		
Sec. 38-58.	Inspection.		
Sec. 38-59.	Specifications.		
Sec. 38-60.	Use.		
Sec. 38-61.	Notification.		
Sec. 38-62.	Inspection.		
Sec. 38-63.	Costs.		
Sec. 38-64.	Performance bond may be required.	2023-16	11/13/23
Sec. 38-65.	County and state specifications.		
Secs. 38-66 – 38-80.	Reserved.		
	Division 3. Excavations		
Sec. 38-81.	Permit required.	2022-02 2023-16	03/14/22 11/13/23
Secs. 38-82. – 38-110.	Reserved.		

[1] **Cross reference—** Any ordinance dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street or public way or public grounds and parks and other public places saved from repeal, § 1-9(6); any ordinance levying or imposing taxes or special assessments saved from repeal, § 1-9(8); any ordinance establishing and prescribing the street grades of any street curb or bulkhead lines or width of sidewalks or streets saved from repeal, § 1-9(11); any ordinance providing for local improvements and assessments for such improvements saved from repeal, § 1-9(12); any ordinance regarding lighting of streets, sidewalks and alleys, water, sewer and electric main and line construction or municipal utility regulations or construction of public works saved from repeal, § 1-9(20); buildings and building regulations, ch. 10; moving buildings, § 10-291 et seq.; peddlers, canvassers, solicitors and transient merchants, § 14-171 et seq.; mobile homes and mobile home parks, § 14-301 et seq.; environment, ch. 22; land division, ch. 28; required improvements for streets in subdivisions, § 28-43; design standards for streets in subdivisions, § 28-81; obstructing streets and sidewalks prohibited, § 30-91; traffic and vehicles, ch. 50; utilities, ch. 54.

Article III. Driveways and Culverts

Sec. 38-111.	Permit required.	04-2014	06/09/14
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		2023-12	11/13/23
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Sec. 38-112.	Construction required.	04-2014	06/09/14
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Sec. 38-113.	Improperly installed culvert.	04-2014	06/09/14
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Article IV. Numbering of Property

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Sec. 38-142.	Assignment of numbers.	2023-16	11/13/23
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Division 3. Standards for Construction

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	Article VII. Special Assessments	2022-01	02/14/22
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Article I. In General

Sec. 38-1. Penalty.

Any person who violates any provision of this chapter, or any order, rule or regulation made under this chapter, or any order, rule or regulation made under this chapter, upon conviction thereof, shall be subject to a penalty as provided in section 1-14.
(Code 1982, § 8.15)

Secs. 38-2—38-30. Reserved.

Article II. Streets [2]

State Law reference— Village highways, Wis. Stat. chs. 82, 86, § 61.36.

Division 1. Generally

Sec. 38-31. Sale of abutting lands.

No owner of any land abutting upon any road accepted by the village board under this chapter and no owner of any land abutting upon any road accepted as a part of a subdivision pursuant to this

chapter shall offer for sale any of such land unless such proposed road or highway within such area has been constructed according to the terms and provisions of this chapter. The village board may waive compliance with this section upon the filing of a surety bond as provided in section 38-64. (Code 1982, § 8.05)

Secs. 38-32 - 38-50. Reserved.

Division 2. Standards

Sec. 38-51. Acceptance of highways in subdivisions.

No plat of any subdivision shall be accepted by the village pursuant to Wis. Stat. ch. 236 unless such plat shall provide that all roads and highways shown thereon shall be at least 66 feet in width.
(Code 1982, § 8.01)

Sec. 38-52. Acceptance of highways other than in subdivisions.

No road or highways not a part of a subdivision shall be accepted by the village as a village road unless such road or highway is 66 feet in width.
(Code 1982, § 8.02)

Sec. 38-53. Highway design standards.

Prior to the acceptance of the subdivision plat as described in section 38-51, and prior to the acceptance of a village road as described in section 38-52, the subdivider or other dedicator, as the case may be, shall enter into a contract with the village that the roads and highways shall be constructed in accordance with the specifications in this division.
(Code 1982, § 8.03)

Sec. 38-54. Survey required.

The subdivider or petitioner shall furnish the village with a survey by a licensed surveyor, showing the centerline, right-of-way lines, section lines, section corner monuments and any encroachments within the right-of-way for the proposed highway.
(Code 1982, § 8.03(1))

Sec. 38-55. Right-of-way width.

The minimum right-of-way width for a local street shall be 66 feet and the minimum right-of-way width for a collector street shall be 80 feet.
(Code 1982, § 8.03(2))

Sec. 38-56. Cross sections.

The following sections are typical cross sections required for the village. The use of a particular section shall be determined by the village board prior to the preparation of the plans. An illustration showing each section is on file with the clerk and is incorporated in this section by reference.

(1) *Rural section.* The following are required for a rural section:

a. Local street: 66 feet right-of-way. Typical section R-1.

b. Commercial/industrial street: 80 feet right-of-way. Typical section R-2.

(2) *Urban section.* The following are required for an urban section:

a. Local street: 66 feet right-of-way. Typical section U-1.

b. Commercial/industrial street: 80 feet right-of-way. Typical section U-2.

(Code 1982, § 8.03(3))

Sec. 38-57. Plans.

The subdivider or petitioner shall submit two sets of plans for the proposed road construction to the village for review for conformance with the village standards. The plans shall include a plat of such street showing legal descriptions of the road rights-of-way and of all drainage easements, together with documents for recording of such plans.
(Code 1982, § 8.03(4))

Sec. 38-58. Inspection.

Upon completion of final subgrade work and prior to the placement of crushed aggregate base material, the roadway will be inspected by the village for conformance to the proposed grades.
(Code 1982, § 8.03(5))

Sec. 38-59. Specifications.

Any village road constructed in the village shall conform to one of the typical sections referred to in section 38-56 and in accord with the following minimum specifications:

(1) The type of roadway shall be determined by the type of drainage facilities available. Where the village board determines that there are storm sewer facilities available or are to be made available, the roadway section shall incorporate a curb and gutter section conforming to the typical sections. If storm sewer facilities are not available, the rural roadway section may be utilized.

(2) The crushed aggregate base course will vary in width in conformance with the typical section utilized and will conform to the following depth requirements. The

base course for the local street sections shall be ten inches of crushed stone (six inches of #2 (one-half-inch) and four inches of three-quarter-inch T.B.). Crushed stone shall have 85 percent to 100 percent fractured faces on the material to be furnished. Such stone shall be of a quality at least equal to the quality of stone used on streets maintained by the village. The grade of crushed stone shall be approved by the village prior to application.

(3) Concrete curb and gutter utilized in the residential sections shall conform to the typical section for a four-inch mountable curb and gutter. In the commercial and industrial street sections, the curb and gutter shall conform to the 30 inches Type D standard curb and gutter section. The concrete curb and gutter shall not be placed sooner than nine months nor later than three years after construction of the base course. Prior to construction of the curb and gutter, approval shall be obtained from the village. Whenever the construction of curb and gutter is required, the subdivider or petitioner shall furnish a document or surety bond sufficient to ensure that he/she will comply with such construction within such time period as provided in this subsection without expense to the village.

(4) In areas where the rural section is incorporated, the drainage ditches on each side shall have a maximum of 3:1 side slopes and a depth sufficient to provide adequate drainage. Drainage ditches shall not be less than two feet two inches in depth below the finished grade of the centerline of the street. The bottom of the drainage ditch, where deemed necessary by the village board, shall be sodded with sod acceptable to the village and in such manner than any and all erosion will be eliminated. Sod used shall measure 18 inches by 72 inches, and the distance of laying the sod shall be determined by the village. Sod shall be laid at both ends of all culverts unless otherwise stated.

(5) Culverts of sufficient length and diameter to provide adequate drainage and access shall be placed at all driveway entrances. These culverts are subject to approval by the village prior to installation.

(6) A cul-de-sac with a minimum right-of-way radius of 75 feet or a turnaround "T" with a minimum roadway length of 66 feet and minimum width of 20 feet shall be constructed to the specifications in this section and shall be provided on all dead-end streets and roads greater than one lot or 200 feet in length.

(7) The slopes of the ditches and/or terrace areas within the right-of-way shall be dressed with a minimum of four inches of topsoil and seeded with Seed Mixture No. 1 of Section 630.2.1.5.1.1 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, 1996 Edition, as amended by Supplemental Specifications, 2000 Edition. Such seeding shall be completed prior to the acceptance of the base course. Following construction of curb and gutter, all disturbed areas shall be restored to the satisfaction of the village board.

(8) All culverts crossing rural streets shall be at least 44 feet in length and of such diameter as prescribed by the village. Any culverts needed for entrance to any village road shall be of sufficient length and diameter as prescribed by the village.

(9) All black dirt and other topsoil shall be removed from under the roadway and curb areas.

(10) No crushed stone shall be allowed to be laid on frozen ground or ground which has too high of water content, all in accordance with the approval of the village.

(11) All road work shall conform to the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, 1996 Edition, as amended by Supplemental Specifications, 2000 Edition.

(Code 1982, § 8.03(6))

Sec. 38-60. Use.

The use of land included in the development adjacent to curves and intersections of such roads shall be restricted by appropriate easements of sufficient width and length for adequate vision along such roads.
(Code 1982, § 8.03(7))

Sec. 38-61. Notification.

The village shall be notified before:

(1) Culverts are ready to be installed.

(2) Rough and finished grading has been completed.

(3) Crushed stone is applied.

(4) Construction of curb and gutter.

(Code 1982, § 8.03(8))

Sec. 38-62. Inspection.

The village shall make one inspection after the required amount of stone has been placed and shall provide full-time inspection for curb and gutter construction.
(Code 1982, § 8.03(9))

Sec. 38-63. Costs.

All costs incurred by the village for legal, engineering and administration expenses, including, but not limited to, review and inspection, shall be the liability of the subdivider or petitioner.
(Code 1982, § 8.03(10))

Sec. 38-64. Performance bond may be required.

The village board, as a condition precedent to the acceptance of a subdivision and roads, may require the subdivider or petitioner to file a performance bond with the clerk guaranteeing compliance with the terms and conditions of the contract specified in this division. Such bond shall be approved by the village board.
(Code 1982, § 8.04)

Sec. 38-65. County and state specifications.

All roads and approaches adjoining county and state roads shall be required to meet county and state specifications.
(Code 1982, § 8.06)

Secs. 38-66 - 38-80. Reserved.

Division 3. Excavations

Sec. 38-81. Occupancy of public rights-of-way.

(a) *General Provisions.*

(1) *Purpose and findings.* In the exercise of governmental functions, the village has priority over all other uses of the public rights-of-way. The village desires to anticipate and minimize the number of obstructions, degradation, and excavations taking place in the rights-of-way by regulating the placement of facilities in the rights-of-way to ensure that the rights-of-way remain available for public services and are safe for public use, and to ensure that facilities are timely maintained, supported, protected or relocated to accommodate reconstruction or repairs. The taxpayers of the village bear the financial burden for the upkeep, maintenance and reconstruction of the rights-of-way and a primary cause for the early and excessive deterioration of the rights-of-way is the frequent excavation by persons who locate facilities therein.

The village finds increased use of the public rights-of-way results in increased costs to the taxpayers of the village and that these costs are likely to continue into the foreseeable future.

The village finds that the above-ground use of public rights-of-way creates special and unique public health, safety, and general welfare concerns for the village, including, but not necessarily limited to, traffic safety, sightline and vision triangle issues, break-away design consistent with other utility pole or structure requirements, public snow plowing and snow storage, property access and public parking, obstruction to municipal police, fire, and rescue services, and related issues.

The village finds that the preservation of prime farmland is one of its primary goals as set forth in the “2020-2050 Village of Yorkville Comprehensive Plan (“Comprehensive Plan”) and that maintenance of the agricultural drainage tile system found throughout the village is an essential part of accomplishing that goal.

The village finds that delays by occupants of the rights-of-ways in maintaining, supporting, protecting or relocating facilities, if they impact public construction projects, have the potential to significantly increase public works project costs borne by the taxpayers. Moreover, the village finds that some right-of-way occupants have a history of delays and non-responsiveness.

The village finds that rights-of-way, by definition, are limited in area, use, and availability, and, as a result, require regulation and limitation of use and occupancy, subject to all applicable state, federal, and constitutional laws and regulations and the provision of all necessary utility services to the public.

The village finds that occupancy and excavation of its rights-of-way causes costs to be borne by the village and its taxpayers, including but not limited to:

a. Administrative costs associated with public right-of-way projects, such as permitting, inspection and supervision, supplies and materials.

b. Management costs associated with ongoing management activities necessitated by public right-of-way users.

c. Repair or restoration costs to the roadway associated with the actual excavation into the public right-of-way.

d. Degradation costs defined as depreciation caused to the roadway in terms of decreased useful life due to excavations in the public right-of-way.

In response to the foregoing facts and findings, the village hereby adopts this ordinance relating to access to, administration of, and issuance of permits to excavate, obstruct and/or occupy the public rights-of-way. This ordinance imposes reasonable regulations on the placement and maintenance of facilities currently within its rights-of-way or to be placed therein in the future. It is intended to complement the regulatory roles of state and federal agencies.

The purpose of this ordinance is to provide the village a framework within which to regulate and manage the public rights-of-way and to provide for recovery of the costs incurred in doing so. This ordinance provides for the health, safety and welfare of the residents of the village as they use the right-of-way of the village, as well as to ensure the structural integrity of the public rights-of-way.

(2) *Definitions.* The following definitions apply in this ordinance. References hereinafter to "sections" are, unless otherwise specified, references to sections in this ordinance. Defined terms remain defined terms whether capitalized or not.

Applicant means any person requesting permission to excavate, cut into, bore into, obstruct and/or occupy a right-of-way.

Bridge means any bridge or culvert or series of culverts.

Clerk means the appointed clerk of the village.

Degradation means the decrease in the useful life of the paved portion of the right-of-way, excluding the sidewalk right-of-way, caused by an excavation of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

Emergency means a condition that (1) poses a clear and immediate danger to life or health or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.

Excavate means to dig into or in any way remove, physically disturb, penetrate or in any manner affect the existing condition any part of a right-of-way.

Facilities means all equipment, whether publicly or privately owned, operated, leased or subleased in connection with the operation of a service or utility service, and shall include, but is not limited to, poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, lines, laterals and other structures and appurtenances.

In, when used in conjunction with right-of-way*,* means over, above, across, within, in, on or under a right-of-way.

Local representative means a local person or persons, or designee of such person or persons, authorized by an applicant to accept service, and to make decisions for and act as a responsible party on behalf of that applicant regarding all matters within the scope of this ordinance.

Municipal Code means the Municipal Code of the Village of Yorkville, as amended.

Obstruct means to place any object in a right-of-way so as to hinder free and open passage over any part of the right-of-way.

Permittee means any person or utility to whom a permit to occupy, excavate or obstruct a right-of-way has been granted under this ordinance.

Person means corporation, company, association, firm, partnership, limited liability company, limited liability partnership and individuals and their lessors, transferees, receivers, heirs, personal representatives, agents and all others acting on their behalf.

Repair means to perform construction work necessary to make the right-of-way useable for travel or its intended use according to village specifications, or to restore equipment to an operable condition.

Restore means the process by which the excavated right-of-way and surrounding area, including pavement and foundation, is reconstructed to village specifications.

Right-of-way means the surface and space above and below an improved or unimproved public roadway, highway, street, bicycle lane, drainage ditches, shoulders, and public sidewalk in which the village has an interest, including other dedicated rights-of-way for travel purposes.

Section without reference to the Municipal Code shall mean a subsection within Section 38-81.

Utility means a public utility as defined in Wis. Stat. §196.01(5) and includes a telecommunications carrier, as defined in Wis. Stat. §196.01(8)(m).

Village means the Village of Yorkville, Wisconsin, a municipal corporation.

(3) *Administration.* The village administrator or his/her designee is responsible for administration of the rights-of-way of the village and the permits and ordinances related thereto.

(4) *Exemption*. The Village and its contractors are exempt from the provisions of Section 38-81.

(b) *Permit to install in, excavate, or otherwise occupy right-of-way required.*

(1) No cut, excavation, or service connection or disconnection shall be made by any person or utility in any village property or right-of-way unless a permit under this Section is applied for, the fee paid for, the permit issued by the clerk, obtained and held under this ordinance and then only in strict accord with all provisions and requirements of this ordinance. An application for a permit for a project involving an open cut in the paved portion of the village's right-of-way must be approved by the village board before the permit's issuance by the clerk. The clerk may require village board approval of other applications that, in the opinion of the clerk, significantly impact village rights-of-way or the public's use of village rights-of-way.

(2) No person or utility shall undertake to perform the work of making any connection with, disconnection from, installing or repair of any facilities, gas pipe, water pipe, sewer, communication, cable, or electric line or facility laid or constructed in any road or public ground, or to repair or remove any such item without having obtained a permit under this Section authorizing such work. No annual permit fee is required but individual permits and permit fees for each excavation are required.

(3) Every cut, excavation and service connection or disconnection in any village property that is not a right-of-way shall also require, in addition to the permit, payment of fees and fulfillment of other requirements set forth in this ordinance, and separate permission, lease(s) and/or easement(s) from the village board, as applicable. Such additional permission is discretionary with the Village Board, is not a matter of right regardless of whether a permit has been applied for and/or issued under this ordinance. Compliance with this ordinance does not take the place of such additional required permission.

(c) *Application for permit.*

Written application for a right-of-way permit shall be made to the clerk prior to any occupancy. Permit applications shall contain and will be considered complete only upon compliance with each of the following requirements:

(1) *Application Form*. An accurate and complete written permit application form shall be submitted to the clerk. The application shall be signed and dated by a duly authorized representative of the applicant. The application form shall be in such form, content and requirements as the clerk may determine and/or direct from time-to-time. The application form shall contain, at a minimum, the following information:

a. Each applicant's name, diggers hotline registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.

b. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of application.

c. A detailed description of the scope and plan of the excavation work and repair/restoration proposed, including a description of the property and name of the right-of-way, if applicable, the approximate location of the excavation(s), the purpose for the excavation, and the method by which the excavation is to be made.

d. Indemnification language protecting and holding harmless the village and its elected and appointed officials, officers, employees, agents, contractors and representatives from and against any and all injury, payments, penalties and damages arising from any and all intentional and negligent activities of the applicant and the applicant's appointed officials, officers, employees, agents, contractors and representatives.

e. The application shall be signed by the applicant's authorized representative or agent. If the work is not to be performed by the applicant directly, the person engaged to do the work shall co-sign the application and the permit shall be issued in the name of the person performing the work along with the applicant.

(2) *Form and Drawings.* Submission of the completed permit application form as established by the clerk, including all required attachments, drawings showing the location and area of the proposed facilities, and the size and depth of the cut, excavation or service connection or disconnection. The proposed excavation must accommodate all existing underground facilities within the proposed route.

(3) *Insurance Certificate.* Except for a utility governed by Chapter 196 of the Wisconsin Statutes, the applicant shall file certificates of insurance with the clerk giving evidence of liability insurance in the following minimum amounts:

Worker's Compensation	Statutory Limits

Commercial Automobile Liability	$2,000,000.00 per Accident for Bodily Injury and Property Damage Liability Combined.
Commercial General Liability	$2,000,000.00 per Occurrence for Bodily Injury and Property Damage Liability Combined.

The village board may reduce the liability insurance limits required or require higher amounts of liability insurance depending on the scope of the project. The village and its officials, employees and agents shall be named as additional insureds on the commercial general and automobile liability policies. The insurance shall cover liability to third parties for the acts of the applicant and applicant's officials and employees, agents, contractors, representatives and related others. The insurance shall cover bodily injury and property damage for the individual incidents and aggregates required by the administrator. Such insurance shall not be cancelled or reduced without the insurer giving at least 10 days prior written notice to the clerk. Cancellation or reduction of insurance shall automatically suspend the permit, and no further work shall be done under such permit until a new certificate of insurance complying herewith is filed with the clerk. The certificate of insurance shall remain in full force and effect for not less than one year from the date of the Village's final inspection and acceptance after completion of the project. The insurance requirements under this subsection may be applied to a utility if the administrator has reasonable grounds to question the financial responsibility or compliance ability of the utility.

(4) *Bond.* A bond in the form of cash, performance bond issued by a licensed company in Wisconsin or irrevocable letter of credit issued by a financial institution acceptable to the village shall be deposited or filed with the clerk and preserved by the village treasurer/finance director prior to the issuance of the permit. The amount of the cash bond, performance bond, or letter of credit shall be determined by village board resolution, setting forth a schedule based upon such factors as the estimated cost of the project and restoration of village right-of-way and village property disturbed. The bond or letter of credit shall be payable to the village upon demand by the treasurer/finance director for any actual or suspected violation of any provision of this ordinance. The treasurer/finance director shall be able to demand payment upon the bond or letter of credit in whole or in-part at any time and from time-to-time. The bond or letter of credit shall be in such further form, content and requirements as the administrator and village attorney may determine necessary and/or desirable to effect the intent of this ordinance. The Village need not resort to any other remedy or provide any prior notice to the applicant or permittee before making demand upon, resorting to or receiving payment from the bond or letter of credit. In the event the cash bond, performance bond or letter of credit shall be insufficient for such purposes, the permittee shall be liable to the village for the excess cost over the amount of the bond or the amount collected by the village on the irrevocable letter of credit. The bond or letter of credit shall remain in full force and effect for one (1) year from the date of the Village's final inspection and acceptance after completion of the project. The bond requirements under this subsection may be applied to a utility if the administrator has reasonable grounds to question the financial responsibility or compliance ability of the utility.

(5) *Certificate of Authority.* A copy of the applicant's certificate of authority from the Wisconsin Public Service Commission or other applicable state or federal agency, where the applicant is lawfully required to have such certificate from said commission or other state or federal agency.

(6) *Corporate or Similar Certificate.* If the registration is a corporation, LLC or LLP, a copy of any certificate required to be filed under Wisconsin Statutes as recorded and certified by the Wisconsin Department of Financial Institutions.

(7) *Site Plan.* Each application shall contain, attached thereto, an accurate diagram and description of the excavation site.

(8) *Payment.* Payment of the permit fees and costs as set forth in this ordinance, including unpaid fees or costs due for prior excavations as well as any loss, damage, or expense suffered by the village because of applicant's prior excavations of village rights-of-way or any emergency actions taken by the village.

(9) *Notice of Change.* The applicant shall keep all of the information listed above current at all times by providing to the clerk information as to changes within three (3) working days following the date on which the applicant has knowledge of any change.

(10) *One Permit Per Site.* A separate permit must be applied for and held, and a separate fee paid, for each site, excavation, cut and/or project, except as otherwise authorized by the village board. A separate permit is required for a new or emergency excavation at a previously permitted site if the previous work or excavation was completed.

(11) *Permits Not Transferable.* Permits are not transferable to a different person or utility. Permits are not transferable from place to place.

(12) *Permit Posting Required.* A photocopy of each issued village excavation permit shall be conspicuously posted and maintained at the site until the project is completed.

(d) *Installation/excavation/occupancy permit fee.* The permit fee shall be established by the village in an amount sufficient to recover the costs incurred by the village. This fee shall recover administrative and inspection costs, excavation costs, as well as degradation costs, as defined below. Payment of said fees shall be collected prior to issuance of the permit. However, the clerk may establish a fee collection process from governmental agencies and utilities to expedite the permitting system and recognize that certain excavations are deemed emergencies.

(1) *Waiving of fees.* Fees shall not be waived unless the work involved is a direct result of the administrator's or designee's demand that facilities owned by a utility be removed or relocated, or unless waived by the village board upon review of the administrator/clerk's or designee's decision.

(2) *Fee schedule.* The minimum fee for each excavation permit shall be as set forth by resolution of the village board, a copy of which shall be maintained by the administrator and posted on the village's website. The fee for a permit issued after

commencing work, except in cases of emergency as determined by the administrator, shall be double the fees set forth herein. This permit fee shall be in addition to any forfeiture provided for elsewhere in the Municipal Code.

For those permit applications which provide for a substantial undertaking of excavation within the public right-of-way attended by disruption of the general public and traffic, the administrator is authorized to assess the actual cost of the village employee's or consultant's time engaged in the review and inspection of the anticipated work.

(3) Permit fees paid for a permit that the village has revoked are not refundable.

(e) *Right-of-way repair/restoration.*

(1) The permittee shall be required to repair the public right-of-way to current village specifications, subject to inspection and acceptance by the administrator or designee. In addition to repairing its own work, the permittee must repair the general area of the work, and the surrounding areas, including the paving and its foundations, to the specifications of the village. The permittee shall reconstruct, relocate or replace any drain tile line which may be disturbed or damaged by its work so as to provide for the continued operation of such drain tile line, whether or not such drain tile was located or otherwise discovered before commencement of its work. The administrator or designee, shall inspect the area of the work and accept the work when it determines that proper repair has been made, per specifications of the village.

(2) *Guarantees.* The permittee guarantees its work and shall maintain it for 36 months following its completion. During this period, it shall, upon notification from the administrator or designee, correct all work to the extent necessary, in accordance with village specifications. Said work shall be completed within ten business days of the receipt of the above notice, not including days during which work cannot be done due to circumstances constituting force majeure.

(3) *Failure to repair/restore.* If the permittee fails to repair/restore the right-of-way to the condition required by the administrator or designee or fails to satisfactorily and timely complete all work required by the administrator or designee, the village at its option may do such work. In that event the permittee shall pay to the village, within 30 days of billing, the cost of repairing/restoring the right-of-way.

(f) *Inspection.*

(1) *Notice of completion.* When the work under any permit hereunder is begun and completed, the permittee shall notify the administrator or designee.

(2) *Site inspection.* Permittee shall make the work site available to the administrator or designee and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(3) *Authority of* administrator or designee. At the time of inspection, the administrator or designee may order the immediate cessation of any work which poses a threat to the life, health, safety or well-being of the public. The administrator or designee

may issue an order to the applicant or permittee for any work that does not conform to applicable village standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the applicant or permittee shall present proof to the administrator or designee that the violation has been corrected. If such proof is not presented within the required time, the administrator or designee may revoke the permit pursuant to subsection (i).

(g) *Ongoing management fees.* The cost of trimming trees or cutting grass around facilities is an ongoing expense to the village. Such costs will be determined and a fee to offset costs may be assessed against permit holders in the future.

(h) *Compliance with other laws.* Obtaining a permit to excavate, install in and/or occupy the right-of-way does not relieve the applicant or permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other village, county, state, or federal rules, laws or regulations. A permittee shall comply with all requirements of local, state and federal laws. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who performs the work.

(i) *Revocations, suspensions, refusals to issue or extend permits.*

(1) The administrator or designee may refuse to issue a permit or may revoke, suspend or refuse to extend an existing permit if it finds any of the following grounds:

a. Issuance of a permit or installation of facilities for the requested date or location would interfere with another project occupying the same right-of-way, an exhibition, celebration, festival or other event.

b. Misrepresentation of any fact by the applicant or permittee.

c. Failure of the applicant or permittee to maintain required bonds and/or insurance.

d. Failure of the applicant or permittee to complete work in a timely manner.

e. The proposed activity is contrary to the public health, safety, or welfare.

f. The proposed activity requires above-ground structures causing safety issues including, but not limited to, sight-line safety, vision triangles, break-away structures, public plowing and snow storage, obstruction to municipal police, fire, and rescue services, and related issues with the use of the right-of-way.

g. The extent to which right-of-way space where the permit is sought is available.

h. The competing demands for the particular space in the right-of-way.

i. The availability of other locations in the right-of-way or in other rights-of-way for the facilities of the permittee or applicant.

j. The applicability of village ordinances, or other regulations of the right-of-way, including, but not limited to, Wis. Stats. §§ 86.16 (prohibiting interference with use of highway by the public) and 182.17 (prohibiting poles in front of residence or occupied business), that affect the location, type, height, size and/or use of facilities in the right-of-way.

(2) *Discretionary issuance.* The administrator or designee may issue a permit where issuance is necessary (a) to prevent substantial economic hardship to a customer of the permittee or applicant, or (b) to allow such customer to materially improve its utility service, or (c) to allow the permittee or applicant to comply with state or federal law or village ordinances or an order of a court or administrative agency.

(3) *Appeals.* Any person aggrieved by a determination made with respect to the repair or restoration of a public right-of-way, or by a decision of the administrator or designee revoking, suspending, refusing to issue or refusing to extend a permit may file a request for review with the village board. A request for review shall be filed within ten days of the decision being appealed. Following a hearing, the village board may affirm, reverse or modify the decision of the administrator or designee.

(j) *Work done without a permit.*

(1) *Emergency situations.* Each person or utility shall immediately notify the village by verbal notice on an emergency phone number provided by the village of any event regarding its facilities that it considers to be an emergency. The person or utility may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the person or utility shall apply for the necessary permits, pay the fees associated therewith and otherwise fully comply with the requirements of this ordinance.

If the village becomes aware of any emergency regarding a person's or utility's facilities, the village may attempt to contact the local representative of each person or utility affected, or potentially affected, by the emergency. The village may take such action it deems necessary to protect public safety or property as a result of the emergency, the cost of which shall be borne by the person or utility whose facilities occasioned the emergency.

(2) *Non-emergency situations.* Except in an emergency, any person or utility who, without first having obtained the necessary permit, excavates, installs facilities within or otherwise attempts to occupy a right-of-way shall be subject to a stop-work order or other appropriate legal remedy, and must subsequently obtain a permit, and shall, in addition to any penalties prescribed by the Municipal Code, pay double the normal fee for said permit, pay double all the other fees required by this ordinance or other provisions of the Municipal Codes, deposit with the village the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this ordinance.

(k) *Location of facilities.*

(1) *Underground.* Unless in conflict with state or federal law, except when existing above-ground facilities are used, the installation of new facilities and replacement of old facilities shall be done underground or contained within buildings or other structures in conformity with applicable codes.

(2) *Limitation of space.* The village may prohibit or limit the placement of new or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests of persons or utilities to occupy and use the right-of-way. In making such determination, the village shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but may prohibit or limit the placement of new or additional facilities when required to protect public health, safety or welfare.

(3) *Attachment to bridges.* Whenever an applicant or permittee under this section requests permission to attach pipes, conduits, cables or wires to any village bridge structure, the applicant shall pay a fee of $1,000.00 upon the granting of such permission to defray administrative expense in the analysis and inspection of such installation. The owner of such pipes, conduits, cables or wires shall be entitled to no compensation for removal or relocation of the same in the case of repair, removal, or replacement of said bridge structure by the village.

(l) *Relocation and protection of facilities.* A person or utility shall promptly and at its own expense maintain, support, protect or relocate its facilities in the right-of-way whenever the village, or its agent, acting in its governmental capacity, requests such action to allow for public work in the right-of-way. The village, or its agent, shall issue a due date for completion of the work to the representative of the person or utility of not less than 72 hours, which due date shall be reasonable and based upon the actions to be undertaken by the person or utility. If requested, the person or utility shall restore the right-of-way following the completion of the work. If a person or utility fails to perform the actions required herein by the due date, in addition to all other available legal remedies available to the village, the person or utility shall be subject to forfeitures as provided in the Municipal Code. Notwithstanding the foregoing, a person or utility shall not be required to remove or relocate its facilities from a right-of-way which has been vacated in favor of a nongovernmental entity unless the reasonable costs thereof are first paid to that person therefore.

(m) *Village right to self-help.* In the event that a person or utility does not proceed to maintain, support, protect or relocate its facilities as ordered in subsection (l), the village may arrange to do the work and bill the registrant, said bill to be paid within 30 days of the date of its mailing to the registrant.

(n) *Abandoned facilities.*

(1) *Discontinued operations.* A person who has determined to discontinue its operations in the village must either:

a. Provide information satisfactory to the village that its obligations for its facilities under this ordinance have been lawfully assumed by another person or utility; or

b. Submit to the village a proposal and instruments for dedication of its facilities to the village. If a person proceeds under this clause, the village may, at its option:

1. Accept the dedication for all or a portion of the facilities; or

2. Require the person, at its own expense, to remove the facilities in the right-of-way at ground or above-ground level; or

3. Require the person to post a bond or provide payment sufficient to reimburse the village for reasonably anticipated costs to be incurred in removing the facilities.

However, any person who has unusable and abandoned facilities in any right-of-way shall remove it from that right-of-way within two years, unless the village waives this requirement in writing.

(2) *Abandoned facilities.* Facilities of a person who fails to comply with sections (n)(1)a or b., and which, for two years, remain unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a public nuisance. In addition to any remedies or rights it has at law or in equity, the village may, at its option (i) abate the nuisance, (ii) take possession of the facilities, or (iii) require removal of the facilities by the person, or the person's successor in interest.

(3) *Public utilities.* This section (n) shall not apply to a public utility, as defined in Wis. Stats. § 96.01(5), that is required to comply with Wis. Stats. § 196.81.

(o) *Reservation of regulatory and police powers.* The village, by the granting of a permit to excavate, install facilities within, obstruct and/or occupy the right-of-way, does not surrender in any manner or to any extent lose, waive, impair or lessen the lawful powers and rights which it now has or which may be hereafter granted to the village under the Constitution and Statutes of the State of Wisconsin to regulate the use of the right-of-way by the permittee; and the permittee, by its acceptance of a permit to excavate, install facilities within, obstruct and/or occupy the right-of-way, agrees that all lawful powers, rights, and regulatory powers shall be in full force and effect, and permittee is subject to the regulatory and police powers of the village to adopt and enforce general ordinances and ordinances necessary to protect the health, safety and welfare of the public, and is deemed to agree to comply with all applicable general ordinances and ordinances enacted by the village pursuant to such powers.

(p) *Severability.* If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(q) *Penalty.* Except as otherwise provided herein, and in addition to all other legal remedies available to the village, any person who violates this ordinance or fails to comply with the provisions hereof shall be subject to forfeitures as provided in the Municipal Code.

Secs. 38-82 - 38-110. Reserved.

Article III. Driveways And Culverts

Sec. 38-111. Permit required.

No person shall install or make any improvement of a private driveway extending into a public right- of-way without a permit from the village building inspector. Any temporary driveway intended as an access for construction vehicles or for any other purpose shall be considered a separate permanent driveway for the purposes of this article. The village building inspector shall confirm that the temporary driveway is completely removed and the right-of-way at that location restored to its pre-construction state prior to issuing occupancy approval for the construction project associated with the temporary driveway. The village building inspector shall issue the permit upon a complete application and the payment of a fee set by resolution of the village board from time-to-time subject to the following terms and conditions:

(1) The culvert shall be of such size as required for proper drainage along the right-of-way, but not less than 15 inches by 24 feet, and installed with end walls.

(2) The property owner or permittee will not construct any abutment above the existing road grade at the ends of the culvert underlying the driveway. At a distance of eight feet from the edge of the pavement, the finished grade of the driveway shall be at least four inches below the grade of the edge of the adjacent highway.

(3) The cost of any and all repairs to driveways extending into public rights-of-way, including, but not limited to, the moving of existing culverts, maintenance and the covering with gravel, shall be borne by the property owner or permittee, unless such repairs were necessitated by the reconstruction of any portion of the public right-of-way by the village.

    (a) In the instance of culvert reconstruction or movement caused by the reconstruction of any portion of the right-of-way by the Village, the Village shall reconstruct one (1) culvert per three hundred (300) feet of road frontage. The reconstruction of any additional culverts per three hundred (300) feet of frontage shall be the sole responsibility of the property owner or permittee.

(4) Any drainage ditch and public right-of-way affected by the construction of a driveway entrance shall be reconstructed to the original shape, grade and contour of such ditch and right-of-way at the expense of the property owner or permittee.

Sec. 38-112. Construction required.

No building permit shall be issued by the village building inspector unless a permanent driveway has been constructed from the right-of-way to and on the site upon which construction is to take place and the construction of said driveway been approved by the village building inspector. Unless waived by the village board, no driveway shall be deemed permanent unless a culvert of required

strength and dimension has been laid under such driveway and has been covered with sufficient gravel to bring it to the same grade as the public right-of-way adjacent thereto. The property owner or permittee shall comply with all regulations relating to the construction or reconstruction of private driveways in section 38-111.

Sec. 38-113. Improperly installed culvert.

If a culvert is not properly installed by the property owner, his agent, employee or contractor, the village shall have the right to remove, reset or replace the culvert at the owner's cost. Prior to removal, resetting or replacement, the village shall notify the property owner in writing of any defect as to such culvert and shall order the owner to correct any defect within such period of time as the village board shall specify, but not less than 30 days. If the property owner requests a hearing before the village with respect to the order, the order shall be stayed until after such hearing. The village shall promptly bill the property owner for the costs of removal, resetting or replacement. If such bill is not paid, the bill shall be carried onto the tax rolls and collected like other taxes.

Sec. 38-114. Obstructions of ditches.

No person shall fill or obstruct any ditch or culvert alongside any village or public road or underneath any such road with any dirt or debris. No person shall cultivate, plow or remove soil from his land in such manner as to obstruct or fill any ditch along any village road or public highway.

Sec. 38-115. Number of driveway entrances and approaches limited.

As of November 16, 2023, the effective date of this ordinance, no more than one driveway entrance and approach shall be constructed per three hundred (300) feet of lot frontage, except where a modification or waiver is approved by the Village Board pursuant to Sec. 2-404 of this Code of Ordinances. Any temporary driveway for which a permit has been issued under Section 38-111 will not count towards the number of driveway entrances and approaches allowed under this section.

Secs. 38-116 - 38-140. Reserved.”

Article IV. Numbering Of Property

Sec. 38-141. Uniform numbering system.

A uniform system of numbering properties and principal buildings as shown on the map identified by the title "Street and House Numbering System—Village of Yorkville" which is filed in the office of the clerk is adopted for use in the village. This map and all explanatory matter thereon is adopted and made part of this Code.
(Code 1982, § 8.10(1))

Sec. 38-142. Assignment of numbers.

(a) All properties or parcels of land within the boundaries of the village shall be identified by reference to the uniform numbering system adopted in this article.

(b) A separate number shall be assigned for each 20 feet of frontage.

(c) All properties on the east side of north-south streets and all properties on the south side of east-west streets shall be assigned odd numbers. All properties on the west side of north-south streets and all properties on the north side of east-west streets shall be assigned even numbers.

(d) Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number.

(e) Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted in a manner as to be visible from the street on which the property is located. Such numerals may be obtained at cost from the clerk, as provided in section 38-143.

(Code 1982, § 8.10(2))

Sec. 38-143. Administration.

(a) The clerk shall be responsible for maintaining the numbering system. In the performance of this responsibility he shall be guided by the provisions of section 38-142.

(b) The clerk shall keep a record of all numbers assigned under this article.

(c) The clerk shall issue to any property owner in the village upon request and at cost a set of numerals for each principal building or separate front entrance to such building. In doing so, he shall issue only numerals for the number assigned to such building under the provisions of this article. Provided, however, that the clerk may issue additional numerals in accord with the official numbering system whenever a property has been subdivided, a new front entrance opened or undue hardship has been worked on any property owner.

(Code 1982, § 8.10(3))

Secs. 38-144 - 38-160. Reserved.

ARTICLE V. Mailboxes

Sec. 38-161. Placement of mailboxes in the right of way.

Mailboxes are prohibited on village rights-of-way except as hereinafter provided:

(a) Mailboxes are approved only if they are of a construction or design approved by the United States Postal Service or previously approved by the Postmaster. A copy of the Postmaster General's current guidelines can be obtained at the clerk's office.

(b) Newspaper tubes are permitted only if provided by the newspaper or of a construction or design that will not present a hazard to the public use of the right-of-way. Where the newspaper tube used has not been provided by the newspaper, the administrator or designee shall have authority to approve the tube. If the administrator or designee refuses to approve the newspaper tube, it must be removed.

(c) A nameplate bearing the name and address number of the mailbox owner shall be permitted on each box.

(d) The support for the mailbox and newspaper tube shall adhere to the standards governing construction of mailbox supports as established by the Wisconsin Department of Transportation ("DOT"), and shall not constitute a hazard to the public use of the right-of-way. A copy of the DOT's current guidelines can be obtained at the clerk's office.

(e) Mailbox and newspaper tubes must be located on the side of the road required by the United States Postal Service and so that the door to the mailbox or protruding end of the newspaper tube is at least one (1) foot from the paved portion of the highway.

(1) Where there are guardrails, mailboxes should be installed behind the guardrails, projecting enough for the carrier to reach them.

(2) In the event no shoulder exists due to a tree line or other obstacle, the face of the mailbox must be flush with the tree line or obstacle.

(f) The owner of each mailbox and/or newspaper tube shall, within twenty-four (24) hours after the end of each snowfall, remove all snow and ice which has fallen or accumulated in front of said mailbox and/or said newspaper tube and shall remove the snow for a distance of fifteen (15) feet to each side of said mailbox and/or newspaper tube.

(g) No other object of any kind shall be attached to the mailbox, newspaper tube or their supports. No other objects, including, but not limited to, landscaping boulders or fences may be placed on the right-of-way. As provided in Wis. Stat. §346.41(3), blue reflectors may be placed on the mailboxes to increase visibility.

(h) This Section is not intended to and shall not be construed to create any affirmative duty on the part of the village to locate and remove obstructing mailboxes. The village is not liable for damage to mailboxes caused by snowplowing, nor for bodily injury or property damage caused to third parties by mailboxes.

Secs. 38-162 - 38-170. Reserved.

Article VI. Ponds

Editor's note— Section 1 of Ord. No. 2006-05, adopted Aug. 14, 2006, amended art. V, which consisted of §§ 38-171—38-250, in its entirety to read as herein set out. Former art. V, pertained to similar subject matter and derived from §§ 8.11 and 8.12 of the 1982 Code.

Division 1. Generally

Secs. 38-171 - 38-190. Reserved.

Division 2. Permit

Sec. 38-191. Required.

No person shall construct or make improvements to any pond located within the village without first obtaining a permit from the village board. Except as set forth in this article, the provisions of this article apply to all ponds including, but not limited to, those ponds utilized for drainage, recreation, aesthetics, sediment control, and fish management.
(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-192. Exceptions.

The following ponds are excluded from the provisions of this article: Ponds used primarily for ornamental, decorative or waterfowl purposes (e.g., fountains, reflection pools, koi ponds, wildlife scrapes, etc.) with a depth of less than 24 inches, a diameter less than 25 feet or an area less than 500 square feet, stormwater drainage ponds created by or for a village drainage utility district, and ponds which have been previously reviewed and approved as part of an erosion control plan. Existing ponds are also excluded from the provisions of this article, but any enlargement, dredging or modification to such ponds makes them subject to this article.
(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-193. Site plan required.

Before a permit may be issued, the applicant shall provide the village with a detailed site plan of the proposed pond excavation showing cross-section, depth, area and location of the pond as well as addressing disposition and storage of spoils from the excavation. The plan shall be drawn at a scale of not less than one inch equals 100 feet using the National Geodetic Vertical datum (NGVD) of 1929 for elevations and a bearings base of grid north of the Wisconsin coordinate system, South Zone. Racine County topographic maps may be used for undeveloped or minimally disturbed areas. Areas that have been developed or where substantial disturbance to the original grade has been made will require a survey. The plan shall contain measures to protect against overflow and shall address drainage into and surrounding the pond area. The plan shall detail the flow of drainage in the event of overflow and demonstrate that adjacent properties will be adequately protected in the event of overflow or from new or altered runoff patterns created by relocated

excavation materials. A restoration plan for the excavation is also required. Additional information shall be supplied to the village, as requested by the village engineer.
(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-194. Engineering report.

At the discretion of the village board, an engineering report may be required. The engineering report shall be submitted to the village at the applicant's expense.
(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-195. Conditions to permit.

The village board may attach conditions to the issuance of a pond permit to address such things (without limitation) as maintenance, weed control, depth of pond, landscaping and aesthetics, and measures to secure the pond to avoid personal injury to trespassers. Temporary seeding and/or silt fencing may be required by the village engineer for partially completed projects. Other conditions appropriate to the area under consideration may be added to the permit by the village board, after consultation with the village engineer.
(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-196. Additional permits.

Before proceeding with excavation, the applicant, in addition to obtaining a permit from the village, must secure all necessary permits from pertinent county, state and federal government agencies. It is the applicant's responsibility to verify that any potential environmental features such as wetlands, flood plain, navigable waterways, environmental corridors, etc, are identified and all necessary permits relating thereto are obtained.
(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-197. Permit fee.

At the time the application is filed, the applicant shall pay fees as set forth in the schedule of fees on file in the village clerk's office and may be revised by village board resolution. In addition, the applicant shall reimburse the village for engineering, planning legal and administrative expenses incurred in processing, reviewing, revising, and approving the permit and site plan, where those expenses exceed the amount of the permit fee.

(Ord. No. 2006-05, § 1, 8-14-2006; Ord. No. 2008-01, § 21, 12-22-2008)

Sec. 38-198. Variance/waiver.

The village board may waive or grant a partial variance from any requirement or prohibition created by this article if the Board specifically determines that the permittee's special circumstances make such a waiver or variance appropriate.
(Ord. No. 2006-05, § 1, 8-14-2006)

Secs. 38-199 - 38-220. Reserved.

Division 3. Standards For Construction

Sec. 38-221. Technical requirements.

Side slopes of ponds shall not exceed a 4:1 ratio. The boundaries of the pond, as shown on the approved site plan, shall be set back a minimum of 50 feet from all property lines. The village engineer may require safety ledges, where appropriate, in accordance with the specifications set forth below. All ponds shall have a minimum depth of five feet. In addition, ponds shall be constructed in conformance with the standards of the Soil Conservation Service Technical Guide and, where applicable, the Wet Detention Basin of the Wisconsin Department of Natural Resources Conservation Practice Standard, copies of which are available through the village engineer, as well as other applicable provisions of Wis. Admin. Code NR 151 (Runoff Management) and NR 333 (Dam Design and Construction). The village engineer may require the applicant to submit an engineering analysis certifying the structural adequacy of the proposed pond.
(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-222. Excavated material.

All excavated material shall remain on-site and shall be integrated into the restoration of the pond area.
(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-223. Rezoning.

If the excavated material from the project site is sold, given away, or is otherwise removed from the site in a manner in which the principal use appears to be soil removal, and pond construction appears to be a secondary result, the parcel shall be rezoned to M-4 quarrying district and a mineral extraction conditional use permit shall be obtained prior to any excavation or grading on the parcel.

(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-224. Penalty.

(1) *Forfeiture.* Any person who violates any provision of this chapter or who shall construct or make improvements to any pond located within the Village of Yorkville without first obtaining a permit as required herein shall, upon conviction thereof, forfeit not less than $50.00 nor more than $500.00 together with the cost of prosecution. Further, each such day of continued violation of the provisions of this chapter shall be considered a separate offense.

(2) *Injunction.* In case any premises are used in violation of this chapter, an action in the name of the village may be instituted to enjoin such violation or intended

violation, and this remedy shall be in addition to other remedies set forth in this section.

(3) *Abatement.*

(a) *Notice to owner.* In the event that any person shall construct or make improvements to any pond located within the Village of Yorkville without first obtaining a permit as required herein or who shall construct or make improvements to any pond located within the Village of Yorkville contrary to this chapter, the village may serve notice on the person causing, permitting or maintaining such a violation and upon the owner or the occupant of the premises on which such a violation is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct that the person causing, permitting or maintaining such a violation or the owner or the occupant of the premises to abate or remove each such violation or to obtain the necessary permits required hereby within seven days from the date of posting and shall state that unless such action is taken, that the village will cause the same to be abated, removed or otherwise brought into compliance and will charge the costs thereof to the owner, occupant or person causing, permitting or maintaining the violation, as the case may be. The notice shall also inform the owner, occupant, or person causing, permitting, or maintaining the violation of the right to have the determination of the village reviewed in accordance with chapter 2, article VII of the village's Code of Ordinances.

(b) *Abatement or restoration by the village.* If the action required by the notice issued pursuant to this section is not taken within the time provided or if the owner, occupant or person causing, permitting or maintaining the violation cannot be found, the village shall cause the abatement or removal of such violation, and if necessary to bring the premises into compliance, the village shall take action to restore the property to a state consistent with the condition of the property prior to the construction of the pond or the improvements made to the pond which were made in violation of the chapter.

(c) *Cost of abatement or restoration.* In addition to any other penalty imposed for this section, the cost of abating a violation of the chapter by the village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the violation, and if notice to abate and/or remedy the violation has been given to the owner, such costs shall be assessed against the real estate as a special charge.

(Ord. No. 2006-05, § 1, 8-14-2006)

Secs. 38-225 - 38-250. Reserved.

Article VII. Special Assessments [4]

State Law reference— Special assessments, Wis. Stat. § 66.0701 et seq. (Code 1982, § 25.10)

Sec. 38-251. Purpose.

In addition to other methods provided by law, special assessments for any public work or improvement or any current service may be levied in accordance with the provisions of this article. (Code 1982, § 8.12(1))

Sec. 38-252. Resolution required.

Whenever the village board shall determine that any public work or improvement or any current service shall be financed in whole or in part by special assessments levied under this article, the village board shall adopt a resolution specifying this intention and the time, either before or after completion of the work or improvement, when the amount of the assessment will be determined and levied, the number of annual installments, if any, in which assessments may be paid, the rate of interest to be charged on the unpaid balance and the terms on which any of the assessments may be deferred while no use of the improvement is made in connection with the property.
(Code 1982, § 8.12(2))

Sec. 38-253. Application of state statues.

The provisions of Wis. Stat. §§ 66.0703 and 66.0721 shall apply to special assessments levied under this article except that, when the village board determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or the rendering of the service, the report required by Wis. Stat. § 66.0703(5) shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.
(Code 1982, § 8.12(3))

Sec. 38-254. Notice of hearing.

Notice of the time and place of the public hearing on any special assessment proposed to be levied and notice of the final assessment and terms of payment thereof shall be given in the manner prescribed by Wis. Stat. § 66.0703(7) and (8)(d).
(Code 1982, § 8.12(4))

Sec. 38-255. Lien against assessed property.

Any special assessment levied under this article shall be a lien against the property assessed from the date of the final resolution of the village board determining the amount of the levy.
(Code 1982, § 8.12(5))

Sec. 38-256. Appeal.

Any person against whose property a special assessment is levied under this article may appeal therefrom in the manner prescribed by Wis. Stat. § 66.0703(12), within 40 days of the date of the final determination of the village board.
(Code 1982, § 8.12(6))

Article VIII. Official Map

Sec. 38-257. Introduction.

WHEREAS, the Village Board of the Village of Yorkville, upon recommendation of the Village Plan Commission, adopted on December 16, 2019, an Interstate 94 Corridor Neighborhood Plan as a part of the Village Comprehensive Plan; and

WHEREAS, the Village Plan Commission has recommended to the Village Board that an Official Map be established for a portion of the Village of Yorkville; and

WHEREAS, a public hearing was held before the Village Board of the Village of Yorkville to receive public input on April 10, 2023, and June 12, 2023, on the question of the adoption of an Official Map; and

WHEREAS, the Village Board of the Village of Yorkville has determined that it is necessary for the proper physical development of the Village to establish an Official Map for a portion of the Village of Yorkville;

NOW, THEREFORE, the Village Board of the Village of Yorkville, Racine County, Wisconsin, do hereby ordain as follows:

Sec. 38-258. Intent.

It is the intent of the Village Board establish an Official Map for the purpose of serving and promoting the public health, safety, convenience, economy, orderliness, and general welfare of the community; to further the orderly layout and use of land; to stabilize the location of real property boundary lines; to ensure proper legal descriptions and proper monumenting of land; to facilitate adequate provision for transportation, parks, playgrounds, and storm water drainage; and to facilitate the further subdivision of larger tracts into smaller parcels of land.

Sec. 38-259. Authority.

This Ordinance is enacted under the authority granted by Sections 61.35 and 62.23(6) of the Wisconsin Statutes.

Sec. 38-260. Jurisdiction.

The jurisdictional area of this Ordinance shall include all lands within the boundaries of Section 24, T3N, R21E within the Village of Yorkville.

Sec. 38-261. Official map.

There is hereby established, as the Official Map of the Village of Yorkville, the Map which accompanies and is made a part of this Ordinance bearing the date of May 24, 2023. This map is hereby designated as the "Official Map of the Village of Yorkville," and all notations, references, and other information shown thereon shall be as much a part of this Ordinance as though the matters and information thereon were fully described herein. The Official Map shall show the location and extent of all platted and existing streets, highways, drainageways, existing and planned public water and sanitary sewer facilities, parkways, parks and playgrounds, airports and airport affected areas, and historic districts within the jurisdictional area described above of the Village of Yorkville as heretofore laid out, adopted and established by law.

Sec. 38-262. Changes and additions.

The Village Board may change or add to the Official Map so as to establish the exterior lines of planned new streets, highways, historic districts, parkways, railroad rights-of-way, public transit facilities, waterways, parks or playgrounds, or to widen, narrow, extend, or close any platted, existing, proposed, or planned streets, highways, planned public water and sanitary sewer facilities, waterways which are included in a comprehensive surface water drainage plan, parkways, and parks or playgrounds. The locating, widening or closing, or the approval of the locating, widening or closing of streets, highways, waterways, parkways, railroad rights-of-way, public transit facilities, parks or playgrounds by the Village under provisions of law other than this section shall be deemed to amend the Official Map, and are subject to this section, except that changes or additions made by a subdivision plat approved by the Village under Ch. 236, Wis. Stats., do not require the public hearing specified below if the changes or additions do not affect any land outside the platted area.

(1) Referral to Village Plan Commission. The Village Board shall refer any change or addition to the Official Map to the Village Plan Commission for review and report thereon prior to adoption. The Village Plan Commission shall report its recommendation to the Village Board within sixty (60) days, but if the Village Plan Commission does not make its report within 60 days of referral, it forfeits the right to further suspend action.

(2) Public Hearing Required. The Village Board shall hold a public hearing prior to adoption of any changes or additions to the Official Map. Notice of the public hearing shall be published as a Class 2 notice pursuant to Chapter 985 of the Wisconsin Statutes.

(3) Effect of Amendment. When adopted, amendments become a part of the Official Map of the Village, and are conclusive with respect to the location and width of the streets, highways, public water and sanitary sewer facilities, historic districts, waterways and parkways and the location and extent of railroad rights-of-way,

public transit facilities, parks and playgrounds shown on the map. The placing of any street, highway, waterway, parkway, railroad right-of-way, public transit facility, park or playground line or lines upon the Official Map does not constitute the opening or establishment of any street, parkway, railroad right-of-way, public transit facility, park or playground or alteration of any waterway, or the taking or acceptance of any land for these purposes.

Sec. 38-263. Building permits.

(a) *Building Permits Generally.* No permit may be issued to construct or enlarge any building within the limits of any street, highway, waterway, railroad right-of-way, public transit facility or parkway, shown or laid out on the map except as provided in this section.

(1) *Application.* Any person desiring to construct or enlarge a building within the limits of a street, highway, waterway, railroad right-of-way, public transit facility or parkway shown on the Official Map within the incorporated limits of the Village shall apply to the authorized official of the Village for a building permit. Unless an application is made, and the building permit granted or not denied within 30 days, the person is not entitled to compensation for damage to the building in the course of construction of the street, highway, railroad right-of-way, public transit facility or parkway shown on the Official Map within the incorporated limits of the Village. Unless an application is made, and the building permit granted or not denied within 30 days, the person is not entitled to compensation for damage to the building in the course of construction or alteration of the waterway shown on the Official Map within the incorporated limits of the Village.

(2) *Appeals.* If the land within the mapped street, highway, waterway, railroad right-of-way, public transit facility or parkway is not yielding a fair return, the Village Board of Appeals may, by the vote of a majority of its members, grant a permit for a building or addition in the path of the street, highway, waterway, railroad right-of-way, public transit facility or parkway, which will as little as practicable increase the cost of opening the street, highway, waterway, railroad right-of-way, public transit facility or parkway or tend to cause a change of the Official Map. Before taking any action authorized in this subsection, the Village Board of Appeals shall hold a hearing at which parties in interest and others shall have an opportunity to be heard. At least 15 days before the hearing, notice of the time and place of the hearing shall be published as a class 1 notice, under Ch. 985, Wis. Stats. Any such decision shall be subject to review by certiorari issued by a court of record in the same manner and pursuant to the same provisions as in appeals from the decisions of a board of appeals upon zoning regulations. The Village Board of Appeals may impose reasonable requirements as a condition of granting the permit to promote the health, convenience, safety or general welfare of the community. The Village Board of Appeals shall refuse a permit where the applicant will not be substantially affected by not constructing the addition or by placing the building outside the mapped street, highway, waterway, railroad right-of-way, public transit facility or parkway.

(b) Building Permits and Access Requirements.

(1) No permit for the erection of any building shall be issued unless a street, highway or parkway giving access to such proposed structure has been duly placed on the Official Map.

(2) *Appeals.* Where the enforcement of the provisions of this section would entail practical difficulty or unnecessary hardship, and where the circumstances of the case do not require the structure to be related to existing or proposed streets, highways or parkways, the applicant for such a permit may appeal from the decision of the administrative officer having charge of the issuance of permits to the Village Board of Appeals which has the power to grant variances or exceptions in zoning regulations, and the same provisions are applied to appeals of this section as are provided in cases of appeals on zoning regulations. Before taking any action authorized in this subsection, the Village Board of Appeals shall hold a hearing at which parties in interest and others shall have an opportunity to be heard. At least 15 days before the hearing, notice of the time and place of the hearing shall be published as a class 1 notice, under Ch. 985, Wis. Stats. The Village Board of Appeals may, in passing on such appeal, make any reasonable exception, and issue the permit subject to conditions that will protect any future street, highway or parkway layout. Any such decision shall be subject to review by certiorari issued by a court of record in the same manner and pursuant to the same provisions as in appeals from the decision of the Village Board of Appeals upon zoning regulations.

Sec. 38-264. Municipal improvements.

No public sewer, water, or other municipal street utility or improvement shall be constructed in any street, highway, or parkway within the jurisdictional area of this Ordinance until such street, highway, or parkway is duly placed on the Official Map.

Sec. 38-265. Certified copy of map.

There shall be a certified copy of the Official Map described above. The certified copy shall be kept in the office of the Village Clerk and shall be available for inspection by any interested person during regular office hours. The certified copy shall bear on its face a certification that it is a true copy of the Official Map described in and accompanying this Ordinance and shall show the date of adoption of this Ordinance and shall be signed by the Village President and countersigned by the Village Clerk. Thereafter, no change or addition to such Official Map shall become effective until adopted as provided above and until it shall have been indicated by the appropriate convention on the certified copy of the Official Map and a certificate placed thereon or attached thereto bearing the number and date of adoption of the amending ordinance. The certificate shall be signed by the Village President and countersigned by the Village Clerk.

Sec. 38-266. Ordinance and amendments to be recorded with Register of Deeds.

The Village Clerk shall be responsible immediately upon adoption of the Official Map or any amendment thereto to record with the Register of Deeds of the County of Racine, Wisconsin a certified copy of the ordinance indicating that the Official Map, or Amended Official Map, can be viewed in the office of the Village Clerk.

Sec. 38-267. Enforcement.

It shall be the duty of the Village Building Inspector, Zoning Administrator, Village Administrator or designee of any of the above to enforce the provisions of this Ordinance.

Sec. 38-268. Penalties.

(a) Any Person, Firm, or Corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not more than Two Hundred Dollars ($200.00) and not less than Fifty Dollars ($50.00) and cost of prosecution for each violation, and in default of payment of such forfeiture and costs shall be imprisoned in the County jail until payment thereof but not exceeding 30 days. Each day a violation exists shall constitute a separate offense.

(b) No Damages shall be allowed for the taking by any governmental agency, for street, highway, drainageway, or parkway purposes, any building erected in violation of this Ordinance.

Sec. 38-269. Severability.

If any section or part of this Ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. All other ordinances or parts of ordinances of the Village inconsistent with this Ordinance to the extent of the inconsistency only are hereby repealed.

Sec. 38-270. Effective date.

This ordinance shall become effective upon adoption and publication as provided by law.

Chapters 39 - 45 RESERVED

Chapter 46

TAXATION AND FINANCE[1]

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
	Article I. In General		
Sec. 46-1.	Penalty.		
Secs. 46-2. – 46-30.	Reserved.		
	Article II. Ad Valorem Taxes		
Sec. 46-31.	Preparation of tax roll and tax receipts.	2013-16	11/13/23
Sec. 46-32.	Tax receipts.	2013-16	11/13/23
Secs. 46-33. – 46-60.	Reserved.		
	Article III. Room Tax		
Sec. 46-61.	Purpose.		
Sec. 46-62.	Definitions.		
Sec. 46-63.	Tax.		
Sec. 46-64.	Collection.	2013-16	11/13/23
Sec. 46-65.	Permit.	06-2015	07/13/15
		2013-16	11/13/23
Sec. 46-66.	Liability.		
Sec. 46-67.	Records.	2013-16	11/13/23
Sec. 46-68.	Assessment.	06-2015	07/13/15
		2013-16	11/13/23
Sec. 46-69.	Delinquent returns; delinquent tax.	06-2015	07/13/15
		2023-16	11/13/23
Sec. 46-70.	Penalty.	2013-16	11/13/23
Secs. 46-71. – 46-100.	Reserved.		
	Article IV. Finance		
	Division 1. Generally		
Sec. 46-101.	Fiscal year.		
Sec. 46-102.	Claims procedure.	2013-16	11/13/23
Sec. 46-103.	Treasurer/Finance Director bond.	2013-16	11/13/23
Sec. 46-104.	Temporary investment of funds not immediately needed.	2013-16	11/13/23
Sec. 46-105.	Disbursement of village funds.	2013-16	11/13/23
Secs. 46-106.	Fees and charges; recovery of necessary professional service costs.	2016-02	05/09/16
Secs. 46-107 – 46-120.	Reserved.	2016-02	05/09/16

[1] **Cross reference—** Any ordinance promising or guaranteeing the payment of money for the village or authorizing the issue of any bonds of the village or any evidence of the village's indebtedness saved from repeal, § 1-9(2); any ordinance adopting the budget or any appropriation ordinance saved from repeal, § 1-9(7); administration, ch. 2; businesses, ch. 14.

Division 2. Budget

Sec. 46-121.	Preparation.
Sec. 46-122.	Information required.
Sec. 46-123.	Copies required.
Sec. 46-124.	Hearing.
Sec. 46-125.	Action by village board.
Sec. 46-126.	Changes in budget.
Sec. 46-127.	Village funds to be spent in accordance with appropriations.

Article I. In General

Sec. 46-1. Penalty.

Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter, or any order, rule or regulation made under this chapter, upon conviction shall be subject to a penalty as provided in section 1-14.

Secs. 46-2 - 46-30. Reserved.

Article II. Ad Valorem Taxes

Sec. 46-31. Preparation of tax roll and tax receipts.

Pursuant to Wis. Stat. 70.65(2), the treasurer/finance director shall, in computing the tax roll, insert only the aggregate amount of state, county, local, school and other general property taxes minus credits applied under Wis. Stat. 79.10(9), except credits determined under Wis. Stat. 79.10(7m) in a single column in the roll opposite the parcel or tract of land against which the tax is levied, or, in the case of personal property, in a single column opposite the name of the person against whom the tax is levied. Each tax bill or receipt shall show the purpose for which the taxes are to be used giving the breakdown for state, county, local, school and other general property taxes. The tax roll shall indicate all corrections made under Wis. Stat. 70.43 and 70.44.
(Code 1982, § 3.01(1))

Sec. 46-32. Tax receipts.

Pursuant to Wis. Stat. § 74.19, the treasurer/finance director shall enter in each tax receipt given by the county clerk for the payment of taxes the name of the person paying the taxes, if that person is not the owner of the property taxed, the date of payment and the aggregate amount of taxes paid. Tax receipts shall be signed, and a duplicate kept, by the treasurer/finance director after noting the payment of taxes upon the tax roll. The treasurer/finance director shall then deliver the receipt to the appropriate person.
(Code 1982, § 3.01(2))

Secs. 46-33 - 46-60. Reserved.

Article III. Room Tax

State Law reference— Authority, Wis. Stat. 66.0615.

Sec. 46-61. Purpose.

Wis. Stat. 66.0615 authorizes the imposition of a tax on the privilege of furnishing at retail lodging for transients by hotel keepers, motel operators and certain other persons. The village board finds that such a tax is in the public interest.
(Code 1982, § 3.11(1))

Sec. 46-62. 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:

Gross receipts means the total amount of the rental price with the conditions and exceptions provided in Wis. Stat. 77.996(6).

Hotel and *motel* mean a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodginghouses, roominghouses, summer camps, apartment hotels, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the to the public, except accommodations, including mobile homes as defined in Wis. Stat. 66.0435(1)(d) rented for a continuous period of more than one month and accommodations furnished by any hospitals, sanatoriums, or nursing homes, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

Innkeeper means the owner of a lodging facility.

One month means a calendar month or 30 days, whichever is less, counting the first day of the rental and not counting the last day of the rental.

Transient means any person residing for a period of less than one month continuously in a hotel, motel or other furnished accommodations available to the public.

(Code 1982, § 3.11(2))
Cross reference— Definitions generally, § 1-2.

Sec. 46-63. Tax.

There is imposed a tax on the privilege and service of furnishing at retail rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, whether or not membership is required for the use of such accommodations. The tax shall be at the rate of eight percent of the gross receipts from such retail furnishing of rooms or lodging and shall be payable by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public for hotel, motel or other furnished accommodations available to the public in the village. The proceeds of such tax shall be apportioned as follows: Five percent to the hotel keepers, motel operators and other persons furnishing accommodations that are available to the public filing the return and 95 percent to the village.
(Code 1982, § 3.11(3); Ord. of 10-29-2001)

Sec. 46-64. Collection.

The tax imposed in this article is due and payable on a monthly basis not later than the 20th day of the month following that for which the tax is due. No later than the 20th day of each month, every hotel keeper, motel operator and other person furnishing accommodations that are available to the public shall file a return with the treasurer/finance director on a form provided by the treasurer/finance director and shall remit to such treasurer/finance director the tax as provided in such return.
(Code 1982, § 3.11(4))

Sec. 46-65. Permit.

(a) No hotel keepers, motel operators and other persons furnishing accommodations that are available to the public shall operate a hotel, motel or other furnished accommodations available to the public in the village without first obtaining a room tax permit for each hotel, motel or other furnished accommodations available to the public. Application for such permit shall be made to the clerk on forms provided by the clerk. The clerk shall issue a permit to the hotel keepers, motel operators and other persons furnishing accommodations that are available to the public for each facility for which application is made upon payment of a fee as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution for each hotel, motel or other furnished accommodations available to the public. The permit is nontransferable and is valid only for the named hotel, motel or other furnished accommodations available to the public and the hotel keepers, motel operators and other persons furnishing accommodations that are available to the public named in such permit. The permit shall be posted in a conspicuous place in the hotel, motel or other furnished accommodations available to the public for which it is issued.

(b) If the hotel keepers, motel operators and other persons furnishing accommodations that are available to the public ceases to do business at the hotel, motel or other furnished accommodations available to the public for which the permit was issued; conveys or transfers the business or his interest in it; or assigns his interest to another person, the hotel keepers, motel operators and other persons furnishing accommodations that are available to the public shall, within ten days of such event, notify the clerk of such change

and turn in to the clerk any such permit issued for the hotel, motel or other furnished accommodations available to the public.

(Code 1982, § 3.11(5))

Sec. 46-66. Liability.

If a hotel keeper, motel operator and other person furnishing accommodations that are available to the public who is liable for any tax under this article sells, conveys, assigns or transfers his hotel, motel or other furnished accommodations available to the public business or stock of goods or quits such business, the successors or assigns of the hotel keeper, motel operator and other person furnishing accommodations that are available to the public shall be responsible for the payment of any unpaid tax due under this article.

(Code 1982, § 3.11(6))

Sec. 46-67. Records.

Every hotel keeper, motel operator and other person furnishing accommodations that are available to the public holding a permit under this section shall for a period of three full calendar years maintain available for inspection by the clerk the account books, records, receipts, invoices and similar records relating to the rental of rooms and lodging in the hotel, motel or other furnished accommodations available to the public. The clerk may, upon audit of returns, records and other information received, determine the tax to be paid or refunded. An appeal from any additional tax imposed may be made by the hotel keeper, motel operator and other person furnishing accommodations that are available to the public upon written notice to the clerk within 20 days following the date that notice of the assessment is mailed to such hotel keeper, motel operator and other person furnishing accommodations that are available to the public. The village board shall hold a hearing on such appeal within 30 days after the clerk received the notice of appeal and shall grant or deny such appeal.

(Code 1982, § 3.11(7))

Sec. 46-68. Assessment.

If an hotel keeper, motel operators and other person furnishing accommodations that are available to the public fails to file a return as required by this section, the treasurer/finance director shall make an estimate of the amount of the gross receipts for such hotel, motel or other furnished accommodations available to the public. The estimate shall be made for the period upon state sales tax records and records described in section 46-67. On the basis of such estimate, the treasurer/finance director shall compute and determine the amount of the tax. In addition to the tax, a penalty in an amount as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution shall be assessed.

(Code 1982, § 3.11(8))

Sec. 46-69. Delinquent returns; delinquent tax.

All unpaid taxes assessed or imposed under this article shall bear interest at the rate of 12 percent per annum from the due date of the return until paid. Delinquent tax returns under this article shall be subject to a late filing fee as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution.
(Code 1982, § 3.11(9))

Sec. 46-70. Penalty.

Any hotel keeper, motel operator and other person furnishing accommodations that are available to the public who is subject to the tax imposed by this section who fails to obtain a permit as required; fails or refuses to permit the inspection of such innkeeper's state sales tax records by the treasurer/finance director after such inspection has been requested; fails to file a return as required in this section; or violates any other provision of this section shall be subject to a penalty as provided in section 1-14.
(Code 1982, § 3.11(10))

Secs. 46-71 - 46-100. Reserved.

Article IV. Finance

Division 1. Generally

Sec. 46-101. Fiscal year.

The calendar year shall be the fiscal year.

(Code 1982, § 3.02)

Sec. 46-102. Claims procedure.

(a) *Village board to audit accounts.* Except as provided in subsection (c) of this section, no account or demand against the village shall be paid until it has been audited by the village board and an order drawn on the clerk therefor. Every such account shall be itemized. After auditing, the village board shall cause to be endorsed by the clerk, over his/her hand on each account, the words "allowed" or "disallowed," as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed, if disallowed in part only. The minutes of the proceedings of the village board shall show to whom and for what purpose every such account was allowed and the amount thereof. Every such account or demand allowed in whole or in part shall be filed by the clerk; and those of each year shall be consecutively numbered and have endorsed thereon the number of the order on the clerk issued in payment; and the clerk shall take a receipt thereon for such order.

(b) *Verification.* All accounts, demands or claims against the village shall be verified by the claimant or proper officer.

(c) *Payment of regular wages or salaries.* Regular wages or salaries of village officers and employees shall be paid by payroll, verified by the proper village officer and filed with the treasurer/finance director in time for payment on the regular pay day.

(Code 1982, § 3.06))

Sec. 46-103. Treasurer/Finance Director bond.

(a) *Eliminated.* The village elects not to give the bond on the treasurer/finance director provided by Wis. Stat. § 70.67(1).

(b) *Village liable for default of treasurer/finance director.* Pursuant to Wis. Stat. § 70.67(2), the village shall pay, if the treasurer/finance director fails to do so, all state and county taxes required by law to be paid by such treasurer/finance director to the county treasurer.

(Code 1982, § 3.08)

Sec. 46-104. Temporary investment of funds not immediately needed.

The clerk may invest any village funds not immediately needed, pursuant to Wis. Stat. § 66.0603(1m).

(Code 1982, § 3.09)

Sec. 46-105. Disbursement of village funds.

Pursuant to Wis. Stat. § 66.0607, all disbursements of village funds shall be by order checks which shall be signed by the clerk and shall be countersigned either by the village president or one of the village trustees as shall be provided from time to time in appropriate resolutions designating depositories adopted by the village board, certified copies of which shall be filed with such depositories.

(Code 1982, § 3.10)

Sec. 46-106. Fees and charges; recovery of necessary professional service costs.

All existing fees and charges of the village shall continue in force and effect until changed by the village board.

In addition to any fee that is specifically required by this code or that is otherwise established by the village board, if the circumstances of any particular approval, permit or other application that is made to the village necessitate, in the reasonable opinion of village staff, a level of professional

review beyond village staff's expertise, and beyond the cost of the typical fee, the village may require the applicant to enter into an agreement with the village requiring that the costs of such professional services to be borne by the applicant. Without limitation by enumeration, necessary professional services may include legal, engineering, architectural, environmental, planning or surveying costs, and professional service cost reimbursement agreements may be required, when circumstances warrant, in conjunction with applications for building permits, site plan review, rezoning, conditional use permits, variances, land division, soil disturbance or other land development activities.

Secs. 46-107 - 46-120. Reserved.

Division 2. Budget

State Law reference— Budget, Wis. Stat. § 65.90.

Sec. 46-121. Preparation.

The village board shall annually prepare and submit a proposed budget presenting a financial plan for conducting the affairs of the village for the ensuing fiscal year.
(Code 1982, § 3.03(1)(a))

Sec. 46-122. Information required.

The budget shall include the following information:

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

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

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

(4) Such other information as may be required by the village board and state law.

(Code 1982, § 3.03(1)(b))

Sec. 46-123. Copies required.

The village shall provide a reasonable number of copies of the budget which shall be prepared for distribution to citizens.

(Code 1982, § 3.03(1)(c))

Sec. 46-124. Hearing.

The village board shall hold a public hearing on the budget as required by law.

(Code 1982, § 3.03(2))

Sec. 46-125. Action by village board.

Following the public hearing, the proposed budget may be changed or amended and shall take the same course in the village board as ordinances.
(Code 1982, § 3.03(3))

Sec. 46-126. Changes in budget.

The amount of the tax to be levied or certified and the amounts of the various appropriations, and the purposes thereof, shall not be changed after approval of the budget except by a two-thirds vote of all the trustees of the village board. Notice of such change shall be given by publication or posting within 15 days after any change is made in accord with Wis. Stat. §65.90.
(Code 1982, § 3.04)

Sec. 46-127. Village funds to be spent in accordance with appropriations.

No money shall be drawn from the treasury of the village, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by section 46-126. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the village board, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made has been accomplished or abandoned.
(Code 1982, § 3.05)

Chapters 47 - 49 RESERVED

Chapter 50

GENERAL PROVISIONS[1]

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
	Article I. In General		
Sec. 50-1.	State traffic laws adopted.		
Sec. 50-2.	Erection of official signs and signals.	06-2014	06/09/14
Sec. 50-3.	Penalty.		
Sec. 50-4.	Enforcement.		
Secs. 50-5. – 50-30.	Reserved.		
	Article II. Specific Street Regulations		
	Division 1. Generally		
Secs. 50-31.	Compression braking prohibited.	2018-03 2023-16	05/14/18 11/13/23
Secs. 50-32. – 50-50.	Reserved.		
	Division 2. Speed Limits		
Sec. 50-51.	Speed limits.	2017-02	10/09/17
Secs. 50-52. – 50-70.	Reserved.		
	Division 3. Stopping, Standing, Parking		
Sec. 50-71.	Parking prohibited where indicated by signs.		
Sec. 50-72.	Overnight parking on roadways.		
Sec. 50-73.	Specific parking prohibition.	2025-07	04/28/25
Secs. 50-74. – 50-90.	Reserved.		
	Division 4. Weight Limits and Heavy Traffic Routes		
Sec. 50-91.	Class B highways designated; weight limitations; exemptions.	02-2014	06/09/14
Sec. 50-92.	Special and seasonal weight limitations.		
Sec. 50-93.	Adoption of Wis. Stat. Sec. 348.15(3)(g) – Table of Statutory Weight Limits.	09-2014 2023-16	12/22/14 11/13/23
Secs. 50-94. – 50-99.	Reserved.		

[1] Cross reference— Any ordinance prescribing through streets, parking and traffic regulations, speed limits, one-way traffic, limitations on load of vehicles or loading zones saved from repeal, § 1-9(9); vehicle accidents involving animals, § 6-85; junked, wrecked, abandoned vehicles, § 22-81 et seq.; miscellaneous offenses, ch. 30; streets, sidewalks and other public places, ch. 38.

Article III. Off-Road Vehicles

Division 1. Generally

Sec. 50-100.	Purpose.	2024-05	04/08/24
Sec. 50-101.	Definitions.	2024-05	04/08/24
Sec. 50-102.	Exemption.	2022-06	7/11/22
		2024-05	04/08/24
Sec. 50-103.	Penalty.	2024-05	04/08/24
Sec. 50-104.	Reserved.	2024-05	04/08/24

Division 2. Off-Road Vehicle Uses.

Sec. 50-105.	Off-road vehicle uses.	2022-06	7/11/22
		2024-05	07/11/22
Sec. 50-106.	General operational restrictions.	2024-05	04/08/24
Sec. 50-107.	Location restrictions.	2024-05	04/08/24
Sec. 50-108.	Time and duration restrictions.	2024-05	04/08/24
Sec. 50-109.	Reserved.	2024-05	04/08/24

Division 3. Off-Road Vehicle Tracks

Sec. 50-110.	Approval.	2024-05	04/08/24
Sec. 50-111.	Site restrictions.	2024-05	04/08/24

Article I. In General

Sec. 50-1. State traffic laws adopted.

The statutory provisions describing and defining regulations with respect to vehicles and traffic in the following enumerated sections of the Wisconsin Statutes, exclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of such statutes, are hereby adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter.

340.01, 341.01, 342.01, 343.01, 344.01, 346.01, 347.01 and 348.01	Words and phrases defined
341.03	Operating vehicle after suspension, revocation or cancellation of registration
341.04	Operating unregistered or improperly registered vehicle
341.045	Use of registered farm trucks regulated
341.05	When vehicle exempt from registration
341.07	Certain vehicles to be registered by resident lessee
341.08	Application for registration
341.11(4)	Display of registration certificates
341.15	Display of registration plates
341.16(2)	Destruction of illegible plates
341.51	Registration of dealer, distributor, manufacturer or transporter
341.55	Misuse of plates
341.61	Improper use of evidence of registration
341.62	False evidence of registration
341.63(3)	Surrender of plates upon suspension
342.05	Certificate of title required
342.06	Application for certificate of title
342.15	Transfer of interest in a vehicle
342.16	Transfer to or from dealer
342.30(2) and (3)	Assignment and stamping of new identification numbers
342.31(2)	Report of stolen or abandoned motor vehicle
342.33	Sale of vehicle used as taxicab
342.34	Destruction or junking of vehicles

343.10	Occupational licenses
343.12	School bus operators to obtain special authorization
343.18	License to be carried
343.19	Duplicate licenses or identification cards
343.22	Notice of change of address or name
343.305	Implied consent for tests of breath, blood or urine
343.35	Surrender of licenses upon revocation, cancellation or suspension
343.45	Permitting unauthorized persons to drive
343.46	Renting vehicles
344.45	Surrender of license and registration upon revocation or suspension
344.46	Transfer of ownership to defeat financial responsibility
344.51, 344.52	Financial responsibility for rented or leased vehicles
345.55	Traffic officers not to profit from arrests
346.02	Applicability of Wis. Stat. ch. 346
346.03	Authorized emergency vehicles
346.04(1), (2)	Obedience to traffic officer, signs and signals
346.05	Vehicles to be driven on right side of roadway
346.06	Meeting of vehicles
346.07	Overtaking and passing on left
346.075	Overtaking and passing bicycles and motorbuses
346.08	When overtaking and passing on right permitted
346.09	Limitations on overtaking on left or driving on left side of roadway
346.10	When passing at railroad crossing or intersection prohibited
346.11	Passing or meeting frightened animal
346.12	Driving through safety zones prohibited
346.13	Driving on roadways laned for traffic
346.14	Distance between vehicles
346.15	Driving on divided highway
346.16	Use of controlled-access highways, expressways and freeways
346.18	General rules of right-of-way
346.19	What to do on approach of emergency vehicle

346.20	Right-of-way of funeral processions and military convoys
346.21	Right-of-way of livestock
346.23	Crossing controlled intersection or crosswalk
346.24	Crossing at uncontrolled intersection or crosswalk
346.25	Crossing at place other than crosswalk
346.26	Blind pedestrian on highway
346.27	Persons working on highway
346.28	Pedestrians to walk on left side of highway; pedestrians and bicyclists on sidewalks
346.29	When standing or loitering in roadway or highway prohibited
346.31	Required position and method of turning at intersections
346.32	Required position for turning into private road or driveway
346.33	U-Turns
346.34	Turning movements and required signals on turning and stopping
346.35	Method of giving signals on turning and stopping
346.37	Traffic-control signal legend
346.38	Pedestrian control signals
346.39	Flashing signals
346.40	Whistle signals
346.41	Display of unauthorized signs and signals prohibited
346.42	Interference with signs and signals prohibited
346.44	All vehicles to stop at signal indicating approach of train
346.45	Certain vehicles to stop at all railroad crossings
346.46	Vehicles to stop at stop signs and school crossings
346.47	When vehicles using alley or nonhighway access to stop
346.48	Vehicles to stop for school buses displaying flashing lights
346.50	Exceptions to stopping and parking restrictions
346.505	Stopping, standing or parking prohibited in parking spaces reserved for physically disabled persons
346.51	Stopping, standing or parking outside of business or residence districts
346.52	Stopping prohibited in certain specified places
346.53	Parking prohibited in certain specified places
346.54	How to park and stop on streets

346.55	Other restrictions on parking and stopping
346.57(2)	Reasonable and prudent speed
346.57(3)	Conditions requiring reduced speed
346.57(4)(a)—(c)	Fixed speed limits in school or safety zones
346.57(4)(d)—(h)	Fixed speed limits
346.57(4)(i)	Speeding in park or recreation area
346.57(5)	Zoned and posted speed limits
346.58	Special speed restrictions for certain vehicles
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(Code 1982, §§ 7.340.01—7.941.03)

State law reference— Power of a village to prohibit crimes against public health and safety, Wis. Stat. § 66.0107; power to adopt traffic laws, Wis. Stat. § 349.03.

Sec. 50-2. Erection of official signs and signals.

(a) The village board, or its designated deputies, the code enforcement officer and the Racine County Sheriff's Department, at their direction, are hereby authorized and directed to procure, erect and maintain appropriate standard traffic signs, signals and markings conforming to the Uniform Traffic Control Devices Manual and giving such notice of the provisions of this chapter as required by state law. Signs shall also be erected in such locations and manner as authorized by the village board to give adequate warning to users of the street, road, highway or alley in question.

(b) No person shall intentionally damage, deface, move, remove or obstruct an official traffic sign or signal or intentionally interfere with the effective operation of such sign or signal.

Sec. 50-3. Penalty.

The penalty for violation of any provision of this chapter shall be a forfeiture and penalty assessment if required by Wis. Stat. § 757.05, a jail assessment if required by Wis. Stat. § 302.46, plus any applicable fees prescribed in Wis. Stat. ch. 814. Only those violations of ordinances adopted under the sections of the Wisconsin Statutes listed below are exempt from the penalty assessment:

346.50	Exceptions to stopping and parking restrictions
346.51	Stopping, standing or parking outside of business or residence districts
346.52	Stopping prohibited in certain specified places
346.53	Parking prohibited in certain specified places
346.54	How to park and stop on streets
346.55	Other restrictions on parking and stopping
349.13	Authority to regulate the stopping, standing or parking of vehicles
349.14	Authority to use parking meters

(1) *State forfeiture statutes.* Any forfeiture for violation of Wis. Stat. §§ 340.01—941.01 shall conform to the forfeiture permitted to be imposed for violation of the statutes adopted by reference, including any variations or increases for subsequent offenses.

(2) *Local regulations.* Except as otherwise provided in this chapter, the penalty for violation of sections 50-2, 50-51, 50-71, 50-91 and 50-92 shall be as provided in section 1-14.

(3) *Parking violations.*

		Forfeiture	
		Minimum	Maximum
346.51(1)	Improper parking on/off roadway	$30.00	$300.00
346.52(1)	Stopping/standing in prohibited areas	20.00	40.00
	Second conviction within one year	50.00	100.00
346.52(2)	Stopping/standing on highway by grade school	20.00	40.00
	Second conviction within one year	50.00	100.00
346.53	Parking/standing where prohibited	20.00	40.00
	Second conviction within one year	50.00	100.00
346.54	Improper parking/standing in vehicle	20.00	40.00
	Second conviction within one year	50.00	100.00
346.55(1)	Parking on left side of highway	30.00	300.00
346.55(3)	Parking on posted private property	20.00	40.00
	Second conviction within one year	50.00	100.00

(Code 1982, § 7.10)

Sec. 50-4. Enforcement.

(a) *Enforcement procedure.* This chapter shall be enforced according to Wis. Stat. §§ 23.33, 66.0114, 345.11—345.61, 350.17 and Wis. Stat. ch. 799.

(b) *Deposit.*

(1) Any person arrested for a violation of this chapter may make a deposit of money as directed by the arresting officer at the police station or at the office of the clerk of court or by mailing the deposit to such places. The arresting officer or the person receiving the deposit shall notify the arrested person, orally or in writing, that:

a. If the person makes a deposit for a violation of a traffic regulation, the person need not appear in court at the time fixed in the citation and the person will be deemed to have tendered plea of no contest and submitted to a forfeiture and penalty assessment if required by Wis. Stat. § 66.0114, a jail assessment if required by Wis. Stat. § 302.46(1), plus any applicable fees prescribed in Wis. Stat. ch. 814, not to exceed the amount of the deposit that the court may accept as provided in Wis. Stat. § 345.37.

b. If the person fails to make a deposit for a violation of a traffic regulation or appear in court at the time fixed in the citation, the court may enter a default judgment finding the person guilty of the offense or issue a warrant for his arrest.

(2) The amount of the deposit shall be determined in accordance with the State of Wisconsin Revised Uniform State Traffic Deposit Schedule established by the Wisconsin Judicial Conference and shall include the penalty assessment established under Wis. Stat. § 66.0114, a jail assessment if required by Wis. Stat. § 302.46(1), and court costs. If a deposit schedule has not been established, the arresting officer shall require the alleged offender to deposit the forfeiture established by the village board, which shall include the penalty assessment established under Wis. Stat. § 66.0114. Deposits for nonmoving violations shall not include the penalty assessment.

(3) The arresting officer or the person receiving the deposit shall issue the arrested person a receipt therefor as required by Wis. Stat. § 345.26(3)(b).

(c) *Petition to reopen judgment.* Whenever a person has been convicted in this state on the basis of a forfeiture of deposit or a plea of guilty or no contest and the person was not informed as required under Wis. Stat. § 345.27(1), (2), the person may, within 60 days after being notified of the revocation or suspension of the operating privilege, petition the court to reopen the judgment and grant him an opportunity to defend on merits. If the court finds that the petitioner was not informed as required under Wis. Stat. § 345.27(1), (2), the court shall order the judgment reopened. The court order reopening the judgment automatically reinstates the revoked or suspended operating privileges.

(Code 1982, § 7.11)

Secs. 50-5 - 50-30. Reserved.

Article II. Specific Street Regulations

Division 1. Generally

Secs. 50-31. Compression braking, prohibited.

(a) *Compression Braking Prohibited*. No person shall use a compression braking system within designated areas of the Village unless the vehicle is equipped with an adequate engine brake muffler in constant operation and properly maintained to prevent excessive or unusual noise.

(b) *Definition.* “Compression braking,” also known as “engine braking,” refers to the use of a dynamic braking device (commonly referred to as “jake brakes,” "Jacob's brakes," or "engine brakes") for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without or limiting the use of wheel brakes. In addition, “compression braking” includes the process of downshifting and releasing the clutch to utilize the vehicle’s engine to slow in order to meet proper speed restrictions.

(c) *Emergency Defense Exception*. It shall be an affirmative defense to prosecution under this ordinance that compression braking was applied in an emergency in which there was an imminent and immediate risk of injury to a person or damage to another vehicle or property, and compression braking was necessary for the protection of said persons or property.

(d) *Emergency Vehicle Exception*. Authorized emergency vehicles, as defined by §340.01(3), Wis. Stats., shall be exempt from this ordinance when responding to an emergency call, when in pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm.

(e) *Designated Areas*. The Village Board shall, by resolution, designate areas in the Village where engine braking is prohibited and signs shall be conspicuously posted in such areas stating: “No engine braking except in emergency” or its equivalent.

(f) *Signs*. The Village Clerk or his/her designee is authorized and directed to gain appropriate approval, if required, from the State of Wisconsin to post appropriate signs consistent with the provisions of this ordinance and in accordance with State statutes and administrative regulations.

(g) *Penalty*. Any person who violates this section shall be subject to a forfeiture in accordance with the general penalty provisions set forth in Section 1-14 of the Village’s Code of Ordinances.

Secs. 50-32. - 50-50. Reserved.

Division 2. Speed Limits

State Law reference— Speed limits, Wis. Stat. § 346.57 et seq.

Sec. 50-51. Speed limits.

The village board determines that the statutory speed limits on the following streets or portions thereof are unreasonable, unsafe or imprudent and modifies such speed limits under authority granted by Wis. Stat. § 349.11, as follows:

Alexandria Drive, 25 miles per hour for its full length.

Crystal Lane, 25 miles per hour from its intersection with Racine County Line Rd., "KR," northerly to its termination in section 35.

Deer Path, 25 miles per hour for its full length.

Evans Lane, 25 miles per hour from its intersection with N. Sylvania Avenue westerly to its termination as a dead-end highway.

Fawn Trail, 25 miles per hour for its full length.

Thoreau Court, 25 miles per hour for its full length.

Walden Drive, 25 miles per hour for its full length.

50th Road, 35 miles per hour from a point 0.60 of a mile east of its intersection with CTH "U" easterly to a point 0.80 of a mile east of its intersection with CTH "U".

50th Road, 45 miles per hour for all vehicles from its intersection with N. Sylvania Ave. (I-94 Frontage Road) westerly for 0.6 of a mile.

51st Drive, 45 miles per hour from its termination on CTH "C" southerly 0.8 of a mile.

51st Drive and 58th Road, 45 miles per hour for all vehicles for the entire length of the highway.

51st Drive, from the intersection of Highway "C" to the intersection with 58th Road.

58th Road, from the intersection with Highway 45 to the intersection of S. Sylvania Avenue.

58th Road, 45 miles per hour from a point at its intersection with USH 45 easterly to a point 500 feet east of its intersection with Maurice Drive.

65th Court, 35 miles per hour from its intersection with 65th Drive westerly to its termination as a dead-end highway.

65th Drive, 45 miles per hour for its full length.

67th Drive, 45 miles per hour from Spring Street southerly to the intersection of STH 11.

(Code 1982, § 7.02; Ord. of 11-23-1998; Ord. No. 2006-02, § 1, 6-12-2006)
State law reference— Authority to modify speed restrictions, Wis. Stat. § 349.11.

Secs. 50-52 - 50-70. Reserved.

Division 3. Stopping, Standing, Parking

Sec. 50-71. Parking prohibited where indicated by signs.

There shall be no parking on any roadway in the village where such prohibition is indicated by official signs of the village.
(Code 1982, § 7.03(1))

Sec. 50-72. Overnight parking on roadways.

Overnight parking on roadways in the village between the hours of 2:00 a.m. and 6:00 a.m. is prohibited.
(Code 1982, § 7.03(2))

Sec. 50-73. Specific parking prohibition.

Parking is prohibited on the following roadways in the Village:

(1) On the west side of STH 45 from the northern boundary of the Village of Union Grove northerly 1,260 feet between the hours of 7:00 a.m. and 4:00 p.m.

(2) On both sides of Grandview Parkway and West Grandview Parkway at all times.

Secs. 50-74 - 50-90. Reserved.

Division 4.
Weight Limits and Heavy Traffic Routes

Sec. 50-91. Class B highways designated; weight limitations; exemptions.

(a) *Designated.* All streets and alleys within the village, except for the following listed streets, are designated as Class B highways and shall be subject to the weight limitations imposed by Wis. Stat. § 348.16:

(1) Leetsbir Road;

(2) Grandview Parkway; and

(3) 58th Road from West Frontage Road to 56th Road.

(b) *Weight limitation.* Any motor vehicle whose operation is pickup or delivery may pick up or deliver on a Class B highway if the gross weight imposed on the highway by the wheels does not exceed 16,500 pounds, subject to the approval of the village president; provided that the use of such Class B highway shall be limited to the distances reasonably required to make such pickup or delivery.

(c) *Exemption from Class B weight restrictions.* The village board may for good cause shown exempt certain motor vehicles on a case-by-case basis, from the Class B weight restrictions. Such exemption is dependent on the following criteria:

(1) Weight;

(2) Number and frequency of trips requested; and

(3) Reason for overweight trips.

A request for an exemption of the Class B weight restriction shall be made in writing to the village board addressing the criteria set out in this subsection. Requests for exemptions shall be placed on the next regularly scheduled board meeting agenda. If an exemption is needed prior to the next village board meeting, then the Village President may grant a temporary exemption if good cause is shown by the requestor. The village may place conditions on any exemption granted, including the posting of a cash bond or letter of credit. Any exemption granted, except a temporary exemption, is valid for a period of one-year, unless a shorter time period is set by the village board. Any exemption granted under this section does not exempt the motor vehicle from any state department of transportation or county permit requirements.
(Code 1982, § 7.04(1))

Sec. 50-92. Special and seasonal weight limitations.

The village board may impose special or seasonal weight limits to prevent injury to the roadway of any highway, bridge or culvert within the jurisdiction of the village or for the safety of users of such highway, bridge or culvert and shall be responsible for erecting signs giving notice thereof in accordance with Wis. Stat. § 349.16.
(Code 1982, § 7.04(2))

Sec. 50-93. Adoption of Wis. Stat. Sec. 348.15(3)(g) – Table of Statutory Weight Limits.

The village board on December 22, 2014 adopted Ordinance No. 09-2014 – "An Ordinance to Opt-in for Category B Implements of Husbandry to Comply with the Table of Statutory Weight Limits Under Wisconsin Statutes Section 348.15(3)(g)," which reads as follows:

WHEREAS, 2013 Wisconsin Act 377 under Wisconsin Statutes Section 348.15(9)(f)1. provides that there is no weight limitation per wheel, axle, or group of axles for Category B implements of husbandry as defined in Wisconsin Statutes Section 340.01(24)(a)1.b., but does apply gross vehicle weight limitations to these vehicles, and

WHEREAS, Wisconsin Statutes Section 348.15(9)(f)1. authorizes the municipality to require compliance with axle weight limitations established under Wisconsin Statutes Section 348.15(3)(g) for Category B implements of husbandry defined in Wisconsin Statutes Section 340.01(24)(a)1.b. on all highways under its jurisdiction.

NOW, THEREFORE, BE IT HEREBY ORDAINED, by the Town Board of the Town of Yorkville, Racine County, Wisconsin, that, pursuant to Wisconsin Statutes Section 348.15(9)(f), all implements of husbandry (including Category B implements of husbandry defined in Wisconsin Statutes Section 340.01(24)(a)1.b.) may not exceed the weight limits imposed by Wisconsin Statutes Section 348.15(3)(g), and

FURTHER, BE IT HEREBY ORDAINED, that, to exceed the length and/or weight limitations on highways under this jurisdiction, a no-fee permit may be applied for from the Town of Yorkville, and

FURTHER, BE IT HEREBY ORDAINED, that, pursuant to Wisconsin Statutes Section 348.27(19)(b)4m.a., in the event an application for a no-fee permit is made for a Category B implement of husbandry as defined in Wisconsin Statutes Section 340.01(24)(a)1.b., the Town of Yorkville is required to provide an approved alternate route, which may include highways that are not under its jurisdiction, if prior approval has been given by the jurisdiction over the alternate routes not under the Town of Yorkville's jurisdiction for operation of Category B implements of husbandry, as defined in Wisconsin Statutes Section 340.01(24)(a)1.b., and

FURTHER, BE IT HEREBY ORDAINED, that this ordinance shall remain in effect until rescinded by further action of the Village Board of the Village of Yorkville, Racine County, Wisconsin, and

FURTHER, BE IT HEREBY ORDAINED, that the Clerk is hereby directed to provide a copy of this ordinance to the Wisconsin Department of Transportation for posting on the Wisconsin Department of Transportation website, and

FURTHER, BE IT HEREBY ORDAINED, that the Clerk is hereby directed to publish a summary of this ordinance within thirty days of its adoption, as required by Wisconsin Statutes 60.80(1), and

FURTHER, BE IT HEREBY ORDAINED, that this ordinance take effect the day following its posting on the Wisconsin Department of Transportation website and its publication.

Secs. 50-94 - 50-99. Reserved.

Article III. Off-Road Vehicles

Division 1. Generally

Sec. 50-100. Purpose.

The village board finds that the significant noise, dust and potential harm to the public associated with the improper use of off-road vehicles may endanger the public's health, safety and welfare unless the operation of such off-road vehicles is appropriately regulated. Therefore, the village board adopts the present article pursuant to its police power.

Sec. 50-101. 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:

All-terrain vehicle has the meaning ascribed in Wis. Stat. § 340.01(2g).

Dirt bike means a motorized two wheeled vehicle that is designed for cross-country travel on natural terrain without benefit of a road or trail.

Go-kart means a motorized miniature vehicle capable of achieving speeds in excess of ten miles per hour and commonly used on courses or race tracks specifically designed for such vehicles.

Off-road vehicle shall mean a motorized vehicle designed for use on a variety of unimproved surfaces including but not limited to, dune buggies, four-wheel drive vehicles, snowmobiles, all-terrain vehicles (ATVs), utility terrain vehicles (UTVs), dirt bikes, mini-bikes, motor bikes, mopeds and trail bikes.

Off-road vehicle track shall mean a new or existing trail made for the use of an off-road vehicle(s) where a permanent and defined path has been created and where the landscape has been manipulated in such a manner as to create a path or ruts that may include jumps, pits, obstacle courses, hills, and/or berms.

Off-road vehicle trail shall mean a new or existing trail made for the use of an off-road vehicle(s) where a permanent and defined path has been created.

Snowmobile means an engine-driven vehicle that is manufactured solely for snowmobiling, which has an endless belt tread and sled-type runners or skis to be used in contact with snow.

Sec. 50-102. Exemption.

The operator of an all-terrain vehicle or utility terrain vehicle owned by a municipality, state agency, public utility, or the Great Lakes Indian Fish and Wildlife Commission is exempt from the requirements and prohibitions of this article while the operator is engaged in an emergency or in the operation of an all-terrain vehicle or utility terrain vehicle directly related to the functions of the

municipality, state agency, public utility, or the Great Lakes Indian Fish and Wildlife Commission and if safety does not require strict adherence to these restrictions. Agricultural equipment (such as farm tractors, seeders, combines, cultivators, etc.) used in the operation of a farm, garden tractors and riding lawnmowers are exempt from the requirements and prohibitions of this article.

State law reference - Operation on or near highways - Exceptions; municipal, state, utility, and electric cooperative operations or those operations directly related to the functions of the municipality, state agency, public utility, or electric cooperative, or of the Great Lakes Indian Fish and Wildlife Commission, if safety does not require strict adherence to these restrictions; operations where the operator is engaged in activities at the direction of and under contract with a municipality or electric cooperative, if safety does not require strict adherence to these restrictions; races and derbies; land surveying operations, Wis. Stat. § 23.33(4)(c).

Sec. 50-103. Penalty.

Any person who violates any provision of this article shall be subject to a fine of not less than $50.00 nor more than $500.00, plus the costs of prosecution. Each day that a violation exists shall be deemed a separate offense.

Sec. 50-104. Reserved.

Division 2. Off-Road Vehicle Uses

Sec. 50-105. Off-road vehicle uses.

Three types of off-road vehicle use are defined and regulated under this section:

(a) Type A incidental off-road vehicle use. Type A incidental off-road vehicle uses (“Type A Uses”) are those in which the off-road vehicle is used on parcels of any size to further a permitted use on the subject parcel. Examples of a Type A Use would include use of an off-road vehicle to mow or plow snow, assist in activities related to on-site landscaping or agricultural activities, household chores, etc. Type A Uses are not subject to any time, duration or location restrictions, do not require any village registration or permit, but are subject to the general operational restrictions set forth in Sec. 50-106.

(b) Type B off-road vehicle use. Type B off-road vehicle uses (“Type B Uses”) are those that, in addition to Type A Uses, utilize an off-road vehicle trail for recreational purposes. Type B Uses do not require any village registration or permit, but are subject to the general operational restrictions set forth in Sec. 50-106, the location restrictions set forth in Sec. 50-107, and the time and duration restrictions set forth in Sec. 50-108.

(c) Type C off-road vehicle use. Type C off-road vehicle uses (“Type C Uses”) are those that, in addition to Type A and/or Type B Uses, utilize an off-road vehicle track. Type C Uses are subject to the general operational restrictions set forth in Sec. 50-106, the location restrictions set forth in Sec. 50-107, and the time and duration restrictions set forth in Sec. 50-108. In addition, Type C Uses are required to obtain a conditional use permit as

required by Sec. 50-110, and comply with the additional site restrictions set forth in Sec. 50-111.

Sec. 50-106. General operational restrictions.

(a) It shall be unlawful for any person to operate an off-road vehicle within the village, except as herein specifically permitted and authorized, under any of the following circumstances:

(1) On that portion of any right-of-way of a public highway, street, road, trail, or alley that is used for motor vehicle travel;

(2) On a public sidewalk provided for pedestrian travel;

(3) On the private property of another without lawful authority or permission of the owner or occupant;

(4) On public or community-owned property, such as outlots (subdivision or otherwise), parks, playgrounds or recreational areas, or on public trails designated for off-road vehicle operation if such operation is in violation of any rule or regulation thereof;

(5) In any manner so as to create loud, unnecessary or unusual noise, such as due to a modification of the factory muffler;

(6) In a careless, reckless or negligent manner so as to endanger, or to be likely to endanger, the safety of any person or the property of any other person;

(7) While under the influence of alcohol or drugs, as defined by state statute.

(b) All off-road vehicles operated within the Village shall conform to the equipment requirements set forth in Wis. Stat. § 23.33(6).

Sec. 50-107. Location restrictions.

(a) Off-road vehicles may not be operated in any residentially zoned area.

(b) Off-road vehicles involved in Type B Uses may be operated in agriculturally zoned areas (A-2) on lots of at least three acres in size, and Type C Uses may be operated in agricultural (A-2) commercial (B-2, B-5) or Recreational Park (P-2) zoning districts on lots of at least five acres in size, subject to the following limitations:

(1) Dust and noise control measures must be maintained by the property owner or occupant. Dust and noise control measures may be imposed and enforced by the village if other properties are unreasonably and adversely affected by dust and noise generated by off-road vehicle use;

(2) The off-road vehicles must be equipped with federally-approved spark arrestors, may not have been altered in any matter that effectively increases the noise associated with their operation (such as muffler modifications), and may not emit

noise in excess of 96 decibels at a distance of 20 inches at one-half the vehicle's red-line speed, as measured in accordance with the procedure adopted by the Wisconsin Department of Natural Resources;

(3) Any unvegetated riding area must be watered down before, during, and after riding, as needed, to control dust.

Sec. 50-108. Time and duration restrictions.

Off-road vehicles involved in Type B or Type C Uses may be operated only between the hours of 9:00 a.m. and 8:00 p.m., Monday through Saturday, and 12:00 p.m. and 8:00 p.m. on Sundays. In addition to complying with the above time requirements, Type B and Type C Uses may not continue for more than three hours (cumulatively) in any day.

50-109. Reserved.

Division 3. Off-Road Vehicle Tracks

Sec. 50-110. Approval.

Anyone wishing to construct or use a private or commercial, off-road motor vehicle track must submit an application for a conditional use permit in accordance with the requirements of the Village's zoning code. Along with the requisite application fee, if any, the applicant shall submit a site plan showing the location of the requested private, off-road motor vehicle track and also indicating the approximate distance to and current use of all occupied adjacent properties. An application shall also detail the private, off-road motor vehicle track's planned construction, use and operation.

Sec. 50-111. Site restrictions.

The minimum lot size for the construction or use of a private or commercial, off-road motor vehicle track is five acres. Private, off-road motor vehicle tracks shall have setback requirements that are equal to or greater than the setback requirements of any residence located on the property. No part of any private, off-road motor vehicle track may be nearer than 100 feet to any adjacent property. No private, off-road motor vehicle track may be constructed within one-half mile of any school, church, hospital, cemetery or park. All private, off-road motor vehicle tracks shall be located so as to be readily accessible by emergency vehicles. Permits granted for an off-road vehicle track shall be reviewed annually by the village board and their renewal shall be conditioned upon the permittee's continued compliance with such conditions as the board may, from time to time, determine are necessary to safeguard the safety and welfare of the village's residents. Conditional use permits approved as to off-road vehicle tracks may include conditions that vary from the provisions of this ordinance, depending on the unique characteristics of the location under consideration, in accordance with the provisions governing the issuance of conditional use permits set forth in Chapter 55, Exhibit A, Chapter 20, Article VIII, Division 3.

Chapters 51 - 53 RESERVED

Chapter 54
UTILITIES

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
	Article I. In General		
Sec. 54-1.	Penalty.		
Secs. 54-2. – 54-30.	Reserved.		
	Article II. Sanitary Wastes		
	Division 1. Generally		
Sec. 54-31. – 54-50.	Reserved.		
	Division 2. Holding Tanks		
Sec. 54-51.	Restricted.	01-2015 2023-16	02/09/15 11/13/23
Sec. 54-52.	Agreement required.	01-2015 2023-16	02/09/15 11/13/23
Sec. 54-53.	Disposal of holding tank wastes.	01-2015 06-2015 2023-16	02/09/15 07/13/15 11/13/23
Secs. 54-54 – 54-70.	Reserved.		
	Division 3 Nonplumbing Sanitation Systems		
Sec. 54-71.	Restricted.		
Sec. 54-72.	Prohibited systems.	01-2015	02/09/15
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Article I. In General

Sec. 54-1. Penalty.

Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter, or any order, rule or regulation made under this chapter, upon conviction thereof, shall be subject to a penalty as provided in section 1-14.
(Code 1982, § 19.20)

Secs. 54-2—54-30. Reserved.

Article II. Sanitary Wastes

Division 1. Generally

State Law reference— Holding tanks, Wis. Stat. § 281.48.

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Division 2. Holding Tanks

Sec. 54-51. Restricted.

Holding tanks for new residential construction shall be prohibited in the village. Any person who is denied the use of a holding tank as a result of this section may appeal the application of this section to his situation. The appeal shall be to the village board and shall comply with section 2-400. The village board may grant variances to this prohibition where the enforcement of the prohibition will result in severe and unnecessary hardship. The village board may also grant variances on a trial basis for new residential construction for conversion to a mound system in accord with the rules and regulations of the state department of safety and professional services and the county sanitarian and in accord with rules and regulations established by the village

board. The Clerk shall inform the state department of safety and professional services and the county sanitarian of any such variance. Section 54-52 shall apply to any such variance.

(Code 1982, § 11.06(1))

Sec. 54-52. Agreement required.

(a) As a precondition to the installation of a holding tank for existing residential construction or new or existing nonresidential construction, the landowner shall enter into an agreement with the village relative to the installing, maintaining and emptying of such holding tank. Such agreement shall conform to the regulations of the state department of safety and professional services and/or department of natural resources. The owner shall cause the agreement to be recorded with the office of the county register of deeds and the agreement shall constitute an agreement running with the land and binding upon the owner, his heirs, successors, administrators and assigns. In such agreement, the owner shall agree to:

(1) Install the holding tank in accord with the applicable laws, rules, regulations and ordinances governing such installations.

(2) Be fully responsible and liable for the proper operation and maintenance of the holding tank and for the disposal of the contents of the holding tank in accord with all applicable laws, rules, regulations and ordinances governing the holding tank.

(3) Obey all lawful orders with respect to the holding tank which are issued by the village and its officers, as well as all other agencies and officers with jurisdiction as to such holding tank.

(4) Payment of an annual inspection fee to the village in the sum of $60.00, and to pay at the rate of $24.00 per inspection for any inspections in excess of four per annum necessary to ensure the proper operation and maintenance of the holding tank.

(5) Install warning devices, both visual and audible, to indicate when the holding tank is full or in need of pumping.

(6) Install a sealed meter on the water system on the premises to meter the amount of water consumed on the premises.

(7) Have the contents from the holding tank removed, hauled and disposed of by a hauler licensed by the state in accord with all state and local laws, ordinances, rules and regulations.

(8) File receipts and a pumping report with the clerk and the county at least quarterly evidencing the date and volume of contents which was removed from the holding tank.

(9) Have the agreement recorded with the office of the county register of deeds which shall constitute an agreement running with the land, binding upon the owner, his heirs, administrators, successors and assigns.

(10) Allow any authorized person of the village to inspect the holding tank and the premises at all reasonable times.

(11) Have a lien asserted against the property served by the holding tank for any obligations or damages accruing to the village under the agreement and to have any such obligations or damages placed upon the village tax rolls and collected as any other real estate tax.

(12) Bind any future owner of the property served by the holding tank to enter into a like agreement with the village.

(13) Be bound to such new contract terms provided under this section as shall be enacted from time to time; provided, however, that prior to the adoption of any amendment to this section which shall provide for any such new contract terms the owner, or his successor in interest, shall be given at least 15 days' notice of the intention to amend this section and shall be given an opportunity to be heard before the adoption of such amendment.

(b) Unless required by the applicable law, rules and regulations, no contract shall be entered into with respect to a holding tank to serve more than one property.

(c) If the owner does not cause the holding tank to be properly maintained in response to orders from the state department of safety and professional services and/or department of natural resources, the county or the village, and if it becomes necessary to prevent or abate a nuisance as described in Wis. Stat. § 254.59, the village may provide for the maintenance of the holding tank, including the pumping, transportation and disposal of the holding tank contents.

(Code 1982, § 11.06(2))

Sec. 54-53. Disposal of holding tank wastes.

(a) No person in the business of collecting and disposing of holding tank wastes shall transfer such material wastes into any manhole or other appurtenance of any district sewer, or into any local, private building or lateral sewer which is a branch thereof, unless a permit for disposal of such wastes has first been obtained from the district.

(1) Written application of such permit shall be made to the district and shall state the name and address of the applicant, the make, model, year, license number and capacity of the disposal unit and, where applicable, the state sanitary license number granted to the hauler by the state department of safety and professional services and/or department of natural resources.

(2) Permits shall be renewed on an annual basis. Applications for permits will be transmitted to all current permit holders by June 1 of each year. Completed applications shall be submitted to the district prior to July 1. The district shall either approve or deny each application prior to August 1. An annual fee as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution shall accompany each application for a permit. Charges for treatment of the disposed wastes will be based upon the unit costs of treatment.

(3) The permit, or a copy thereof, shall be kept at all times with the disposal unit.

(4) The permit will allow the holder to dispose of wastes, which are strictly domestic in origin. The discharge of any other wastes without prior approval of the district is prohibited.

(b) No holding tank wastes may be disposed of into any sewer within the district without prior approval of the district.

(c) No disposing of wastes after permit revocation.

(1) The district may revoke any permit issued for any reason it deems sufficient. The issuance of a permit is not intended to create any interest in the permit holder, but is instead intended to allow the district to know about, monitor and properly charge for the disposal of waste.

(2) If the district revokes a permit, the revocation is effective on the date the order is mailed, by certified mail, to the address of the permit applicant.

(3) Continued disposal of holding tank wastes after revocation subjects the permittee or those acting pursuant to the permittee's direction to the penalties provided by law.

(d) The disposal of holding tank wastes shall occur only at those sites designated by the district. Disposal at any location other than those designated by the district is prohibited.

(e) See sections 54-51 and 54-52 for the installation of holding tanks.

(Code 1982, § 19.18)

Secs. 54-54—54-70. Reserved.

Division 3. Nonplumbing Sanitation Systems

Sec. 54-71. Restricted.

The use of nonplumbing sanitation systems is restricted as provided in this division.
(Code 1982, § 11.065)

Sec. 54-72. Prohibited systems.

Composting toilet systems, incinerating toilets and pit privies, as defined in Wis. Admin. Code § SPS 391.03, are prohibited.
(Code 1982, § 11.065(1))

Sec. 54-73. Portable restrooms.

Portable restrooms may be allowed for use at temporary construction sites and seasonal truck farming operations when an indoor plumbing system is not available on the premises. In addition, portable restrooms may be used for temporary special events to handle anticipated increase in wastewater flow above the design capacity of the private sewage system located at the site. The following apply to these uses:

(1) If plumbing is installed or running water is supplied, excluding hose bibbs and wall hydrants, to a structure on the premises, an acceptable method of sewage disposal other than, or in addition to a nonplumbing sanitation system must be provided.

(2) Any required private sewage system that serves the use cannot be downsized due to the use of a nonplumbing sanitation system.

(3) The use must comply with the provisions of Wis. Admin. Code ch. SPS 391, and associated regulations.

(Code 1982, § 11.065(2))

Sec. 54-74. Vault privies and portable restrooms for parks, golf courses and recreational areas.

Vault privies and portable restrooms will be allowed for parks, golf courses and recreational areas on a case-by-case basis. The following applies to these uses:

(1) A need must be established to show why it is not feasible to use another technology allowed by Wis. Admin. Code ch. SPS 383, and this section.

(2) If plumbing is installed or running water is supplied, excluding hose bibbs and wall hydrants, to a structure on the premises, an acceptable method of sewage disposal other than, or in addition to a nonplumbing sanitation system must be provided.

(3) Any required private sewage system that services the use cannot be downsized due to the use of a nonplumbing sanitation system.

(4) The use must comply with the provisions of Wis. Admin. Code ch. SPS 391, and associated regulations.

(Code 1982, § 11.065(3))

Secs. 54-75—54-90. Reserved.

Division 4. Sanitary Sewer System

Sec. 54-91. Purpose.

The purpose of this division is to establish rules and regulations to promote and preserve the public sanitation within the village and to establish rules and regulations and sewer service rates and charges within Sewer Utility District No. 1 of the village.
(Code 1982, § 19.01)

Sec. 54-92. Definitions.

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

Ammonia means total ammonia expressed in mg/l of NH3-N (ammoniacal nitrogen).

Approving authority means the commission of the district or its duly authorized deputy, agent or representative.

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter in five days at 20 degrees Celsius, expressed as milligrams per liter (mg/l). Quantitive determination of BOD shall be made in accordance with procedures set forth in "Standard Methods."

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal, also called house connection or house lateral.

Category A means those sanitary sewer users who discharge normal domestic strength wastewater with concentrations of biochemical oxygen demand (BOD) no greater than 200 mg/l, suspended solids no greater than 250 mg/l, phosphorus no greater than 8 mg/l, ammonia no greater than 25 mg/l, or chlorides no greater than 450 mg/l.

Category B means those sanitary sewer users who discharge wastewater with concentrations in excess of 200 mg/l of BOD, 250 mg/l of suspended solids, 8 mg/l of phosphorus, 25 mg/l of ammonia, or 450 mg/l of chlorides. Users whose wastewater exceeds the concentration for any one of these parameters shall be in category B.

Chlorine requirement means the amount of chlorine, in mg/l, which must be added to sewage to produce a residual chlorine as specified in the Wisconsin Pollutant Discharge Elimination System (WPDES) permit.

Combined sewer means a sewer intended to receive both wastewater and stormwater or surface water.

Commission of the district means the duly appointed commission of the district.

Compatible pollutants means biochemical oxygen demand, suspended solids, phosphorus, nitrogen, pH or fecal coliform bacteria, plus additional pollutants identified in the WPDES permit for the publicly owned wastewater treatment facility receiving the pollutants, if such works were designed to treat such additional pollutants and, in fact, do remove such pollutants to a substantial degree.

District means Sewer Utility District No. 1 of the village and all present and future additions thereto.

Easement means an acquired legal right for the specified use of land owned by others for wastewater conveyance or treatment.

Floatable oil means oil, fat or grease in a physical state such that it will separate by gravity from wastewater in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not adversely interfere with the collection system.

Garbage means the residue from the preparation, cooking and dispensing of food, and from the handling, storage, and sale of food products and produce.

Ground garbage means the residue from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in public sewers with no particle greater than one-half-inch in any dimension.

Incompatible pollutants means wastewater with pollutants that will adversely affect or disrupt the quality of wastewater treatment if discharged to a wastewater treatment facility.

Industrial waste means the wastewater from industrial process, trade or business as distinct from sanitary sewage.

Natural outlet means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Normal domestic strength wastewater means wastewater with concentrations of biochemical oxygen demand (BOD) no greater than 200 mg/l, suspended solids no greater than 250 mg/l, phosphorus no greater than 8 mg/l, ammonia no greater than 25 mg/l, or chlorides no greater than 450 mg/l.

Operation and maintenance costs means includes all costs associated with the operation and maintenance of the wastewater collection and treatment facilities, as well as the costs associated with periodic equipment replacement necessary for maintaining capacity and performance of wastewater and collection and treatment facilities.

Parts per million means a weight-to-weight ratio; the parts per million value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Person means any and all persons, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

pH means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10-7.

Phosphorus means total phosphorus expressed in mg/l of P (phosphorus).

Plumbing inspector means the plumbing inspector appointed by the village.

Public sewer means any publicly owned sewer, storm drain, sanitary sewer or combined sewer.

Replacement costs means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the wastewater collection and treatment facilities to maintain the capacity and performance for which such facilities were designed and constructed.

Sanitary sewage means a combination of liquid and water carried wastes discharged from toilets and/or sanitary plumbing facilities.

Sanitary sewer means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

Sewage means the spent water of a community. The preferred term is "wastewater."

Sewage works means all facilities for collecting, pumping, treating and disposing of sewage.

Sewer means a pipe or conduit that carries wastewater or drainage water.

Sewerage means the facilities used for collection, treatment and disposal of wastewater.

Sewer service charge means a charge levied on users of the wastewater collection and treatment facilities to recover annual revenues for debt services, replacement costs and operation and maintenance expenses of the facilities. The user charge which covers operation and maintenance and replacement expenses is a part of the sewer service charge.

Shall and may. The term "shall" is mandatory; the term "may" is permissive.

Standard methods means the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water and Wastewater" published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

Storm drain (storm sewer) means a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

Stormwater runoff means that portion of the rainfall that is drained into the sewers.

Superintendent means the superintendent of the district or his authorized deputy, agent or representative.

Suspended solids means total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods," and referred to as nonfilterable residue.

Unpolluted water means water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

User charge means a charge levied on users of the wastewater collection and treatment facilities for payment of operation and maintenance costs of such facilities.

Wastewater means the spent water of a community. From the standpoint of source, wastewater may be a combination of the liquid and water-carried wastes from residents, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and stormwater that may be present.

Wastewater collection facilities or system means the structures and equipment required to collect and carry away domestic and industrial wastewater.

Wastewater treatment facility means the village's arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with wastewater treatment plant.

Watercourse means a natural or artificial channel for the passage of water, either continuously or intermittently.

Wisconsin pollutant discharge elimination system (WPDES) permit means a document issued by the state department of natural resources which establishes effluent limitations and monitoring requirements for the regional wastewater treatment facility.

(Code 1982, § 19.02)
Cross reference— Definitions generally, § 1-2.

Sec. 54-93. Adoption of state plumbing code and statutes.

(a) The provisions of the State Plumbing Code, Wis. Admin. Code chs. SPS 381-387, of the state department of commerce, and all amendments and additions thereto, in effect at any time hereafter, are incorporated herein by reference with the same force and effect as though set forth at length; provided, however, if there shall be any conflict between the provisions of these sections or other ordinances of the village and this Code, at any time, that provision shall govern which requires the maximum of compliance or is more restrictive. The provisions thereof and of these sections shall govern all plumbing as therein defined and no plumbing shall be installed except in accordance with this Code.

(b) The provisions of Wis. Stat. § 145.06 are incorporated herein by reference as though set forth in length, provided that all plumbing work done with respect to connecting any

building whether commercial, residential, industrial or otherwise to the sewer system of the district and of disconnecting and filling existing septic tanks shall be done under the direction of a master plumber, duly licensed by the state department of safety and professional services or such other department with jurisdiction over licensing of plumbers.

(Code 1982, § 19.03)

Sec. 54-94. User rules and regulations.

The rules, regulations and sewer charges of the district set forth in this division shall be considered a part of the contract with every person who is connected with the sanitary sewer system to the district, and every such person by connecting with the sanitary sewer system shall be considered as expressing his or their assent to be bound thereby. Whenever any of the rules and regulations of the district are violated, the service for the building or place of such violation may be terminated pursuant to applicable rules and regulations of the applicable administrative agency of the state, if any. A violator shall also be subject to any penalties provided by law or in these rules and regulations. The right is reserved to the village board and the commission of the district to change the rules, regulations and sewer service charges from time to time as they may deem advisable; and to make special rates and contracts in all proper cases.
(Code 1982, § 19.04)

Sec. 54-95. Use of public sewer required.

(a) No person shall place, deposit or permit to be deposited upon public or private property within the district or in any area under the jurisdiction of the district, any human or animal excrement (other than the normal type of fertilizer), garbage or other objectionable waste.

(b) No person shall discharge to any natural outlet within the district, or in any area under the jurisdiction of the district, any sanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with this division and the laws of the state.

(c) The owner of all houses, buildings or properties used for human habitation, occupancy, employment, recreation, business or any other purposes, situated within the district and abutting on any street, alley, right-of-way or easement in which a public sewer is located, or in which the extension of the public sewer may be deemed feasible by the commission of the district, is hereby required, at his expense, to connect any such building or facility which is within 300 feet of the public sanitary sewer to such sewer within six months after date of written notice from the district that the public sanitary sewer is available. The sewer service charges provided in subdivision V of this division which are applicable to such a parcel of property shall be due and payable upon connection being made or 60 days after the first day of the month following the month in which notice was given, whichever occurs first. Such charges shall be due and payable regardless of whether the connection is made.

(Code 1982, § 19.05)

Sec. 54-96. Injury to sewer system.

No person shall willfully injure the public sewer system or any building, machinery or fixture pertaining thereto or to willfully and without authority of the district, bore or otherwise cause to leak any tunnel, aqueduct, sewer, pipe or other thing used in the system for holding, conveying or distributing sewage.
(Code 1982, § 19.16)

Sec. 54-97. Damage recovery.

The district shall have the right of recovery from all persons, any expense incurred by the district for the repair or replacement of any sewer pipe damaged in any manner by any person by the performance of any work under their control or by any negligent act.
(Code 1982, § 19.17)

Secs. 54-98—54-120. Reserved.

Subdivision II. Private Sewage Disposal

Sec. 54-121. Restricted.

Except as provided in this subdivision, no person shall construct or maintain within the district any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage or human excrement.
(Code 1982, § 19.06(1))

Sec. 54-122. Connection to private sewage disposal system.

Where a public sanitary sewer is certified by the district as not available to serve any house, building or property under the provisions of section 54-95(c), the building sewer shall be connected to a private sewage disposal system complying with the provisions set forth by the state statutes, the state plumbing code and the ordinances of the village.
(Code 1982, § 19.06(2))

Sec. 54-123. Connection to public sewer when available.

At such time as a public sanitary sewer becomes available to a property served by a private sewage disposal system, as provided in section 54-95(c), a direct connection shall be made to the public sewer in compliance with this division, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material in accord with the applicable laws, rules, regulations and ordinances.
(Code 1982, § 19.06(3))

Sec. 54-124. Sanitary operation.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the district.
(Code 1982, § 19.06(4))

Secs. 54-125—54-140. Reserved.

Sec. 54-141. Unauthorized connections prohibited.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the plumbing inspector.
(Code 1982, § 19.07(1))

Sec. 54-142. Permits required for connections.

No connections shall be made to any of the sewers of the district from any building, premises, excavation, place or property of any kind whatsoever by any drain, tap or sewer intended or designed to, or capable of, discharging any matter, whether fluid or solid, into the sewers of the district unless a permit has first been issued therefor by the plumbing inspector.
(Code 1982, § 19.07(2))

Sec. 54-143. Restrictions on issuance of permit.

No permit shall be issued to connect with the public sewer, any lot, excavation or open basement. No permit shall be issued to connect any building with this public sewer until such building is completely enclosed by roof, the outside wall back filled to establish grade, and all sanitary sewer lines within buildings that will be covered by basement floors have been inspected and approved by the plumbing inspector and after the permanent floor is constructed in the basement. In buildings without basements, the permit shall be issued after the footing and the subfloor has been constructed.
(Code 1982, § 19.07(3))

Sec. 54-144. Responsibility for costs and expenses; indemnification.

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the village and the district from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Code 1982, § 19.07(4))

Sec. 54-145. Use of old building sewers.

Old building sewers may be used in connection with new buildings only when they are found on examination and test by the plumbing inspector to meet all requirements of this division.
(Code 1982, § 19.07(5))

Sec. 54-146. Foundation drainage systems.

In all buildings where a foundation drainage system is provided and there is no natural drain for this subsurface water to drain into, the owner shall provide or build a suitable pit, minimum size 15 inches diameter by 30 inches deep, to collect all water that may enter the foundation drainage system; also he shall install, operate and maintain a sump pump, cellar drainer or some suitable pump and he shall pump this foundation water to a storm sewer or outside the building to a natural drain, or discharge water at least 15 feet from the foundation wall of the building. No person shall connect any foundation drainage system to the sanitary sewer system or willfully allow any sump pit to overflow into the basement floor drain that is connected to the sanitary sewer.
(Code 1982, § 19.07(6))

Sec. 54-147. Installation of building sewer.

The building sewer shall be installed in accordance with the applicable provisions of the Wisconsin Administrative Code.
(Code 1982, § 19.06(7))

Sec. 54-148. Excavations; pipe laying and backfilling.

All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the plumbing inspector. Pipelaying and backfill shall be performed in accordance with regulations as set forth in the plumbing code, and no backfill shall be replaced until the work has been inspected.
(Code 1982, § 19.06(8))

Sec. 54-149. Joints and connections to be gastight and watertight.

All joints and connections made in laying sewer and drain pipes shall be made gastight and watertight.
(Code 1982, § 19.06(9))

Sec. 54-150. Building drains too low to permit gravity flow.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer at the expense of the building owner.
(Code 1982, § 19.06(10))

Sec. 54-151. Connection to public sewer.

The connection of the building sewer into the public sewer shall be made at the "Y" branch. If no suitable "Y" branch is available, a neat hole may be cut into the public sewer to receive the building sewer with entry in the downstream direction at any angle of about 45 degrees. Pipes shall always be tapped on the top, and not within six inches of the joint or within 24 inches of another lateral connection. A 45-degree ell may be used to make such connection, with the spigot and cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be the same or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight. Special connections may be used for the connection only when approved by the plumbing inspector. If the public sewer is broken or damaged in any manner by making a connection, the owner shall replace all damaged pipe in the public sewer at his expense.
(Code 1982, § 19.07(11))

Sec. 54-152. Excavations and repairs.

When opening any street surface or other public way, such work shall be done in conformity with the requirements of the governmental body with jurisdiction over such street or right-of-way. In making excavations in streets or highways for laying service pipe or to make repairs, the paving and earth removed shall be deposited in a manner that will occasion the least inconvenience to the public. No person shall leave any such excavation made in any street or highway open at any time without proper barricades; and during the night, warning lights shall be maintained at such excavations. In refilling the opening, after the service pipes are laid, the backfill shall be laid in layers of not more than nine inches in depth, and each layer thoroughly compacted to prevent settling. This work, together with the replacing of sidewalks, ballast and paving, shall be done so as to make the street as good, at least, as before it was disturbed, and satisfactory to the plumbing inspector.
(Code 1982, § 19.07(12))

Sec. 54-153. Tapping or connection to sewerage system; information furnished plumbers.

No person, except plumbers licensed by the state, shall be permitted to tap or make any connection with the sanitary sewerage system or any part thereof. Such information as the plumbing inspector, the superintendent, the commission of the district or its engineer may have with regard to the location of sewer junctions or slants will be furnished to plumbers, but neither the village nor the district shall assume any risk as to the accuracy of the information.
(Code 1982, § 19.07(13))

Sec. 54-154. Maintenance of water and drain pipes.

All owners shall keep their water and drain pipes in good repair and protected from frost, at their own risk and expense, and shall prevent any unnecessary overburdening of the sewer system. All expenses relating to the connection to the sewer system shall be paid by the applicant.
(Code 1982, § 19.07(14))

Sec. 54-155. Lateral connections prohibited.

No owner shall allow others or other services to connect to the sewer system through his lateral.
(Code 1982, § 19.07(15))

Sec. 54-156. Access for purpose of inspection.

Every owner or user shall permit the village and the district or their authorized agents, at all reasonable hours of the day, to enter their premises or building to examine the pipes and fixtures, and the manner in which the drains and sewer connections operate; and they must at all times, frankly and without concealment, answer all questions put to them relative to its use.
(Code 1982, § 19.07(16))

Sec. 54-157. Village not liable for damages; right to cut off service.

It is expressly stipulated that no claim shall be made against the village or the district by reason of the breaking, clogging, stoppage or freezing of any sewer pipe; nor from any damage arising from repairing mains, making connections or extensions or any other work that may be deemed necessary. The right is hereby reserved to cut off the service at any time for the purpose of repairs or any other necessary purposes, any permit granted or regulation to the contrary notwithstanding. Whenever it shall become necessary to shut off the sewer service, the district shall, if practicable, give notice to each and every owner or user affected by it.
(Code 1982, § 19.07(17))

Secs. 54-158—54-180. Reserved.

Subdivision IV. Sanitary Sewer System Use Regulations

Sec. 54-181. Sewer discharge restrictions.

No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage or cooling water to any sanitary sewer. Stormwater runoff from limited areas, which may be polluted at times, may be discharged to the sanitary sewers by permission of the approving authority.
(Code 1982, § 19.08(1))

Sec. 54-182. Prohibited discharges.

Except as provided in this subdivision, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids or gasses in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment or sludge disposal process, constitute a hazard to humans or animals or create a public nuisance in the receiving waters of the wastewater treatment facility.

(3) Any waters or wastes having a pH lower than 6 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater collection and treatment facilities.

(4) Any waters or wastes having a pH in excess of 9.0.

(5) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in public sewers or other interference with the proper operation of the wastewater, collection and treatment facilities, such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(6) The following described substances, materials, waters or waste shall be limited in discharges to the sanitary sewer systems to concentrations or quantities which will not harm either the sanitary sewers, wastewater treatment process or equipment; will not have an adverse effect on the receiving stream; or will not otherwise endanger lives, limbs, public property or constitute a nuisance. The commission of the district may set limitations lower than the limitations established in this division if, in its opinion, such more severe limitations are necessary to meet the objectives in this subsection. In forming its opinion as to the acceptability, the commission of the district will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sanitary sewers, the wastewater treatment process employed, capacity of the waste in the wastewater treatment facility and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewers which shall not be violated without approval of the commission of the district are as follows:

a. Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).

b. Wastewater containing more than 25 mg/l of petroleum oil, nonbiodegradable cutting oils or products of mineral oil origin.

c. Wastewater from industrial plants containing floatable oils, fat or grease.

d. Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

e. Any waters or wastes containing iron, chromium, copper, zinc and other toxic and nonconventional pollutants to such degree that any such material received in the composite wastewater in concentrations that exceed levels specified by federal, state or local authorities.

f. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the approving authority.

g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the approving authority in compliance with applicable state or federal regulations.

h. Any waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment facility effluent cannot meet the requirements of other agencies having jurisdiction over discharge of the receiving waters.

i. Any water or wastes which, by interaction with other water or wastes in the sanitary sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.

j. Materials which exert or cause:

1. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment facility.

2. Unusual volume of flow or concentration of wastes constituting "slugs" as defined in this division.

3. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium sulfate).

4. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(7) Incompatible pollutants in excess of the allowed limits as determined by village, state, and federal rules and regulations in reference to pretreatment standards developed by the Environmental Protection Agency, 40 CFR 403.

(Code 1982, § 19.08(2))

Sec. 54-183. Review and approval for certain waters and waste; pretreatment facilities.

The admission into the public sanitary sewers of any waters or wastes having a five-day BOD greater than 200 parts per million by weight, containing more than 250 parts per million by weight of suspended solids, containing any quantity of substances having the characteristics described

in section 54-182 in or having an average daily flow greater than two percent of the average daily sewage flow of the district, shall be subject to the review and approval of the superintendent. Where necessary in the opinion of the superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the BOD to 200 parts per million by weight, reduce objectionable characteristics or constituents to within the maximum provided for in this section or control the quantities and rates of discharge of such waters or wastes. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval to the state department of natural resources and the commission of the district. No construction of such facilities shall be commenced until such approvals are obtained in writing.
(Code 1982, § 19.08(3))

Sec. 54-184. Maintenance of pretreatment facilities.

Where preliminary treatment facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
(Code 1982, § 19.08(4))

Sec. 54-185. Control manhole.

When required by the superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
(Code 1982, § 19.08(5))

Sec. 54-186. Special agreements.

No statement contained in this section shall be construed as preventing any special agreement or arrangement between the village or the district and any concern whereby an industrial waste of unusual strength or character may be accepted by the village or the district for treatment, subject to payment therefor by the industrial concern.
(Code 1982, § 19.08(6))

Secs. 54-187—54-210. Reserved.

Subdivision V. Rates, Charges, Billing Procedures

Sec. 54-211. Purpose; use of proceeds.

It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the village and the district to provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance (including

replacement) and the establishment of adequate cash reserves by levying upon and collecting from all lands, lots and premises served by having connections with the sewer system of the district or where connection to the sewer system of the district is available monthly sewerage service charges. The proceeds of such charges shall be used and set aside to provide for debt service, operation and maintenance (including replacement). Such sewerage service charges shall be so established so as to proportionately allocate the costs of operation and maintenance (including replacement) to each user class. In allocating such costs, factors such as strength, volume and delivery flow rate characteristics shall be utilized in determining the waste load contribution from each user class.
(Code 1982, § 19.09(1))

Sec. 54-212. Assessment of sewer service charge.

There is levied and assessed upon each lot, parcel of land or premises having any sewer connection with the sanitary sewer system of the district or for which sewer connection is available, a monthly sewer service charge as set forth below, payable on or before April 30, July 31, October 31 and January 31 of each year. In addition to the charge, rental or rate of service, a further charge of ten percent shall be added thereto in each case of failure to make a timely payment. In each case, such charges shall be collected by the treasurer/finance director on behalf of the district. Each charge levied pursuant hereto is hereby made a lien upon the lot, land or premises served by the sewerage system of the district and additions thereto pursuant to law and shall be collected pursuant to Wis. Stat. § 66.0821, if not paid.
(Code 1982, § 19.09(2); Ord. No. 2013-01, § 1, 1-28-2013)

Sec. 54-213. Basis for assessments.

METHOD OF DETERMINATION. Customers in the village shall be billed quarterly, in an amount sufficient to provide adequate revenues for the purposes set forth above in Section 54-211. Residential and unmetered customers shall be billed at a flat rate based on the user classification set forth below. Metered customers shall be billed a volumetric charge based on meter readings with a minimum charge of two times the total residential user charge applicable to a single-family dwelling. Pollutant surcharges shall be passed on directly to the specific user.

(a) Category A. Category A includes sanitary sewer users who discharge normal domestic strength wastewater with concentrations of biochemical oxygen demand (BOD) no greater than 200 mg/l, suspended solids no greater than 250 mg/l, phosphorus no greater than 8 mg/l, ammonia no greater than 25 mg/l, or chlorides no greater than 450 mg/l. The sewer service charge for category A wastewater shall be determined by resolution of the Village Board, from time to time.

Category B. Category B includes sanitary sewer users who discharge wastewater with concentrations in excess of 200 mg/l of BOD, 250 mg/l of suspended solids, 8 mg/l of phosphorus, 25 mg/l of ammonia, or 450 mg/l of chlorides. Users whose wastewater exceeds the concentrations for any one of these parameters shall be in category B. The sewer service charge for category B wastewater, as well as the amount of surcharges to be imposed by the Utility to cover the cost of treating exceedances, shall be determined by resolution of the Village Board, from time to time.
(Code 1982, § 19.09(3))

Sec. 54-214. Replacement charges.

All sewerage service charges specifically collected for replacement shall be deposited and maintained in a separate and distinct fund and shall be used exclusively for replacement as defined in Wis. Admin. Code § NR 128.03(18).
(Code 1982, § 19.09(4))

Sec. 54-215. Charges for increased costs in managing certain pollutants.

If a user discharges any toxic pollutant into the district's sewer system which cause an increase in the cost of managing the effluent or sludge of the district's treatment works, such user's sewerage service charges shall be adjusted to charge such user for such increased costs.
(Code 1982, § 19.09(5))

Sec. 54-216. Notification of charges attributable to wastewater treatment service.

The district shall notify each user at least annually, in conjunction with a regular billing, of the sewerage service charges and the portion of such charges attributable to wastewater treatment services.
(Code 1982, § 19.09(6))

Sec. 54-217. Amendments or changes in charges; adjustments.

The sewer service charge fixed in this subdivision shall be subject to amendment or change from time to time by amending this section. At least biennially, the district shall review the wastewater contributions of its users and adjust the sewerage service charges to recover the actual costs of debt service, operation and maintenance, including replacement. The district shall apply any excess revenues collected from a class of users for operation and maintenance (including replacement) to the costs of operation and maintenance (including replacement) attributable to that class for the next year and adjust the charges accordingly.
(Code 1982, § 19.09(7))

Sec. 54-218. Sewerage connection charge.

There shall be paid to the district and collected by the treasurer/finance director on each lot, parcel of land or premises on which a unit or connection charge shall not have been assessed or paid prior to the time that a permit for and connection is made to the sanitary sewerage system of the district a unit connection charge as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution each unit determined and attributed to such connection as provided in section 54-213; provided, however, if the land was previously assessed or otherwise charged an acreage assessment, the unit connection charge shall be as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution No such permit or connection shall be made to the sanitary sewer system until such unit connection charge is first so paid in full or levied and assessed. The property owner shall install the building sewer from the building to the street lateral at his own expense. In no case shall the property owner deduct the cost of the building sewer from the connection charge.
(Code 1982, § 19.10)

Sec. 54-219. Additional connection charge.

To allocate costs of sewer extensions and connections among the various users in the district in a fair and equitable manner, the following shall apply:

(1) *Property previously subjected to acreage assessment.* The owner or developer shall pay the cost of sewer extensions reasonably required to provide sewer service to the parcel to be serviced, including internal sewer lines within the development. A connection charge for each unit for the proposed building as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution shall be paid by the owner. The user charge will be determined in accordance with the user charge provisions of this division.

(2) *Property not previously subject to acreage assessment.* The owner or developer shall pay the cost of sewer extension reasonably required to provide sewer service to the parcel to be serviced, including internal sewer lines within the development. A connection charge for each unit for the proposed building as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution shall be paid by the owner. The user charge will be determined in accordance with the user charge provisions of this division.

(3) *Nonresidential property not previously subjected to an acreage assessment.* The owner or developer shall pay the cost of sewer extension reasonably required to provide sewer service to the parcel to be serviced, including internal sewer lines within the development. A connection charge for each unit for the proposed building as set forth in the schedule of fees on file in the village clerk's office and which may be revised by village board resolution shall be paid by the owner. The user charge will be determined in accordance with the user charge provisions of this division.

(Code 1982, § 19.11)

Sec. 54-220. Maintenance of services.

The public sewer services of the district from the street main to the property line and including all controls between the street main and the property line shall be maintained by the district without expense to the property owner, except when they are damaged as a result of negligence or carelessness on the part of the property owner, a tenant or an agent of the owner, in which case they will be repaired at the expense of the property owner. All sewer services from the point of maintenance by the district to and throughout the premises shall be maintained free of defective conditions by and at the expense of the owner or occupant of the property.
(Code 1982, § 19.12)

Sec. 54-221. Payment of charges.

(a) Every reasonable care will be exercised in the proper delivery of sewer service charge bills. Failure to receive a bill, however, shall not relieve any person of the responsibility for payment of sewer service charges within the prescribed period, or exempt any person from any penalty imposed for delinquency in the payment of such charges.

(b) The property owner is held responsible for all sewer service charge bills on premises that he owns. All sewer service charge bills and notices of any nature, relative to the sewer service, will be addressed to the owner and delivered to the premises referred to on such bill or notice.

(Code 1982, § 19.13)

Sec. 54-222. Vacating of premises and discontinuance of service.

Whenever premises served by the system are to be vacated, or whenever any person desires to discontinue service from the system, the district shall be notified in writing. The owner of the premises shall be liable for any damage to the property of the system by reason of failure to notify the district of a vacancy or any such damage which may be discovered having occurred to the property of the district other than through the fault of the district or its employees, representatives or agents.
(Code 1982, § 19.14)

Sec. 54-223. Charges to be lien on property.

All sewer service charges, rates and special assessments shall be a lien on a lot, part of a lot or land on which sewer services were supplied as provided in the state statutes. All sums which have accrued during the preceding year and which are unpaid by October 1 of any year, shall be certified to the clerk to be placed on the tax roll for collection as provided by the state statutes.
(Code 1982, § 19.15)

Secs. 54-224—54-250. Reserved.

Article III. Water System

Sec. 54-251. Purpose.

The purpose of this article is to establish rules and regulations to promote and preserve the public health, safety and welfare within the village and to establish rules and regulations for Water Utility District No. 1 of the village.
(Code 1982, § 20.01)

Sec. 54-252. 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:

Approving authority means the commission of the district or its duly authorized deputy, agent or representative.

Commission of the district means the duly appointed commission of the district.

District means Water Utility District No. 1 of the village and all present and future additions thereto.

Plumbing inspector means the plumbing inspector appointed by the village.

Superintendent means the superintendent of the district or his authorized deputy, agent or representative.

Water works means all facilities for acquiring, pumping, treating, transportation and distribution of water.

(Code 1982, § 20.02) **Cross reference—** Definitions generally, § 1-2.

Sec. 54-253. Adoption of state plumbing code and statutes.

(a) The provisions of the state plumbing code, Wis. Admin. Code chs. SPS 80—87, of the state department of commerce, and all amendments and additions thereto, in effect at any time hereafter, are incorporated herein by reference with the same force and effect as though set forth at length; provided, however, if there shall be any conflict between the provisions of these sections or other ordinances of the village and this Code, at any time, that provision shall govern which requires the maximum of compliance or is more restrictive, unless otherwise provided by applicable law. The provisions thereof and of this article shall govern all plumbing as therein defined and no plumbing shall be installed except in accordance with this Code.

(b) The provisions of Wis. Stat. § 145.06 are incorporated herein by reference as though set forth in length, provided that all plumbing work done with respect to connecting any building whether commercial, residential, industrial or otherwise to the water system of the district shall be done under the direction of a master plumber, duly licensed by the state department of commerce or such other department with jurisdiction over licensing of plumbers.

(Code 1982, § 20.03)

Sec. 54-254. User rules and regulations.

The rules, regulations and charges of the district set forth in this article shall be considered a part of the contract with every person who is connected with the water system to the district, and every such person by connecting with the water system shall be considered as expressing his assent to be bound thereby. Whenever any of the rules and regulations of the district are violated, the

service for the building or place of such violation may be terminated pursuant to applicable rules and regulations of the applicable administrative agency of the state, if any. A violator shall also be subject to any penalties provided by law or in these rules and regulations. The right is reserved to (i) the village board and the commission of the district to change the rules, regulations from time to time as they may deem advisable; and (ii) to the public service commission to change the rules and regulations and water rates from time to time.
(Code 1982, § 20.04)

Sec. 54-255. Use of public water required.

The owner of all houses, buildings or properties used for human habitation, occupancy, employment, recreation, business or any other purposes, situated within the district and abutting on any street, alley, right-of-way or easement in which a public water main or line is located, or in which the extension of the public water may be deemed feasible by the commission of the district, is hereby required, at his expense, to connect any such building or facility which is within 300 feet of the public water main or line to such main or line within six months after date of written notice from the district that the public water is available.
(Code 1982, § 20.05)

Sec. 54-256. Connections and standards.

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public water main or line or appurtenance thereof without first obtaining a written permit from the plumbing inspector.

(b) Any water service lateral shall be installed in accordance with the applicable provisions of the Wisconsin Administrative Code.

(c) When opening any street surface or other public way, such work shall be done in conformity with the requirements of the governmental body with jurisdiction over such street or right-of-way. In making excavations in streets or highways for laying service pipe or to make repairs, the paving and earth removed shall be deposited in a manner that will occasion the least inconvenience to the public. No person shall leave any such excavation made in any street or highway open at any time without proper barricades; and during the night, warning lights shall be maintained at such excavations. In refilling the opening after the service pipes are laid, the backfill shall be laid in layers of not more than nine inches in depth, and each layer thoroughly compacted to prevent settling. Any this work, together with the replacing of sidewalks, ballast and paving, shall be done so as to make the street as good, at least, as before it was disturbed, and satisfactory to the plumbing inspector.

(d) No person, except plumbers licensed by the state, shall be permitted to tap or make any connection with the district's water system or any part thereof. Such information as the plumbing inspector, the superintendent, the commission of the district or its engineer may have with regard to the location of water mains, lines and laterals shall be furnished to plumbers, but neither the village nor the district shall assume any risk as to the accuracy of the information.

(e) All owners shall keep their water pipes in good repair and protected from frost, at their own risk and expense. All expenses relating to the connection to the water system shall be paid by the applicant.

(f) No owner shall allow others or other services to connect to the water system through his service lateral or otherwise without the approval of the district.

(g) Every owner or user shall permit the village and the district or their authorized agents, at all reasonable hours of the day, to enter their premises or building to examine the pipes and fixtures, and the manner in which the water connections operate; and they must at all times, frankly and without concealment, answer all questions put to them relative to its use.

(h) No claim shall be made against the village or the district by reason of the breaking, stoppage or freezing of any water pipe; nor from any damage arising from repairing mains, lines and laterals, making connections or extensions or any other work that may be deemed necessary. The right is hereby reserved to cut off the service at any time for the purpose of repairs or any other necessary purposes, any permit granted or regulation to the contrary notwithstanding. Whenever it shall become necessary to shut off the water service, the district shall, if practicable, give notice to each and every owner or user affected by it.

(Code 1982, § 20.06)

Sec. 54-257. Water service charges.

The users of district water service shall be subject to and charged such rates as shall be established from time to time by the state public service commission or such other agency as shall have jurisdiction to establish such rates. Such charges shall be billed quarterly.

(Code 1982, § 20.07)

Sec. 54-258. Rules and regulations of public service commission.

The rules and regulations established from time to time by the state public service commission for the district shall be applicable to the district and its users and are incorporated herein by reference.

(Code 1982, § 20.08)

Sec. 54-259. Payment of charges.

(a) Every reasonable care will be exercised in the proper delivery of water service charge bills. Failure to receive a bill, however, shall not relieve any person of the responsibility for payment of water service charges within the prescribed period, or exempt any person from any penalty imposed for delinquency in the payment thereof.

(b) The property owner is held responsible for all water service charge bills on premises that he owns. All water service charge bills and notices of any nature, relative to the water service, shall be addressed to the owner and delivered to the premises referred to on such bill or notice.

(Code 1982, § 20.09)

Sec. 54-260. Charges to be lien on property.

All water service charges, rates and special assessments shall be a lien on a lot, part of a lot or land on which water services were supplied as provided in the state statutes. All sums which have accrued during the preceding year and which are unpaid by October 1 of any year, shall be certified to the clerk to be placed on the tax roll for collection as provided by the state statutes. (Code 1982, § 20.10)

Sec. 54-261. Injury to water system.

No person shall willfully injure the public water system or any building, machinery or fixture pertaining thereto, or to willfully and without authority of the district bore or otherwise cause to leak any tunnel, aqueduct, main, line, pipe or other thing used in the system for holding, conveying or distributing water. (Code 1982, § 20.11)

Sec. 54-262. Damage recovery.

The district shall have the right of recovery from all persons, any expense incurred by the district for the repair or replacement of any water main, line or appurtenance damaged in any manner by any person by the performance of any work under their control or by any negligent act. (Code 1982, § 20.12)

Secs. 54-263—54-273. Reserved.

Article IV. Stormwater Utility

Sec. 54-274. Purpose and necessity.

The village board does hereby find that the management of stormwater and other surface water discharges to bodies of water within the village is a matter that affects the public health, safety and welfare of the village, its citizens and businesses.

Surface water runoff may cause erosion of lands, threaten residences and businesses with water damage, and create environmental damage to the rivers, streams and other bodies of water within the village.

A system for the collection, conveyance and disposal of stormwater provides services to all properties within the village including those properties that are exempt by law from taxation.

The cost of operating and maintaining the village's stormwater management system and financing necessary repairs, replacements, improvements, and extensions thereof should, to the extent practicable, be allocated in relationship to the services received from the system.

Failure to effectively manage stormwater affects the operations of the village sanitary sewer utility by, among other things, increasing the likelihood of infiltration and inflow into the sanitary sewer system.

In order to protect the health, safety and welfare of the public, the village board hereby exercises its authority to establish a stormwater utility and establish the rates for stormwater management services. By adopting and publishing as required by law the regulations contained in this chapter, the village board is acting pursuant to authority granted by Wis. Stat. chs. 61 and 66.

Sec. 54-275. Authority.

The village board, acting through the stormwater utility, may acquire, construct, lease, own, operate, maintain, improve, modify, extend, expand, replace, clean, dredge, repair, conduct and manage programs, finance, borrow monies, assess and/or levy fees for such facilities, operations, and activities, as are deemed by the village board to be proper and reasonably necessary for a system of storm and surface water management and to obtain compliance with applicable local, state and federal stormwater management requirements with which the village must comply. This authority extends to facilities, operations, and activities falling under the jurisdiction of the Racine County Board of Drainage Commissioners (“RCBDC”) as to bodies of water within the village. Except for projects authorized by the RCBDC, neither the village, nor the stormwater utility, shall exercise authority with respect to stormwater matters affecting only private property interests, except where otherwise permitted by law.

Sec. 54-276. Establishment of stormwater utility.

In order to protect the health, safety, and welfare of the public, the village board is exercising its authority to establish a village wide utility known as the "Yorkville Storm Water Utility" and set the rates for stormwater management services.

Sec. 54-277. Establishment of Yorkville Storm Water Commission.

(a) There is hereby established a stormwater commission in the Village of Yorkville which shall be designated as the "Yorkville Storm Water Commission." The commission shall be comprised of five members consisting of one village board member and four village residents, one of whom may be a member of the village plan commission or village board. All commissioners shall serve at the pleasure of the village board. The village residents shall be appointed for staggered five-year terms by the village board, with each term commencing May 1. Initially, the terms of the various village resident commission members shall be staggered so that one term shall expire each year. The village board shall annually appoint the village board and plan commission members to serve on the commission, with said appointments being made by the end of May.

Sec. 54-278. Powers and duties of utility.

(a) *Facilities.* The village, through the stormwater utility, shall exercise authority with respect to stormwater facilities. Facilities may include, without limitation due to enumeration, surface and underground drainage facilities, inlets, manholes, catch basins, sewers,

channels, watercourses, retaining walls, ponds, detention and retention basins, infiltration facilities, streets, roads, curbs, gutters, ditches and such other facilities as will support a stormwater management system.

(b) *Rates and charges.* The village, through the stormwater utility, may establish such charges as are necessary to finance planning, design, construction, maintenance, and operation of the facilities and to conduct necessary stormwater programs and activities in accordance with the procedures set forth in this article. Any expenditure of funds shall be consistent with the approved budget, and shall require the approval of the village board. The bases for charges imposed under the ordinance are set forth in the "Town of Yorkville Storm Water Utility Creation and Rate Structure Study," dated July 11, 2011 and incorporated herein by reference. All references in the Study are made applicable to the village pursuant to its incorporation as a village as certified by the Wisconsin Department of Administration on April 18, 2018.

(c) *Budgeting process.* The village through the stormwater utility shall prepare an annual budget, which is to include all capital, operation and maintenance costs, extension and replacement costs, regulatory compliance costs, debt service, and other costs related to the operation of the stormwater utility.

(d) *Excess revenues.* The village will retain any excess of revenues over expenditures in a year in a segregated stormwater enterprise fund which shall be used exclusively for purposes consistent with this article.

Sec. 54-279. Definitions.

Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary. The word "shall" is mandatory and the word "may" is permissive.

(a) *Base charge* means a uniform charge established by the village board to be imposed on all parcels within the village to defray a portion of the costs of the stormwater utility which may include, but not be limited to, capital, operating and maintenance costs, extension and replacement costs, regulatory compliance costs, and stormwater related public education expenses.

(b) *Condominium* means property subject to a condominium declaration established under Wis. Stat. ch. 703.

(c) *Cubic feet per second (cfs)* means a standard unit of measurement for flow. When applied to stormwater runoff calculations it means the rate at which stormwater leaves a parcel, drainage basin or watershed.

(d) *Developed property* means real property which has been altered from its natural state by the addition of any improvements, such as buildings, structures or impervious surfaces.

(e) *Duplex* means a residential space containing two dwelling units.

(f) *Dwelling unit* means one or more rooms that are arranged, designed, or used as living quarters for occupancy by a single-family unit or as classified by the Racine County Zoning

Code, and incorporated into the Village Code of Ordinances. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each dwelling unit.

(g) Equivalent runoff unit (ERU) charge means the charge established by the village board on all parcels within the village, tax-exempt or not, to defray, in part, the costs of the stormwater utility which may include, but not be limited to, capital, operating and maintenance costs, extension and replacement costs, regulatory compliance costs and stormwater related public education expenses. The ERU charge, in the discretion of the village board, may also include payment of assessments by the RCBDC as to parcels within the boundaries of the Village that are also within the boundaries of the Yorkville Raymond Drainage District. The ERU charge is determined utilizing a methodology that is based on each parcel's gross area, intensity of development, and modeling established by the National Resources Conservation Service and set forth in Technical Release 55 ("TR-55").

(h) *Geographic information system (GIS)* is any system that captures, stores, analyzes, manages, and presents groups of data that are linked to a specific location.

(i) *Impervious area* or *impervious surface* means a relatively horizontal or semi-horizontal surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. It includes, but is not limited to, semi-impervious surfaces such as compacted clay and gravel as well as streets, roofs, sidewalks, patios, parking lots, driveways and other similar surfaces.

(j) *Life cycle replacement cost* means the sum of all recurring and one-time (non-recurring) costs over the full life span, or a specified period, of a good, service, structure, or system. It includes purchase price, installation cost, operating costs, maintenance and replacement cost. For example, if a 30-inch reinforced concrete storm sewer has a useful design life of 40 years, $1/40^{th}$ of its original installed cost should be collected every year for 40 years in order to have sufficient funds available to replace it at the end of its life span. (This scenario assumes inflation rates = savings interest rates.)

(k) *Lot* means a parcel of land having a width and depth sufficient for one principal building and its accessory building together with open spaces required by the village's subdivision ordinance and abutting a public street or access easement.

(l) *Multifamily residential* means a residential space consisting of three or more dwelling units.

(m) *Nonresidential property* means any developed lot or parcel not exclusively residential property as defined herein, including, but not limited to, transient rentals (such as hotels and motels), mobile home parks, commercial, industrial, institutional, governmental property, and parking lots.

(n) *100-year storm* is an event of the magnitude that has a one percent chance of occurrence in any given year (also called a "1-in-100 chance storm event"). A 100-year storm event in the Village of Yorkville equals 5.88 inches of rainfall in any given 24-hour period.

(o) *Percent of impervious coverage* means the total coverage by impervious surfaces in an area, such as a parcel or watershed, usually expressed as a percentage of the total land mass.

(p) *Property owner* includes, but is not limited to, natural persons, partnerships, corporations, limited liability companies, limited liability partnerships, joint ventures, and all other legal entities of any kind or nature.

(q) *Residential property* means any parcel of land developed exclusively for residential purposes including, but not limited to, single-family homes, manufactured homes, duplex units, multifamily apartment and condominium units, but not including transient rentals (such as hotels and motels).

(r) *Runoff* means "stormwater runoff" which is a term used to describe water that originates during precipitation events. It may also be used to apply to water that originates with snowmelt or runoff water from overwatering that enters a stormwater system. Stormwater runoff does not soak into the ground, therefore becoming surface runoff, which either flows directly into surface waterways or is channeled into storm sewers, which eventually discharge to surface waters.

(s) *Runoff curve numbers (CN)* (also called a curve number) is an empirical parameter used in hydrology for predicting the amount of direct runoff or infiltration from a rainfall event. The runoff curve number is based on the area's hydrologic soil group, land use treatment and hydrologic condition. It is widely used and is an efficient method for determining the approximate amount of direct runoff from a rainfall event in a particular area.

(t) *Runoff coefficient* means the ratio of the amount of water that is not absorbed by the surface to the total amount of water that falls during a rainstorm.

(u) *Single-family home* means any residential property consisting of a single dwelling unit.

(v) *Stormwater management program* means activities required to control stormwater runoff to protect the health, safety, and welfare of the public, and to comply with state and federal regulations. It includes construction and maintenance of physical infrastructure as well as development, implementation and management of policies, procedures and programs necessary for regulatory compliance. It includes, but is not limited to, street sweeping, erosion control, stormwater basin improvements and maintenance, culvert and storm sewer maintenance, stormwater testing, stormwater management planning and related public education.

(w) *Stormwater system* means the system of streets, curbs, gutters, berms, swales, detention and retention ponds or basins, infiltration basins, pipes, outfalls, inlets, and other components of infrastructure owned and/or maintained by the municipality or the RCBDC for the purpose of managing, gathering, transmitting, treating or conveying stormwater. This term includes tributaries, creeks, rivers, canals, and streams.

(x) *Stormwater utility* means the utility established under this article for the purpose of managing stormwater and imposing charges for the recovery of costs connected with such stormwater management.

(y) *Technical Release 55 (TR-55)* presents simplified procedures to calculate storm runoff volume, peak rate of discharge, hydrographs, and storage volumes required for floodwater reservoirs. These procedures were developed by the USDA Soil Conservation Service (SCS) and are applicable to small watersheds.

(z) *Time of concentration (Tc)* is a concept used in hydrology to measure the response of a watershed to a rainfall event. It is defined as the time needed for water to flow from the most remote point in a watershed to the watershed outlet. It is a function of the topography, geology, and land use within the watershed.

(aa) *Village* means the Village of Yorkville, Racine County, Wisconsin.

(bb) *Village board* means the village board of the Village of Yorkville, Racine County, Wisconsin or designee.

(cc) *2-year storm* is an event of the magnitude that has a 50-percent chance of occurrence in any given year (also called a "50-in-100 chance storm event"). A 2-year storm event in the Village of Yorkville equals 2.57 inches of rainfall in any given 24-hour period.

(dd) *Undeveloped property* means any real property with no artificial impervious area, but due to surface area, soil type, topography and natural imperviousness, generates runoff and has an impact on the village's stormwater drainage system.

(ee) *Watershed* means an area of land that drains downslope to a single low point with water moving through a network of drainage pathways, both underground and on the surface. The pathways generally converge into streams and rivers, which become progressively larger as the water moves on downstream, eventually reaching an estuary and the ocean. Other terms used interchangeably with watershed include drainage basin or catchment basin.

Sec. 54-280. Utility rates and charges.

(a) By this article, the village is establishing the basis for the rates that will be used to calculate and impose charges upon each parcel within the village for services and facilities provided by the village board or RCBDC consistent with this article.

(b) The actual rate of charges to be imposed and any future changes in those rates for each customer classification shall be made by resolution. All rates established pursuant to this article shall be fair and reasonable. A schedule of current charges shall be maintained and on file in the office of the village clerk.

(c) Charges shall be imposed to recover all or a portion of the costs incurred by the village for stormwater management purposes. In the discretion of the village board, charges may also be implemented for payment of assessments imposed by the RCBDC for stormwater management purposes as to parcels within the boundaries of the Village that are also within the boundaries of the Yorkville Raymond Drainage District. Such charges may include the following components:

(1) *Base charge.* A base charge may be imposed on all parcels in the village. The base charge is established in recognition of the fact that all properties in the village

receive services from the stormwater management activities of the village and that all properties contribute to some degree to the stormwater discharge that must be managed by the village.

(2) *Equivalent runoff unit (ERU) charge.* The ERU charge shall be assessed for each parcel in the village based upon the village engineer's methodology that incorporates the use of gross area, intensity of development and modeling established by the National Resources Conservation Service and set forth in Technical Release 55 ("TR-55"). The village engineer shall prepare a list of all parcels within the village, utilizing the statutory land use classification(s) for each parcel as determined by the village assessor or State Department of Revenue. The ERU charge shall be updated by the village engineer based on any additions to the impervious area as approved through the building permit process, as well as changes in land use classifications as determined by the village assessor or State Department of Revenue.

Sec. 54-281. Land use classifications.

(a) For purposes of imposing one or more of stormwater utility charges, all lots, parcels or portions thereof within the village are classified into the following classes:

(1) Residential lots with an area of less than one acre.

(2) Residential lots with an area of one acre or more.

(3) Agricultural - Crop land.

(4) Agricultural - Improved.

(5) Commercial.

(6) Manufacturing.

(7) Forest land.

(8) Parkland.

(9) Municipal/institutional.

(10) Railroad.

(b) The village board may make such other classifications in accordance with this article as will be likely to provide reasonable and fair distribution of the costs of the stormwater utility.

Sec. 54-282. Billing and payment.

Stormwater charges at the rate set annually by resolution of the village board, shall be billed to the owners of each parcel within the Yorkville Storm Water Utility at the same time and in the same manner as the village tax bill, as a charge for stormwater services. The full stormwater

charge shall be due with the first tax installment. Alternatively, stormwater charges may be levied and collected as a special charge against property in the village, under Wis. Stat. § 66.0627 and as provided in this section. The mailing of the bill containing the stormwater charges shall serve as notice to the property owner that failure to pay the stormwater charges when due may result in the fee being levied, imposed and collected as a special charge, pursuant to the procedures set forth in Wis. Stat. § 66.0627.

Sec. 54-283. Lien.

All stormwater charges shall be a lien upon the property, as provided in Wis. Stat. § 66.0809.

Sec. 54-284. Credits and adjustments.

(a) *Credit policy.* The village board shall utilize the following provisions in considering any request for a stormwater charge credit:

(1) No credit shall be given for the installation of stormwater management facilities required by the village, Racine County, or state stormwater regulations.

(2) No credit shall be considered for structural or nonstructural best management practices that are required in order to comply with village or county ordinance or state statute or regulation.

(3) No credits shall be considered for any "natural" features such as, but not limited to, wetlands, lakes and floodplains or water impoundment of any kind in existence prior to passage of this section.

(4) The village board may, in its sole discretion, extend a credit in other situations that warrant relief from the stormwater ERU charge (e.g., where a property owner installs a stormwater facility that provides a regional benefit).

(5) The base charge is not eligible for credit or adjustment.

(b) *Adjustment of fees and appeal procedure.*

(1) The village elects not to be subject to the administrative review provisions contained in Wis. Stat. ch. 68, except as set forth below, and establishes the following as a complete and final review procedure. Appeals shall be limited to a determination of the ERU charge or ERU credits made for nonresidential properties. There shall be no right of appeal as to the underlying findings and necessity of this article or the ERU charge as applied to the following classifications:

a. Residential lots with an area of less than one acre.

b. Residential lots with an area of one acre or more.

c. Agricultural - Crop land.

d. Agricultural - Improved.

(2) Requests for adjustment. Requests for adjustment of the ERU Charge, including requests for stormwater charge credits, shall be submitted to the Yorkville Storm Water Commission, which is hereby given the authority to develop and administer the procedures and standards for the adjustment of fees as established herein. All requests shall be judged on the basis of the amount of impervious area on the site, and other criteria deemed relevant by the village engineer. The commission shall not have the authority to revise a property's classification of uses as established by the village assessor, but shall alert the assessor where it appears there is merit to a property owner's complaint on the basis of classification.

a. Any property owner who has paid a stormwater ERU charge and believes the charge to be incorrect, may, within 60 days of the timely payment of such charge and subject to the limitations set forth in this section, submit an adjustment request to the commission. To defray the village's costs for reviewing the request, an adjustment review fee may be imposed and collected from an applicant in such amount, if any, as is set periodically by resolution of the village board.

b. Adjustment requests shall be in writing and set forth in detail, the grounds upon which relief is sought.

c. The property owner requesting the adjustments may be required, at his/her own expense, to provide supplemental information to the commission, including, but not limited to, survey data prepared by a registered land surveyor (R.L.S.) and engineering reports prepared by a professional engineer (P.E.). Failure to provide such information may result in the denial of the adjustments request.

d. The commission shall issue a written determination as to whether the request for adjustment shall be granted. For adjustments that are granted, a credit shall be applied to the property owner's account. Denials of adjustment requests shall be made, in writing, by the commission.

Sec. 54-285. Exemptions.

Public rights-of-way are considered part of the village's stormwater conveyance system and are therefore exempt from stormwater utility charges.
(Ord. No. 2011-02, § 1, 7-11-2011)

Sec. 54-286. Method of appeal.

The village elects not to be subject to the administrative review provisions contained in Wis. Stat. ch. 68, except as set forth below, and establishes the following as a complete and final review procedure. Appeals shall be limited to a determination of the ERU charge or ERU credits made for nonresidential properties. There shall be no right of appeal as to the underlying findings and necessity of this article or the single-family unit charge as applied to any single-family, duplex, residential, multifamily, or residential condominium properties.

(a) The stormwater utility charge may be appealed as follows:

A written appeal shall be filed with the village clerk prior to the stormwater utility charge due date; or

Within 60 days of payment, a written challenge to the stormwater utility charge must be filed with the village clerk on behalf of the property owner, specifying all bases for the challenge and the amount of the stormwater utility charge the customer asserts is inappropriate. Failure to file a challenge within 60 days of payment waives all right to later challenge the charge.

(b) The commission will determine whether the stormwater utility charge is fair and reasonable, or whether a refund is due the property owner. The commission may act with or without a hearing and will inform the property owner in writing of its decision. The commission or its designee may, at its discretion, require access to the property to assist in its determination.

(c) The property owner has 30 days from the decision of the commission to file a written appeal to the village board.

(d) In the event of an appeal, the village board shall hold a hearing as provided in Wis. Stat. §§ 68.11(2) and 68.11(3). The village board shall hold such hearing within 30 days of the appeal request, and shall notify the appellant of the hearing date no less than ten days' notice in advance of the hearing. Within 20 days of the hearing and the filing of briefs, if any, the village board shall mail or deliver to the appellant its written final determination, setting forth, in detail, the reasons for is decision.

If the village board or commission determines that a refund is due the property owner, the refund will be applied as a credit on the property owner's next annual billing, or will be refunded at the discretion of the village treasurer/finance director.

(e) Public service commission complaint. Notwithstanding the above procedures, any property owner may file a complaint to the public service commission claiming that rates, rules and practices herein are unreasonable or unjustly discriminatory, pursuant to Wis. Stat. § 66.0821(5).

(Ord. No. 2011-02, § 1, 7-11-2011)

Article V. Broadband Network Projects

Sec. 54-287. Broadband network project applications.

(a) General Provisions.

(1) Purpose and policy. The purpose of this article is to encourage the development of broadband access in the Village of Yorkville by reducing administrative obstacles to broadband service providers and coordinating the review of

applications to ensure such applications are timely processed. This article shall always be construed consistent with the forestated purpose.

Sec. 54-288. Definitions.

Definitions in this article are as follows:

(1) "Applicant" means a person applying for a permit for a broadband network project.

(2) "Broadband network project" means the construction or deployment of wireline or wireless communications facilities to provide broadband communications services in the Village of Yorkville.

(3) "Permit" means any local permit, license, certificate, approval, registration, or similar form of approval required by policy, administrative rule, regulation, ordinance, or resolution with respect to a broadband network project.

(4) "Written" or "in writing" means information that is inscribed on a tangible medium or that is stored in an electronic or other intangible medium and is retrievable in perceivable form.

Sec. 54-289. Point of contact.

The Village of Yorkville shall appoint a single point of contact for all matters related to a broadband network project. The Village of Yorkville shall provide on its public website the contact information, including the e-mail address, for the point of contact authorized to receive a broadband network project application.

(a) Electronic Submission of Applications. An applicant may sign and file all forms, applications and documentation related to a broadband network project electronically.

(b) Review of Applications. Notwithstanding any other provision in the Village's ordinances, resolutions, regulations, policies or practices to the contrary, the following process shall apply exclusively upon receiving a broadband network project application:

Sec. 54-290. Completeness review.

Upon receiving a broadband network project application, the Village of Yorkville shall:

(a) Determine whether an application is complete and notify the applicant of the determination by the Village of Yorkville in writing within 10 calendar days of receiving an application. If the Village of Yorkville does not notify the applicant in writing of its completeness determination within 10 calendar days of receiving the application, the application shall be considered complete.

(b) If the Village of Yorkville determines that an application is not complete, the written notification to the applicant shall specify in detail the required information that is not complete. The applicant may resubmit an application as often as necessary until the application is complete.

Sec. 54-291. Approval or denial of complete applications.

(a) Within 60 calendar days of receiving an application that is complete, or considered complete under Sec. 54-290(a), the Village of Yorkville shall approve or deny the application and provide the applicant written notification of the approval or denial. If the Village of Yorkville does not notify the applicant of its approval or denial within 60 calendar days of receiving a complete application, the application shall be considered approved and any required permit shall be considered issued.

(b) If the Village denies an application, the written notification of the denial under sub. (a) shall include evidence that the denial is not arbitrary and capricious.

Sec. 54-292. Fees.

Any fee imposed by the Village of Yorkville to review an application, issue a permit, or perform any other activity related to a broadband network project shall be reasonable. An application fee that exceeds $100 is unreasonable.

Chapter 55
ZONING CODE

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
	Article I. In General		
Sec. 55-1.	Adoption of Racine County Zoning.	2018-04	06/11/18
		2020-06	09/14/20
		2020-08	11/09/20
		2022-08	12/12/22
		2023-02	01/09/23
		2023-05	06/12/23
		2023-13	11/13/23
		2023-14	11/13/23
		2024-09	08/12/24
		2024-14	08/12/24
		2026-05	06/08/26
Sec. 55-2	Village Board of Appeals.		
Sec. 55-3	Zoning Map.	2018-06	06/11/18
		2018-13	10/08/18
		2023-01	01/09/23

Article I. In General

Sec. 55-1. Adoption of Racine County Zoning.

(a) Pursuant to Sections 66.0203(10) and 66.0213(2) of the Wisconsin Statutes, the Zoning Code of Racine County, as such was in effect at the time of the Village's incorporation, shall continue in force in the Village, to the extent not inconsistent with Wis. Stat. Ch. 61 and except as otherwise altered by the Village Code of Ordinances from time-to-time ("Racine County Zoning Code"). Attached at this end of the Chapter as Exhibit A, and incorporated herein by reference, is a copy of the current Racine County Zoning Code which the Village Board hereby adopts as the Zoning Code for the Village of Yorkville. Any amendments to the Racine County Zoning Code by Racine County shall not apply to the Village unless such changes are specifically adopted by the Village as required by Wisconsin Statutes. To the extent any provision of this Chapter or any other ordinance of the Village conflicts with a provision of the Racine County Zoning Code the more restrictive provision shall apply.

(b) The Racine County Public Works and Development Services Director, or her designee, shall act as Zoning Administrator for the Village, in accordance with the terms and conditions of a separate agreement between the County and Village.

Sec. 55-2. Village Board of Appeals.

(a) *Creation and membership.* There is hereby created for the Village a Board of Appeals. Notwithstanding the incorporation of the Racine County Zoning Code, the Board of Appeals shall operate in lieu of the Racine County Board of Adjustment. The Board of Appeals shall consist of five members appointed by the President and subject to

confirmation by the Village Board. The terms of the members shall be three (3) years, except that of those initially appointed, one shall serve for one year, two for two years, and two for three years. The Village President shall appoint, for staggered terms of three years, two alternate members of such board. The Village President shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. There shall be no compensation received by the members for their service on the Board.

(b) *Jurisdiction.* The Board of Appeals shall have the powers granted in Wis. Stat. §62.23(7)(e), including the following:

(1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator.

(2) Hear and decide special exceptions to the terms of this chapter upon which the board of appeals is required to pass.

(3) Authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

a. In this subsection, “area variance” means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals under this paragraph. In this subsection, “use variance” means an authorization by the board of appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

b. A property owner bears the burden of proving “unnecessary hardship," as that term is used in this subdivision, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

(4) To hear and grant applications for substitution of the same or more restrictive nonconforming uses for existing nonconforming uses.

(5) To hear and decide application for interpretation of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.

(6) Reverse, affirm wholly or partly, modify the order, decision, determination or requirement appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end, shall have all the powers of the offices from whom the appeal is taken, and may issue or direct the issue of a permit.

(7) The board of appeals may request assistance from other village officers, departments, commissions and boards.

(8) Have the powers provided by Wis. Stat. §62.23(7)(e) or by any ordinance of the village.

(c) *Officers.* The Board of Appeals shall choose its own chairperson, vice chairperson, and secretary.

(d) *Meetings and rules.* The Board of Appeals shall adopt rules and regulations for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the chairperson and at such other times as the Board may determine. Such chairperson, or in his/her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. However, the Board may convene in closed session in accordance with Wis. Stat. §19.85.

(e) *Minutes.* The secretary shall keep minutes of its proceedings, showing the action of the Board and vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The presence of a majority of Board members, or of Board members and alternates, shall constitute a quorum.

(f) *Determinations.* If a quorum is present, the Board may take action by a majority vote of the members present.

(g) *Hearings.*

(1) The board of appeals shall fix a reasonable time and place for the hearing of the appeal or application; and shall give public notice thereof by publication at least once during two consecutive weeks, the last publication being no later than one week before the hearing. In addition, the board shall give due notice to the parties in interest, including the officer from whom the appeal is taken.

(2) At the hearing, the appellant or applicant may appear in person, by agent, or by attorney.

(3) A copy of all notices of appeals or variances to the floodland provisions of this chapter shall be transmitted to the state department of natural resources (DNR) for review and comment. Final action on floodland appeals and variance requests

shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first.

(h) *Decisions.*

(1) *Time limits*.

a. The board of appeals shall decide all appeals and applications, except appeals and variance requests to the floodland provisions of this chapter, within 30 days after the final hearing and shall transmit a signed copy of the board's decision to the appellant or applicant, and the officer from whom the appeal is taken. Decisions on appeals to the floodland provisions of this chapter shall be made as soon as is practicable, but not more than 60 days after the required public hearing.

b. Decisions on appeals and variance requests to the floodland provisions of this chapter shall not be made for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions on floodland appeals or variance requests shall be transmitted to the DNR within ten days of their effective date.

(2) *Expiration of variances.* Variances and substitutions granted by the board of appeals shall expire within six months, unless substantial work has commenced pursuant to such grant. An extension, the duration to be determined by the zoning administrator on a case-by-case basis, may be granted by the zoning administrator prior to its expiration. The zoning administrator or applicant may request that the board of appeals review and approve the request for extension.

(3) *Establishment of conditions.* In exercising any of its powers, the board of appeals may, in any finding or decision, establish appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter.

(i) *Finality of decision.* All decisions and findings of the Board of Appeals on any application for a variance, after a public hearing, shall, in all instances, be the final administrative decision and shall be subject to judicial review. No application for a variance which has been denied by the Board may be resubmitted for a period of one year from the date of the order of denial, except under extraordinary circumstances or on the grounds of new evidence discoverable after the hearing or proof of substantially changed conditions found to be valid by the Board.

(j) *Review of decisions by court.* Any person aggrieved by any decision of the board of appeals or any taxpayer or any officer, department, board or bureau of the village may, within 30 days after the filing of the decision in the office of the board of appeals, but not thereafter, commence an action seeking the remedy available by certiorari.

EXHBIT A
Racine County Zoning Code

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
	Article I. In General		
Sec. 20-1.	Definitions.	2020-06 2024-06 2024-14	09/14/20 04/08/24 08/12/24
Sec. 20-2.	Authority.		
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Chapter 20 - ZONING[1]

Footnotes:
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Cross reference— Requirements for surveying of land in the county, § 2-1; subdivisions, Ch. 18.
State Law reference— Zoning, building inspector, W.S.A., § 59.07(16); filing fees, W.S.A., § 59.07(16m); fees for zoning appeals,W.S.A., §§ 59.97 and 59.99; planning and zoning authority, W.S.A., § 59.97.

ARTICLE I. - IN GENERAL

Sec. 20-1. - Definitions.

Unless specifically defined, words and phrases in this chapter shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and directory.

A zones shall mean those areas show[n] on the official floodplain zoning map which would be inundated by the regional flood. These areas may be numbered or un-numbered A zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

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

Adult bath houses shall mean an establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the state and which establishment provides to its patrons an opportunity for engaging in "specified sexual activities."

Adult body painting studios shall mean an establishment or business wherein patrons are afforded an opportunity to paint images on a "specified anatomical area." For purposes of this chapter, the adult body painting studio shall not be deemed to include a tattoo parlor.

Adult bookstore shall mean an establishment or business having as a substantial or significant portion of its stock and trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

Adult booth shall mean any area of an adult establishment set off from the remainder of such establishment by one (1) or more walls or other dividers or partitions and used to show, play, or otherwise demonstrate any adult materials or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction, or description of "specified anatomical areas" or the conduct or simulation of "specified sexual activities."

Adult cabaret shall mean any nightclub, bar, restaurant, or similar commercial establishment which features: (1) live performances which are characterized or distinguished by the exposure of "specified anatomical areas" or the removal of articles of clothing; or (2) films, motion pictures, video cassettes, digital video disks, video reproductions, slides or other visual presentations which

are distinguished or characterized by depicting or describing "specified sexual activities" or "specified anatomical areas."

Adult establishments shall mean and include but are not limited to adult bookstores, adult motion picture theaters (indoor or outdoor), adult mini-motion picture theaters, adult video stores, adult bath houses, adult motels, adult theatres, adult novelty shops, adult massage parlors, adult modeling studios, adult body painting studios, and adult cabarets.

Adult massage parlor shall mean an establishment or business with or without sleeping accommodations which provides services including any method of rubbing, pressing, stroking, kneading, tapping, pounding, vibrating or stimulating a "specified anatomical area" with the hands or with any instruments, heat and light treatments of the body, and all forms and methods of physiotherapy not operated by a medical practitioner or professional physical therapist licensed by the state.

Adult mini-motion picture theater shall mean an enclosed building with a capacity for less than fifty (50) persons used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult modeling studio shall mean any establishment or business where a person who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Adult modeling studios shall not include a proprietary school licensed by the State of Wisconsin or a college, technical college, or university; or in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(2) Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

(3) Where no more than one (1) nude or semi-nude model is on the premises at any one (1) time.

Adult motel shall mean a hotel, motel, or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult-type of photographic reproductions; or

(2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

Adult motion picture theater shall mean an enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult motion picture theater (outdoor) shall mean a parcel of land from which individuals may view a motion picture presented out of doors which presents material distinguishably characterized by an emphasis on matter depicting, describing or relating to "specified sexual activity" or "specified anatomical areas."

Adult novelty shop shall mean an establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items which are distinguished or characterized by their emphasis on or designed for "specified sexual activity" or stimulating such activity.

Adult theater shall mean a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

Adult video store shall mean an establishment or business having as a substantial or significant portion of its stock and trade for sale or rental of motion pictures or other visual media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

Advertising sign shall mean a sign pertaining to goods sold or manufactured or services rendered on the premises upon which the sign is located.

AH zone. See "Area of shallow flooding."

Alley shall mean a special public right-of-way affording only secondary access to abutting properties.

Alteration shall mean an enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

Animal unit shall have the meaning that was given in NR 243.03(3) as of April 27, 2004.

Animated sign shall mean any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.

Antenna means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

AO zone. See "Area of shallow flooding."

Area of shallow flooding shall mean a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one (1) percent or greater annual chance

of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

Arterial street shall mean a public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.

Back-to-back, side-by-side, bottom-on-top, and V-shaped sign shall mean signs that are physically contiguous and share a common structure, in whole or in part, or are located not more than fifteen (15) feet apart at their nearest point in cases of "back-to-back" or "V-shaped."

Balcony shall mean a platform that projects from the wall of a building four (4) feet or less, is surrounded by a railing or balustrade, is open and roofless, and which is suspended or cantilevered from, or supported solely by, the structure to which it is attached.

Banner shall mean any sign of lightweight fabric, plastic, coated paper, or similar material not enclosed in a rigid frame that is mounted to a pole or a structure at one (1) or more edges. Flags or pennants are not considered banners.

Base flood shall mean the flood having a one (1) percent change of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

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

Beacon (search light) shall mean any light with one (1) or more beams that rotate or move or any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source.

Bed and breakfast (B and B) shall mean a private owner-occupied residence that offers sleeping accommodations to not more than a total of twenty (20) tourists or transients in eight (8) or fewer rooms which provides no meals other than breakfast and provides breakfast only to renters of the place.

Billboard shall mean a sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located, except for section 20-1380 (c), section 20-1380 (l), section 20-1381 (a), section 20-1402(a), and section 20-1407(a).

Bluff shall mean the often steeply sloped land area located to the landward side of the Lake Michigan beach. The edge of the bluff is shown on the county topographic maps as "Edge of Cliff" at a scale of one (1) inch equals two hundred (200) feet.

Bluff recession rate shall mean the rate at which the bluff recedes because of erosion by the waters of Lake Michigan and because of unstable slope conditions.

Boardinghouse shall mean a building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four (4) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.

Brew pub shall mean a restaurant that manufactures up to five thousand (5,000) barrels of fermented malt beverages per year on premises for either consumption on premises or sale in hand-capped or sealed containers in quantities up to one-half (½) barrel or fifteen and one-half (15½) gallons sold directly to the consumer.

Building shall mean a structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

Building area shall mean the total living area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways and unfinished attics.

Building height shall mean the vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and ridges of gable, gambrel, hip and pitch roofs; or to the deck line of mansard roofs.

Bulkhead line shall mean a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the department pursuant to [W.S.A.] § 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.

Bus shelter shall mean a small, roofed structure, usually having three (3) walls, located near a street and designed primarily for the protection and convenience of bus passengers.

Campground shall mean any parcel of land which is designed, maintained, intended, or used for the purpose of providing sites for nonpermanent overnight use by four (4) or more camping units, or which is advertised or represented as a camping area.

Camping unit shall mean any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including but not limited to, a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.

Canopy sign (awning sign) shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover. A marquee is not a canopy. The overhead protective cover used for fuel pumps is considered a canopy.

Certificate of compliance shall mean a certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this article.

Changeable copy sign shall mean a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign not more than once every eight (8) seconds or the minimum standards set by the Federal Highway Administration, whichever is longer. Each change of message shall be accomplished in one second or less. A sign on which the only copy that changes is an electronic or mechanical indication of time, date, or temperature is considered a "time and temperature" portion of a sign and not a changeable copy sign or traveling message sign.

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

Class 1 collocation means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free-standing support structure for the facility but does need to engage in substantial modification.

Class 2 collocation means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free-standing support structure for the facility but does not need to engage in substantial modification.

Clear cutting shall mean the removal of an entire stand or area of trees or shrubs.

Clothing repair shops shall mean shops where clothing is repaired, such as shoe repair shops, seamstress, tailor shops, shoe shine shops, clothes pressing shops, but none employing over five (5) persons.

Clothing stores shall mean retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery and millinery shops.

Cluster development shall mean a development design technique that concentrates buildings in specific areas on a site to allow remaining lands to be used for recreation, common open space, or the preservation of historically, agriculturally or environmentally sensitive features. The size of individual lots may be reduced to gain such common open space.

Commercial day care center shall mean an establishment providing care and supervision for four (4) or more persons under the age of seven (7) and licensed by the State of Wisconsin pursuant to W.S.A., § 48.65.

Commercial-scale wind energy facility shall mean an electricity generating facility consisting of one or more wind turbines under common ownership or operating control and includes substations, MET towers, cables/wires, and other buildings accessory to such facility whose main purpose is to supply electricity to off-site customer(s) provided that such a system shall only include a wind turbine with both a total height greater than one hundred seventy (170) feet and name-plate capacity greater than one hundred (100) kilowatts/one (1) megawatt.

Conservation standards shall mean guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide prepared by the U.S. Department of Agriculture, Soil Conservation Service, for the county, adopted by the county soil and water conservation district supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities, from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation plan.

Core area of living space shall mean that area or space within a dwelling unit, devoted to the principal residential use of the structure, excluding attached garages, porches, sheds, decks, carports, and other appurtenances.

Corner lot shall mean a lot abutting two (2) or more streets at their intersections provided that the corner of such intersection shall have an angle of one hundred thirty-five (135) degrees or less, measured on the lot side.

Crawlways or crawlspace shall mean an enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for limited access to plumbing and electrical utilities.

DATCP shall mean the state department of agriculture, trade and consumer protection.

Day care center. See "Family day care home" and "Commercial day care center."

Decibel shall mean a unit for measuring the relative loudness of a sound (abbreviated dB) measured on an "A" weighted decibel scale.

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

Density bonus shall mean the allocation of development rights that allow a parcel to accommodate additional square footage or additional residential units beyond the maximum for which the parcel is zoned or beyond the net density established in the adopted village land use plan, usually in exchange for the provision or preservation of an amenity at the same site or at another location.

Density, net shall mean the numerical value obtained by dividing the total number of dwelling units in a development by the area of the actual tract of land (in acres) upon which the dwelling units are proposed to be located and including common open space and associated recreational facilities within the area; the result being the number of dwelling units per net residential acres of land. Net density calculations exclude all or a portion of the area occupied by rights-of-way of publicly dedicated streets and private streets, floodplains, wetlands, and water.

Department shall mean the state department of natural resources (DNR).

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

Directional sign shall mean any auxiliary sign that is limited to directional messages principally for assisting in the flow of pedestrian or vehicular traffic, such as enter, exit, and one way. Directory sign shall mean a sign listing the tenants or occupants of a building or group of buildings and that may indicate their respective professions or business activities.

Displaced threshold shall mean a horizontal line on a runway, perpendicular to the runway centerline. Departing aircraft must be airborne before crossing the displaced threshold. Incoming aircraft may not touch down before crossing the displaced threshold.

District, basic use, shall mean a part or parts of the county for which the regulations of this chapter governing the use and location and land and buildings are uniform (such as the residential, business, industrial, or farming district classifications).

District, overlay, shall provide for the possibility of superimposing certain additional requirements upon a basic use zoning district without disturbing the requirements of the basic use district. In the instance of conflicting requirements, the more strict of the conflicting requirement shall apply.

Drainage system shall mean one (1) or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

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

Dwelling shall mean a detached building designed or used exclusively as a residence or sleeping place, but does not include boardinghouses or lodginghouses, motels, hotels, tenements, cabins or mobile homes.

Efficiency shall mean a dwelling unit consisting of one (1) principal room with no separate sleeping rooms.

Egg production, commercial shall mean an animal confinement facility used or designed for the raising of poultry for egg production having a capacity of two hundred (200) or more animal units.

Elevation shall mean the height in feet above National Geodetic Datum of 1929, also known as mean sea level datum.

Emergency shelter shall mean public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare, fire, flood, windstorm, riots and invasions.

Encroachment shall mean any fill, structure, building, use, or development in the floodway.

Equipment compound means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

Essential services shall mean services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage and communication systems and accessories thereto, such as poles, tower, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings used or intended to be used for human habitation.

Existing manufactured home park or subdivision shall mean a parcel of land, divided into two (2) or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this article. 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.

Existing structure means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with a county or municipality.

Expanded livestock facility shall mean the entire livestock facility that is created by the expansion, after May 1, 2006. Expanded livestock facility includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing or altered.

Expansion shall mean (for livestock siting purposes) an increase in the largest number of animal units kept at a livestock facility on at least ninety (90) days in any twelve-month period. The acquisition of an existing livestock facility, by the operator of an adjacent livestock facility, does not constitute an "expansion" unless that operator increases the largest number of animal units kept at the combined livestock facilities on at least ninety (90) days in any twelve-month period.

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

Expressway shall mean a divided arterial street or highway with full or partial control of access and with or without grade separated intersections.

Family shall mean any number of persons related by blood, adoption or marriage, or not to exceed four (4) persons not so related, living together in one (1) dwelling as a single housekeeping entity.

FAA shall mean the Federal Aviation Administration.

Face shall mean the surface of a sign upon which the message is displayed. One (1) sign structure may have more than one (1) face.

Fall zone means the area over which a mobile support structure is designed to collapse.

Family day care home shall mean a dwelling licensed as a day care center by the State of Wisconsin pursuant to W.S.A., § 48.65, where care is provided for not more than eight (8) children under the age of seven (7) years for less than twenty-four (24) hours per day.

Family foster home shall mean the primary domicile of a foster parent which houses four (4) or fewer foster children and which is licensed pursuant to W.S.A., § 48.62.

Federal emergency management agency (FEMA) shall mean the federal agency that administers the national flood insurance program.

Flag shall mean any fabric or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, school, or to indicate membership in a non-profit organization.

Flashing sign shall mean any directly or indirectly illuminated sign on which the natural or artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. This definition includes parts that move while the light remains constant, giving the impression of changing or flashing lights. Intermittent signs only providing information such as

time, date, and temperature and changeable copy signs as defined herein are not considered "flashing signs."

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

(1) The overflow or rise of inland waters;

(2) The rapid accumulation of 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 sever storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

Flood frequency shall mean the probability of a flood occurrence. A flood frequency is generally determined from statistical analysis. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent chance of occurring in any given year.

Flood insurance rate map (FIRM) shall mean a map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

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

Flood hazard boundary map shall mean a map designating approximate flood hazard areas. Flood hazard areas are designated as un-numbered 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 profile shall mean a graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

Flood protection elevation shall mean an elevation of two (2) feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: freeboard)

Flood stage shall mean the elevation of the floodwater surface above an officially established datum plane, which is mean sea level, 1929 adjustment, on the supplementary floodland zoning map or in any of the flood profiles cited in section 20-211 et seq.

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

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

Floodlands shall mean all lands contained in the "regional flood" or one-hundred-year recurrence interval flood. For the purpose of zoning regulation, the floodlands are divided into the urban floodway district, the urban floodplain conservancy overlay district, the urban floodplain fringe overlay district and the general floodplain overlay district.

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

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

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

Floodplain nonconforming structure shall mean an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this chapter for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the food protection elevation, the structure is nonconforming.)

Floodplain nonconforming use shall mean an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies, such as a residence in the floodway.

Floodproofing shall mean any combination of structural provisions, changes, or adjustments to properties and structures, water and sanitary facilities, and contents of buildings subject to flooding for the purposes of reducing or eliminating flood damage.

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

Freeboard shall mean a flood protection elevation requirement designed as a safety factor which is usually expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for the effects of any factors that contribute to flood heights greater than those calculated. These factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the

hydrology or the watershed, loss of flood storage areas due to development and aggradation of the river or streambed.

Freeway shall mean an expressway with full control of access and with fully grade separated intersections.

Frontage shall mean the smallest dimension of a lot abutting a public street measured along the street line.

General floodplain shall mean that portion of the natural one-hundred-year recurrence interval flood hazard area that is not committed to urban development. The regulations of the general floodplain overlay district are constructed in a manner to promote protection of these natural floodplains in their natural state and to prevent the encroachment of urban development and other structures.

Gift stores shall mean retail stores where items such as art, antiques, jewelry, books and notions are sold.

Greenhouse shall mean a building or structure constructed chiefly of glass, glasslike or translucent material, cloth or lath, which is devoted to the protection or cultivation of flowers, shrubbery, vegetables, trees and other horticultural and floricultural products.

Greenhouse, commercial shall mean a greenhouse used for the growing of plants, all or part of which are sold at retail or wholesale.

Ground sign (monument sign) shall mean any permanent free-standing sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground and which does not exceed fifteen (15) feet in height.

Group foster home shall mean any facility operated by a person required to be licensed by the State of Wisconsin pursuant to W.S.A., § 48.62 for the care and maintenance of five (5) to eight (8) foster children.

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

Hardware stores shall mean retail stores where items such as plumbing, heating and electrical supplies, sporting goods and paints are sold.

Hearing notice shall mean a publication or posting meeting the requirements of W.S.A., ch. 985. For appeals, a Class I notice is required, published once, at least one (1) week (seven (7) days) before the public hearing. For all zoning ordinances and amendments, a class II notice is required, published twice, once each week consecutively, with the last published at least a week (seven (7) days) before the hearing. Local ordinance or bylaws may require additional notice exceeding these minimums.

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

Highest adjacent grade shall mean the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure shall mean any structure that is:

- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

- Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- Individually listed on a local inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

- Individually listed on a local inventory of historic places in communities with historic preservation programs which have been certified either by an approved state program as determined by the Secretary of Interior; or directly by the Secretary of Interior in states without approved programs.

Home occupation shall mean any gainful occupation or profession engaged in by an occupant of a dwelling unit which meets the criteria listed in section 20-1006 et seq.

Hub height shall mean, when referring to a wind turbine, the distance measured from ground level to the center of the turbine hub.

In-law suite shall mean a physical arrangement of a dwelling unit in such a fashion that a separate living quarters is created within a dwelling unit for the sole purpose of allowing related persons to live in the secondary living area while that owner and his or her family resides in the principal living area. The secondary living area may contain a bedroom, bathroom and kitchenette which permit a limited degree of independence, but does not create a separate housekeeping entity.

Increase in regional flood height shall mean a calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

Interchange shall mean a grade separated intersection with one (1) or more turning lanes for travel between intersection legs.

Junkyard (salvage yard) shall mean any premises on which there is an accumulation of scrap metal, paper, rags, glass, lumber, inoperable machinery, inoperable vehicles, tires, or other materials stored or customarily stored for salvage, buying, selling, exchanging, dealing, disassembling, packing, bailing, wrecking, or handling unless such accumulation shall be housed in a completely enclosed building.

Kitchen shall mean a place (such as a room) with cooking facilities including kitchen-type counters and/or cabinets, kitchen sinks, or any appliances for the preparation or preservation of

food, including but not limited to, gas or electric ranges, ovens or stovetops, microwave ovens, refrigerators with more than five (5) cubic feet of capacity, or freezers.

Kitchenette shall mean a small kitchen or an alcove containing minimal cooking facilities.

Land use for floodplain management purposes shall mean any nonstructural or improved real estate.

Landscaped buffer shall mean an area of landscaping separating two (2) distinct land uses, or a land use and a public right-of-way or private road, and acts to soften or mitigate the effects of one (1) land use on the other.

Letter of map amendment (LOMA) shall mean an official notification from the Federal Emergency Management Agency (FEMA) to an individual property owner that a flood hazard boundary map or flood insurance rate map has been amended.

Letter of map revision (LOMR) shall mean an official notification from the Federal Emergency Management Agency (FEMA) that a municipality's flood hazard boundary map or flood insurance rate map has been amended. A LOMR is issued when the revised map is not republished.

Livestock shall mean domestic animals traditionally used in this state in the production of food, fiber, or other animal products. Livestock includes cattle, swine, poultry, sheep, and goats. Livestock does not include equine animals, bison, farm-raised deer, fish, captive game birds, rarities, camelids, or mink.

Livestock facility shall mean a feedlot, dairy farm, or other operation where livestock are or will be fed, confined, maintained, or stabled for a total of forty-five (45) days or more in any twelve-month period. A livestock facility includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single livestock facility for purposes of this chapter, except that an operator may elect to treat a separate species facility as a separate livestock facility.

Livestock structure shall mean a building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. Livestock structure includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. Livestock structure does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

Living rooms shall mean all rooms within a dwelling except closets, foyers, storage areas, utility rooms and bathrooms.

Loading area shall mean a completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

Lot shall mean a parcel of land having frontage on a public street, or other means of access that was in existence prior to the original adoption of this zoning ordinance and which has been approved by the village, occupied or intended to be occupied by a principal structure or use and

sufficient in size to meet the lot width, lot frontage, lot area, lot yard, parking area, and other open space provisions of this chapter.

Lot lines and area shall mean the peripheral boundaries of a parcel of land and the total area lying within such boundaries exclusive of any highway right-of-way or road easement.

Lot width shall mean the width of a parcel of land measured at the rear of the specified street yard. On all parcels where parallel side lot lines are not perpendicular to the street right-of-way line, such lot width shall be determined by measuring along a line which is perpendicular to the side lot lines and begins at a point on the side lot line that is at the specified street yard setback distance. For parcels with non-parallel side lot lines, lot width shall be measured at the street yard setback distance along a line that is perpendicular to a line which begins at the center of the lot at a point on the street right-of-way line and is perpendicular to such right-of-way line or perpendicular to the tangent at such point in the case of a curved right-of-way.

Lowest adjacent grade shall mean the elevation of the lowest ground surface that touches any of the exterior walls of a building.

Lowest floor shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Machine shops shall mean shops where lathes, presses, grinders, shapers and other wood and metal working machines are used, such as blacksmith, tinsmith, welding and sheet metal shops; plumbing, heating and electrical repair and overhaul shops.

Manufactured dwelling shall mean a dwelling structure or component thereof as is defined in the Wisconsin Administrative Code One and Two Family Uniform Dwelling Code Section ILHR 20.07(52), which bears the Wisconsin Department of Industry, Labor and Human Relations insignia certifying that it has been inspected and found to be in compliance with Subchapter V of said Uniform Dwelling Code.

Manufactured home shall mean a dwelling structure or component thereof fabricated in an off-site manufacturing facility after June 15, 1976, for installation or assembly at the building site bearing a HUD label or insignia certifying that it is built in compliance with Federal Manufactured Housing Construction Standards. (Ref. 42 United States Code Section 5401-5406.)

Marquee shall mean any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather. Marquee sign shall mean any sign attached to, in any manner, or made a part of a marquee.

MET tower shall mean a meteorological tower used to measure wind speed.

Minimum facility setback distance shall mean a component of the structural and nonstructural setback overlay district distances which represents a setback distance measured from the regraded stable sloped bluff edge which provides a safety factor against possible failure of shore protection structures or the occurrence of higher than expected bluff recession rates, provides a buffer area which helps protect the regraded bluff edge from excessive surface runoff

and from the potential bluff slope stresses resulting from the additional weight of buildings being placed close to the bluff edge, and provides an area which may be effectively utilized for surface water drainage and control.

Minor structures shall mean any small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment and arbors.

Mobile home shall mean a readily transportable factory built structure, except a manufactured dwelling or manufactured home, intended for human habitation, which by its inherent design may be moved from site to site as necessary; which may have an oversized width for normal traffic allowances and thereby require a special travel permit from state or county highway officials; and which may have its undercarriage removed to facilitate a better location on a slab, piers, or foundation. The removal of the wheels, axles, or other components of the running gear and/or the mounting of such a structure or vehicle on a foundation or over a basement shall not be deemed to change its status from that of a mobile home. A structure manufactured after June 15, 1976, which is certified and labeled as a Manufactured Home under 42 U.S. Code Sections 5401 to 5406 but which is not set on an enclosed foundation in the manner described in section 20-1020 shall be deemed to be a mobile home under this zoning ordinance. Recreational vehicles are not classified as mobile homes and may not be used as a residence.

Mobile home park shall mean any plot or plots of land designed, maintained, intended or used for the purpose of supplying a location or accommodations for two (2) or more units occupied for dwelling or sleeping purposes on a year-round basis and shall include all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the mobile home park and its facilities. Mobile home parks shall not include automobile or mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sale, and shall not include recreational vehicle (RV) courts/campgrounds.

Mobile recreational vehicle shall mean a vehicle which is built on a single chassis four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of mobile recreational homes.

Mobile service facility means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.

Mobile service provider means a person who provides mobile service as defined by federal law.

Mobile service support structure means free-standing structure that is designed to support a mobile service facility.

Model, corrected effective shall mean a hydraulic engineering model that corrects any errors that occur in the duplicate effective model, adds any additional cross sections to the duplicate

effective model, or incorporates more detailed topographic information than that used in the current effective model.

Model, duplicate effective shall mean a copy of the hydraulic analysis used in the effective FIS and referred to as the effective mode.

Model, effective shall mean the hydraulic engineering model that was used to produce the current effective flood insurance study.

Model, existing (pre-project) shall mean a modification of the duplicate effective mode or corrected effective model to reflect any manmade modifications that have occurred within the floodplain since the date of the effective model, but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective mode, this model would be identical to the corrected effective model or duplicate effective model.

Model, revised (post-project) shall mean a modification of the existing or pre-project conditions model, duplicate effective model, or corrected effective model to reflect revised or post-project conditions.

Modular home shall mean a structure which is partially pre-assembled at a manufacturing plant and placed on a lot or parcel as a dwelling unit or units. Also called "pre-fabricated" or pre-cut" homes or "double-wide" units. For purposes of this chapter, the term manufactured home shall generally be used to describe this type of structure. It shall be further distinguished from the term mobile home. (See definitions of manufactured home and mobile home.)

Motel shall mean a series of attached, semiattached or detached sleeping units for the accommodation of transient guests.

Municipality or *municipal* shall mean the county, city, or village governmental units enacting, administering, and enforcing this zoning ordinance.

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

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

Navigable waters shall mean Lake Michigan, all natural lakes within the state and all streams, ponds, sloughs, flowages and other waters within the territorial limits of the state, which are navigable under the laws of the state. Under W.S.A., § 144.26(2)(d), not withstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under W.S.A., § 59.971, and chapter NR115, Wisconsin Administrative Code, do not apply to lands adjacent to farm drainage ditches if:

(1) Such lands are not adjacent to a navigable stream or river;

(2) Those parts of such drainage ditches adjacent to such lands were nonnavigable streams before ditching; and

(3) Such lands are maintained in nonstructural agricultural use.

Net stable slope distance shall mean the horizontal distance that the top of the bluff would need to be receded, or be regraded, to form a stable bluff slope, which would not likely be affected by major bluff recession processes such as slumping or sliding. The stable slope distance is one (1) component of the structural and nonstructural setback overlay district distances.

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

New livestock facility shall mean a livestock facility that will be used as a livestock facility for the first time, or for the first time in at least five (5) years. New livestock facility does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding five (5) years.

Nonconforming uses or structures shall mean any structure, land or water lawfully used, occupied or erected at the time of the effective date of this chapter or amendments thereto which does not conform to the regulations of this chapter or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

Nonstructural setback overlay district distance shall mean, for Lake Michigan shoreland areas, not recommended to be protected by properly designed, constructed, and maintained shore protection structures, the distance from the existing bluff edge which is expected to be affected by shoreline erosion and bluff recession over a fifty-year period, or by regrading of the bluff slope as needed to achieve a stable slope. The nonstructural setback distance also includes a minimum facility setback distance.

Normal maintenance and repair shall mean cleaning, painting, replacing broken and vandalized non-structural parts; replacing light bulbs; and other like minor routine repairs in a manner that does not change or alter the basic copy area, design, or structure of the sign.

Obsolete sign shall mean any sign that no longer correctly directs or exhorts any person or advertises a business, service, product, tenant, or activity no longer conducted, available, or in existence on the premises where such sign is displayed.

Obstruction shall mean any structure, growth, or other object, including a mobile object, which penetrates any of the protected surfaces described in section 20-898.

Obstruction to flow shall mean any development which blocks the conveyance of flood waters such that this development alone or together with any future development will cause an increase in regional flood heights.

Off-road vehicle shall mean a motorized vehicle designed for use on a variety of non-improved surfaces including but not limited to, dune buggies, four-wheel drive vehicles, snowmobiles, all-terrain vehicles (ATVs), utility terrain vehicles (UTVs), dirt bikes, mini-bikes, motor bikes, mopeds and trail bikes.

Off-road vehicle track shall mean a new or existing trail made for the use of an off-road vehicle(s) where a permanent and defined path has been created and where the landscape has been manipulated in such a manner as to create a path or ruts that may include jumps, pits, obstacle courses, hills, and/or berms.

Off-road vehicle trail shall mean a new or existing trail made for the use of an off-road vehicle(s) where a permanent and defined path has been created.

Official floodplain zoning map shall mean that map, adopted and made part of this article, as described in section 20-213.5, which has been approved by the WI-DNR Department and FEMA.

Official letter of map amendment shall mean official notification from the federal emergency management agency (FEMA) that a flood hazard boundary map or flood insurance rate map has been amended.

Open space use for floodplain management purposes shall mean those uses having a relatively low flood damage potential and not involving structures.

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

Overspeed control shall mean a mechanism used to limit blade rotation speed to below the design limits of the wind energy facility.

Parking lot shall mean a structure or premises containing ten (10) or more parking spaces open to the public for rent or a fee.

Parking space shall mean a graded and surfaced area of not less than one hundred eighty (180) square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

Parties in interest shall mean and include all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.

Pennant shall mean any lightweight plastic, fabric, or other material, whether or not it contains a message of any kind, suspended from a rope, wire, or string, usually in series that typically streams in the wind.

Pergola shall mean a structure of parallel colonnades supporting an open roof of crossing rafters or trelliswork.

Person shall mean any individual, firm, partnership, corporation, company, association or governmental entity; includes a trustee, a receiver, an assignee or a similar representative of any of them.

Pierhead line shall mean a boundary line established along any section of the shore of any navigable waters by a municipal ordinance approved by the state department of natural

resources, pursuant to W.S.A., § 30.13. Piers and wharves are only permitted to the landward side of such pierhead line unless a permit has been obtained pursuant to W.S.A., § 30.12(2).

Pinwheel shall mean a wheel with vanes of paper or similar material, pinned to a stick, pole, or similar structure or device, so as to revolve in the wind.

Pond shall mean a natural or artificial (manmade) body of standing water smaller than a lake which generally retains water year round.

Pole sign (freestanding sign, self-supporting sign) shall mean any sign that is mounted on one (1) or more poles so that the bottom of the sign is at least six (6) feet in height.

Portable sign shall mean any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including but not limited to signs designed to be transported by means of wheels; signs converted to A-or T-frames; menu and sandwich board signs; umbrellas used for advertising; and signs attached to or painted on vehicles, trailers, or equipment that are parked and readable from the street right-of-way, unless said vehicles, trailers, or equipment are used in the normal day-to-day business operations.

Principal structure shall mean a structure used or intended to be used for the principal use as permitted on such lot by the regulations of the district in which it is located.

Private sewage system shall mean a sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also shall mean an alternative sewage system approved by the department of commerce, 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.

Projecting sign shall mean any sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from the side(s) of such building.

Pyramiding shall mean the act of obtaining or providing access to public bodies of water across private lots or lands in a manner which increases the number of families which have access to that water to a degree greater than what would occur with individual riparian owners having individual lots fronting on the water. The effect of pyramiding is to funnel backlot development from offshore lots or residences via a narrow parcel of land to provide access to the water. Publicly owned access point shall not fall within this definition.

Qualified nutrient management planner shall mean a person qualified under § ATCP 50.48.

Reach shall mean a longitudinal segment of a stream generally including those floodlands wherein flood stages are primarily and commonly controlled by the same manmade or natural obstructions to flow.

Rear yard shall mean a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearer point of the principal structure. This yard shall be opposite the street yard or one (1) of the street yards on a corner lot.

Reasonably safe from flooding shall mean base flood waters 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.

Recreational vehicle shall mean a vehicular unit designed as temporary living quarters for recreational, camping, or travel use which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, or motor home.

Recycling means the transfer, transporting, processing, marketing, and conversion of solid waste into usable materials or products and includes the stockpiling and disposal on non-usable portions of solid wastes, but does not include the collection of solid wastes.

Recycling center means that a facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, and metal cans, are collected, stored, flattened, crushed, or bundled, essentially by hand within a completely enclosed building.

Recycling drop-off site means a collection point for recyclable materials. Temporary storage of specific materials is permitted on each site, but no processing of such items is allowed.

Recyclable materials means waste material for which there exists a commercially demonstrated processing or manufacturing technology which uses the material as a raw material.

The following materials are "recyclable materials" under this chapter:

(1) Batteries;
(2) Major appliance;
(3) Motor oil and lubricants;
(4) Magazines and newspapers;
(5) Plastic containers;
(6) Glass containers;
(7) Aluminum containers;
(8) Polystyrene foam packaging;
(9) Steel containers;
(10) Waste tires, as defined in W.S.A., § 84.078(1)(b);
(11) Carbonated or malt beverage containers made primarily of steel and aluminum;
(12) Office paper.

Recycling plant means a facility that is not a junk yard and in which recoverable resources are recycled, reprocessed and treated to return such products to a condition in which they may again be used for production.

Regional flood shall mean a flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one (1) percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

Related livestock facilities shall mean livestock facilities that are owned or managed by the same person and related to each other in at least one (1) of the following ways:

(1) They are located on the same tax parcel of adjacent tax parcels of land.

NOTE: A mere acquisition of a neighboring livestock facility does not constitute an "expansion" unless more animal units are added to the combined facilities.

(2) They use one or more of the same livestock structures to collect or store manure.

(3) At least a portion of their manure is applied to the same landspreading acreage.

Note: Compare definition of "animal feeding operation" under § NR 243.03(2). "Related livestock facilities" are treated as a single livestock facility for purposes of local approval, except that a "separate species facility" may be treated as a separate livestock facility.

Relocatable structure shall mean a structure or building which can be moved by a professional building moving contractor to its desired location at a cost not to exceed thirty (30) percent of the equalized value of the structure.

Roadside stand shall mean an accessory structure having a ground area of not more than three hundred (300) square feet, not closer than twenty-five (25) feet to any street right-of-way line, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises (or adjoining premises).

Roof sign shall mean any sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above any point of a building with a flat roof, the deck line of a building with a mansard roof, or the eave line of a building with a gambrel, gable, dome or hip roof.

Runway shall mean any existing or planned rectangular paved surface which is specifically used for the landing and/or taking off of aircraft.

Screening shall mean a method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

Search ring means shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and demographics of the service area.

Self-service storage facility shall mean any structure designed and used for the purpose of renting or leasing individual storage spaces to tenants who are to have access to such space for the purpose of storing and removing personal property; also known as a miniwarehouse.

Separate species facility shall mean a livestock facility that meets all of the following criteria:

(1) It has only one (1) of the following types of livestock, and that type of livestock is not kept on any other livestock facility to which the separate species facility is related. (See definition of a "related livestock facility.")

a. Cattle;
b. Swine;
c. Poultry;
d. Sheep;

e. Goats.

(2) It has no more than five hundred (500) animal units.

(3) Its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by livestock facilities to which it is related.

(4) It meets one of the following criteria:

a. Its livestock housing and manure storage structures, if any, are located at least seven hundred fifty (750) feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.

b. It and the other livestock facilities to which it is related have a combined total of fewer that one thousand (1,000) animal units.

Shore protection structures shall mean structures which are intended to reduce shoreline erosion and bluff recession by providing an artificial protective barrier against direct wave and ice attacks on the beach and bluff toe, by increasing the extent of the beach available to absorb wave energy before the water reaches the bluff, by dissipating wave energy and/or by stabilizing the bluff slope. Shore protection structures include bulkheads, revetments, seawalls, groins, breakwater and slope stabilization measures.

Shore yards shall mean a yard extending across the full width or depth of a lot, the depth of which shall be the minimum horizontal distance between a line intersecting both side lot lines at the same angle and containing the ordinary highwater mark of a lake, pond, flowage, river, stream or wetland nearest the principal structure and a line parallel thereto containing the point of the principal structure nearest the ordinary highwater mark.

Shorelands shall mean those lands within the following distances from the ordinary highwater mark of navigable waters: one thousand (1,000) feet from a lake, pond, or flowage, and three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

Shorelines shall mean the intersection of the land surfaces abutting lakes, ponds, rivers, streams, flowages, and wetland with the ordinary highwater mark.

Side yard shall mean a yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

Sign shall mean any object, device, display, or structure, or part thereof, situated outdoors or indoors, that is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

Sign height. See section 20-1409(a).

Small wind energy facility shall mean an electric generating facility consisting of one wind turbine that has a rated capacity of not more than one hundred (100) kw/one (1) mw and is primarily intended to reduce on-site consumption of power.

Smoke unit shall mean the number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes.

Specified anatomical areas shall mean:

(1) Less than completely and opaquely covered:
    a. Human genitals, pubic region;
    b. Buttock;
    c. Female breast below a point immediately above the top of the areola; or

(2) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified sexual activities shall mean:

(1) Human genitals in a state of sexual stimulation or arousal;
(2) Acts of human masturbation, sexual intercourse, or sodomy;
(3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

Stable, commercial shall mean a building or land where horses are kept for remuneration, hire, sale, boarding, riding, or show.

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

Storage capacity shall mean the volume of space available above a given cross section of a floodplain for the temporary storage of floodwater. The storage capacity will vary with stage.

Streamer. See "Pennant."

Street shall mean a public or private right-of-way providing primary access to abutting properties.

Street yard shall mean a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) such yards.

Structural alterations shall mean any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.

Structural setback overlay district distance shall mean for Lake Michigan shoreland areas recommended to be protected by properly designed, constructed, and maintained shore protection structures, the distance from the existing bluff edge which would be lost by regrading the bluff slope as needed to achieve a stable slope. The structural setback distance also includes a minimum setback distance.

Structure shall mean any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts. Additionally, in the APO district, a structure also includes a mobile object such as a crane, earthworks and overhead transmission lines.

Substantial damage shall mean damage sustained by a structure whereby the cost of repairing or restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement shall mean any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. The term does not however, include either: (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (b) any alteration of a designated historical structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places provided the alteration will not preclude the structure's continued designation as an historical structure. Ordinary maintenance repairs are not considered structural repairs, modifications, or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components. "Substantial improvement" begins when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Substantial modification means the modification of a mobile service support structure, including the mounting of an antenna on such a structure that does any of the following:

(a) for structures with an overall height of two hundred (200) feet or less, increases the overall height of the structure by more than twenty (20) feet;

(b) for structures with an overall height of more than two hundred (200) feet, increases the overall height of the structure by ten (10) percent or more;

(c) measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by more than twenty (20) feet or more, unless a larger area is needed for collocation;

(d) increases the square footage of an existing equipment compound to a total area of more than two thousand five hundred (2500) square feet.

Substantial work shall mean a considerable amount of work done towards completing the project that received approval, that may include obtaining necessary plot plans, surveys, engineering data, easements, deed restrictions, approvals, permits, and physically starting the project. For typical building construction projects, the site work must progress beyond grading and completion of structural foundations, and construction must be occurring above grade to be considered substantial work.

Support structure means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

Sustained yield forestry shall mean management of forest lands to provide annual or periodic crops of forest products.

Swept area shall mean the largest area of the wind energy facility that extracts energy from the wind stream. There is a direct relationship between swept area and the rotor diameter in a conventional propeller-type wind energy facility.

Temporary sign shall mean any sign intended for a limited or intermittent period of display.

Temporary structure shall mean a movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.

Temporary use shall mean a use of land, buildings or structures not intended to be of permanent duration and not located on a parcel for more than 12 months.

Total height shall mean, when referring to a wind turbine, the distance measured from ground level to the blade extended at its highest point.

Traveling message sign shall mean any characters, letters, or illustrations (see changeable copy sign) that appear to move, change, or flash on a sign more than once every eight (8) seconds or the minimum standards set by the Federal Highway Administration, whichever is longer, excluding a "time and temperature" portion of a sign.

Tree shall mean, for purposes of the APO district, any object of natural growth.

Turning lanes shall mean an existing or proposed connecting roadway between two (2) arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

Unnecessary hardship shall mean that circumstance where special conditions, which are not self-created, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as lot area, lot width, setbacks, yard requirements, or

building height) unnecessarily burdensome or unreasonable in light of the purpose of the ordinance.

Utilities shall mean public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops and storage yards.

Utility pole means a structure owned or operated by an alternative telecommunications utility, public utility, telecommunications utility, county, municipality, or cooperative associate, all as defined under current law or under the proposal, and that is specifically for and used to carry lines, cables, or wires for telecommunications service, video service, or for electricity or to provide light.

Variance shall mean an authorization granted by the zoning board of adjustment to construct, alter, or use a building or structure in a manner that deviates from the dimensional standards of this ordinance. A variance may not permit the use of a property that is otherwise prohibited by the ordinance or allow floodland construction that is not protected to the flood protection elevation.

Violation shall mean 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.

Wall sign shall mean any sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than twelve (12) inches from such building or structure.

Waste shall mean (for livestock siting purposes) manure, milking center waste and other organic waste generated by a livestock facility.

Waste storage facility shall mean one or more waste storage structures. Waste storage facility includes stationary equipment and piping used to load or unload a waste storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. Waste storage facility does not include equipment used to apply waste to land.

Waste storage structure shall mean a waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. Waste storage structure does not include equipment used to apply waste to land. For purposes of §§ ATCP 51.12(2) and 51.14, waste storage structure does not include any of the following:

(1) A structure used to collect and store waste under a livestock housing facility;

(2) A manure digester consisting of a sealed structure in which manure is subjected to manage biological decomposition.

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

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

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

Wetlands shall mean those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

Wind access permit shall mean a wind access permit within the meaning of Wisconsin Statutes 66.0403 or any successor statute.

Wind energy facility siting permit shall mean a construction and operation permit granted according to the provisions of this article.

Wind turbine shall mean a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blade, tower, base, and pad transformer, if any.

Window sign shall mean any sign that is placed inside a window or upon the windowpanes or glass and is readable from the street or highway.

Winter grazing area shall mean cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period from October 1 to April 30. Winter grazing area does not include any of the following:

(1) An area, other than a pasture, where livestock are kept during the period from May 1 to September 30;

(2) An area which at any time has an average of more than four (4) livestock animal units per acre;

(3) An area from which livestock have unrestricted access to navigable waters of the state, such that the livestock access prevents adequate vegetative cover on banks adjoining the water;

(4) An area in which manure deposited by livestock causes nutrient levels to exceed standards in § ATCP 51.16.

Yard shall mean an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

Zoning administrator shall mean a person recommended by the county planning and development committee and appointed by the board of supervisors to administer and enforce this chapter. Reference to the zoning administrator shall be construed to include duly appointed deputy administrators.

(Code 1975, § 7.0120; Ord. No. 86-17, § 7.0120, 7-22-86; Ord. No. 87-144, 11-10-87; Ord. No. 88-23, 6-28-88; Ord. No. 88-160, § 7.0120, 1-10-89; Ord. No. 89-89, § 7.0120, 8-8-89; Ord. No. 89-255, 2-27-90; Ord. No. 91-130, § 7.0120, 11-5-91; Ord. No. 93-99, 9-14-93; Ord. No. 93-183, 1-11-94; Ord. No. 94-155, § 1, 11-10-94; Ord. No. 94-235, 2-28-95; Ord. No. 97-155, 11-11-97; Ord. No. 2000-251S, 8-28-01; Ord. No. 2003-132, 11-18-03; Ord. No. 2004-136, 12-14-04; Ord. No. 2004-190, 3-8-05; Ord. No. 2005-69S, 9-13-05; Ord. No. 2005-155, 1-24-06; Ord. No. 2006-91, 10-26-06; Ord. No. 2007-28, 6-26-07; Ord. No. 2008-64, 9-16-08; Ord. No. 2011-61, 11-8-11; Ord. No. 2011-131S, 4-10-12; Ord. No. 2013-137, 2-11-14; Ord. No. 2014-87, 12-9-14)
Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 20-2. - Authority.

This chapter is adopted under the authority granted by W.S.A., §§ 59.69, 59.694, 87.30(2), 61.35, 62.23, 59.692, and 281.31. Uncontrolled development and use of the floodplains and rivers of Racine County would impair the public health, safety, convenience, general welfare, and tax base.
(Code 1975, § 7.011; Ord. No. 2005-155, 1-10-06; Ord. No. 2011-131S, 4-10-12)

Sec. 20-3. - Purpose.

The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics and general welfare of this county.
(Code 1975, § 7.012)

Sec. 20-4. - Intent.

(a) It is the general intent of this chapter to:

(1) Regulate and restrict the use of all structures, lands and waters;

(2) Regulate and restrict lot coverage, population distribution and density and the size and location of all structures so as to:

a. Lessen congestion in and promote the safety and efficiency of the streets and highways;

b. Secure safety from fire, flooding, panic and other dangers;

c. Provide adequate light, air, sanitation and drainage;

d. Prevent overcrowding;

e. Avoid undue population concentration;

f. Facilitate the adequate provision of public facilities and utilities;

g. Stabilize and protect property values;

h. Further the appropriate use of land and conservation of natural resources;

i. Preserve and promote the beauty of the county; and

j. Implement the county's comprehensive plan or plan components.

(b) This chapter is further intended to:

(1) Secure safety from flooding, water pollution, contamination and other hazards;

(2) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;

(3) Obtain the wise use, conservation, development and protection of the county's water, soil, wetland, woodland and wildlife resources according to their capabilities;

(4) Further the maintenance of safe and healthful water conditions;

(5) Prevent and control erosion, sedimentation and other pollution of surface and subsurface waters;

(6) Preserve shore growth and cover and promote the natural beauty of the county;

(7) Protect fish and animal life, including their spawning, nesting, resting, nursing and feeding areas; and

(8) Implement those municipal, watershed and regional comprehensive plans or components of such plans adopted by the county.

(c) This chapter is intended to regulate floodplain development to:

(1) Protect life, health, and property;

(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 1975, § 7.013; Ord. No. 2005-155, 1-10-06)

Sec. 20-5. - 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 laws. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern. Where a provision of this Code or village ordinance is more restrictive than this chapter in relation to floodlands and shorelands, only its greater restrictions are effective.
(Code 1975, § 7.014)

Sec. 20-6. - 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 county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this chapter is required by a standard in ch. NR115, or NR116, Wisconsin Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the ch. NR115 or NR116 standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.

(Code 1975, § 7.015; Ord. No. 86-17, § 7.015, 7-22-86; Ord. No. 2005-155, 1-10-06)

Sec. 20-7. - Limitation of certain liability.

(a) The county does not guarantee, warrant or represent that only those areas designated in section 20-816 et seq. as floodlands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the board of supervisors, its agencies or employees for any flood damages that may occur as a result of reliance upon, and conformance with, this chapter.

(b) The nonstructural setback distance provisions in section 20-942 et seq. for the Lake Michigan shoreland are considered the minimum reasonable requirements necessary to reduce bluff recession damages to facilities for an anticipated fifty-year hazard period. These requirements are based upon engineering, geological, and other scientific studies and principles. Higher rates of erosion may occur. Erosion rates may be increased by natural causes such as major storms or high lake levels or by manmade causes such as construction activities.

(c) Compliance with the structural setback distances set forth in section 20-916 et seq. is assumed to provide reasonable protection from further bluff recession if the shore protection structures are properly designed, constructed, and maintained. However, even proper protection structures meeting all of the required criteria may fail during major storm events or other natural occurrences. These regulations do not guarantee or warrant that development in compliance with its terms will be protected from all erosion damage. Reliance on these regulations shall not create liability on the part of the board of supervisors, its agencies or employees for any erosion damages that may occur as a result of reliance upon, and conformance with, this chapter.

(Code 1975, § 7.016)

Sec. 20-8. - Repeal and effective date.

(a) The county zoning ordinance adopted June 28, 1949, as amended is hereby repealed:

(1) In its entirety in any town on the date of the adoption by that town's board of supervisors of this chapter adopted, December 2, 1969, if such adoption occurs within twelve (12) months of the adoption of this chapter, adopted December 2, 1969, by the county board;

(2) If the town board does not so adopt the chapter adopted December 2, 1969, as to all provisions:

a. Which apply to the area outside the floodlands and shorelands, if any, in such town and,

b. If within such floodland and shoreland areas, which are in conflict with the provisions of this chapter adopted December 2, 1969.

(b) All other ordinances or parts of ordinances of the county inconsistent with this chapter adopted December 2, 1969, to the extent of the inconsistency only, are hereby repealed as to any town in this county.

(Code 1975, § 7.017)

Sec. 20-9. - Jurisdiction.

The provisions of this chapter shall apply to all structures, land, water, and air within the unincorporated areas of the county. Areas regulated by the shoreland provisions of this chapter shall include all the lands (referred to herein as shorelands) in the unincorporated areas of the county which are:

(1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the county shall be presumed to be navigable if they are listed in the state department of natural resources publication Surface Water Resources of Racine County or shown on United States Geological Survey quadrangle maps.

(2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in the county shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps, Racine County Topographic Mapping (two-foot contours) or other zoning base maps which have been incorporated by reference and made a part of this chapter.

(3) The flood hazard boundary maps, flood insurance study maps, the supplementary floodland zoning map, or county topographic mapping (two-foot contours), which have been adopted by the county, shall be used to determine the extent of the floodplain in the county.

(Code 1975, § 7.021; Ord. No. 86-17, § 7.021, 7-22-86)

Sec. 20-10. - Compliance.

(a) No structure, development, land, water or air shall be used and no structure or part thereof shall be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit, except minor structures, and without full compliance with the provisions of this chapter and all other local, county and state regulations. The zoning administrator shall issue or deny, after on-site inspections, all permits required by this chapter. The zoning administrator shall maintain records of all zoning permits issued and shall record the lowest floor elevation of any structure erected, placed or structurally altered in a floodland district. The zoning administrator shall, with the aid of the sheriff and the corporation counsel, investigate all complaints, give notice of violations, issue orders to comply with this chapter, and assist in the prosecution of chapter violators.

(b) The zoning administrator and his duly appointed deputies may enter at any reasonable time unto any public or private lands or waters to make a zoning inspection. If, however, he is refused entry after presentation of his identification, he shall procure a special investigation warrant in accordance with W.S.A., § 66.122, except in cases of emergency.

(c) Within the unincorporated shoreland areas of the county, unless specifically exempted by law, all cities, villages, towns and counties and their agencies and departments are required to comply with the shoreland provisions of this chapter and obtain all necessary permits. State agencies are required to comply when W.S.A., § 13.48(13), applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation are exempt when W.S.A., § 30.12(4)(a), applies.

(d) Any development or use within the floodplain areas regulated by this chapter shall be in compliance with the floodplain provisions of this chapter, and other applicable local, state, and federal regulations.

(Code 1975, § 7.022; Ord. No. 86-17, § 7.022, 7-22-86; Ord. No. 2005-155, 1-10-06)

Sec. 20-10.5. - Municipalities and state agencies regulated.

Unless specifically exempted by law, all cities, village, towns, and counties are required to comply with this ordinance and obtain all required permits. State agencies are required to comply if W.S.A., § 13.48(13) applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt from compliance when W.S.A., § 30.2022 applies.
(Ord. No. 94-155, § 2, 11-10-94; Ord. No. 2005-155, 1-10-06)

Sec. 20-11. - Violations.

It shall be unlawful to construct, develop or use any structure, or develop or use any land, water or air in violation of any of the provisions of this ordinance or order of the planning and development committee or board of adjustment. In case of any violation, the board of supervisors, the corporation counsel, the director of planning and development, the manager of code administration, the planning and development committee, any municipality, or any owner of real estate within the district affected who would be specifically damaged by such violation may institute appropriate legal action or proceedings to enjoin a violation of this chapter, or seek

abatement or removal. In addition, those actions commenced on behalf of the county may seek a forfeiture or penalty as outlined herein.

Every structure, fill or development placed or maintained on floodlands in violation of this chapter is a public nuisance; and this creation thereof may be enjoined and maintenance thereof may be abated by an action instituted by the county or any citizen who lives in or within five hundred (500) feet of the floodland.

Unless there is clear evidence that a parcel is being rented or used by someone other than the owner, said owner remains responsible for compliance with this chapter.

(Code 1975, § 7.0210; Ord. No. 91-130, § 7.0210, 11-5-91; Ord. No. 93-9, 5-11-93)
Cross reference— Schedule of deposits for violation of the provisions in this section, § 5-3.

Sec. 20-12. - Penalties.

Any person who fails to comply with the provisions of this chapter, or any order of the zoning administrator issued in accordance with this chapter, or resists enforcement shall, upon conviction thereof, forfeit not less than twenty dollars ($20.00) nor more than one thousand dollars ($1,000.00) and costs of prosecution for each violation, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment thereof, but not exceeding six (6) months. Each day a violation exists or continues shall constitute a separate offense. Any person who places or maintains any structure, fill or development on any floodland in violation of this chapter may be fined not more than fifty dollars ($50.00) for each offense. Each day a violation exists or continues shall constitute a separate offense.
(Code 1975, § 7.0211; Ord. No. 88-159, § 7.0211, 1-10-89)

Sec. 20-13. - Enforcement.

The provisions of this chapter shall be enforced by the sheriff's department and the zoning administrator. The use of citations, as described in chapter 5, is hereby authorized. It shall not be necessary to prosecute for forfeiture before resorting to injunctional proceedings.
(Ord. No. 89-242, pt. 1(7.0212), 1-23-90)

Sec. 20-14. - Forfeiture in lieu of court appearance.

Any person charged with a violation of the offenses listed under section 5-3 may pay the amount enumerated therein at the Racine County Sheriff's Department in lieu of a court appearance.
(Ord. No. 89-242, pt. 2(7.0213), 1-23-90)

Sec. 20-15. - Bonds.

The planning and development committee may require that a performance bond be obtained from the applicant/petitioner for the benefit of the county and filed with the county so as to insure compliance with the terms of this chapter or a permit. In setting the amount of the bond, consideration should be given to:

(1) The purpose of the bond;

(2) The use to which any forfeited money is to be applied; and

(3) The time when it may be applied and any increased costs due to time or inflation that may be incurred by the county in the event of noncompliance with this chapter or the terms of a permit or that may be incurred for purposes of rehabilitation.

The amount of the bond may be subject to further review. Failure to obtain or maintain such bond shall invalidate any permit.
(Ord. No. 91-130, § 7.0212, 11-5-91)

Sec. 20-16. - Severability.

Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected. (Ord. No. 2005-155, 1-10-06)

Sec. 20-17. - Zoning agency.

(a) The economic development and land use planning committee shall:

(1) Oversee the functions of the office of the zoning administrator; and

(2) Review and advise the Racine County Board of Supervisors on all proposed amendments to this chapter, maps and text.

(3) Review and approve conditional uses and site plans;

(4) Such other functions as established by the Racine County Board of Supervisors.

(b) This committee shall not:

(1) Grant variances to the terms of the ordinance in place of action by the board of adjustment/appeals; or

(2) Amend the text or zoning maps in place of official action by the board of supervisors.

(Ord. No. 2005-155, 1-10-06)

Sec. 20-18. - Zoning administrator.

The zoning administrator is authorized to administer this chapter and shall have the following duties and powers:

(1) Advise applicants of the chapter provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for any proposed floodplain development is shown on all such permit applications.

(2) Issue permits and inspect properties for compliance with provisions of this chapter, and issue certificates of compliance where appropriate.

(3) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.

(4) Keep records of all official actions such as:

a. All permits issued, inspections made, and work approved;

b. Documentation of certified lowest floor and regional flood elevations for floodplain development;

c. Records of water surface profiles, floodplain zoning maps and ordinances, 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 of natural resources regional office:

a. Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

b. Copies of any case-by-case analyses, and any other information required by the department of natural resources, 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.

NOTE: Information on conducting substantial damage assessments is available on the department of natural resources (DNR)

website:wttp://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm

(6) Investigate, prepare reports, and report violations of this chapter to the economic development and land use planning committee and corporation counsel for prosecution. Copies of the reports shall also be sent to the DNR regional office.

(7) Submit copies of text and map amendments and biennial reports to the FEMA regional office.

(8) Conduct public information activities.

a. Cause marks to be placed on structures to show the depth of inundation during the regional flood.

b. Ensure that all maps, engineering data, and regulations shall be available and widely distributed.

c. Encourage all real estate transfers to show within what floodplain zoning district any real property is located.

Sec. 20-19. - Data requirements to analyze floodplain developments.

The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in [W.S.A.] § 263, and other proposed developments exceeding five acres in area or where the estimated cost exceeds one hundred twenty-five thousand dollars ($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.

(Ord. No. 2005-155, 1-10-06)

Sec. 20-20. - Re-filing following denial; withdrawal; deferral.

(a) Upon denial by Racine County of any application by a property owner or his/her authorized agent for a text or map amendment, conditional use, site plan review, appeal or variance, no further application concerning any or all of the same property that is substantially the same as the application denied shall be made within one (1) year from the date of such denial.

(b) Any such application may be withdrawn at any time; provided, that if the request for withdrawal is made after publication of the notice of any public hearing, no application which is substantially the same on all or any part of the same property may be filed within six (6) months of the withdrawal date. All such withdrawal requests must be done/confirmed in writing. Telephone requests by themselves are insufficient.

(c) In no event shall there be any refund of fees in the case of withdrawal.

(d) Whenever consideration of such an application is deferred or adjourned at the request of the property owner or authorized agent, after notice of any public hearing has been first published, the applicant shall bear the additional advertising and mailing costs.

(Ord. No. 2005-69S, 9-13-05)

Secs. 20-21—20-30. – Reserved.

ARTICLE II. - BOARD OF ADJUSTMENT[2]

Footnotes:
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Cross reference— Boards, committees, commissions, § 2-206 et seq.
State Law reference— Board of adjustment, W.S.A., § 59.99.

Sec. 20-31. - Establishment.

There is hereby established a board of adjustment for the purpose of hearing certain appeals and applications and granting variances from the provisions of this chapter in harmony with the general purpose and intent of this chapter.
(Code 1975, § 7.0101)

Sec. 20-32. - Membership.

(a) The board of adjustment shall consist of five (5) members appointed by the county executive and confirmed by the board of supervisors. The members of the board of adjustment shall all reside within the county and outside of the limits of incorporated cities and villages; provided, however, that no two (2) members shall reside in the same town.

(b) The county executive shall appoint, for staggered three-year terms, two (2) alternate members of the board of adjustment, who are subject to the approval of the county board. Annually, the county executive of the county board shall designate one (1) of the alternate members as the first alternate with the other as second alternate. The first alternate shall act, with full power, only when a member of the board of adjustment refuses to vote because of a conflict of interest or when a member is absent. The second alternate shall act only when the first alternate refuses to vote because of a conflict of interest or is absent, or if more than one (1) member of the board of adjustment refuses to vote because of a conflict of interest or is absent.

(c) Official oaths shall be taken by all members in accordance with W.S.A., § 19.01, within ten (10) days of receiving notice of their appointment.

(d) Terms for members of the board of adjustment shall be for staggered three-year periods beginning July first. Vacancies shall be filled for an unexpired term in the same manner as appointments for a full term.

(e) Each member shall be paid an amount per diem as is determined by the board of supervisors from time to time for each day he attends a meeting of the board of adjustment, and, in addition to his per diem, he shall receive mileage for each mile traveled in going to and returning from the places of meetings or site inspections by the most usual traveled route, at the rate established by the board of supervisors, as the standard mileage allowance of all county employees and officers.

(f) A member shall be removable by the vote of two-thirds (2/3) of the board of supervisors for cause upon written charges and after public hearing.

(g) If a quorum is present, the board of adjustment may take action under this section by a majority vote of the members present.

(Code 1975, § 7.0102; Ord. No. 2005-125, 12-13-05)

Sec. 20-33. - Officers.

The board of adjustment shall choose its own chairman and vice-chairman. The chairman shall preside at all meetings of the board, and in the chairman's absence or inability to serve, the vice-chairman may preside. A secretary to the board and clerical assistance shall be provided by the zoning administrator, and other employees may be employed by the board of adjustment.

(Code 1975, § 7.0102; Ord. No. 2011-61, 11-8-11)

Sec. 20-34. - Organization.

(a) The board of supervisors shall adopt rules for the conduct of the business of the board of adjustment, in accordance with the provisions of any ordinance or ordinances adopted pursuant to W.S.A., § 59.97. The board of adjustment may adopt further rules as necessary to carry into effect the regulations of the board of supervisors.

(b) Meetings shall be held at the call of the chairman or at such other times as the board of adjustment may determine and shall be open to the public.

(c) Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, the reasons for the board's determination, and its findings of facts. These records shall be immediately filed in the office of the board and shall be a public record.

(d) The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variation in this chapter.

(Code 1975, § 7.0103)

Sec. 20-35. - Powers.

(a) The board of adjustment 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 zoning administrator, except insofar as such appeal applies to an application for a conditional use or a temporary use.

(2) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of the chapter shall be observed and substantial justice done. No variance shall have the effect of permitting any use where prohibited by the district, floodland or shoreland regulations; nor of permitting standards lower than those required by the Wisconsin Statutes, the

Wisconsin Administrative Code or the state department of natural resources; nor of permitting the elevation of any building lying on floodlands to be lower than that specified in this chapter.

(3) To hear and decide upon the delineation of floodland districts where it is alleged there is a difference between the elevation of the floodplain and lands shown within the floodplain based upon field surveys, or for delineating the precise location of the floodplain in unnumbered A zones.

(4) To hear and decide applications for interpretations of the zoning regulations and the locations of the boundaries of the zoning district, floodland, and shorelands after the planning and development committee has made a review and recommendation. Floodland and shoreland boundaries shall be altered by the board of adjustment only when the applicant presents evidence that clearly and conclusively establishes that the location on the zoning map is incorrect.

(5) To hear and grant application for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the planning and development committee has made a review and recommendation. Whenever the board permits such a substitution, the use may not thereafter be changed without application.

(6) To authorize upon appeal variances where special conditions, such as terrain, cover, or nearby or existing or potential land or water uses, indicate that a shoreland regulation is more stringent than that required to meet the purposes of W.S.A., § 144.26, i.e., to prevent and control erosion and sedimentation, to prevent pollution, to preserve shore cover, and to protect fish and aquatic life.

(7) To hear and decide conditional uses, when an applicant requires both a variance and a conditional use on the same issue or property. Only one (1) hearing shall be held on the combined variance/conditional use. Village approval in accordance with section 20-1181 et seq. shall apply to the conditional use portion of such an issue.

(b) The board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(c) The board of adjustment may request assistance from other county officers, departments, commissions, and boards. The chairman may administer oaths and compel the attendance of witnesses.

(Code 1975, § 7.0104; Ord. No. 88-160, § 7.0104, 1-10-89)

Sec. 20-36. - Appeals and applications.

(a) Appeals to the board of adjustment may be made by any person aggrieved by any decision or order of the zoning administrator under this chapter or any officer, department, board or bureau of the county affected by a decision or order of the zoning administrator. An application to the board of adjustment shall be filed with the zoning administrator from

whom the appeal is taken within thirty (30) days after the date of written notice of the decision or order of the zoning administrator. The application shall include the following:

(1) Name and address of the applicant and all abutting and opposite property owners of record.

(2) Plat of survey prepared by a registered land surveyor showing all of the information required under section 20-81 et seq. for a zoning permit and the zoning permit, if applicable.

(3) Additional information required by the planning and development committee, highway engineer, board of adjustment or zoning administrator.

(4) Fee receipt from the zoning administrator for the fee required by the schedule of fees adopted by the board of supervisors and on file with the zoning administrator.

(b) The zoning administrator shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.

(Code 1975, § 7.0105)
State Law reference— Notice of appeal, W.S.A., § 59.99(6).

Sec. 20-37. - Hearings.

(a) The board of adjustment shall fix a reasonable time and place for the hearing of the application, give public notice thereof by publication at least once each week during two (2) consecutive weeks, the last insertion being no later one (1) week before the hearing, and shall give due notice to the parties in interest, the officer from whom the appeal is taken and the planning and development committee. At the hearing the applicant may appear in person, by agent, or by attorney.

(b) A copy of all notices of appeals or variances to the floodland, shoreland or shoreland-wetland provisions of this chapter shall be transmitted to the district office of the state department of natural resources (DNR) for review and comment at least ten (10) days prior to the hearing. Final action on floodland appeals and variance requests shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. Copies of all decisions on shoreland or shoreland-wetland variances shall be submitted to the DNR district office within ten (10) days after the decision. (Code 1975, § 7.0106; Ord. No. 86-17, § 7.0106, 7-22-86)

State Law reference— Hearing, W.S.A., § 59.99(6).

Sec. 20-38. - Decision.

(a) The board of adjustment shall decide all applications, except appeals and variance requests to the floodland provisions of this chapter, within thirty (30) days after the final hearing and shall transmit a signed copy of the board's decision to the appellant or applicant, the officer from whom the appeal is taken and the planning and development committee.

(b) Decisions on appeals and variance requests to the floodland or shoreland provisions of this chapter shall not be made for thirty (30) days or until the State Department of Natural Resources (DNR) has made its recommendation, whichever comes first. A copy of all decisions on floodland appeals or variance requests shall be transmitted to the DNR within ten (10) days of their effective date.

(c) Variances and substitutions granted by the board of adjustment shall expire within nine (9) months of the date the decision is filed with the board, which will be considered to be the date of the written decision letter, unless substantial work has commenced pursuant to such grant. An extension of the approval may be granted by the board for a like period of time, upon written request of the appellant, submittal of the required fee, and for good cause as determined by the board.

(d) Applicants receiving variances in floodland districts shall be notified, in writing, by the board of adjustment that increased flood insurance premiums and risk to life and property may result from the granting of this variance. The board shall keep a record of the notification in its files.

(Code 1975, § 7.0109; Ord. No. 94-155, § 3, 11-10-94; Ord. No. 2011-61, 11-8-11)

Sec. 20-39. - Review by court of record.

Any person, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board or bureau of the county may present an appeal of such decision of the board of adjustment pursuant to W.S.A., § 59.99(10).

(Code 1975, § 7.01010)

State Law reference— Certiorari, W.S.A., § 59.99(10).

Sec. 20-40. - Mapping disputes.

(a) The procedure in this section shall be used by the board of adjustments in settling disputes of a floodplain zoning district boundary.

(b) The flood district boundary shall be determined by use of the flood profiles contained in an engineering study, or, where such information is not available, by experience flood maps or any other evidence available to the board.

(c) The person contesting the location of the district boundary shall be given the opportunity to present his own technical evidence. Where it is determined that the floodplain is incorrectly mapped, the board of adjustment shall advise the planning and development committee of its findings and the planning and development committee shall proceed to petition the board of supervisors for a map amendment.

(Code 1975, § 7.0108)

Sec. 20-41. - Variances—Generally.

(a) No variance to the provisions of this chapter shall be granted by the board of adjustment unless it finds by a preponderance of the evidence that all the facts and conditions in sections 20-41 through 20-43, exist which shall be indicated in its proceedings.

(b) No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.

(c) There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed.

(d) No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

(e) The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

(f) No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

(Code 1975, § 7.0107; Ord. No. 96-37, 6-25-96)

Cross reference— Schedule of deposits for violation of the provisions in this section, § 5-3.

Sec. 20-42. - Same—Additional requirements in floodland districts.

No variance shall be granted where:

(1) A change in the boundaries of the FFO urban floodplain fringe overlay district would result.

(2) A lower degree of flood protection than two (2) feet above the one-hundred-year recurrence interval flood for the particular area would result.

(3) Any residential or commercial basement or crawlway located below the one-hundred-year recurrence interval flood elevation would result.

(4) Any change or alteration of an historic structure, including it use, would result in the structure losing its designations an historic structure.

(5) Any action contrary to the provisions of chapter NR116 of the Wisconsin Administrative Code would result.

(Code 1975, § 7.0107; Ord. No. 94-155, § 4, 11-10-94; Ord. No. 2011-131S, 4-10-12)

Sec. 20-43. - Same—Additional requirements in the airport protection overlay district.

(a) Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this

chapter, may apply to the board of adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the federal aviation administration, United States Department of Transportation, as to the effect of the proposal on the operation of air navigation facilities and the effect on the safety and utility of the airport and surrounding navigable airspace. Such variances shall only be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and the relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this chapter.

(b) No application for variance to the requirements of this chapter may be considered by the board of adjustment unless a copy of the application has been furnished to the airport manager for advice as to the aeronautical effects, if any, of the variance. If the airport manager does not respond to the application within fifteen (15) days after receipt, the board of adjustment may act pursuant to regulations to grant or deny such application. Any variance granted may be so conditioned as to require the applicant to install, operate and maintain, at the applicant's expense, such marking and lighting devices as may be deemed necessary by the federal aviation administration, United States Department of Transportation to assure aircraft and local safety or the variance may be conditioned to require the owner to permit the airport owner(s) to install, operate and maintain such marking and lighting devices.

(Code 1975, § 7.0107)

Sec. 20-44. - Same—Additional requirements for livestock facility siting.

(a) The zoning board of adjustment is not authorized to grant a variance from the state requirements to livestock facility siting, except as provided in W.S.A., § 93.90, and § ATCP 51.

(b) The board of adjustment has the discretion to reduce setbacks using factors it deems appropriate, including compliance with procedures for setbacks to roads and property lines and for new manure storage structures.

(Ord. No. 2006-91, 10-26-06)

Secs. 20-45—20-60. - Reserved.

ARTICLE III. - PERMITS[3]

Footnotes:

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State Law reference— Zoning filing fees, W.S.A., § 59.07(16m).

DIVISION 1. – GENERALLY

Sec. 20-61. - Required permits.

It is the responsibility of a permit applicant to secure all other necessary permits required by any federal, state or local agency. This includes but is not limited to the zoning permit and a water use permit pursuant to W.S.A., chs. 30 and 31, or a wetland fill permit pursuant to section 404 of the

Federal Water Pollution Control Act, as amended. To this end, the zoning administrator shall determine to his satisfaction and the permit applicant shall certify that all necessary federal, state and local permits have been secured.
(Code 1975, § 7.0245)
Cross reference— Schedule of deposits for violation of the provisions in this section, § 5-3.

Secs. 20-62—20-80. - Reserved.

DIVISION 2. - ZONING PERMITS

Sec. 20-81. - Contents of application.

(a) Applications for a zoning permit shall be made in triplicate to the zoning administrator on forms furnished by the zoning administrator and shall include the following where applicable:

(1) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.

(2) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds, referenced to the U.S. Public Land Survey System; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.

(3) Plat of survey prepared by a land surveyor registered in the state showing the location, property boundaries, dimensions, elevations, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets an other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side, rear and shore yards; the location, yard grade (elevation) and use of abutting lands within forty (40) feet of the subject site; and the location of the highwater elevation. In addition, when the subject site contains floodlands, the permit application shall show the limits of the floodland, the lowest floor elevation (basement) of any proposed structure, the first floor elevation of the proposed structure, and the yard grade (elevation); and the first floor elevation and yard grade surrounding any abutting structure within forty (40) feet of the subject site.

(4) Proposed sewage disposal plan if municipal sewerage service is not available. This plan shall be approved by the county sanitarian who shall state in writing that satisfactory, adequate and safe sewage disposal is possible on the site as proposed by the plan in accordance with applicable local, county, and state regulations.

(5) Proposed water supply plan if municipal water service is not available. This plan shall be approved by the village plumbing inspector of the village in which the property is located, who shall state in writing that an adequate and safe supply of water can be provided.

(6) Additional information as may be required by the county planning and development committee, county highway engineer, zoning administrator, plumbing or health inspectors.

(7) Fee receipt from the zoning administrator for the fee required by the schedule of fees adopted by the board of supervisors.

(b) The applicant need not provide any of the foregoing information to the zoning administrator if he shall have submitted the same within thirty (30) days previous thereto to any county official. The applicant in such case shall name the other official to whom the information was submitted.

(Code 1975, § 7.023; Ord. No. 2011-61, 11-8-11)
Cross reference— Schedule of deposits for violation of the provisions in this section, § 5-3.

Sec. 20-82. - Issuance, denial.

The zoning permit shall be granted or denied in writing by the zoning administrator within thirty (30) days.
Code 1975, § 7.023)

Sec. 20-83. - Expiration.

The zoning permit shall expire within nine (9) months unless substantial work has commenced and is continuing. An extension of the permit may be granted by the zoning administrator for a like period of time upon request of the owner or applicant and submittal of the required fee prior to permit expiration.
(Code 1975, § 7.023; Ord. No. 2011-61, 11-8-11)

Sec. 20-84. - Noncompliance.

Any zoning permit issued in conflict with the provisions of this chapter shall be null and void.
(Code 1975, § 7.023)

Sec. 20-85. - Minor revision.

A minor revision to a zoning permit may be granted by the zoning administrator upon request of the owner or applicant and submittal of the required fee prior to permit expiration. The zoning administrator may determine if the amendment is minor or whether a new zoning permit will be required. The granting of a minor revision does not alter the date of permit expiration.
(Ord. No. 2011-61, 11-8-11)

Secs. 20-86—20-100. - Reserved.

DIVISION 3. - OCCUPANCY PERMIT

Sec. 20-101. - Required.

No vacant land shall be occupied, used, or developed; and no building hereafter erected, altered or moved shall be occupied; and no floodland shall be filled, excavated, or developed; and no

nonconforming use shall be maintained, renewed or changed until an occupancy permit shall have been issued by the zoning administrator.
(Code 1975, § 7.024(A))
Cross reference— Schedule of deposits for violation of the provisions in this section, § 5-3.

Sec. 20-102. - Effect of issuance.

An occupancy permit shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of the chapter.
(Code 1975, § 7.024(A))

Sec. 20-103. - Issuance restricted.

An occupancy permit shall be issued only when the building or premises and the proposed use thereof conform with all the requirements of this chapter.
(Code 1975, § 7.024(A))

Sec. 20-104. - Issuance for existing structures.

Upon written request from the owner, the zoning administrator shall issue an occupancy permit for any building or premises existing at the time of the adoption of this chapter certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of the chapter. (Code 1975, § 7.024(B))

Secs. 20-105—20-120. - Reserved.

ARTICLE IV. - CHANGE OR AMENDMENT
DIVISION 1. – GENERALLY

Sec. 20-121. - Authority.

(a) Whenever the public necessity, convenience, general welfare or good zoning practice require, the board of supervisors and such village board as required by W.S.A., § 59.97, may, by ordinance, change the district boundaries or amend or supplement the regulations established by this chapter or amendments thereto.

(b) Such change or amendment shall be subject to the review and recommendation of the planning and development committee. (Code 1975, § 7.0111)

Sec. 20-122. - Effective date of amendment of text or rezoning.

The amending ordinance shall be mailed by the county clerk to the appropriate village clerk as provided by W.S.A., § 59.97(5)(e)6, and shall become effective unless disapproved within forty (40) days by the appropriate village board as provided in W.S.A., § 59.57(5)(e)6. Village board approval or disapproval shall not apply to floodland and shoreland amendments, however, such amendments shall be subject to approval by the state department of natural resources.
(Code 1975, § 7.0110; Ord. No. 86-86, § 7.0119, 8-26-86; Ord. No. 86-17, § 7.0118, 7-22-86)

Secs. 20-123—20-140. - Reserved.

DIVISION 2. - ADMINISTRATION[4]

Footnotes:
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Cross reference— Administration, Ch. 2.

Sec. 20-141. - Initiation.

A petition for change or amendment may be made by any property owner in the area to be affected by the change or amendment, by the village board of any village wherein this chapter is in effect, or by any member of the board of supervisors.
(Code 1975, § 7.0113)

Sec. 20-142. - Petitions to change boundaries or amend regulations.

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the planning and zoning development committee. The petition shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the change, specify the proposed use and have attached the following:

(1) Plot plan drawn to a scale of one (1) inch equals one hundred (100) feet showing the area proposed to be rezoned, its locations, its dimensions, the location and classification of adjacent zoning district, and the location and existing use of all properties within three hundred (300) feet of the area proposed to be rezoned, including those property owners whose parcels are on the opposite side of the highway, regardless of the width of the right-of-way or names and addresses of all abutting property owners to the larger parcel, when the area to be rezoned is a part of said larger parcel. Abutting property owners include those whose parcels are on the opposite side of the highway, regardless of the width of the right-of-way.

(2) Owners' names and addresses of all properties lying within three hundred (300) feet of the area proposed to be rezoned.

(3) Additional information required by the county planning and development committee or board of supervisors.

(4) Fee receipt from the zoning administrator for the fee required by the schedule of fees adopted by board of supervisors which are on file in the zoning administrator's office, plus the cost of publishing.

(Code 1975, § 7.0113; Ord. No. 91-130, § 7-0113, 11-5-91)

Sec. 20-143. - Recommendations.

The economic development and land use planning committee shall review all such proposed changes or amendments and shall make a recommendation to the board of supervisors. In making its recommendation to the board of supervisors, the committee may recommend approval

or denial of an amendment, or any part thereof, as the public necessity, convenience, general welfare of good zoning practice may require. The committee may also recommend modifications to an amendment, including, in the case of a map amendment, a different zoning classification than requested, provided that if the zoning classification recommended is a more intense, or higher, classification than that requested, at least one (1) additional public hearing, with notice given in accordance with the provisions of this chapter, shall be held. The committee may also, in the case of a map amendment, recommend reducing the area of the proposed amendment; or may recommend increasing the area of the proposed amendment, provided at least one (1) additional public hearing, with notice given in accordance with the provisions of this chapter, is held. Recommendation to the board of supervisors shall be made in writing.
(Code 1975, § 7.0114; Ord. No. 2005-69S, 9-13-05)

Sec. 20-144. - Hearings.

(a) The economic development and land use planning committee shall hold a public hearing upon each proposed change or amendment, giving notice of the time and place of such hearing by publication in the county of a class 2 notice, under W.S.A., ch. 985. A copy of each such notice shall be sent to the village clerk of each village affected by the proposed amendment at least ten (10) days prior to the date of such hearing.

(b) Written notice of the public hearing to be held on a proposed shoreland or shoreland-wetland amendment shall be sent to the DNR district office at least ten (10) days prior to the hearing. A copy of the board of supervisor's decision on each proposed amendment shall be forwarded to the DNR district office within ten (10) days after the decision is issued.

(c) When it is determined by the economic development and land use planning committee, in consultation with corporation counsel's office, that there is a material defect in the rezoning petition, or when the committee determines that insufficient/inadequate notice was provided for a public hearing, the committee reserves the right to require a new public hearing. Such determination must be made within ninety (90) days of the initial hearing. Costs for the second hearing are the responsibility of the petitioner.

(Code 1975, § 7.0115; Ord. No. 86-17, § 7.0115, 7-22-86; Ord. No. 97-203, 1-13-98; Ord. No. 2015-35, 7-14-15)

Sec. 20-145. - Board action.

(a) Following hearing under this division and after careful consideration of the county planning and development committee's recommendations, the board of supervisors shall vote on the passage of the proposed change or amendment.

(b) Amendments to regulations or changes to districts affecting shorelands shall not require the approval, or be subject to the disapproval, of any village.
(Code 1975, § 7.0116)

Secs. 20-146—20-165. - Reserved.

DIVISION 3. - RESTRICTIONS AND REGULATIONS

Sec. 20-166. - Reserved.

Editor's note— Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-166 which pertained to limiting floodland district boundary changes and derived from § 7.0117 of the 1975 Code and Ord. No. 94-155, § 5, adopted Nov. 10, 1994.

Sec. 20-167. - Amendments to text and rezoning of lands in the SWO shoreland-wetland overlay district.

(a) For all proposed text and map amendments to the SWO shoreland-wetland overlay district, the appropriate district office of the department of natural resources shall be provided with the following:

(1) A copy of every petition for a text or map amendment to the shoreland-wetland overlay district, within five (5) days of the filing of such petition with the county clerk;

(2) Written notice of the public hearing to be held on a proposed amendment, at least ten (10) days prior to such hearing;

(3) A copy of the committee's findings and recommendations on each proposed amendment, within the ten (10) days after the submission of those findings and recommendations to the board of supervisors; and

(4) Written notice of the board of supervisor's decision of the proposed amendment within ten (10) days after it is issued.

(b) A wetland, or a portion thereof, in the SWO shoreland-wetland overlay district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

(1) Stormwater and floodwater storage capacity;

(2) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;

(3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would normally drain into navigable waters;

(4) Shoreline protection against soil erosion;

(5) Fish spawning, breeding, nursery or feeding grounds;

(6) Wildlife habitat; or

(7) Areas of special recreational, scenic, or scientific interest, including scarce wetland types.

(c) If the department of natural resources has notified the committee that a proposed amendment to the SWO shoreland-wetland overlay district may have a significant adverse impact on any of the criteria stated above, that amendment, if approved by the board of supervisors, shall contain the following provision:

"This amendment shall not take effect until more than thirty (30) days have lapsed since written notice of the board of supervisors' approval of this amendment was mailed to the department of natural resources. During that thirty-day period, the department of natural resources may notify the board of supervisors that it will adopt a superseding shoreland ordinance for Racine County under Section 59.971(6) of the Wisconsin Statutes. If the department does so notify the county board, the effect of this amendment shall be stayed until the Section 59.971(6) adoption procedure is completed or otherwise terminated."

(Ord. No. 86-17, § 7.0118, 7-22-86)

Sec. 20-168. - Protest.

In the event a protest against a proposed change or amendment is filed with the county clerk at least twenty-four (24) hours prior to the date of the meeting of the board of supervisors at which the recommendation of the planning and development committee is to be considered, duly signed and acknowledged by the owners of fifty (50) percent or more of the area proposed to be altered, or by abutting owners of over fifty (50) percent of the total perimeter of the area proposed to be altered included within three hundred (300) feet of the parcel or parcels proposed to be rezoned, action on such ordinance may be deferred until the planning and development committee has had a reasonable opportunity to ascertain and report to the board of supervisors as to the authenticity of such ownership statements. Each signer shall state the amount of area or frontage owned by him and shall include a description of the land owned by him. If such statements are found to be true, such ordinance shall not be adopted except by the affirmative vote of three-fourths (¾) of the members of the board of supervisiors present and voting. If such statements are found to be untrue to the extent that the required frontage or area ownership is not present, such protest may be disregarded.

(Code 1975, § 7.0119; Ord. No. 86-17, § 7.0118, 7-22-86)

Sec. 20-169. - Warning and disclaimer of liability.

The flood protection standards in this chapter are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by manmade or natural causes. This chapter does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages, nor does this chapter create liability on the part of, or a cause of action against, the county or any office or employee thereof for any flood damage that may result from reliance on this chapter. (Ord. No. 2005-155, 1-10-06)

Sec. 20-170. - Annexed areas for cities and villages.

The Racine County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR116, Wis. Adm. Code,

and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevations and the location of the floodway. (Ord. No. 2005-155, 1-10-06)

Sec. 20-171. - Reserved.

Editor's note— Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-171 which pertained to general development standards and derived from Ord. No. 2005-155, adopted Jan. 10, 2006.

Secs. 20-172—20-185. - Reserved.

ARTICLE V. - NONCONFORMING USES AND PREMISES

Sec. 20-186. - Existing nonconforming uses.

(a) The lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this chapter may be continued although the use does not conform with the provisions of this chapter; however:

(1) 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 chapter.

(2) The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of W.S.A., § 30.121.

(3) Uses which are nuisances shall not be permitted to continue as nonconforming uses.

(4) No structural alteration, addition or repair to any nonconforming building or structure, over the life of the building or structure, shall exceed fifty (50) percent of its equalized assessed value at the time of its becoming a nonconforming use, unless it is permanently changed to a conforming use. The equalized assessed value determination in this paragraph does not apply to floodplain nonconforming uses. For that determination, see section 20-190.If the alteration, addition or repair in excess of fifty (50) percent of the equalized assessed value of an existing nonconforming building or structure is prohibited, the property owner may still make the proposed alteration, addition or repair if:

a. The nonconforming building or structure is permanently changed to a conforming use;

b. The property owner appeals the determination of the zoning administrator, and either the board of adjustment or the circuit court find in the property owner's favor under W.S.A., § 59.99(4) or 59.99(10); or

c. The property owner successfully petitions to have the property rezoned under W.S.A., § 59.97(5)(e), and Section NR115.05(2)(e), Wisconsin Administrative Code, if applicable.

(5) The construction of a deck that does not exceed two hundred (200) square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

(b) Substitution of new equipment may be permitted by the board of adjustment if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

(c) For the purpose of this chapter, a nonconforming use shall begin as of the time it was made nonconforming by the terms of a preceding ordinance or of an amendment to this chapter.

(Code 1975, § 7.081; Ord. No. 86-17, § 7.081, 7-22-86; Ord. No. 2000-251S, 8-28-01; Ord. No. 2005-155, 1-10-06)

Sec. 20-187. - Abolishment or replacement.

(a) If a nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this chapter. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy, or other calamity, to the extent of more than fifty (50) percent of its current equalized assessed value, it shall not be restored except so as to comply with the use provisions of this chapter.

(b) A current file of all nonconforming uses shall, to the extent practical, be maintained by the zoning administrator listing the following: owner's name and address; use of the structure, land, or water; and assessed value at the time of its becoming a nonconforming use.

(Code 1975, § 7.082)

Sec. 20-188. - Continuance of preexisting nonconforming use.

The lawful nonconforming structure existing at the time of the adoption or amendment of this chapter 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 chapter; 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 chapter, or subject to the following requirements:

(1) Repairs and improvements of a maintenance nature are allowed;

(2) Alterations, additions and expansions which change the exterior dimensions of the structure so that it conforms to the dimensional rules of this chapter are allowed;

(3) Alterations, additions and expansions which change the exterior dimensions of the structure, but which do not increase the dimensional nonconformity beyond that

which existed before the work commenced, are allowed provided that total lifetime alterations, additions and expansions do not exceed fifty (50) percent of the current estimated equalized assessed value of the structure;

(4) No alterations, additions or expansions may occur which will increase the dimensional nonconformity. Code 1977, § 7.083; Ord. No. 86-86, § 7.083, 8-26-86)

Sec. 20-189. - 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 board of adjustment 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 board of adjustment.
(Code 1975, § 7.084)

Sec. 20-190. - Reserved.

Editor's note— Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-190 which pertained to floodplain nonconforming uses and derived from § 7.085 of the 1975 Code; Ord. No. 94-155, § 2, adopted Nov. 10, 1994; Ord. No. 2005-155, adopted Jan. 10, 2006; and Ord. No. 2011-61, adopted Nov. 8, 2011.

Sec. 20-191. - Substandard nonconforming lots.

(a) A substandard lot is one which:

(1) Does not contain sufficient width, depth or area to conform to the dimensional requirements of this chapter, and

(2) Was a legal lot or parcel of record in the office of the county register of deeds prior to the original adoption of this chapter or any applicable amendment to this chapter.

(b) Such a lot located in a residential, business, industrial or institutional district may be used as a single building site provided that the use is permitted in the district and provided that there is compliance with each of the requirements of this section.

(c) All substandard lots in separate ownership shall comply with all relevant district and shoreland requirements insofar as practicable, as determined in accordance with section 20-31 et seq., but shall in no event be less than the following:

(1)	Lot	Width	Minimum	30 feet
		Area	Minimum	4,000 sq. feet
(2)	Building	Height	Maximum	30 feet

(3)	Yards	Street	Minimum	25 feet; the second street yard on corner lots shall not be less than 10 feet
		Rear	Minimum	25 feet
		Side	Minimum	16 percent of the lot width, but not less than 5 feet, nor greater than the zoning district side yard setback requirement for a standard size lot
		Shore	Minimum	50 feet

(d) If both an abutting lot or lands and a substandard lot are owned by the same owner on the effective date of this chapter, or if an abutting lot or lands and a substandard lot become owned by the same owner subsequent to the effective date of this chapter, the substandard lot shall not be sold or used without full compliance with the provisions of this chapter. Such lots shall be combined into one (1) lot by use of a deed restriction or similar instrument, which shall be recorded in the office of the county register of deeds, unless a habitable principal structure already exists on each lot that meets the applicable minimum provisions of section 20-1020. In the A-1 and A-3 agricultural districts, a farm owner is permitted to divide off separate parcels for the residences of the parents or children of such farm owner, and such parcels shall be considered as a separate lots.

(e) For the purposes of this section, lots and property shall be considered in the same ownership when owned by: the same individual or corporation; an individual and another in joint tenancy, or as tenants in common, and either of such joint or common tenants owns other abutting lots individually or as joint tenant or tenant in common with another; an individual and other abutting lots are owned by his spouse, parents, grandparents, children, grandchildren, or the spouse of any child or grandchild, or a brother or sister or spouse of a brother or sister of such person; and when any of such lots are owned by an individual and other abutting lots are owned by a corporation in which such individual is an officer or director or controlling stockholder.

(f) The sanitary regulations of section 20-987 and the floodland regulations of section 20-816 et seq. (such as the prohibition against erecting a dwelling or accessory structure in a floodway or floodplain shall apply to this section).

(Code 1975, § 7.086; Ord. No. 82-141, § 7.086, 11-9-82; Ord. No. 91-130, § 7.086, 11-5-91; Ord. No. 93-183, 1-11-94; Ord. No. 2000-251S, 8-28-01; Ord. No. 2003-197, 2-12-04)
Cross reference— Schedule of deposits for violation of the provisions in this section, § 5-3.

Sec. 20-192. - Airport protection overlay nonconforming uses and structures.

(a) The regulations prescribed by this section shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this chapter, or otherwise interfere with the continuance of nonconforming use. Only that portion of an existing structure which is above the elevation of a protected surface shall be regarded as nonconforming.

(b) Nothing contained herein shall be construed to prohibit the completion of any construction for which a valid zoning permit from the county is in effect as of the date of adoption of this chapter provided such completion is diligently pursued.

(c) Consistent with the provisions of section 20-986, no zoning permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this chapter.

(Code 1975, § 7.087)

Secs. 20-193—20-210. - Reserved.

ARTICLE VI. - DISTRICT REGULATIONS[5]

Footnotes:
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Cross reference— Signs regulations, § 20-1356 et seq.

DIVISION 1. – GENERALLY

Sec. 20-211. - District designations.

For the purpose of this chapter, the county is hereby divided into basic use districts and overlay districts, as follows:

R-1	Country estate district
R-2	Suburban residential district (unsewered)
R-2S	Suburban residential district (sewered—large lots)
R-3	Suburban residential district (sewered)
R-3A	Suburban residential district (sewered)
R-4	Urban residential district I
R-5	Urban residential district II
R-5A	Urban residential district III
R-6	Two-family residential district
R-6A	Two-family residential district II
R-7	Multifamily residential district
R-8	Planned residential district
P-1	Institutional park district
P-2	Recreational park district
C-1	Resource conservation district
C-2	Upland resource conservation district

B-1	Neighborhood business district
B-2	Community business district
B-3	Commercial service district
B-4	Planned business district
B-5	Highway business district
B-6	Water oriented business district
B-7	Adult entertainment business district
A-1	Farmland preservation district
A-2	General farming and residential district II
A-3	General farming district III
A-4	Truck farming district
M-1	Light industrial and office district
M-2	General industrial district
M-3	Heavy industrial district
M-4	Quarrying district
APO	Airport protection overlay district
SSO	Structural setback overlay district
NSO	Nonstructural setback overlay district
SWO	Shoreland-wetland overlay district
PUD	Planned unit development overlay district

(Code 1975, § 7.031; Ord. No. 86-17, § 7.031, 7-22-86; Ord. No. 2011-131S, 4-10-12; Ord. No. 2014-87, 12-9-14)

Sec. 20-212. - District boundaries—Generally.

Boundaries of the districts, except for the floodplain districts, structural and nonstructural districts, and airport protection districts, are hereby established as shown on a series of maps entitled "Zoning Maps, County of Racine, Wisconsin," dated to correspond with their adoption by the local municipalities, as amended, which accompany and are a part of this chapter. Unless otherwise noted on the zoning map, such boundaries shall be construed to follow: corporate limits; U.S. Public Land Survey Lines; lot or property lines; centerlines of street, highways, alleys, easements, and railroad rights-of-way or such lines extended. Where a C-1 resource conservation district is delineated on the zoning district map in a linear form along a perennial or intermittent watercourse, the district boundaries shall be construed to be the following unless otherwise noted on the zoning district map:

(1) One hundred (100) feet from the ordinary high-water mark of perennial streams.

(2) Fifty (50) feet from the ordinary high-water mark of intermittent streams.

(Code 1975, § 7.031)

Sec. 20-213. – Reserved.

Editor's note— Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-213 which pertained to district boundaries of floodlands and derived from § 7.031 of the 1975 Code; Ord. No. 94-155, § 7, adopted Nov. 10, 1994; Ord. No. 96-209, adopted Feb. 25, 1997; Ord. No. 97-63, adopted July 8, 1997; Ord. No. 2000-12, adopted May 23, 2000; Ord. No. 2002-152, adopted Nov. 12, 2002; and Ord. No. 2003-77, adopted Aug. 26, 2003.

Sec. 20-213.5. - Reserved.

Editor's note— Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-213.5 which pertained to general provisions for floodplain districts and derived from Ord. No. 2005-155, adopted Jan. 10, 2006.

Sec. 20-214. - Same—Airport protection.

The airport protection overlay district includes all lands within the jurisdiction of this chapter which underlie any of the protected surfaces defined for Racine Commercial Airport in section 20-898. Boundaries of the initial APO district (Racine Commercial Airport) are shown on the accompanying map entitled Airport Protection Zone, consisting of nine (9) sheets, which is incorporated in and made a part of this chapter.
(Code 1975, § 7.031)

Sec. 20-215. - Same—Shoreland-wetland areas.

Shoreland-wetland overlay district boundaries shall be determined by the limits of the wetlands within the shoreland area that are designated as wetlands of five (5) acres or greater on the wetlands inventory maps stamped "FINAL" on December 12, 1984, or any subsequent updated maps, that have been adopted by Resolution of the Racine County Board of Supervisors and are on file in the office of the zoning administrator.

The zoning maps mentioned above shall include all shorelands as described in section 20-9.

(Code 1975, § 7.031; Ord. No. 86-17, § 7.031, 7-22-86; Ord. No. 97-290S, 4-14-98)

Sec. 20-216. - Same—Vacation of streets, alleys.

Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
(Code 1975, § 7.031)

Sec. 20-217. - Same—Setback overlay districts.

(a) Boundaries of the structural and nonstructural setback overlay districts shall be determined as follows. The boundaries of the SSO structural setback overlay district shall be determined through the use of the following equation establishing a setback distance from the existing Lake Michigan bluff edge:

SSO structural setback overlay district distance	=	Horizontal distance required to achieve one on two and one-half stable bluff slope +
		Minimum facility setback distance

(b) The stable slope distance and the minimum facility setback distance are described in section 20-916 et seq.

(c) The boundaries of the NSO nonstructural setback overlay district shall be determined through the use of the following equation establishing a setback distance from the existing Lake Michigan bluff edge:

NSO nonstructural setback overlay district distance	=	Horizontal distance required to achieve a one on two and one-half stable bluff slope +
		(Average annual bluff recession rate × 50 years) + Minimum facility setback distance

(Code 1975, § 7.031)

Sec. 20-218. - Zoning map.

A certified copy of the zoning maps adopted and made a part of the chapter are on file in the zoning administrator's office.
(Code 1975, § 7.032)

Secs. 20-219—20-235. - Reserved.

DIVISION 2. - R-1 COUNTRY ESTATE DISTRICT

Sec. 20-236. - Uses.

The following uses are permitted in the R-1 country estate district:

(1) *Principal uses.* One-family dwellings on estate lots and sustained yield forestry.

(2) *Conditional uses.* Stables, nurseries, orchards, riding trails and uses specified in sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 88-160, § 7.033, 1-10-89; Ord. No. 2011-61, 11-8-11)

Sec. 20-237. - Area requirements.

The area requirements for the R-1 country estate district are as follows:

(1)	Lot	Width	Minimum	300 feet
		Area	Minimum	5 acres
(2)	Buildings			
	Dwelling	Height	Maximum	35 feet
	Residential accessory structures	Height	Maximum	17 feet

Sec. 20-238. - Yard setback requirements.

The minimum yard setback requirements in the R-1 country estate district are as follows:

	Yard	Minimum setback *distance*
(1)	Shore	75 feet
(2)	Street	100 feet
(3)	Rear	100 feet
(4)	Side	50 feet

(Code 1975, § 7.033)

Secs. 20-239—20-255. - Reserved.

DIVISION 3. - R-2 SUBURBAN RESIDENTIAL DISTRICT (UNSEWERED)

Sec. 20-256. - Uses.

The following uses are permitted in the R-2 suburban residential district (unsewered):

(1) *Principal uses.* One-family dwellings on lots not served by public sanitary sewer.

(2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

Sec. 20-257. - Area requirements.

The area requirements for the R-2 suburban residential district (unsewered) are as follows:

(1)	Lot	Width	Minimum	150 feet
		Area	Minimum	40,000 sq. feet
(2)	Buildings			
	Dwelling	Height	Maximum	35 feet
	Residential accessory structures	Height	Maximum	17 feet

Sec. 20-258. - Yard setback requirements.

The minimum yard setback requirements in the R-2 suburban residential district (unsewered) are as follows:

(1)	Shore	75 feet
(2)	Street	50 feet
(3)	Rear	50 feet
(4)	Side	15 feet

(Code 1975, § 7.033)

Secs. 20-259—20-275. - Reserved.

DIVISION 4. - R-2S SUBURBAN RESIDENTIAL DISTRICT (SEWERED—LARGE LOT)

Sec. 20-276. - Uses.

The following uses are permitted in the R-2S suburban residential district (sewered—large lots):

(1) *Principal uses.* One-family dwellings on larger lots served by a public sanitary sewer.

(2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Ord. No. 87-73, 8-11-87; Ord. No. 2011-61, 11-8-11)

Sec. 20-277. - Area requirements.

The area requirements for the R-2S suburban residential district (sewered—large lots) are as follows:

(1)	Lot	Width	Minimum	150 feet
		Area	Minimum	40,000 sq. feet

(2)	Buildings			
	Dwelling	Height	Maximum	35 feet
	Residential accessory structures	Height	Maximum	17 feet

Sec. 20-278. - Yard setback requirements.

The minimum yard setback requirements in the R-2S suburban residential district (sewered—large lots) are as follows:

(1)	Shore	75 feet
(2)	Street	50 feet
(3)	Rear	50 feet
(4)	Side	15 feet

(Ord. No. 87-73, 8-11-87)

Secs. 20-279—20-295. - Reserved.

DIVISION 5. - R-3 SUBURBAN RESIDENTIAL DISTRICT (SEWERED)

Sec. 20-296. - Uses.

The following uses are permitted in the R-3 suburban residential district (sewered):

(1) *Principal uses.* One-family dwellings on lots served by a public sanitary sewer.

(2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

Sec. 20-297. - Area requirements.

The area requirements for the R-3 suburban residential district (sewered) are as follows:

(1)	Lot	Width	Minimum	100 feet
		Area	Minimum	20,000 sq. feet
(2)	Buildings			
	Dwelling	Height	Maximum	35 feet

	Residential accessory structures	Height	Maximum	17 feet

Sec. 20-298. - Yard setback requirements.

The minimum yard setback requirements in the R-3 suburban residential district (sewered) are as follows:

(1)	Shore	75 feet
(2)	Street	35 feet
(3)	Rear	50 feet
(4)	Side	10 feet

(Code 1975, § 7.033; Ord. No. 97-203, 1-13-98)

Secs. 20-299—20-315. - Reserved.

DIVISION 6. - R-3A SUBURBAN RESIDENTIAL DISTRICT (SEWERED)

Sec. 20-316. - Uses.

The following uses are permitted in the R-3A suburban residential district (sewered):

(1) *Principal uses.* One-family dwellings on lots served by a public sanitary sewer.

(2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

Sec. 20-317. - Area requirements.

The area requirements in the R-3A suburban residential district (sewered) are as follows:

(1)	Lot	Width	Minimum	90 feet
		Area	Minimum	13,500 sq. feet
(2)	Buildings			
	Dwelling	Height	Maximum	35 feet
	Residential accessory structures	Height	Maximum	17 feet

Sec. 20-318. - Yard setback requirements.

The minimum yard setback requirements in the R-3A suburban residential district (sewered) are as follows:

(1)	Shore	75 feet
(2)	Street	35 feet
(3)	Rear	50 feet
(4)	Side	10 feet

Secs. 20-319—20-335. - Reserved.

DIVISION 7. - R-4 URBAN RESIDENTIAL DISTRICT I

Sec. 20-336. - Uses.

The following uses are permitted in the R-4 urban residential district (I):

(1) *Principal uses.* One-family dwellings on lots served by a public sanitary sewer.

(2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

Sec. 20-337. - Area requirements.

The area requirements in the R-4 urban residential district (I) are as follows:

(1)	Lot	Width	Minimum	75 feet
		Area	Minimum	10,000 sq. feet
(2)	Buildings			
	Dwelling	Height	Maximum	35 feet
	Residential accessory structures	Height	Maximum	17 feet

Sec. 20-338. - Yard setback requirements.

The minimum yard setback requirements in the R-4 urban residential district (I) are as follows:

(1)	Shore	75 feet
(2)	Street	25 feet
(3)	Rear	25 feet
(4)	Side	10 feet

Secs. 20-339—20-355. - Reserved.

DIVISION 8. - R-5 URBAN RESIDENTIAL DISTRICT II

Sec. 20-356. - Uses.

The following uses are permitted in the R-5 urban residential district (II):

(1) *Principal uses.* One-family dwellings on lots served by a public sanitary sewer.

(2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

Sec. 20-357. - Area requirements.

The area requirements in the R-5 urban residential district (II) are as follows:

(1)	Lot	Width	Minimum	60 feet
		Area	Minimum	7,200 sq. feet
(2)	Buildings			
	Dwelling	Height	Maximum	35 feet
	Residential accessory structures	Height	Maximum	17 feet

Sec. 20-358. - Yard setback requirements.

The minimum yard setback requirements in the R-5 urban residential district (II) are as follows:

(1)	Shore	75 feet
(2)	Street	25 feet
(3)	Rear	25 feet
(4)	Side	10 feet

(Code 1975, § 7.033)

Secs. 20-359—20-375. - Reserved.

DIVISION 9. - R-5A URBAN RESIDENTIAL DISTRICT III

Sec. 20-376. - Uses.

The following uses are permitted in the R-5A urban residential district (III):

(1) *Principal uses.* One-family dwellings on lots served by a public sanitary sewer.

(2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Ord. No. 86-17, § 7.033, 7-22-86; Ord. No. 2011-61, 11-8-11)

Sec. 20-377. - Area requirements.

The area requirements in the R-5A urban residential district (III) are as follows:

(1)	Lot	Width	Minimum	65 feet
		Area	Minimum	10,000 sq. feet
(2)	Buildings			
	Dwelling	Height	Maximum	35 feet
	Residential accessory structures	Height	Maximum	17 feet

Sec. 20-378. - Yard setback requirements.

The minimum yard setback requirements in the R-5A urban residential district (III) are as follows:

(1)	Shore	75 feet
(2)	Street	25 feet
(3)	Rear	25 feet
(4)	Side	10 feet

(Ord. No. 86-17, § 7.033, 7-22-86)

Secs. 20-379—20-395. - Reserved.

DIVISION 10. - R-6 TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 20-396. - Uses.

The following uses are permitted in the R-6 two-family residential district:

(1) *Principal uses.* Two-family dwellings on lots served by a public sanitary sewer.

(2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, 20-1338, and 1340.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

Sec. 20-397. - Area requirements.

The area requirements in the R-6 two-family residential district are as follows:

(1)	Lot	Width	Minimum	100 feet
		Lot	Minimum	10,000 sq. feet
(2)	Buildings			
	Dwelling	Height	Maximum	35 feet
	Residential accessory structures	Height	Maximum	17 feet

Sec. 20-398. - Yard setback requirements.

The minimum yard setback requirements in the R-6 two-family residential district are as follows:

(1)	Shore	75 feet
(2)	Street	25 feet
(3)	Rear	25 feet
(4)	Side	10 feet

(Code 1975, § 7.033; Ord. No. 91-264, pt. 1, 4-14-92)

Secs. 20-399—20-405. - Reserved.

DIVISION 10.5. - R-6A TWO-FAMILY RESIDENTIAL DISTRICT II

Sec. 20-406. - Uses.

The following uses are permitted in the R-6A two-family district II:

(1) *Principal uses.* Two-family dwellings on lots served by public sanitary sewer.

(2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Ord. No. 91-130, § 7-033, 11-5-91; Ord. No. 2011-61, 11-8-11)

Sec. 20-407. - Area requirements.

The area requirements in the R-6A two-family district II are as follows:

(1)	Lot	Width	Minimum	100 feet
		Area	Minimum	20,000 sq. feet
(2)	Buildings			

	Dwelling	Height	Maximum	35 feet
	Residential accessory structures	Height	Maximum	17 feet

Sec. 20-408. - Yard setback requirements.

The minimum yard setback requirements in the R-6A two-family residential district II are as follows:

(1)	Shore	75 feet
(2)	Street	50 feet
(3)	Rear	50 feet
(4)	Side	10 feet

(Ord. No. 91-130, § 7.033, 11-5-91; Ord. No. 91-264, pt. 3, 4-14-92)

Secs. 20-409—20-415. - Reserved.

DIVISION 11. - R-7 MULTIFAMILY RESIDENTIAL DISTRICT

Sec. 20-416. - Uses.

The following uses are permitted in the R-7 multifamily residential district:

(1) *Principal uses.* Multifamily dwellings, not to exceed eight (8) dwelling units per structure, on lots served by a public sanitary sewer.

(2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, 20-1338, and 1340.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

Sec. 20-417. - Area requirements.

The area requirements in the R-7 multifamily residential district are as follows:

(1)	Lot	Width	Minimum	120 feet
		Area	Minimum	15,000 sq. feet with no less than 2,000 sq. feet per efficiency unit; 2,500 sq. feet per 1-bedroom unit; and 3,000 sq. feet per 2- or more bedroom unit
(2)	Buildings			
	Dwelling	Height	Maximum	35 feet

	Residential accessory structures	Height	Maximum	17 feet

Sec. 20-418. - Yard setback requirements.

The minimum yard setback requirements in the R-7 multifamily residential district are as follows:

(1)	Shore	75 feet
(2)	Street	35 feet
(3)	Rear	50 feet
(4)	Side	20 feet

(Code 1975, § 7.033)

Secs. 20-419—20-435. - Reserved.

DIVISION 12. - R-8 PLANNED RESIDENTIAL DISTRICT

Sec. 20-436. - Uses.

The following uses are permitted in the R-8 planned residential district:

(1) *Principal uses.* Two-family dwellings, multi-family dwellings and clustered one-family lot developments, all served by a public sanitary sewer system.

(2) *Conditional uses.* The location and site plans for all structures and improvements which serve the principal use. See also sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

Sec. 20-437. - Area requirements.

The area requirements for the R-8 planned residential district are as follows:

(1)	Development	Area	10 acres in one ownership	
		Width	Minimum	450 feet
(2)	Park land	Area	Minimum	20 percent of the development area
(3)	Lot	Area	Minimum	4,000 sq. feet per row-house 8,000 sq. feet for one-family dwellings
		Width	Minimum	120 feet for 1½ story row-houses
			Minimum	65 feet for one-family dwellings

(4)	Buildings			
	Dwelling	Height	Maximum	35 feet
	Residential accessory structures	Height	Maximum	17 feet

Sec. 20-438. - Yard setback requirements.

The minimum yard setback requirements for the R-8 planned residential district are as follows:

(1)	Shore	75 feet
(2)	Street	30 feet
(3)	Rear	25 feet
(4)	Side (unplatted developments)	30 feet from exterior property lines of the development and between principal structures, with no less than 15 feet from any interior parcel line.
(5)	Side (platted developments)	10 feet

(Code 1975, § 7.033; Ord. No. 91-264, pt. 2, 4-14-92; Ord. No. 2001-29, 6-21-01)

Secs. 20-439—20-455. - Reserved.

DIVISION 13. - P-1 INSTITUTIONAL PARK DISTRICT

Sec. 20-456. - Uses.

The following uses are permitted in the P-1 institutional park district:

(1) *Principal uses.* Public and private institutional uses, such as schools; colleges; universities; hospitals; sanitariums, religious, charitable and penal institutions; cemeteries; and crematories.

(2) *Conditional uses.* The location and site plans for all structures and improvements which serve the principal use. See also sections 20-1010, 20-1291, 20-1336, 20-1338, and 20-1340.

(Code 1975, § 7.034; Ord. No. 2011-61, 11-8-11)

Sec. 20-457. - Area requirements.

The area requirements for the P-1 institutional park district are as follows:

(1)	Development	Area	Minimum	20 acres
(2)	Structure	Height	Maximum	50 feet

(Code 1975, § 7.034)

Sec. 20-458. - Yard setback requirements.

The minimum yard setback requirements for the P-1 institutional park district are as follows:

(1)	Shore	75 feet
(2)	Street	100 feet
(3)	Rear	100 feet
(4)	Side	100 feet

(Code 1975, § 7.034)

Secs. 20-459—20-475. - Reserved.

DIVISION 14. - P-2 RECREATIONAL PARK DISTRICT

Sec. 20-476. - Uses.

The following uses are permitted in the P-2 recreational park district:

(1) *Principal uses.* Public and existing private recreational uses, such as arboretums, bathing, boating, cycling, fishing, horse riding, marinas, swimming, skating, sledding, skiing, nature trails and hiking.

(2) *Conditional uses.* Extension of existing, or the creation of new, private recreational uses; all private recreational or assembly structures; golf courses; campgrounds; playgrounds; driving ranges; polo fields; swimming pools; zoological and botanical gardens; athletic fields; lodges; picnic areas; and archery and firearm ranges. See also sections 20-1010, 20-1246, 20-1291, 20-1336, and 20-1338.

(Code 1975, § 7.034; Ord. No. 2011-61, 11-8-11)

Sec. 20-477. - Area requirements.

The area requirements for the P-2 recreational park district are as follows:

(1)	Development	Area	Minimum	10 acres
(2)	Structure	Height	Maximum	35 feet

(Code 1975, § 7.034)

Sec. 20-478. - Yard setback requirements.

The minimum yard setback requirements in the P-2 recreational park district are as follows:

(1)	Shore	75 feet
(2)	Street	100 feet
(3)	Rear	100 feet
(4)	Side	100 feet

(Code 1975, § 7.034)

Secs. 20-479—20-495. - Reserved.

DIVISION 15. - C-1 RESOURCE CONSERVATION DISTRICT

Sec. 20-496. - Uses.

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

(1) *Principal uses.* Fishing; flood overflow and floodwater storage; hunting; navigation; pedestrian and equestrian trails; preservation of scenic, historic and scientific areas; public fish hatcheries, soil and water conservation practices; sustained yield forestry; stream bank and lakeshore protection; water retention ponds; and wildlife areas.

(2) *Conditional uses.* Boating, drainageways, game farms, grazing, orchards, shooting preserves, swimming, truck farming, utilities, water measurement and water control facilities, and wild crop harvesting. The above uses shall not involve drainage; dumping; filling; tilling; mineral, soil, or peat removal; or any other use that would substantially disturb or impair the natural fauna, flora, watercourses, water regimen or topography. See also sections 20-1010, 20-1291, 20-1336, and 20-1338.

(Code 1975, § 7.035; Ord. No. 2011-61, 11-8-11)

Sec. 20-497. - Structures restricted.

Structures are not permitted in the C-1 resource conservation district, except accessory to the principal or conditional uses. (Code 1975, § 7.035)

Secs. 20-498—20-505. - Reserved.

DIVISION 15.5. - C-2 UPLAND RESOURCE CONSERVATION DISTRICT

The primary purpose of this district is to preserve, protect, enhance, and restore all significant woodlands, areas of rough topography, and related scenic areas within the county; and to provide for limited residential development at densities not to exceed one dwelling unit per three (3) acres. Regulation of these areas will serve to control erosion and sedimentation and will promote and maintain the natural beauty of the county, while seeking to assure the preservation and protection of areas of significant topography, natural watersheds, ground and surface water, potential recreation sites, wildlife habitat, and other natural resource characteristics that contribute to the environmental quality of the county.

Sec. 20-506. - Uses.

(1) *Principal uses.* Farming and related agricultural uses when conducted in accordance with soil conservation service standards; hunting and fishing; forest preservation; forest and game management; preservation of scenic, historic, and scientific areas; park and recreation areas; arboreta; botanical gardens; one single-family dwelling.

(2) *Conditional uses.* Hunting and fishing clubs; recreation camps; public or private campgrounds; gardening, tool, and storage sheds incidental to the residential use; general farm buildings, including barns, silos, sheds, and storage bins; private garages and carports; clustered residential developments; and utilities. See also sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Ord. No. 95-86, 9-26-95; Ord. No. 2011-61, 11-8-11)

Sec. 20-507. - Area requirements.

The area requirements for the C-2 Upland Resource District are as follows:

(1)	Lot	Width	Minimum	300 feet
		Area	Minimum	3 acres
(2)	Buildings			
	Dwelling	Height	Maximum	35 feet
	Residential accessory structures	Height	Maximum	17 feet
	Agricultural and other structures	Height	Maximum	Two (2) times the distance from the nearest lot line

Sec. 20-508. - Yard setback requirements.

The minimum yard setback requirements in the C-2 Upland Resource Conservation District for all structures are as follows:

(1)	Rear, minimum	100 feet
(2)	Side, minimum	25 feet
(3)	Street, minimum	100 feet
(4)	Shore, minimum	75 feet

(Ord. No. 95-86, 9-26-95)

Sec. 20-509. - Tree cutting and shrubbery clearing limited.

Land lying within the C-2 Upland Resource Conservation District shall not be clear cut of trees, shrubbery, or underbrush. No more than twenty (20) percent of the natural vegetation shall be removed from a parcel. Normal pruning, trimming, and shearing of vegetation; removal of dead, diseased, or insect-infested vegetation; and silvicultural thinning conducted under the recommendation of a forester shall be exempt form this restriction.
(Ord. No. 95-86, 9-26-95)

Secs. 20-510—20-515. - Reserved.

DIVISION 16. - B-1 NEIGHBORHOOD BUSINESS DISTRICT

Sec. 20-516. - Uses.

The following uses are permitted in the B-1 neighborhood business district:

(1) *Principal uses.* The following uses provided that they shall be retail establishments, selling and storing only new merchandise; bakeries, barber shops, bars, beauty shops, business offices, clinics, clothing stores, clubs, cocktail lounges, confectioneries, delicatessens, drug stores, fish markets, florists, fraternities, fruit stores, gift stores, grocery stores, hardware stores, house occupations, hobby shops, lodges, meat markets, optical stores, packaged beverage stores, professional offices, restaurants, self-service and pickup laundry and dry cleaning establishments, soda fountains, sporting goods, supermarkets, tobacco stores and vegetable stores. Lots or land on which there is an existing residence shall not be subdivided or transferred in such a way as to cause the parcel on which it stands to fail to comply with the lot, area and yard requirements of the R-4 residential district in those areas served by public sanitary sewer or the R-2 residential district in those areas served by on-site sanitary disposal systems. Existing residences may be expanded and repaired in compliance with the applicable requirements of the R-4 or R-2 residential district depending on the availability of the public sanitary sewer, but no new residences may be built.

(2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340. Residential quarters may be permitted as a conditional use provided that such quarters are clearly accessory to the principal use on the property and occupy fifty (50) percent or less of the total floor space of the structure in which they are located.

(Code 1975, § 7.036; Ord. No. 88-160, § 7.036, 1-10-89; Ord. No. 91-130, § 7.036, 11-5-91; Ord. No. 93-9, 5-11-93; Ord. No. 2011-61, 11-8-11)

Sec. 20-517. - Area requirements.

The area requirements for the B-1 neighborhood business district are as follows:

(1)	Lot	Frontage	Minimum	75 feet
			Minimum	15,000 sq. feet
(2)	Building	Height	Maximum	35 feet

(Code 1975, § 7.036)

Sec. 20-518. - Yard setback requirements.

The minimum yard setback requirements in the B-1 neighborhood business district are as follows:

(1)	Shore	75 feet
(2)	Street	25 feet
(3)	Rear	25 feet
(4)	Side	10 feet

(Code 1975, § 7.036; Ord. No. 2000-251S, 8-28-01)

Secs. 20-519—20-535. - Reserved.

DIVISION 17. - B-2 COMMUNITY BUSINESS DISTRICT

Sec. 20-536. - Uses.

The following uses are permitted in the B-2 community business district:

(1) *Principal uses.* All uses permitted in the B-1 neighborhood business district and the following: apartment hotels, appliance stores, caterers, churches, clothing repair shops, crockery stores, department stores, electrical supply, financial institutions, food lockers, furniture stores, furniture upholstery shops, heating supply, hotels, laundry and dry-cleaning establishments employing not over seven (7) persons, liquor stores, music stores, newspaper offices and press rooms, night clubs, office supplies, pawn shops, personal service establishments, pet shops, places of entertainment, photographic supplies, plumbing supplies, printing, private clubs, private schools, publishing, radio broadcasting studios, second-hand stores, signs, tattoo parlors, television broadcasting studios, trade and variety stores. Lots or land on which there is an existing residence shall not be subdivided or transferred in such a way as to cause the parcel on which it stands to fail to comply with the lot, area and yard requirements of the R-4 residential district in those areas served by public sanitary sewer or the R-2 residential district in those areas served by on-site sanitary disposal systems. Existing residences may be expanded and repaired in compliance with the applicable requirements of either the R-4 or R-2 residential district, depending on the availability of public sanitary sewer, but no new residences may be built.

(2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340. Residential quarters may be permitted as a conditional use provided that such quarters are clearly accessory to the principal use on the property and

occupy fifty (50) percent or less of the total floor space of the structure in which they are located.

(Code 1975, § 7.036; Ord. No. 88-160, § 7.036, 1-10-89; Ord. No. 91-130, § 7-036, 11-5-91; Ord. No. 93-9, 5-11-93; Ord. No. 2000-251S, 8-28-01; Ord. No. 2011-61, 11-8-11)

Sec. 20-537. - Area requirements.

The area requirements for the B-2 community business district are as follows:

(1)	Lot	Frontage	Minimum	75 feet
		Area	Minimum	15,000 sq. feet
(2)	Building	Height	Maximum	35 feet

Sec. 20-538. - Yard setback requirements.

The minimum yard setback requirements in the B-2 community business district are as follows:

(1)	Shore	75 feet
(2)	Street	25 feet
(3)	Rear	25 feet
(4)	Side	10 feet

(Code 1975, § 7.036; Ord. No. 2000-251S, 8-28-01)

Secs. 20-539—20-555. - Reserved.

DIVISION 18. - B-3 COMMERCIAL SERVICE DISTRICT

Sec. 20-556. - Uses.

The following uses are permitted in the B-3 commercial service district:

(1) *Principal uses.* All uses permitted in the B-1 neighborhood business district, B-2 community business district and the following: adult establishments, animal hospitals with no outdoor pens, auction galleries, automotive sales and repair; bicycle sales, rental, repair; boat sales, rental and repair; building material and product sales; caterers; electrical supply; employment agencies; exterminating shops; food lockers; garden supplies; heating supply; medical appliance stores; monument sales; motorcycle sales, repair and service; newspaper offices and press rooms; pawn shops; physical culture and health studios; plumbing supplies; printing, advertising and publishing shops; private clubs and lodges; radio broadcasting studios; radio and television repair and service shops; recording studios; schools of dance, music and business; second hand shops, taxidermists; television broadcasting studios; trade and contractor's offices; vending machines sales, service and repair welding repair shops. Lots or land on which there is an existing residence shall not be subdivided or transferred in such a way as to cause

the parcel on which it stands to fail to comply with the lot, area and yard requirements of the R-4 residential district in those areas served by public sanitary sewer or the R-2 residential district in those areas served by on-site sanitary disposal systems. Existing residences may be expanded and repaired in compliance with the applicable requirements of the R-4 or R-2 residential district depending on the availability of the public sanitary sewer but no new residences may be built.

(2) *Conditional uses.* See sections 20-1010, 20-1226, 20-1246, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340. Residential quarters may be permitted as a conditional use provided that such quarters are clearly accessory to the principal use on the property and occupy fifty (50) percent or less of the total floor space of the structure in which they are located.

(Code 1975, § 7.036; Ord. No. 91-130, § 7-036, 11-5-91; Ord. No. 93-9, 5-11-93; Ord. No. 2000-251S, 8-28-01; Ord. No. 2003-132, 11-18-03; Ord. No. 2011-61, 11-8-11)

Sec. 20-557. - Area requirements.

The area requirements for the B-3 commercial service district are as follows:

(1)	Lot	Frontage	Minimum	75 feet
		Area	Minimum	15,000 sq. feet
(2)	Building	Height	Maximum	35 feet

(Code 1975, § 7.036)

Sec. 20-558. - Yard setback requirements.

The minimum yard setback requirements in the B-3 commercial business district are as follows:

(1)	Shore	75 feet
(2)	Street	25 feet
(3)	Rear	25 feet
(4)	Side	10 feet

(Code 1975, § 7.036; Ord. No. 2000-251S, 8-28-01)

Secs. 20-559—20-575. - Reserved.

DIVISION 19. - B-4 PLANNED BUSINESS DISTRICT

Sec. 20-576. - Uses.

The following uses are permitted in the B-4 planned business district:

(1) *Principal uses.* None.

(2) *Conditional uses.* See sections 20-1010, 20-1246, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340, as applicable. Residential quarters may be permitted as a conditional use provided that such quarters are clearly accessory to the principal use on the property and occupy fifty (50) percent or less of the total floor space of the structure in which they are located.

(Code 1975, § 7.036; Ord. No. 91-130, § 7-036, 11-5-91; Ord. No. 93-9, 5-11-93; Ord. No. 2011-61, 11-8-11)

Sec. 20-577. - Area requirements.

The area requirements for the B-4 planned business district are as follows:

(1)	Lot	Frontage	Minimum	200 feet
		Area	Minimum	2 acres
(2)	Building	Height	Maximum	45 feet

(Code 1975, § 7.036)

Sec. 20-578. - Yard setback requirements.

The minimum yard setback requirements in the B-4 planned business district are as follows:

(1)	Shore	75 feet
(2)	Street	80 feet
(3)	Rear	40 feet
(4)	Side	10 feet

(Code 1975, § 7.036)

Secs. 20-579—20-595. - Reserved.

DIVISION 20. - B-5 HIGHWAY BUSINESS DISTRICT

Sec. 20-596. - Uses.

The following uses are permitted in the B-5 highway business district:

(1) *Principal uses.* Adult establishments. (See section 20-636 et al)

(2) *Conditional uses.* Restaurants, gift shops, places of entertainment, confectioneries and drug stores, plus those specified in sections 20-1010, 20-1226, 20-1246, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340, as applicable. Residential

quarters may be permitted as a conditional use provided that such quarters are clearly accessory to the principal use on the property and occupy fifty (50) percent or less of the total floor space of the structure in which they are located.

(Code 1975, § 7.036; Ord. No. 91-130, § 7-036, 11-5-91; Ord. No. 93-9, 5-11-93; Ord. No. 2003-132, 11-18-03; Ord. No. 2011-61, 11-8-11)

Sec. 20-597. - Area requirements.

The area regulations for the B-5 highway business district are as follows:

(1)	Lot	Frontage	Minimum	400 feet
		Area	Minimum	4 acres
(2)	Building	Height	Maximum	35 feet

(Code 1975, § 7.036)

Sec. 20-598. - Yard setback requirements.

The minimum yard setback requirements in the B-5 highway business district are as follows:

(1)	Shore	75 feet
(2)	Street	100 feet
(3)	Rear	40 feet
(4)	Side	40 feet

(Code 1975, § 7.036)

Secs. 20-599—20-615. - Reserved.

DIVISION 21. - B-6 WATER ORIENTED BUSINESS DISTRICT

Sec. 20-616. - Uses.

The following uses are permitted in the B-6 water oriented business district:

(1) *Principal uses.* Existing water-oriented commercial uses, such as bait shops, bathhouses, bathing and fishing areas on lakes and streams, boat and marine sales, boat launching areas, boat liveries, boat storage, repair and service marinas, dance halls, fishing equipment sales, hotels, motels, resorts, restaurants, and taverns.

(2) *Conditional uses.* Extension of, or the creation of, new principal uses listed above. See also sections 20-1010, 20-1246, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340. Residential quarters may be permitted as a conditional use provided that

such quarters are clearly accessory to the principal use on the property and occupy fifty (50) percent or less of the total floor space of the structure in which they are located.

(Code 1975, § 7.036; Ord. No. 91-130, § 7-036, 11-5-91; Ord. No. 93-9, 5-11-93; Ord. No. 2011-61, 11-8-11)

Sec. 20-617. - Area requirements.

The area requirements for the B-6 water oriented business district are as follows:

(1)	Lot	Width	Minimum	150 feet
		Area	Minimum	40,000 sq. feet
(2)	Structure	Height	Maximum	35 feet

(Code 1975, § 7.036)

Sec. 20-618. - Yard setback requirements.

The minimum yard setback requirements in the B-6 water oriented business district are as follows:

(1)	Shore	75 feet
(2)	Street	50 feet
(3)	Rear	50 feet
(4)	Side	50 feet

(Code 1975, § 7.036)

Secs. 20-619—20-635. - Reserved.

DIVISION 22. - ADULT ESTABLISHMENT USES

Sec. 20-636. – Intent and Findings of fact.

(a) Intent:

(1) The intent of this division is to regulate adult establishments and related activities to protect the health, safety, and general welfare of the citizens of Yorkville, to further preserve the quality of family life as well as the rural characteristics of the Village, to prevent adverse and deleterious effects contributing to the blight and downgrading of portions of the Village, to avoid the effects of adult entertainment upon minors and the violation of the civil rights of many persons partaking in such entertainment, mitigate criminal activity and disruption of public peace associated with adult establishments, and also to prevent the unsanitary and unhealthful

conditions associated with such establishments. This regulation will establish reasonable and uniform provisions to regulate adult establishments within the Village of Yorkville.

(2) It is not the intent or effect to restrict or deny access by the distributors or exhibitors of sexually oriented entertainment to their intended market.

(3) It is not the intent or effect to limit or restrict the lawful activities permitted under W.S.A. ch. 125, "Alcohol Beverages" and the Municipal Code of the Village of Yorkville. By the enactment of this division, the Yorkville Village Board does not intend to give any explicit, implicit, or tacit approval or condone any activity relating to adult entertainment.

(4) The board intends to control the impact of the secondary effects enumerated in 20-636(b) in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; and preserve the property values and character of surrounding neighborhoods and areas.

(5) It is not the board's intent to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of adult establishments while providing an outlet for First Amendment protected activities.

(6) In order to minimize and control the secondary effects of adult establishments upon the Village, it is the board's intent to prevent the concentration of adult establishments within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of adult establishments.

(b) Findings of fact:

(1) The board finds that adult establishments as defined in this division require special zoning in order to protect and preserve the health, safety, and welfare of Yorkville.

(2) Based on its review of the following:

a. Report to the American Center for Law and Justice on the Secondary Impacts of Sexual Oriented Businesses;

b. The Affidavit of Richard McCleary for the case of *New Albany DVD LLC v. City of Albany*;

c. National Law Center Summaries of SOB Land Use Studies;

d. Workplace Perspectives on Erotic Dancing, a Minneapolis Minnesota Study;

e. The studies conducted in Newport News, Virginia, Garden Grove, California, Dallas, Texas, Houston Texas;

f. The Effects of Sexually Oriented Businesses by Louis F. Cormus III, which summarized studies conducted in Phoenix, Arizona; Garden Grove

California; Los Angles, California; Whittier California; Indianapolis, Indiana; Minneapolis, Minnesota; Cleveland, Ohio; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Houston, Texas; Seattle, Washington; New York City, New York (specifically, Times Square); Dallas, Texas; Environmental Research Group Report; Tucson, Arizona; Manatee County, Florida; State of Minnesota; New Hanover County, North Carolina; Town and Village of Ellicottville, New York; Islip, New York; New York City, New York; Oklahoma City, Oklahoma; Houston Texas; Newport News; and Des Moines, Washington;

g. The Police Memorandum dated May 1, 1990, to the Tucson, Arizona City Prosecutor;

h. Rural Hotspots: The Case of Adult Businesses by Dr. Richard McCleary;

i. The findings incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986); Colman A. Young v. American Mini-Theaters, Inc., 427 U.S. 50 (1976), Association of Club Executives of Dallas, Inc., et al. v. City of Dallas, 22-CV-00177 (N.D. Tex. May 24, 2022).

(3) The board finds that there is convincing evidence that the secondary effects of adult establishments include an increased risk of:

a. Prostitution,

b. High-risk sexual behavior and sexually transmitted diseases,

c. Human Trafficking,

d. Crime, especially sex-related crimes, and

e. Other deleterious effects upon existing business and surrounding residential areas, and decreased property values.

(4) Based on its review of "Playing for Keeps," 2002 Racine County Economic Development Study, the 2010 Racine County Economic Development Plan, Village 2050 Comprehensive Plan, and the Tax Incremental Financing District #1 Project Plan, board finds that U.S. Route 45, State Trunk Highway 20, County Trunk Highway C (A.K.A. Spring Street) and Highway 11 corridors as areas that are very important to the economic development of the Village and should be protected from the secondary effects of adult establishments for the benefit of the health, safety and welfare of the community. For purposes of this Article, “corridor” is meant to apply to properties directly abutting the named street or highway.

Sec. 20-637. - Uses.

(a) *Principal Uses.* The First Amendment and other provisions of the Unites States Constitution, as interpreted by the United States Supreme Court and other courts, require that adult establishments, as defined in this division, are entitled to certain protections, including the opportunity to locate in the Village. Therefore, an adult establishment shall

be an allowed principal use in the B-3 and B-5 zoning districts and shall be a prohibited use in any other zoning district. The adult establishment may locate in the specified districts only if an adult establishment license has been granted by the Village if all the requirements of this division and the applicable zoning district's regulations are met.

(b) *Accessory uses.* Any accessory use authorized by the underlying zoning district may be an accessory use to an adult establishment. In no case shall an adult establishment be an accessory use to any principal use designed by any section of this chapter.

Sec. 20-638. - Regulations applicable to all adult establishments.

(a) *Location requirement:* No permit shall be granted where the public entrance of the proposed adult establishment is within one thousand (1,000) feet of a residential use, residential district, house of worship, school, day care center, playground, public park, recreation area, library, museum, U.S. Route 45, State Trunk Highway 20, County Trunk Highway C (A.K.A. Spring Street) and Highway 11, or immediately adjacent to a bar or tavern that serves alcoholic beverages. In the case of an area zoned residential, the distance shall be measured from the nearest point on the residential district zoning boundary line. From an area not zoned residential but used for residential purposes, the measurement shall be taken from the public entrance of the adult establishment to the nearest entrance of the building in residential use. From schools, houses of worship, day care centers, libraries, and museums, the distance shall be measured from the public entrance of the adult establishment to the main public entrance of the protected use. From playgrounds, public parks, recreation areas, and schools, houses of worship and day care centers with playgrounds or recreation areas, the distance shall be measured from the public entrance of the adult establishment to the nearest property line of the playground, public park, or recreation area. Along U.S. Route 45, State Trunk Highway 20, County Trunk Highway C (A.K.A. Spring Street) and Highway 11, this distance is measured from the outside highway right-of-way line, including frontage road(s).

(b) *Hours of operation:* No adult establishment shall be open for business at any time between the hours of 2:00 a.m. and 12:00 noon.

(c) *Animals:* No animals, except only for seeing-eye dogs required to assist the blind, shall be permitted at any time at or in any adult establishment or permitted premises.

(d) *Restricted access:* No adult establishment patron shall be permitted at any time to enter into any of the non-public portions of any adult establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of adult establishment employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the permitted premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.

(e) *Exterior display:* No adult establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," from any sidewalk, public or private right-of-way, or any property other than the lot on which the permitted premises is located. No portion of the exterior of an adult

establishment shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed by this division with regard to signs. This subsection shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door, or other opening.

(f) *Sign limitations:* All signs for adult establishments shall be flat wall signs. The business may have only one (1) non-flashing business sign which may only indicate the name of the business and identify it as an adult establishment and which shall not be larger than four (4) feet by four (4) feet. Temporary signs shall not be permitted in connection with any adult establishment.

(g) *Noise:* No loudspeakers or sound equipment audible beyond the adult establishment shall be used at any time.

(h) *Manager's stations:* Each adult establishment shall have one (1) or more manager's stations. The interior of each adult establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one (1) manager's station to every part of each area, except restrooms, of the establishment to which any adult establishment patron is permitted access for any purpose. The cashier's or manager's station shall be located so that someone working there can quickly move to physically halt any attempted or accidental entry by a minor. An employee shall occupy the station at all times when patrons are in and on the premises.

(i) *Adult booths prohibited:* Adult booths shall be prohibited in all adult establishments.

(j) *No loitering policy:* The adult establishment shall clearly post and enforce a no loitering policy.

(k) *Age limit restrictions:* The adult establishment shall clearly post and enforce age-limit restrictions. A one-square-foot sign shall be placed on each public entrance which shall state "Admittance to adults only" and may include other pertinent business information.

(l) *Measuring disbursement distances:* The distances in this section shall be measured by following a straight line, without regard to intervening structures, from the public entrance (existing or proposed) of an adult establishment to the nearest point of the protected use as described below.

(m) *Adequate parking:* One (1) parking space per one hundred fifty (150) square feet of total gross floor area shall be provided in a lighted area on the permitted premises of an adult establishment.

(n) *Spacing requirement:* No more than one (1) adult establishment may be located on any one (1) parcel and the location of any one (1) adult establishment shall be at least one thousand (1,000) feet from the establishment of any other adult establishment. This distance shall be measured from the public entrance of one (1) adult establishment to the public entrance of the other adult establishment.

(o) *Display windows prohibited:* All points of access into structures containing adult establishments and all windows or other openings shall be located, constructed, covered, or screened in a manner which will prevent a view into the interior.

(p) *Residential quarters not allowed:* No residential quarters shall be allowed on a premises with an adult establishment.

(q) All live performers in an adult establishment shall perform only on a stage elevated no less than thirty-six (36) inches above floor level. There shall be a metal railing attached to the floor by bolts surrounding the stage which shall keep patrons at least forty-eight (48) inches from the stage. There shall also be a metal railing attached to the floor by bolts at the end of the stage.

Sec. 20-639. - Required information and documents.

(a) *Demographics.*

(1) *Individuals.*

a. Applicant's legal name, all of the applicant's aliases, and the applicant's age;

b. Applicant's business address.

(2) *Corporations.*

a. Applicant corporation's complete name and official business address;

b. Legal names, all aliases, the ages, and business addresses of all of the directors, officers, and managers of the corporation and of every person owning or controlling more than twenty-five (25) percent of the voting shares of the corporation;

c. Applicant corporation's date and place of incorporation and the objective for which it was formed;

d. Proof that the corporation is a corporation in good standing and authorized to conduct business in the State of Wisconsin;

e. Name of the registered corporate agent and the address of the registered office for service of process.

(3) Partnerships (general or limited), joint ventures, or any other type of organization where two (2) or more persons share in the profits and liabilities of the organization.

a. Applicant organization's complete name and official business address;

b. Legal name, all aliases, the ages, and business addresses of each partner (other than limited partners) or any other person entitled to share in the

profits of the organization, whether or not any such person is also obligated to share in the liabilities of the organization.

(4) *Land trusts.*

a. Applicant land trust's complete name;

b. Legal name, all aliases, and the business address of the trustee of the land trust;

c. Legal name, all aliases, the ages, and business addresses of each beneficiary of the land trust and the specific interest of each such beneficiary in the land trust;

d. The interest, if any, that the land trust holds in the permitted premises.

(b) If a corporation or partnership is an interest holder that shall be disclosed pursuant to subsections (a)(2) and (3), then such interest holders shall disclose the information required in said subsections with respect to their interest holders.

(c) The general character and nature of the applicant's business.

(d) The length of time that the applicant has been in the business of the character specified in response to subsection (c) above.

(e) The location (including street address and legal description) and telephone number of the premises for which the adult establishment permit is sought.

(f) The specific name of the business that is to be operated under the adult establishment permit.

(g) The identity of each fee simple owner of the permitted premises.

(h) A diagram showing the internal and external configuration of the permitted premises, including all doors, windows, entrances, exits, the fixed structural internal features of the permitted premises, plus the interior rooms, walls, partitions, stages, performance areas, and restrooms.

A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required, provided, however, that each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions to an accuracy of plus or minus six (6) inches and sufficient to show clearly the various interior dimensions of all areas of the permitted premises and to demonstrate compliance with the provisions of this division. The approval or use of the diagram required pursuant to this subsection shall not be deemed to be, and may not be interpreted or construed to constitute, any other Village approval otherwise required pursuant to applicable Village ordinances and regulations.

(i) The specific type(s) of adult establishment(s) that the applicant proposes to operate on the permitted premises.

(j) A copy of each adult establishment's permit, liquor license, and gaming license currently held by the applicant, or any of the individuals identified in the application pursuant to subsection (a) or (b) above.

(k) The name of the individual(s) who shall be the day-to-day, on-site manager(s) of the proposed adult establishment.

(l) The application fee, site plan review fee, and zoning permit fee in the amount as adopted by resolution or in the annual Village budget.

(m) Any other information the zoning administrator may reasonably require to apply the requirements of this division.

(n) The zoning administrator reserves the right to require a survey from a surveyor licensed by the State of Wisconsin to determine the spacing requirements under this division.

(o) A site plan, landscaping plan, zoning permit application, and letter of agent status, if necessary, as required by site plan review application requirements adopted by the planning and development department.

Sec. 20-640. - Incomplete applications returned.

Any application for an adult establishment that does not include all of the information and documents required pursuant to this division, as well as the required fees, shall be deemed to be incomplete and shall not be acted on by the zoning administrator who shall give the applicant a written notification and explanation of such action pursuant to this section.

Sec. 20-641. - Applicant cooperation required.

An applicant for an adult establishment permit shall cooperate fully in the inspections and investigations conducted by Racine County and the Village of Yorkville. The applicant's failure or refusal to:

(1) Give any information reasonably relevant to the investigation of the application;

(2) Allow the permitted premises to be inspected;

(3) Appear at any reasonable time and place, or

(4) Otherwise cooperate with the investigation and inspection required by this division; shall constitute an admission by the applicant that the applicant is ineligible for an adult establishment permit and shall be grounds for denial of the permit by the zoning administrator.

Sec. 20-642. - Time for issuance or denial.

The zoning administrator shall, within thirty (30) days after submittal of a completed application, or within such other period of time as the Village and the applicant shall otherwise agree, either issue or deny an adult establishment permit pursuant to the provisions of this division.

Sec. 20-643. - Standards for issuance or denial of permit.

(a) *Issuance:* The zoning administrator shall issue an adult establishment permit to an applicant if the zoning administrator finds and determines all of the following:

(1) All information and documents required by this division for issuance of an adult establishment permit have been properly provided.

(2) No person identified in the application may:

a. Have been denied an adult establishment permit within twelve (12) months immediately preceding the date of the application;

b. Be a person whose adult establishment permit has been revoked within twelve (12) months immediately preceding the date of the application; or

c. Be a person whose adult establishment permit is under suspension at the time of application.

(3) The adult establishment and the permitted premises comply with all requirements under this division and the applicant has obtained a license required for the adult establishment by the Village, if any.

(4) The applicant has signed the permit he or she has received indicating his or her acceptance of the conditions of the permit.

(b) *Denial:* If the zoning administrator determines that the applicant has not met any one (1) or more of the conditions set forth in this section, then the zoning administrator shall deny issuance of the adult establishment permit and shall give the applicant a written notification and explanation of such denial.

(c) *License deemed to be issued:* If the zoning administrator does not issue or deny the adult establishment permit within thirty (30) days after the properly completed application is submitted, then the adult establishment permit applied for shall be deemed to have been issued.

Sec. 20-644. - Enforcement.

(a) A violation of any conditions or an adult establishment permit is a violation of this division.

(b) Notwithstanding any other remedy, a violation of any conditions or an adult establishment permit shall be grounds for revocation of the adult establishment permit.

Sec. 20-645. - Continued conforming status.

An adult establishment lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant of the adult establishment permit, if a protected use is located within one thousand (1,000) feet of the adult establishment.

Sec. 20-646. Severability.

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

Secs. 20-647—20-655. - Reserved.

DIVISION 23. - A-1 FARMLAND PRESERVATION DISTRICT[6]

Footnotes:
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Editor's note— Ord. No. 2014-87, adopted Dec. 9, 2014, repealed the former Div. 23, §§ 20-656—20-658, and enacted a new division as set out herein. The former Div. 23 pertained to A-1 general farming district I, and derived from Code 1975, § 7.037; Ord. No. 82-141, § 7.037, adopted Nov. 9, 1982; Ord. No. 93-9, adopted May 11, 1993; Ord. No. 2000-251S, adopted Aug. 28, 2001; and Ord. No. 2011-61, adopted Nov. 8, 2011.

Sec. 20-656. - Purpose.

The intent of this district is to maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment on non-agricultural development and minimizing land use conflicts among incompatible uses.
(Ord. No. 2014-87, 12-9-14)

Sec. 20-657. - Definitions.

The following definitions apply in the A-1 farmland preservation district:

Accessory use shall mean any of the following land uses on a farm:

(1) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use;

(2) An activity or business operation that is an integral part of or incidental to, an agricultural use;

(3) A farm residence;

(4) A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in paragraph (1) or (3), that employs no more than four (4) full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland;

(5) Any other use that the DATCP, by rule, identifies as an agricultural use.

Agricultural-related use shall mean any of the following: an agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.

Base farm tract shall mean one (1) of the following:

(1) All contiguous parcels in a farmland preservation zoning district that are part of a single farm on December 31, 2014, regardless of any subsequent changes in the size of the farm;

(2) Any other tract that the department, by rule, defines as a base farm tract.

Farm shall mean all land under common ownership (all owned by exactly the same person or entity) that is primarily devoted to agricultural use.

Farm acreage shall mean size of farm in acres.

Farmland preservation agreement shall mean any of the following agreements between an owner of land and the department under which the owner agrees to restrict the use of land in return of tax credits:

(1) A farmland preservation agreement or transition area agreement entered in under W.S.A., § 91.14;

(2) An agreement entered in to under W.S.A., § 91.60(1).

Farmland preservation area shall mean an area that is planned primarily for agricultural use or agricultural-related use, or both, and that is one (1) of the following:

(1) Identified as an agricultural preservation area or transition area in a farmland preservation plan described in W.S.A., § 91.21(1);

(2) Identified under W.S.A., § 91.10(1)(d) in a farmland preservation plan described in W.S.A., § 91.12(2).

Farmland preservation plan shall mean a plan for the preservation of farmland in a county, including an agricultural preservation plan under W.S.A., subch. IV of ch. 91, 2007 Stats.

Farm residence shall mean any of the following structures that are located on a farm:

(1) A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:

a. An owner or operator of the farm;

b. A parent or child of an owner or operator of the farm;

c. An individual who earns more than 50 percent of his or her gross income from the farm.

(2) A migrant labor camp that is certified under W.S.A., § 103.92.

Livestock shall mean bovine animals, equine animals, goats, poultry, sheep swine, farm raised deer, farm-raised game birds, camelids, ratities, and farm-raised fish.

Non-farm residence shall mean a single-family or multi-family residence other than the farm residence.

Non-farm residential acreage shall mean the total number of acres of all parcels on which non-farm residences are located.

Owner shall mean a person who has ownership interest in land.

Prior nonconforming use shall mean a land use that does not conform with the farmland preservation zoning ordinance, but that existed lawfully before the farmland preservation zoning ordinance was enacted.

Protected farmland shall mean land that is located in the farmland preservation zoning district, is covered by a farmland preservation agreement, or is otherwise legally protected from non-agricultural development.
(Ord. No. 2014-87, 12-9-14)

Sec. 20-658. - Uses.

The following uses are permitted in the A-1 farmland preservation district:

(1) *Principal uses.* Apiculture, dairying; floriculture; forestry; grazing; greenhouses; hay; livestock raising except those listed in subsection 20-658(2); orchards; paddocks; pasturage; plant nurseries; poultry raising; raising of cash grain crops, mint, grass, seed crops, silage, tree fruits, nuts and berries, and vegetables; stables; truck farming; aqua farming; Christmas tree production; viticulture; a farm residence that is the only residential structure on the farm; nonfarm residences constructed in a cluster in accordance with W.S.A. § 91.46(1); undeveloped natural resource and open space areas; and enrolling land in a federal agricultural commodity payment program or federal or state agricultural land conservation payment program.

(2) *Conditional uses.* Animal hospitals; commercial egg production; commercial raising of animals, such as dogs, foxes, goats, mink, pigs and rabbits must meet W.S.A. § 91.01(1); condenseries; creameries; feed lots, grain elevators, commercial grain storage and seed operations, which operate exclusive of any farm operation; hatching or butchering of fowl, airports, airstrips and landing fields for farm or personal use only; worm farms; sod farming; one- and two-family non-farm residences and one- and two-family non-farm residential clusters and a second farm residence that is occupied either by an individual who earns more than fifty (50) percent of his or her income from the farm or a migrant labor camp that is certified under W.S.A., § 103.92. These residences are also subject to the restrictions found in subsection 20-1008(d); mobile service support structures. For additional restrictions see sections 20-1010, 20-1226, 20-1291, 20-1336, 20-1337, and 20-1338.

(3) Prior nonconforming uses subject to W.S.A., § 59.69(10).

a. A prior nonconforming use may not be expanded or modified.

b. The number and location of existing residences may limit conditional use permits for new residences.

(Ord. No. 2014-87, 12-9-14; Ord. No. 2015-90, 12-15-15)

Sec. 20-659. - Area and setback requirements.

The area requirements for the A-1 farmland preservation district are as follows:

(1)	Farm Residence Non-farm Residence(s)	Area	Must comply with all of the provisions of the A-2 general farming and residential district II. See sections 20-677 and 20-678.
(2)	Agricultural structures, such as barns, silos, shedsand storage bins	Height Maximum	Two (2) times the distance from the nearest lot line

(Ord. No. 2014-87, 12-9-14)

Secs. 20-660—20-675. - Reserved.

DIVISION 24. - A-2 GENERAL FARMING AND RESIDENTIAL DISTRICT II

Sec. 20-676. - Uses.

The following uses are permitted in the A-2 general farming and residential district II:

(1) *Principal uses.* All uses permitted in the A-1 farmland preservation district, plus one and two family dwellings, whether or not such dwellings are associated with farm operations. In the A-2 district, the principal structure shall be the residential structure intended to service the parcel on which such residence is located.

(2) *Conditional uses.* All conditional uses permitted in the A-1 farmland preservation district. See sections 20-1010, 20-1202, 20-1226, 20-1291, 20-1336, 220-1337 and 20-1338.

(Code 1975, § 7.037; Ord. No. 89-255, 2-27-90; Ord. No. 2011-61, 11-8-11; Ord. No. 2014-87, 12-9-14)

Sec. 20-677. - Area requirements.

The area requirements for the A-2 general farming and residential district II are as follows:

(1)	Lot	Width Minimum	150 feet
		Area Minimum	40,000 sq. feet per family plus such acreage as is required by antipollution regulations or ordinances
(2)	Buildings		
	Dwelling	Height Maximum	35 feet
	Residential accessory structures	Height Maximum	25 feet
	Agricultural structures, such as barns, silos, sheds and storage bins	Height Maximum	Two (2) times the distance from the nearest lot line

Sec. 20-678. - Yard setback requirements.

The minimum yard setback requirements in the A-2 general farming and residential district II are as follows:

(1) Shore ..... 75 feet
(2) Street ..... 75 feet
(3) Rear ... .. 25 feet
(4) Side ... .. 25 feet

(Code 1975, § 7.037; Ord. No. 91-264, pt. 3, 4-14-92)

Secs. 20-679—20-695. - Reserved.

DIVISION 25. - A-3 GENERAL FARMING DISTRICT III

Sec. 20-696. - Purpose.

The board of supervisors and village boards of supervisors adopting this chapter find that urbanization is taking place in certain areas of the county at a rapid pace, that scattered urbanization can greatly increase the public cost of installing public facilities, such as sewers and schools required to service such growth, and therefore that the public interest will be best served by channelling such development to suitable county areas only at such time as it is economically feasible to plan, budget and commit to construction of the necessary supporting public services and facilities. Consequently, some county areas of potential growth will be placed in so-called holding districts, A-3 general farming district III, where nonagricultural development will be deferred until the appropriate legislative bodies determine that it is economically feasible to provide public services and facilities for uses other than those permitted in the holding district. It is intended that the status of all holding districts will be reviewed by the county planning and development committee no less frequently than every five (5) years in order to determine whether, in light of the foregoing general standards, there should be a transfer of all or part of a holding district to some other use district. Any such review will consider the need for permitting other uses on such land, the nature of the use or uses to be permitted and the cost and availability of the public services and facilities which will be necessitated by such new uses or uses.

(Code 1975, § 7.037)

Sec. 20-697. - Uses.

The uses permitted in the A-3 general farming district III are as follows:

(1) *Principal uses.* All uses permitted in the A-1 farmland preservation district.

(2) *Conditional uses.* Same as in A-1 farmland preservation district.

(Code 1975, § 7.037; Ord. No. 2014-87, 12-9-14)

Sec. 20-698. - Area, yard requirements.

The lot, building and yard requirements in the A-3 general farming district III shall be the same as in the A-1 farmland preservation district.

Secs. 20-699—20-715. - Reserved.

DIVISION 26. - A-4 TRUCK FARMING DISTRICT

Sec. 20-716. - Uses.

The following uses are permitted in the A-4 truck farming district:

(1) *Principal uses.* Apiculture, floriculture, greenhouses, horticulture, nurseries, orchards, paddocks, raising of cash crops, raising of horses not to exceed three (3) head for each five (5) acres, truck farming, and viticulture, and farm dwellings for those resident owners actually engaged in a principal agricultural use. Residential dwellings for laborers actually engaged in a principal agricultural use are accessory uses to the farm operation but shall comply with all the provisions of the R-2 residential district. Existing dwellings not accessory to any farm operation or dwellings remaining after consolidation of neighboring farms are permitted but shall comply with all the provisions of the R-2 residential district. Not more than one (1) roadside stand on any one (1) farm shall be permitted as an accessory use.

(2) *Conditional uses.* See sections 20-1010, 20-1226, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.037; Ord. No. 2011-61, 11-8-11)

Sec. 20-717. - Area requirements.

The area requirements for the A-4 truck farming district are as follows:

(1)	Farm	Width	Minimum	300 feet
		Area	Minimum	10 acres
(2)	Structures	Height	Maximum	50 feet

Secs. 20-718—20-735. - Reserved.

DIVISION 27. - M-1 LIGHT INDUSTRIAL AND OFFICE DISTRICT

Sec. 20-736. - Uses.

(a) *Permitted uses.* The following uses are permitted in the M-1 light industrial and office district subject to approval by the planning and development committee as to location and operations:

(1) General or clerical offices.
(2) Professional offices.
(3) Research and testing laboratories.
(4) Schools and training centers.
(5) Cleaning, pressing and dyeing establishments.
(6) Commercial greenhouses.
(7) Wholesalers and distributors.
(8) Food locker plants.
(9) Light industrial plants such as required for production of millwork, machine tools, paper containers, patterns, die castings, light metal fabrication and similar small industries.

(b) *Conditional uses.* All structures and improvements for principal uses subject to the following general provisions. See sections 20-1010, 20-1226, 20-1291, 20-1336, and 20-1338.

(1) No merchandise shall be handled for sale or service rendered on the premises except such as are incidental or accessory to the principal permissible use of the premises, except for sales or service to industrial customers.

(2) All operations and activities of all uses within this district shall be conducted wholly inside a building or buildings.

(3) No continuous or intermittent noise from operations greater than the volume and range of noise emanating from vehicular traffic or its equivalent in noise shall be detectable at the boundary line of any residence district.
(4) No toxic matter, noxious matter, smoke or gas, and no odorous or particulate matter detectable beyond the lot lines shall be emitted.

(5) No vibrations shall be detectable beyond the lot lines.

(6) No glare or heat shall be detectable beyond the lot lines.

(7) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any residence district or into public streets or parks.

(8) The storage or use of chemicals, either solid, liquid or gas, shall be subject to the following conditions:

a. The storage, utilization, or manufacturing of materials or products ranging from incombustible to moderate burning is permitted.

b. The storage, utilization or manufacturing of materials or products ranging from free to active burning is permitted provided the following condition is met: Said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.

c. The manufacture of flammable materials which produce explosive vapors or gases is prohibited.

(Code 1975, § 7.038; Ord. No. 2011-61, 11-8-11)

Sec. 20-737. - Area requirements.

The area requirements for the M-1 light industrial and office district are as follows:

(1)	Building	Height	Maximum	35 feet
(2)	Accessory building	Height	Maximum	30 feet
(3)	Lot	Width	Minimum	150 feet
		Area	Minimum	As necessary to comply with all district regulations

(Code 1975, § 7.038)

Sec. 20-738. - Yard setback requirements.

The minimum yard setback requirements in the M-1 light industrial and office district are as follows:

(1)	Street	100 feet on all streets the opposite side of which lies in a more restrictive district in this or a neighboring municipality and 25 feet minimum on streets both sides of which lie within this or a less restrictive district (wherein there shall be no structure of any kind or parking of automobiles)
(2)	Side	25 feet minimum, except where property is adjacent to residential districts when it shall be not less than 100 feet. (Parking of automobiles permitted in offset, except where property is adjacent to a residential district, or public building area, no parking space or access driveway shall be closer than 75 feet to any residential district or public building area.)
(3)	Rear	25 feet
(4)	Shore	75 feet

(Code 1975, § 7.038)

Secs. 20-739—20-755. - Reserved.

DIVISION 28. - M-2 GENERAL INDUSTRIAL DISTRICT

Sec. 20-756. - Uses.

(a) *Permitted uses.* The following uses are permitted in the M-2 general industrial district subject to approval by the planning and development committee as to location and operations:

(1) All M-1 permitted uses.

(2) Manufacture, fabrication, packing, packaging, and assembly of products from furs, glass, leather, metals, paper, plaster, plastic, textiles and wood.

(3) Manufacture, fabrication, packing, packaging and assembly of confections; cosmetics; electrical appliances; electronic devices; foods except garbage, fish and fish products, meat and meat products, and pea vineries; instruments; jewelry; pharmaceuticals; tobacco and toiletries.

(4) Manufacturing and bottling of nonalcoholic beverages.

(5) Painting.

(6) Printing.

(7) Publishing.

(b) *Conditional uses.* All structures and improvements for principal permitted uses. See sections 20-1010, 20-1226, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340.

(Code 1975, § 7.038; Ord. No. 2011-61, 11-8-11)

Sec. 20-757. - Height requirements.

The maximum height of any building in the M-2 general industrial district is forty-five (45) feet.
(Code 1975, § 7.038)

Sec. 20-758. - Yard setback requirements.

The minimum yard setback requirements for the M-2 general industrial district are as follows:

(1)	Shore	75 feet
(2)	Street	50 feet
(3)	Rear	25 feet
(4)	Side	20 feet

(Code 1975, § 7.038)

Secs. 20-759—20-775. - Reserved.

DIVISION 29. - M-3 HEAVY INDUSTRIAL DISTRICT

Sec. 20-776. - Uses.

(a) *Permitted uses.* The following uses are permitted in the M-3 heavy industrial district subject to approval by the planning and development committee as to location and operation:

(1) All M-1 and M-2 uses.

(2) Manufacture and processing of abrasives, acetylene, acid, alkalies, ammonia, asbestos, asphalt, batteries, bedding, bleach, bone, cabbage, candle, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal tar, coffee, coke, cordage, creosote, dextrine, disinfectant, dye, excelsior, felt, fish, fuel, gelatin, glucose, gypsum, hair products, ice, ink, insecticide, lampblack, lime, lime products, linoleum, matches, meat, oil, cloth, paint, peas, perfume, pickle, plaster of paris, plastics, poison, polish, potash, pulp, pyroxylin, radium, rope, rubber, sausage, shoddy, size, starch, stove polish, textiles and varnish.

(3) Manufacturing, processing, and storage of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar and yeast.

(4) Manufacture and bottling of alcoholic beverages; bag cleaning; canneries; cold storage warehouses; electric and steam generating plants; electroplating; enameling; forges; foundries; garbage incinerators; lacquering; lithographing; offal, rubbish, or animal reduction; oil, coal, and bone distillation; refineries; road test facilities; slaughterhouses; smelting; stockyards; tanneries; and weaving provided such uses shall be at least six hundred (600) feet from residential and public and semipublic districts.

(5) Outside storage and manufacturing areas.

(6) Wrecking, junk, demolition, and scrap yards shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way and shall be at least six hundred (600) feet from residential, public and semipublic districts.

(7) Freight yards.

(8) Freight terminals and trans-shipment depots.

(9) Inside storage warehouses.

(10) Breweries.

(11) Crematories.

(b) *Conditional uses.* All structures and improvements for principal permitted uses. See sections 20-1010, 20-1226, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340.

(Code 1975, § 7.038; Ord. No. 2011-61, 11-8-11)

Sec. 20-777. - Height requirements.

The maximum height of any building in the M-3 heavy industrial district is sixty (60) feet.

(Code 1975, § 7.038)

Sec. 20-778. - Yard setback requirements.

The minimum yard setback requirements in the M-3 heavy industrial district are as follows:

(1)	Shore	75 feet
(2)	Street	50 feet
(3)	Rear	25 feet
(4)	Side	20 feet

(Code 1975, § 7.038)

Secs. 20-779—20-795. - Reserved.

Sec. 20-796. - Uses.

The following uses are permitted in the M-4 quarrying district:

(1) *Principal uses.* Mineral extraction operations and concrete and concrete products manufacturing that are presently in existence. The manufacture of concrete and concrete products, including concrete and asphalt batch plants, may occur on a parcel only during the duration of the on-site mineral extraction activity.

(2) *Conditional uses.* Extension of legally existing mineral extraction operations and manufacture of concrete and concrete products or the creation of new such extraction or manufacturing operations; utilities. The manufacture of concrete and concrete products, including concrete and asphalt batch plants, may occur on a parcel only during the duration of the on-site mineral extraction activity. See sections 20-1010, 20-1228, 20-1291, 20-1336, and 20-1338.

(Code 1975, § 7.038; Ord. No. 2000-251S, 8-28-01; Ord. No. 2011-61, 11-8-11)

Sec. 20-797. - Yard setback requirements.

(a) All excavations shall occur within the M-4 quarrying district and shall be at least two hundred (200) feet from any right-of-way or property line. All accessory uses such as offices, parking areas, and stockpiles shall be located within the M-4 district and shall be at least one hundred (100) feet from any right-of-way or property line.

(b) When a mineral extraction operation abuts another such operation, the two hundred (200) foot setback for each operation from their common lot line may be reduced to a zero lot line setback through planning and development committee approval of restoration plan(s) in order to establish a more reasonable restoration of such operations.

(Ord. No. 88-160, § 7.038, 1-10-89; Ord. No. 2000-251S, 8-28-01)

Sec. 20-798. - Height requirement.

The maximum height of any structure in the M-4 quarrying district shall be forty-five (45) feet. (Code 1975, § 7.038)

Secs. 20-799—20-815. - Reserved.

DIVISION 31. - RESERVED[7]

Footnotes:
--- (**7**) ---
Editor's note— Ord. No. 2011-131S, adopted April 10, 2012, repealed Div. 31, §§ 20-816—20-819, which pertained to the FW urban floodway district and derived from § 7.039 of the 1975 Code; Ord. No. 94-155, § 8, adopted Nov. 10, 1994; and Ord. No. 2055-155, adopted Jan. 10, 2006.

Secs. 20-816—20-835. - Reserved.

DIVISION 32. - RESERVED[8]

Footnotes:
--- (**8**) ---
Editor's note— Ord. No. 2011-131S, adopted April 10, 2012, repealed Div. 32, §§ 20-836—20-838, which pertained to the FCO urban floodplain conservancy overlay district and derived from § 7.039 of the 1975 Code and Ord. No. 94-155, § 9, adopted Nov. 10, 1994.

Secs. 20-836—20-855. - Reserved.

DIVISION 33. - RESERVED[9]

Footnotes:
--- (**9**) ---
Editor's note— Ord. No. 2011-131S, adopted April 10, 2012, repealed Div. 33, §§ 20-856—20-858, which pertained to the FFO urban floodplain fringe overlay district and derived from § 7.039 of the 1975 Code; and Ord. No. 94-155, §§ 8 and 10, adopted Nov. 10, 1994.

Secs. 20-856—20-875. - Reserved.

DIVISION 34. - RESERVED[10]

Footnotes:
--- (**10**) ---
Editor's note— Ord. No. 2011-131S, adopted April 10, 2012, repealed Div. 34, §§ 20-876—20-879, which pertained to the GFO general floodplain overlay district and derived from § 7.039 of the 1975 Code; Ord. No 86-86, § 7.039, adopted Aug. 26, 1986; and Ord. No 2005-155, adopted Jan. 10, 2006.

Secs. 20-876—20-895. - Reserved.

DIVISION 35. - APO AIRPORT PROTECTION OVERLAY DISTRICT

Sec. 20-896. - Purpose.

(a) The airport protection overlay district is intended to maintain the existing utility of any airport in the county and prevent further encroachment or obstruction of the airspace necessary for safe landing, takeoff and maneuvering of aircraft. It is intended to protect any airport that is open for use by the general public. It is hereby declared that obstructions to the airspace required for the safe landing, takeoff and maneuvering of aircraft and that land uses which interfere with the safe operation of aircraft, have the potential for endangering lives and the property of users of the county airports and of those who occupy land in their vicinity.

(b) It is therefore determined that the public safety and general welfare require the prohibition of hazardous land use and obstructions to the airspace necessary for safe air operations. So far as is practical, the provisions of this division regarding airport protection have been structured and modeled in accordance with Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace. The initial airport covered by the APO district is the Racine Commercial Airport, which has been designated by the federal aviation administration as an official reliever airport for General Mitchell Field and O'Hare International Airport in the category of general aviation.

(c) However, the protections and restrictions described herein and the principles upon which they are based are applicable to other local airports which may seek similar protections or restrictions.

(Code 1975, § 7.0310)

Sec. 20-897. - Prohibited uses.

(a) No use may be made of any lands within the airport protection overlay district which will result in or cause any of the following:

(1) Interference with navigational signals or radio communications between airport and aircraft;

(2) Make it difficult for pilots to distinguish between airport lights and others by maintaining lights which resemble airport marker or navigational lights or aids;

(3) Result in causing glare in the eyes of pilots using the airport;

(4) Impair visibility from aircraft using the airport;

(5) Create bird strike hazards by creating bodies of water which attracts birds; or

(6) Otherwise interfere with the landing, takeoff or maneuvering of aircraft using or intending to use the airport.

(b) Use of any land in the airport protection overlay district for solid waste disposal is prohibited.

(c) This section shall not be construed as prohibiting the tilling of soil in normal farming operations or the use of land for retention of stormwater for short periods not to exceed forty-eight (48) hours.

(Code 1975, § 7.026)

Sec. 20-898. - Protected surfaces.

The following surfaces in the APO airport protection overlay district shall be protected:

(1) *Primary surface.* A surface whose elevation at any point is the same as the elevation at the nearest point on a runway and whose horizontal projection is bounded as follows: Begin at a point on the Section line between Section 31, Township 4 North, Range 23 East and Section 6, Township 3 North, Range 23 East which is located S88°07′45″W 35.56 feet from the Southeast corner of said Section 31; run thence S35°25′36″W 329.76 feet; thence N54°34′24″W 1000.00 feet; thence N35°25′36″E 1899.83 feet; thence N48°11′17″W 1791.55 feet; thence N41°48′43″E 500.00 feet; thence S48°11′17″E 1735.60 feet; thence N35°25′36″E 3067.76 feet; thence S54°34′24″E 1000.00 feet; thence S35°25′36″W 3176.66 feet; thence S48°11′17″E 1667.09 feet; thence S41°48′43″W 500.00 feet; thence N48°11′17″W 1611.14 feet; thence S35°25′36″W 1458.16 feet to the point of beginning.

(2) *Approach Surface No. 04.* Commence at a point on the Section line between Section 31, Township 4 North, Range 23 East and Section 6, Township 3 North, Range 23 East, located S88°07′45″W 35.56 feet from the Southeast corner of said Section 31; run thence S35°25′36″W 329.76 feet to the point of beginning of this description at elevation 667.20; run thence S26°53′45″W 5157.06 feet to a point at elevation 817.20; thence S26°53′45″W 4954.82 feet to a point at elevation 817.20; thence N54°34′24″W 4000.00 feet to a point at elevation 817.20; thence N43°57′27″E 4954.82 feet to a point at elevation 817.20; continue thence N43°57′27″E 4954.82 feet to a point at elevation 817.20; continue thence N43°57′27″E 5157.06 feet to a point at elevation 667.20; thence S54°34′24″E 1000.00 feet to the point of beginning.

(3) *Approach Surface No. 14.* Commence at a point on the East line of Section 31, Township 4 North, Range 23 East, located N01°21′46″W 1953.40 feet from the Southeast corner of said Section 31; run thence N48°11′17″W 1649.11 feet to the point of beginning of this description at elevation 668.61; run thence N53°53′55″W 3768.70 feet to a point at elevation 818.61; continue thence N53°53′55″W 6281.17 feet to a point at elevation

818.61; thence N41°48′43″E 2500 feet to a point at elevation 818.61; thence S42°28′39″E 6281.17 feet to a point at elevation 818.61; continue thence S42°28′39″E 3768.70 feet to a point at elevation 668.61; thence S41°48′43″W 500.00 feet to the point of beginning.

(4) *Approach Surface No. 22.* Commence at a point on the North-South ¼ line of Section 32, Township 4 North, Range 23 East, located N01°05′11″W 1715.72 feet from the center of said Section 32; run thence N54°34′24″W 539.97 feet to the point of beginning of this description at elevation 665.25; run thence N28°18′06″E 5139.69 feet to a point at elevation 815.25; continue thence N28°18′06″E 4938.13 feet to a point at elevation 815.25; thence S54°35′24″E 3500.00 feet to a point at elevation 815.25; thence S42°33′06″W 4938.13 feet to a point at elevation 815.25; continue thence S42°33′06″W 5139.69 feet to a point at elevation 665.25; thence N54°34′24″W 1000.00 feet to the point of beginning.

(5) *Approach Surface No. 32.* Commence at a point on the North-South ¼ line of Section 32, Township 4 North, Range 23 East, located N00°47′06″W 194.51 feet from the South ¼ corner of said Section; run thence N53°53′55″W 361.46 feet to the point of beginning of this description at elevation 655.06; run thence S53°53′55″E 3768.70 feet to a point at elevation 805.06; continue thence 53°53′55″E 6281.17 feet to a point at elevation 805.06; thence S41°48′43″W 2500 feet to a point at elevation 805.06; thence N42°28′39″W 6281.17 feet to a point at elevation 805.06; continue thence N42°28′39″W 3768.70 feet to a point at elevation 655.06; thence N41°48′43″E 500.00 feet to the point of beginning.

(6) *Transition Surface "A."* Commence at a point on the Section line between Section 31, Township 4 North, Range 23 East and Section 6, Township 3 North, Range 23 East, located S88°07′45″W 35.56 feet from the Southeast corner of said Section 31; run thence S35°25′36″W 329.76 feet to the point of beginning of this description at elevation 667.20; run thence S26°53′45″W 5157.06 feet to a point at elevation 817.20; thence N38°37′31″E 5107.96 feet to a point at elevation 817.20; thence N35°25′36″E 613.87 feet to a point at elevation 809.48; thence S48°11′17″E 437.08 feet to a point at elevation 805.06; thence S58°23′32″E 3810.27 feet to a point at elevation 805.06; thence N42°28′39″W 3768.70 feet to a point at elevation 655.06; thence N48°11′17″W 1611.14 feet to a point on the primary surface; thence S35°25′36″W 1787.93 feet to the point of beginning.

(7) *Transition Surface "B."* Commence at a point on the East line of Section 31, Township 4 North, Range 23 East; located N01°21′46″W 1953.40 feet from the Southeast corner of said Section 31; run thence N48°11′17″ W 1649.11 feet to the point of beginning of this description at elevation 668.61; thence S48°11′17″E 1791.55 feet to a point on the primary surface; thence S35°25′36″W 1899.83 feet to a point at elevation 667.20; thence S43°57′27″W 5157.06 feet to a point at elevation 817.20; thence N32°13′41″E 5107.96 feet to a point at elevation 817.20; thence N35°25′36″E 960.78 feet to a point at elevation 817.96; thence N48°11′17″W 852.50 feet to a point at elevation 818.61; thence N37°59′03″W 3810.27 feet to a point at elevation 818.61; thence S53°53′55″E 3768.70 feet to the point of beginning.

(8) *Transition Surface "C."* Commence at a point on the East line of Section 31, Township 4 North, Range 23 East, located S01°21′26″E 24.73 feet from the East ¼ corner of said Section 31; run thence N48°11′17″W 1180.00 feet to the point of beginning of this description at elevation 668.61; run thence N42°28′39″W 3768.70 feet to a point at elevation 818.61; run thence S58°23′32″E 3810.27 feet to a point at elevation 818.61;

thence S48°11′17″E 561.54 feet to a point at elevation 818.02; thence N35°25′36″E 1893.70 feet to a point at elevation 815.25; thence N40°03′03″E 5116.65 feet to a point at elevation 815.25; thence S28°18′06″W 5139.69 feet to a point at elevation 665.25; thence S35°25′36″W 3067.76 feet to a point on the primary surface; thence N48°11′17″W 1735.60 feet to the point of beginning.

(9) *Transition Surface "D."* Commence at a point on the North-South ¼ line of Section 32, Township 4 North, Range 23 East located N00°47′06″W 194.51 feet from the South ¼ corner of said Section; run thence N53°53′55″W 361.46 feet to the point of beginning of this description at elevation 655.06; run thence N48°11′17″W 1667.09 feet to a point on the primary surface; thence N35°25′36″E 3179.66 feet to a point at elevation 665.25; thence N42°33′06″E 5139.69 feet to a point at elevation 815.25; thence S30°48′09″W 5116.65 feet to a point at elevation 815.25; thence S35°25′36″W 2240.61 feet to a point at elevation 807.15; thence S48°11′17″E 728.04 feet to a point at elevation 805.06; thence S37°59′03″E 3810.27 feet to a point at elevation 805.06; thence N53°53′55″W 3768.70 feet to the point of beginning.

(Code 1975, § 7.087; Ord. No. 97-156, 11-11-97)

Secs. 20-899—20-915. - Reserved.

DIVISION 36. - SSO STRUCTURAL SETBACK OVERLAY DISTRICT

Sec. 20-916. - Purpose.

The SSO structural overlay district is intended to be used to protect people and property from shore erosion damage in Lake Michigan shoreland areas which are recommended to be protected by properly designed, constructed and maintained shore protection structures.

Sec. 20-917. - Application.

The SSO structural overlay district applies to those Lake Michigan shoreline areas which are located south of the northern one-half of Township 4 North, Range 23 East, Section 8, in the Town of Caledonia and Mt. Pleasant. In addition, the SSO district applies to the northernmost one thousand three hundred (1,300) feet of Lake Michigan shoreline in Section 6 of the Town of Caledonia, Township 4 North, Range 23 East, which is covered by fly ash deposits. All new development within this overlay district shall be adequately protected by properly designed, constructed, and maintained shore protection structures or measures. Such structural protection structures or measures shall meet the criteria established in Recommendations of the Racine County Technical Subcommittee on Shoreland Development Standards to the Racine County Land Use Committee, 1982.

(Code 1975, § 7.0311)

Sec. 20-918. - Stable slope.

(a) In delineating the SSO structural setback overlay district, the required recession or regrading of the bluff needed to form a stable slope, plus a minimum facility setback distance, shall be computed. The provision of the stable slope provides protection against further major bluff recession, as long as the shore protective structures are effective. This

stable slope distance is measured from the existing bluff edge. The minimum facility setback distance is then measured from the edge of the regraded bluff needed to form a stable slope. The minimum facility setback distance provides a safety factor against possible failure of the protective structures during extreme storm events or other natural occurrences, and provides a buffer area which helps protect the regraded bluff edge from excessive surface water runoff and from the potential bluff instability which could be caused by the additional weight of buildings being placed close to the bluff edge. In addition, the minimum facility setback distance provides an area which may be effectively utilized to facilitate surface water and subsurface water drainage and control.

(b) The distance required to achieve a one (1) on two and one-half (2½) stable slope is set forth in Table 12, page 65, of SEWRPC Community Assistance Planning Report No. 86, A Lake Michigan Coastal Erosion Management Study for Racine County, Wisconsin, and shall be used to determine the stable slope distance. Minimum facility setback distances measured from the edge of the net stable slope distance shall be as follows:

(1) Two hundred (200) feet for all structures except public utilities, public recreational facilities and single-family residential units.

(2) One hundred (100) feet for public utilities, public recreational facilities, and single family residential units. The minimum setback distance may be reduced in areas of existing facility development to be at least the average distance from the edge of the net stable slope distance to adjacent principal structures located on abutting parcels (excluding public right-of-ways and easements), although the minimum setback distance shall not be less than fifty (50) feet from the edge of the net stable slope distance. If an abutting parcel is vacant, a setback of one hundred (100) feet will be assumed for purposes of averaging.

(Code 1975, § 7.0311; Ord. No. 2000-251S, 8-28-01)

Sec. 20-919. - Modification.

The calculated SSO structural setback overlay district distance may be modified upon submittal by an applicant or property owner of acceptable engineering analyses which indicated that the required distance for a stable slope is different than as defined in SEWRPC Community Assistance Planning Report No. 86, or that the height of the bluff is different than the assumed height.

(Code 1975, § 7.0311)

Sec. 20-920. - Permitted uses.

The following uses are permitted in the SSO structural setback overlay district:

(1) *Principal uses.* Surface and subsurface water drainage and control; general farming activities, not including the erection of structures; open space; outdoor recreation; yard; storage of portable equipment and supplies; accessory buildings such as storage sheds; and minor structures such as driveways, sidewalks, patios and fences.

(2) *Conditional uses.* Tree cutting and shrubbery clearing, land disturbance and earth movements, and shore protection structures. See section 20-1291.

(Code 1975, § 7.0311)

Sec. 20-921. - Structures prohibited.

New, permanent or relocatable residential, institutional, commercial, industrial, and agricultural structures designed for human habitation or the confinement of animals are prohibited in the SSO structural setback overlay district. (Code 1975, § 7.0311)

Secs. 20-922—20-940. - Reserved.

DIVISION 37. - NSO NONSTRUCTURAL SETBACK OVERLAY DISTRICT

Sec. 20-941. - Purpose.

The NSO nonstructural setback overlay district is intended to be used to protect people and property from shore erosion damage in Lake Michigan shoreland areas which are not protected by properly designed, constructed, and maintained shore protection structures.
(Code 1975, § 7.0311)

Sec. 20-942. - Application.

The NSO nonstructural setback overlay district applies to those Lake Michigan shoreline areas which are located north of the southern one-half of Township 4 North, Range 23 East, Section 8, Town of Caledonia, except for the northernmost one thousand three hundred (1,300) feet of Lake Michigan shoreline in Section 6 of the Town of Caledonia, which is covered by fly ash deposits.
(Code 1975, § 7.0311)

Sec. 20-943. - Stable slope.

(a) In delineating the NSO nonstructural setback overlay district, the expected bluff recession over a fifty-year period, plus the required recession, or regrading the bluff needed to form a stable slope, plus a minimum facility setback distance from the regraded bluff edge, shall be computed. The NSO district thus includes those Lake Michigan shoreland areas which, based on historical bluff recession rates, are expected to be lost due to bluff recession, and the formation of a stable slope, over a fifty-year period, plus a minimum facility setback distance.

(b) The distance required to achieve a one (1) on two and one-half (2½) stable slope is set forth in Table 12, page 65, of SEWRPC Community Assistance Planning Report No. 86, A Lake Michigan Coastal Erosion Management Study for Racine County, Wisconsin, and shall be used to determine the stable slope distance. Minimum facility setback distances measured from the edge of the net stable slope distance shall be as follows:

(1) Two hundred (200) feet for all structures except public utilities; public recreational facilities and single-family residential units.

(2) One hundred (100) feet for public utilities, public recreational facilities, and single-family residential units. The minimum setback distance shall be reduced in areas of existing facility development to the average distance from the regraded bluff edge to adjacent structures within one hundred (100) feet of the structure, although

the minimum setback distance shall not be less than fifty (50) feet from the edge of the net stable slope distance.

(Code 1975, § 7.0311)

Sec. 20-944. - Modifications.

The calculated NSO nonstructural setback overlay district distance may be modified upon submittal by an applicant or property owner of acceptable engineering analyses which indicate that the actual bluff recession rate is different than as set forth in SEWRPC Community Assistance Planning Report No. 86, that the required distance for a stable slope is different, or that the height of the bluff is different than the height presented in the report.

(Code 1975, § 7.0311)

Sec. 20-945. - Permitted uses.

The following uses are permitted in the NSO nonstructural setback overlay district:

(1) *Principal uses.* General farming activities, not including the erection of structures; open space, outdoor recreation; yard; storage of portable equipment and supplies; accessory buildings such as storage sheds; and minor structures such as driveways, sidewalks, patios and fences.

(2) *Conditional uses.* Tree cutting and shrubbery clearing, land disturbance and earth movements, shore protection structures, and the placement of structures or buildings which may be relocated at a cost not to exceed 30 percent of the equalized value of the structure. See section 20-1291 et seq. (Code 1975, § 7.0311)

(3)

Sec. 20-946. - Structures prohibited.

New, permanent residential, institutional, commercial, industrial and agricultural structures designed for human habitation or the confinement of animals are prohibited in the NSO nonstructural setback overlay district.

(Code 1975, § 7.0311)

Secs. 20-947—20-965. - Reserved.

DIVISION 38. - SWO SHORELAND-WETLAND OVERLAY DISTRICT[11]

Footnotes:

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Cross reference— Schedule of deposits for violation of the provisions in this division, § 5-3.

Sec. 20-966. - Purpose.

The SWO shoreland-wetland overlay district is intended to be used to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to

preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.
(Ord. No. 86-17, § 7.0311, 7-22-86)

Sec. 20-967. - Permitted uses.

The following uses are permitted in the SWO shoreland-wetland overlay district:

(1) *Principal uses.*

a. The following uses must be carried out without filling, flooding, draining, dredging, ditching, tiling or excavating; hiking, fishing, trapping, hunting, swimming and boating; the harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops; the practice of silviculture, including the planting, thinning and harvesting of timber; the pasturing of livestock; the cultivation of agricultural crops; and the construction and maintenance of duck blinds.

b. The following uses may involve filling, flooding, draining, dredging, ditching, tiling or excavating to the extent specifically provided below; temporary water level stabilization measures, in the practice of silviculture, which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected; dike and dam construction and ditching for the purpose of growing and harvesting cranberries; ditching, tiling, dredging, excavating or filling done to maintain or repair existing agricultural drainage systems only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use; limited excavating and filling necessary for the construction and maintenance of fences for the pasturing of livestock; limited excavating and filling necessary for the construction and maintenance of piers, docks and walkways built on pilings; limited excavating and filling necessary for the maintenance, repair, replacement and reconstruction of existing village and county highways; and the maintenance and repair of existing village and county bridges. A zoning permit is not required for the preceding uses.

(2) *Conditional uses.*

a. The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation, provided that:

1. The road cannot, as a practical matter, be located outside the wetland; and

2. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:

i. The road shall be designed and constructed as a single lane roadway with only such depth and width necessary to accommodate the machinery required to conduct agricultural and silvicultural activities;

ii. Road construction activities are to be carried out in the immediate area of the roadbed only; and

iii. Any filling, flooding, draining, dredging, ditching, tiling or excavating that is to be done must be necessary for the construction or maintenance of the road.

b. The construction and maintenance of nonresidential buildings used solely in conjunction with raising of waterfowl, minnows or other wetland or aquatic animals or used solely for some other purpose which is compatible with wetland preservation, if such building cannot as a practical matter be located outside the wetland, provided that:

1. Any such building does not exceed five hundred (500) square feet in floor area; and

2. Only limited excavating and filling necessary to provide structure support for the building is allowed.

c. The establishment and development of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur and animal farms, shooting preserves, public boat launching ramps and access roads used in conjunction with a public boat launching ramp, provided that:

1. Any private recreation or wildlife habitat area must be used exclusively for that purpose.

2. Filling and excavating necessary for the construction and maintenance of public boat launching ramps and access roads is allowed only where such construction meets the criteria listed for roads to service silvicultural activities.

3. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game bird and animal farms, fur animal farms, private wildlife habitat areas, and shooting preserves, but only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

4. Open space cannot contain buildings. Public use must meet W.S.A., § 91.46(5) and any private parks or shooting preserves must meet W.S.A., § 91.01(1).

d. The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities, by public

utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members, provided that:

1. The transmission and distribution lines and related facilities cannot as a practical matter be located outside the wetland; and

2. Any filling, excavating, ditching or draining that is to be done must be necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands, and

3. Utilities must meet W.S.A. § 91.46(1)(f).

e. The construction and maintenance of railroad lines, provided that:

1. The railroad lines cannot as a practical matter be located outside the wetland; and
2. Any filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetland; and the replacement and/or reconstruction of existing village and county bridges; and

3. Transportation Uses must meet W.S.A., § 91.46(4).

f. Such conditional uses may be approved under section 20-1181 or 20-1182.

(Ord. No. 86-17, § 7.0311, 7-22-86; Ord. No. 2015-90, 12-15-15)

Sec. 20-968. - Prohibited uses.

Any use that is not listed as a principal or conditional use is prohibited in the SWO shoreland-wetland overlay district, unless the wetland or a portion of the wetland has been rezoned by amendment of this chapter in accordance with W.S.A., § 59.97(5)(e), Chapter NR115, Wisconsin Administrative Code and section 20-167.
(Ord. No. 86-17, § 7.0311, 7-22-86)

Sec. 20-969. - Reserved.

DIVISION 39. - PUD PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

Sec. 20-970. - Purpose.

The PUD planned unit development overlay district, set forth in this division, is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning and diversified location of structures. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic, to provide attractive recreation and open spaces as integral parts of the developments, to enable economic design in the location of public and private

utilities and community facilities, and to ensure adequate standards of construction and planning. The PUD overlay district under this division will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements set forth in the underlying basic zoning district. The unified and planned development of a site in a single or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in W.S.A., ch. 703 (condominiums), may be permitted by the board of supervisors upon specific petition under this division and after public hearing, with such development encompassing one (1) or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this division have been met.
(Ord. No. 90-131, § 7.0313(A), 10-7-90)

Sec. 20-971. - Created.

So to ensure a maximum benefit to both the community and to developers and so as to provide for flexibility in planning in all the districts created under this division except for the A-1, A-2, A-3, A-4, R-1, R-2, P-1, P-2, C-1, M-4, FFO, APO, SSO, NSO and SWO districts, there is hereby created the planned unit development overlay district (PUD). Note: While PUDs may not consist entirely of wetlands or floodplains, portions of a development may contain such features. Any parcel where the building site lies in whole or in part within the primary environmental corridor shall not be considered for PUD until such time as the primary environmental corridor has been removed from the sites.
(Ord. No. 90-131, § 7.0313(B), 10-7-90; Ord. No. 2011-131S, 4-10-12

Sec. 20-972. - Principal, accessory and conditional uses.

Principal, accessory and conditional uses permitted in a planned unit development overlay district shall conform to uses permitted in the underlying basic use district. Individual structures shall comply with the specific building area and height requirements of the underlying basic use district. All open space and parking requirements of the underlying basic use district shall be complied with either individually or by providing the combined open space and parking space required for the entire development in one (1) or more locations within the development.
(Ord. No. 90-131, § 7.0313(C), 10-7-90)

Sec. 20-973. - Ownership.

Areas designated as PUD overlay districts shall be under single or corporate ownership at the time of their creation.
(Ord. No. 90-131, § 7.0313(D), 10-7-90)

Sec. 20-974. - Minimum area requirements.

Areas designed as PUD overlay districts shall contain a minimum development area of:

Principal uses	Minimum area of PUD (acres)	Minimum frontage (feet)
Residential planned unit development	10	450
Commercial planned unit development	10	450
Industrial planned unit development	40	450

(Ord. No. 90-131, § 7.0313(E), 10-7-90)

Sec. 20-975. - Minimum sanitary sewer requirements.

All planned unit developments shall be on a public sanitary sewer system.
(Ord. No. 90-131, § 7.0313(F), 10-7-90)

Sec. 20-976. - Prepetition conference and general layout conceptional plan.

Prior to the official submission of the petition for the approval of a planned unit development overlay district, the owner or his agent making such petition shall meet at the county planning and development office and the designated representative of the village wherein the planned unit development is to be located to discuss the scope and proposed nature of the contemplated development and data and other information as deemed appropriate and pertinent for presentation to the committee. At the prepetition conference, the owner or agent shall present a general layout conceptional plan including drawings and sketches of the proposed development and figures or calculations that are pertinent to the development using as a general guideline the requirements set forth in section 20-977(2). (Ord. No. 90-131, § 7.0313(G), 10-7-90)

Sec. 20-977. - Petition.

Following the prepetition conference, the owner or his agent may file a petition with the planning and development office for approval of a planned unit development overlay district. Such petition shall be accompanied by the required review fee as well as the following information:

(1) A statement which sets forth the relationship of the proposed planned unit development to any existing or proposed master plans or any adopted component thereof, and the general character of the uses to be included in the proposed planned unit development including the following information:

a. Total area to be included in the planned unit development, area of open space (minimum required is twenty (20) percent of total area), residential density computations, proposed number of dwelling units, population analysis, availability of, or requirements for, municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.

b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features of common open spaces.

c. A general outline of the organizational structure of a property owner's association which may be proposed to be established for the purpose of providing any necessary private services or maintenance of common open spaces.

d. Any proposed departures from the standards of development as set forth in the county zoning regulations, other county regulations or administrative rules, or other county or village ordinances.

e. The expected date of commencement, schedule of development by phases, and completion of physical development as set forth in the proposal.

(2) A detailed development site plan including:

a. A survey and legal description of the boundaries of the subject property included in the proposed planned unit development and its relationship to surrounding properties prepared by a land surveyor registered by the state.

b. The location of public and private roads, driveways, and parking facilities.

c. The size, arrangement, and location of any individual building sites and proposed building groups on each individual site.

d. The location of institutional, recreational, and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.

e. The type, size, and location of all structures.

f. General landscape treatment.

g. Architectural plans, elevation, and perspective drawings and sketches illustrating the design and character of the proposed structures.

h. The existing and proposed location of public sanitary sewer and water supply facilities.

i. The existing and proposed location of all private utilities or other easements.

j. The characteristics of soils related to contemplated specific uses.

k. Existing topography on the site with contours at no greater than two-foot intervals.

l. Detailed stormwater drainage plans prepared by a professional engineer registered by the state.

m. Anticipated uses of adjoining lands in regard to roads, surface water drainage, and compatibility with existing adjacent land uses.

n. Any other data or information requested at the prepetition conference.

Sec. 20-978. - Referral to village board and planning and development committee.

The petition and detailed site plan for a planned unit development overlay district shall be referred to the village board of the village wherein the proposed planned unit development is to be located for its review and recommendation, which may include any additional conditions or restrictions which it may deem necessary or appropriate. Following such review, the petition and recommendation shall be forwarded to the county planning and development committee for similar review and recommendations.
(Ord. No. 90-131, § 7.0313(I), 10-7-90)

Sec. 20-979. - Public hearing.

The planning and development committee before formulating its recommendations to the board of supervisors shall hold a public hearing pursuant to the requirements of section 20-144. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested planned unit development overlay district.
(Ord. No. 90-131, § 7.0313(J), 10-7-90)

Sec. 20-980. - Basis for petition approval.

The planning and development committee in making its recommendation to the board of supervisors and the board of supervisors in making its determination shall find that:

(1) The petitioners for the proposed planned unit development overlay district have indicated that they intend to begin the physical development of the planned unit development within twelve (12) months following the approval of the petition and the development will be carried out according to a reasonable construction schedule satisfactory to the county.

(2) The proposed planned unit development overlay district is consistent in all respects to the purpose of this section and to the spirit and intent of this division, is in conformity with any existing or proposed adopted master plans or any adopted components thereof, and that the development would not be contrary to the general welfare and economic prosperity of the community.

(3) The planning and development committee in making its recommendations and the board of supervisors in making its determination shall further find that:

a. The proposed site is provided with adequate drainage facilities for surface waters and stormwaters.

b. The proposed site is accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.

c. No undue constraint or burden will be imposed on public services and facilities, such as, but not limited to, fire and police protection, street maintenance, and maintenance of public areas by the proposed development.

d. The streets and driveways on the site of the proposed development are adequate to serve the proposed development and to meet the minimum standards of all applicable ordinances or administrative regulations of the county or village, whichever is more restrictive.

e. Centralized public sewer facilities are provided; centralized public water is desired.

f. The entire tract or parcel of land to be included in a planned unit development overlay district is held under single ownership, or, if there is more than one (1) owner, the petition for such planned unit development overlay district is considered as one (1) tract, lot or parcel and the legal description defines such planned unit development as a single parcel, lot or tract and is jointly petitioned by the several owners. This requirement shall not be deemed to prevent further divisions of the land after creation of the planned unit development.

(4) That in the case of a proposed residential planned unit development overlay district:

a. Such development creates an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreational space, and coordination with overall plans for the county and the village wherein the planned unit development is to be located.

b. The following table has been used and complied with for the following districts in determining the density of a development or site. In no case shall the density of a development or site exceed the net residential density of its neighborhood based on the regional plan or county plan.

Zoning district	Maximum gross density (dwelling units/acre)	Average net area per dwelling unit (sq. ft.)
R-2S	0.9	40,000
R-3	1.8	20,000
R-3A	2.7	13,500
R-4	3.6	10,000
R-5	5.0	7,200
R-5A	3.6	10,000
R-6	7.3	5,000
R-7*	12.1	3,000 Zoning district
R-7**	14.5	2,500
R-7***	18.1	2,000

*Two (2) or more bedrooms per unit.
**One-bedroom units.
***Efficiency units.

c. The residential planned unit development project is limited to development types set forth as follows:

1. Cluster developments and detached condominiums are permitted in the R-2S, R-3 and R-3A districts.

2. Cluster developments, attached single-family dwellings, townhouses, and condominiums are permitted in the R-4, R-5, R-5A and R-6 districts but shall not exceed two (2) dwelling units per structure.

3. Cluster developments, townhouses, and condominiums are permitted in the R-7 district. The number of units per structure and the precise location of any such buildings shall be determined by the village and the county on a site specific basis.

d. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.

e. Provision has been made for adequate, continuing fire and police protection.

f. The population composition of the development will not have an adverse effect upon the individual village's capacity to provide needed school or other municipal service facilities.

g. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation and maintenance or by dedication to the public.

(5) That in the case of a proposed commercial planned unit development overlay district:

a. The economic practicality of the proposed development can be justified.

b. The proposed development will be adequately served by off-street parking and truck service facilities.

c. The proposed development is adequately provided with and does not impose any undue burden on public services and facilities such as fire and police protection, street maintenance, and maintenance of public areas.

d. The location for entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.

e. The architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood or area.

(6) That in the case of a proposed industrial planned unit development overlay district:

a. The operational character, physical plant arrangement, and architectural design of buildings will be compatible with the latest in performance standards and industrial development design and will not result in adverse effects upon the property values of the surrounding neighborhood.

b. The proposed development will be adequately provided with and will not impose any undue burden on public services and facilities, such as but not limited to fire and police protection, street maintenance, and maintenance of public areas.

c. The proposed development will include adequate provisions for off-street parking and truck service areas and will be adequately served by rail and/or arterial highway facilities.

d. The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

(Ord. No. 90-131, § 7.0313(K), 10-7-90)

Sec. 20-981. - Determination.

The board of supervisors, after due consideration, may deny the petition, approve the petition as submitted, or approve the petition subject to additional conditions and restrictions. The approval of a planned unit development overlay district shall be based upon and include as conditions thereto adherence to the building, site, and operational plans for the development as approved by the board of supervisors. The above described conditions shall be recorded with the deeds to the parcels.

(Ord. No. 90-131, § 7.0313(L), 10-7-90)

Sec. 20-982. - Changes and additions.

Any subsequent change or addition to the plans or uses shall first be submitted for approval to the designated village board and the planning and development committee and, if in the opinion of either, such change or addition constitutes a substantial alteration of the original plan, a public hearing before the planning and development committee shall be required and notice thereof shall be given pursuant to the provisions of section 20-144, and the proposed alterations shall be submitted to the board of supervisors for approval. Any change in ownership, contractor, or other responsible party during the course of construction shall only be made with the full knowledge of the board of supervisors.

(Ord. No. 90-131, § 7.0313(M), 10-7-90)

Sec. 20-983. - Subsequent land division.

The division of any land within a planned unit development overlay district for the purpose of change or conveyance of ownership shall be accomplished pursuant to the land division regulations of the county and the individual village. (Ord. No. 90-131, § 7.0313(N), 10-7-90)

Sec. 20-984. - Failure to begin development.

If no substantial construction has commenced or no use established in the planned unit development district within the time schedule which addresses construction commencement and construction completion submitted to the board of supervisors, the county planning and development office shall petition the board of supervisors for the purpose of rescinding the planned unit development overlay designation so as to allow the land in question to revert to its underlying zone. The procedures set forth in section 20-122, relating to the amendment of this chapter, shall be adhered to in its discretion and, for good cause, the board of supervisors may extend for a reasonable period of time, not to exceed one (1) year, the period for the beginning of construction or the establishment of a use. If the planned unit development overlay district is rescinded, the planning and development office shall remove the district from the official zoning map. Those zoning regulations applicable before the creation of the district shall then be in effect and no vested rights in the planned unit development overlay district shall be deemed to have accrued.

(Ord. No. 90-131, § 7.0313(O), 10-7-90)

Sec. 20-985. Failure to comply with the provisions of the planned unit development approval.

It shall be unlawful to construct, develop or use any structure or develop or use any land, water or air in violation of any provisions or conditions of a planned unit development approval or order of the planning and development committee regarding compliance with conditions of approval. In case of any violation, the board of supervisors, the corporation counsel, the planning and development director, the planning and development committee, any municipality, or any owner of real estate within the district affected who would be specifically damaged by such violation may institute appropriate legal action or proceedings to enjoin a violation of the conditions or provisions of planned unit development approval, or seek abatement or removal. In addition, those actions commenced on behalf of the county may seek a forfeiture or penalty as outlined elsewhere in this division.

(Ord. No. 90-131, § 7.0313(P), 10-7-90)

ARTICLE VII. - SUPPLEMENTARY DISTRICT REGULATIONS AND REQUIREMENTS[12]

Footnotes:
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Cross reference— Sign regulations, § 20-1356 et seq.

DIVISION 1. - GENERALLY

Sec. 20-986. - Site restrictions.

(a) No permit shall be issued and no land shall be used or structure erected where the land is held unsuitable for such use or structure by the planning and development committee by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this county.

(b) Pursuant to the county land division control ordinance, the county shall review all land divisions, including those in shoreland areas. In such review the following factors shall be considered, where applicable:

(1) Hazards to the health, safety or welfare of future residents.

(2) Proper relationship to adjoining areas.

(3) Public access to navigable waters, as required by law.

(4) Adequate storm drainage facilities.

(5) Conformity to state law and administrative code provisions.

(c) "Aesthetics" may only constitute grounds for prohibiting the use if such use will depreciate the value of property in the neighborhood or impose a visual effect upon neighbors or passersby which is clearly obnoxious to the prevailing taste of the community. The planning and development committee, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the planning and development committee may affirm, modify, or withdraw its determination of unsuitability.

(d) A minimum of thirty-three (33) feet of all lots shall abut upon a public street, or other means of access that was in existence prior to the original adoption of this ordinance and which has been approved by the village. All lots shall also have a minimum width at the street yard setback line as prescribed for the particular zoning district in which the lot is located. All principal structures shall be located on a lot; and only one (1) principal structure shall be located, erected, or moved onto a lot unless more are allowed and regulated by conditional use permit or site plan review.

(e) No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width. No zoning permit shall be issued for a lot which abuts upon the termination of a non-through-public street unless such street has been or is to be provided with a permanent cul-de-sac or other type of permanent turnaround as determined by the village board of the village in which such lot is located.

(f) Widths and area of all lots not served by a public sanitary sewer system or other sewage disposal system approved by that state agency having jurisdiction over the approval or

disapproval of such system shall be sufficient to permit the use of a private on-site wastewater treatment system (POWTS) designed in accordance with applicable state and county sanitary regulations but in no case shall be less than one hundred fifty (150) feet in width and forty thousand (40,000) square feet in area unless said lot width and area has been approved by the economic development and land use planning committee through the land division or conditional use process.

(g) When there is a reasonable likelihood that unsewered lots will be sewered within ten (10) years and that the required frontage thereafter will be seventy-five (75) feet, the planning and development committee or subdivider may cause dotted lines to be drawn across the center of the lots applicable on plat and zoning maps so as to notify prospective purchasers of that possibility.

(h) Within the APO airport protection overlay district, no structure shall be erected, altered or maintained, nor shall any mobile object be operated, nor shall any vegetation be allowed to grow if such structures, object or vegetation penetrates or intrudes upon any of the protected surfaces defined in section 20-898, except that nothing in this section shall be construed as prohibiting the construction, alteration or maintenance of any structure or the growth of any tree up to a height of fifty (50) feet above the ground surface at its base; or prohibiting the construction, alteration or maintenance of structures necessary to the operation of the airport. Trees shall be trimmed to a height of five (5) feet below the elevation of the protected surface to provide a reasonable interval of clearance between the time of trimming and the time when the vegetation again grows to a height which invades the protected surface.

(Code 1975, § 7.025; Ord. No. 86-17, § 7.025, 7-22-86; Ord. No. 2000-251S, 8-28-01; Ord. No. 2007-28, 6-26-07)

Sec. 20-987. - Sanitary regulations.

Where public water supply systems are not available, private well construction shall be required to conform to ch. NR112, Wisconsin Administrative Code. Where a public sewage collection and treatment system is not available, design and construction of private sewage disposal systems shall be governed by chapter 19 adopted by the county pursuant to W.S.A., § 59.065. No private waste disposal systems or parts thereof shall be located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered or their use changed without full compliance with chapter 19. A zoning permit for a principal structure or an addition thereto may not be issued until evidence of such compliance is provided to the zoning administrator. (Code 1975, § 7.027; Ord. No. 86-17, § 7.027, 7-22-86)

Secs. 20-988—20-1005. - Reserved.

DIVISION 2. - USES[13]

Footnotes:
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Cross reference— Schedule of deposits for violation of the provisions in this section, § 5-3.

Sec. 20-1006. - Application.

The use restrictions and regulations set forth in this division shall apply throughout the county. (Code 1975, § 7.026)

Sec. 20-1007. - Principal uses.

Only those principal uses specified for a district, their essential services, and the following uses on the conditions specified in this division shall be permitted in that district. (Code 1975, § 7.026)

Sec. 20-1008. - Accessory uses and structures.

(a) Accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction, except as provided in subsection (b) below.

(b) Subject to approval by the Village Board, accessory structures may be permitted in the agricultural districts prior to the presence of the principal structure provided that the parcel on which the accessory structure will be located is ten (10) contiguous acres in size or larger, the accessory structure is intended for an agricultural use, the proposed accessory structure meets the setback requirements needed for a principal structure in that district, and the accessory structure is at least one hundred (100) feet from any existing residence on abutting parcels. As part of the approval process, the Village Board may impose reasonable conditions on the above-described use.

(c) Accessory uses may include, but are not limited to, incidental repairs; incidental storage; parking areas; private swimming pools; private emergency shelters; and gardening. Examples of accessory structures (regardless of whether attached to a foundation) are barns, detached garages, playhouses, sheds, private greenhouses, gazebos, storage buildings, boathouses, wind energy facilities, swimming pool pump houses.

(d) Servant's and itinerant agricultural laborer's quarters not for rent may be considered accessory uses, subject to conditional use approval. In areas not served by public sanitary sewer, any added quarters must have private onsite wastewater treatment system (POWTS) sanitary approval prior to zoning permit issuance. These uses will also require a recorded deed restriction at the time of the filing of the zoning permit application indicating that the proposed use is associated with the principal use on the property, that the quarters are not for rent, that quarters are limited in area to the lesser of eight hundred (800) square feet or fifty (50) percent of the habitable floor area of the main residence, and that the structure with this use will be utilized as a single housekeeping entity and not as a multi-family dwelling. In addition, a detached accessory structure used for the above quarters must be located on the same property as the principal structure/use and comply with accessory structure setbacks, but in no case may be less than twenty-five (25) feet from a lot line. In the A-1 district all servant's and itinerant agricultural labor's quarters must qualify under W.S.A., § 91.01(19).

(e) In-law suites (herein "suite") may be allowed as an accessory use to a single-family residence located in the R-1, R-2, R-2S, R-3, R-3A, R-4, R-5, R-5A, A-1, A-2 and C-2 zoning districts, subject to the following:

(1) Up to two (2) family members related by blood or marriage to the family occupying the principal structure may reside in the suite and must be allowed unrestricted access to the common areas of the dwelling.

(2) The suite shall not have separate gas, water, and/or electric meters (more than one (1) meter per utility would constitute a multi-family dwelling unit, which is prohibited).

(3) The suite shall not be located in any detached accessory structure.

(4) The gross floor area of the suite shall not exceed eight hundred (800) square feet (not including areas for common utilities such as water heater, furnace, etc.).

(5) The suite shall be connected to the main heated living area of the dwelling by way of common walls (the suite shall not be connected to the dwelling by a breezeway, garage, or corridor as this would constitute a multi-family dwelling unit and that is prohibited). A code-compliant suite may be located above a garage that is attached in its entirety to a single-family residence.

(6) There shall be only one (1) address and one (1) mailbox for the lot containing the residence and suite.

(7) The suite addition shall be constructed so as to be compatible and in harmony in terms of architecture, color, materials and texture with the exterior of the principal residence.

(8) In areas not served by public sanitary sewer, any suite that is added onto or created within an existing residence must have private onsite wastewater treatment system (POWTS) sanitary approval prior to zoning permit issuance.

(9) The suite shall have its principal means of access to the outdoors from the main dwelling unit via said dwelling unit's main exterior doorways (a sole segregated doorway from the suite to the outdoors would constitute a multi-family dwelling unit and that is prohibited).

(10) The suite may have up to one (1) bedroom, kitchenette, and bathroom, along with a sitting room or parlor.

(11) There may be no more than one (1) suite addition within or attached to a single-family residence.

(12) Evidence of a recorded deed restriction will be required at the time of the filing of the zoning permit application that establishes that persons within the home are required to be living together in the dwelling as a single housekeeping entity, that the living area shall not be utilized as a two-family dwelling, and that the suite will be in compliance with subsection 20-1008(e).

(f) "A", "C-2" and "R" district residential accessory uses and structures shall not involve the conduct of any business, trade, or industry, except if allowed as a principal or conditional use, and as allowed in section 20-1015 for storage of home occupation materials, which may not exceed two hundred (200) square feet of storage area for the home occupation.

A greater storage area of home occupation materials may be approved in association with conditional use approval in the A-2 zoning district if granted by the Economic Development and Land Use Planning Committee.

Sec. 20-1009. - Parking.

(a) Parking of vehicles accessory to a residential use shall be limited to those actually used by the residents or for temporary parking for guests. Vans or pickup trucks used for private and recreational use, or a motor home (recreational vehicle), or a van or pickup truck used in a business or trade and commercial vehicle per subsection (b) used for transportation to and from a place of employment or workplace of the occupant may be parked on a residential property.

(b) One (1) commercial vehicle of not over one-ton rated capacity may be parked per residential dwelling unit, providing all of the following conditions are met: vehicle is registered and licensed; used by a resident of the premises; gross weight does not exceed ten thousand (10,000) pounds, including any load; height does not exceed nine (9) feet as measured from ground level, excluding antennas, air vents, and roof-mounted air conditioning units, but including any load, bed, or box; and total vehicle length does not exceed twenty-six (26) feet, including attachments thereto (such as plows, trailers, etc.).

(c) Recreational vehicles shall be parked in the rear or side yards only or in compliance with same setbacks allowed for accessory structures in subsections 20-1115(b)(1), (b)(2), and (b)(3). Recreational vehicles must maintain a minimum of a six-foot setback from the rear and side lot lines but are not restricted to a minimum setback to the principal structure. For the purpose of this section, recreational vehicles shall include boats and trailers, snowmobiles and their trailers, minibikes or trailbikes and their trailers, and unoccupied tent campers and travel trailers, all-terrain vehicles and personal watercraft and their trailers.

(d) No other vehicular equipment of a commercial or industrial nature, except as stated above, shall be parked or stored for more than two (2) consecutive hours and four (4) accumulated hours during any twenty-four-hour period on any lot in any zoning district except business and industrial districts or as permitted by conditional use in the A-2 district (also see section 20-1226).

(e) Outdoor parking of semi-tractors/trailers on commercial property (B-district), that is not a principal use (e.g., truck sales), an accessory use (e.g., delivery vehicles), or which has not been approved through the conditional use or site plan review process is prohibited.

(f) Agricultural equipment (such as farm tractors, plows, farm plows, seeders, combines, cultivators, trucks owned and used by the farmer in the operation of the farm, etc.) used in a farm operation are permitted in all agricultural districts.

(Code 1975, § 7.026; Ord. No. 98-21, 6-9-98; Ord. No. 2005-69S, 9-13-05; Ord. No. 2011-61, 11-8-11)

Sec. 20-1010. - Conditional uses.

(a) Conditional uses and their accessory uses are considered as special uses which require approval and a public hearing if there is approval all in accordance with section 20-1141 et seq.

(b) Any development within five hundred (500) feet of an existing or mapped right-of-way of a freeway or expressway and within one thousand five hundred (1,500) feet of their existing or mapped centerline of interchange with any other road shall be deemed to be a conditional use. Any development within fifty (50) feet of any existing or mapped state trunk highway or county trunk highway and within one hundred fifty (150) feet of an existing or mapped centerline of intersection with any other road shall be deemed to be a conditional use. Such development shall be specifically reviewed in accordance with section 20-1141 et seq.

(c) Unless otherwise provided in the permit, a conditional use permit shall have an indeterminate duration provided that the use for which it was obtained has commenced as required by subsection 20-1141(c) and continues without abandonment as provided in subsection 20-1141(d) in accordance with its terms, and a conditional use permit shall be transferable with the land, provided that the use for which it was obtained does not change.

(Code 1975, § 7.026; Ord. No. 2005-69S, 9-13-05)

Sec. 20-1011. - Unclassified, unspecified uses.

Unclassified or unspecified uses may be permitted after the planning and development committee has made a review and recommendation provided that such uses are similar in character to the principal uses permitted in the district.

(Code 1975, § 7.026)

Sec. 20-1012. - Temporary uses.

Temporary uses are intended to allow occasional, temporary uses and activities when consistent with the overall purposes of this zoning ordinance and the uses allowed in a particular zoning district, and when the operation of the temporary use will not be detrimental to the public health, safety or general welfare. Because the nature, character or circumstances of temporary uses are unique and dependent upon specific conditions, specifying all temporary uses and associated standards, regulations or conditions necessary or appropriate for a temporary use to be granted is not practical. Therefore, all requested temporary uses shall require a conditional use permit as approved by the Village Board after a duly noticed public hearing before the Plan Commission and Village Board.

Sec. 20-1013. - Performance standards.

Performance standards listed in section 20-1061 et seq. shall be complied with by all uses in all districts.

(Code 1975, § 7.026)

Sec. 20-1014. - Ponds, impoundments, etc.

Ponds, impoundments and similar bodies are permitted in all zoning districts provided that:

(1) To the maximum extent possible, all excavated material shall remain on site and shall be integrated into the restoration of the pond area.

(2) Detailed plans (site plan, cross section, depth, area, location and disposition of spoils, timing) of the proposed pond excavation and restoration shall be submitted to the planning and development department for review and approval.

(3) A permit is required for such pond construction prior to any excavation.

(4) Except as discussed below, these provisions apply to all ponds, including, but not limited to, those utilized for the following purposes: drainage, recreation, aesthetics, sediment control, fish management. Stormwater ponds done by drainage districts according to district plans, ponds which have been previously reviewed and approved as part of an erosion control plan and existing ponds are exempt from such provisions.

(5) Borrow pits for public facility construction, such as for public roads, are subject to review and approval by the planning and development department.

(6) Ponds to be constructed in the shoreland or floodplain areas remain subject to the shoreland, wetland and/or floodplain provisions of this chapter which may limit such construction and will require a shoreland conditional use permit.

(7) Ponds should be constructed in conformance with the standards of the soil conservation service.

(8) If the excavated material from the project site is sold, given away, or is otherwise removed from the site in a manner in which the principal use appears to be soil removal, and pond construction appears to be a secondary result, the parcel shall be rezoned to M-4 quarrying district and a mineral extraction conditional use permit shall be obtained prior to any excavation or grading on the parcel.

(Code 1975, § 7.026; Ord. No. 89-255, 2-27-90; Ord. No. 2001-185, 1-22-02)

Sec. 20-1015. – Home-Based Businesses.

(a) Purpose and findings of this section:

(1) Establishes criteria for operators of home-based businesses in dwelling units within appropriate zoning districts;

(2) Permits and regulates the conduct of home-based businesses as an accessory use in a dwelling unit, whether owner- or renter-occupied;

(3) Ensures that such home-based businesses are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;

(4) Ensures that public and private services, such as streets, wastewater, water or storm water systems, are not burdened by the home-based businesses to the extent that usage exceeds that normally associated with residential use;

(5) Allows residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards, conditions and criteria;

(6) Enables the fair and consistent enforcement of these home-based business regulations; and

(7) Promotes and protects the public health, safety, and general welfare.

(b) This section applies to any occupation, profession, or business activity conducted entirely within a dwelling unit and carried on by a member of the family residing in the dwelling unit, and which occupation or profession is clearly incidental and subordinate to the use of the dwelling unit for residential purposes and does not change the character of the dwelling unit. A home-based business is an accessory use to a dwelling unit.

No home-based business, except as otherwise provided in this section, may be initiated, established, or maintained in the unit except in conformance with the regulations and performance standards set forth in this section.

(c) Types of home-based businesses. Three types of home-based businesses are defined and regulated under this section:

(1) Type A residential home-based businesses. Type A residential home-based businesses are those in which household residents use the dwelling unit they occupy as a place of work, but no employees come to the site, and customers or clients are by appointment only. **Type A residential home-based businesses do not require a permit or registration.**

a. Where allowed. Type A residential home-based businesses are permitted by right as an accessory use to a principal dwelling use. Type A residential home-based businesses are subject to the general regulations of this subsection.

b. Permitted and conditional uses. The home-based business regulations of this section establish regulations and standards for home-based work activities rather than limit the range of work activities to a specific list of occupations or business types. Type A home-based businesses that comply with all applicable regulations of this section are permitted by right unless otherwise expressly stated.

c. General regulations for Type A residential home-based businesses. All Type A residential home-based businesses are subject to the following general regulations:

1. All individuals engaged in a Type A residential home-based business must reside in the dwelling unit in which the residential

home-based business is located as their primary place of residence.

2. Residential home-based businesses must be accessory and secondary to the use of a dwelling unit for residential purposes. They may not change the character of the residential building they occupy or adversely affect the character of the surrounding neighborhood. Residential home-based businesses may not, for example, produce light, noise, vibration, odor, parking demand, or traffic impacts that are not typical of a residential neighborhood in Yorkville. Residential home-based businesses must be operated so as not to create or cause a nuisance.

3. Any tools or equipment used as part of a residential home-based business must be operated in a manner or sound-proofed so as not to be audible beyond the lot lines of the subject property.

4. External structural alterations or site improvements that change the residential character of the lot upon which a residential home-based business is located are prohibited. Examples of such prohibited alterations include construction of parking lots, the addition of commercial-like exterior lighting, or the addition of a separate building entrance that is visible from abutting streets.

5. Residential home-based businesses must be conducted entirely within the dwelling unit. Materials related to the home-based business must be stored entirely within the dwelling unit or an accessory structure.

6. No window display or other public display of any material or merchandise is allowed.

7. The use or storage of hazardous substances is prohibited, except at the "consumer commodity" level, as that term is defined in 49 CFR 171.8.

8. Only licensed automobiles, passenger vans and passenger trucks may be used in the conduct of a residential home-based business. No other types of vehicles may be parked or stored on the premises. This provision is not intended to prohibit deliveries and pickups by common carrier delivery vehicles (e.g., postal service, United Parcel Service, Fed Ex, Amazon, et al.) of the type typically used in residential neighborhoods.

9. No nonresident employees are allowed except for the purposes of student instruction, teaching or tutoring.

10. Up to four individual client or customer appointments are permitted at any one time. For the purposes of this subsection, each “client or customer” may be accompanied by his/her immediately family.

11. The area devoted to the conduct of all Type A residential home-based businesses present on the subject property is limited to 33% of the dwelling unit's floor area or 750 square feet, whichever is less.

12. The following uses are expressly prohibited as Type A residential home-based businesses:

i. Any type of assembly, cleaning, maintenance or repair of vehicles, equipment with internal combustion engines, or of large appliances.

ii. Dispatch centers or other businesses where employees come to the site and are dispatched to other locations.

iii. Equipment supply or equipment rental businesses.

iv. Eating or drinking places.

v. Funeral or interment services.

vi. Any use involving the use or storage of vehicles, products, parts, machinery or similar materials or equipment outside of a completely enclosed building.

(2) Type B residential home-based businesses. Type B residential home-based businesses are those in which household residents use the dwelling unit they occupy as a place of work and either one nonresident employee or more than 4 customers/clients come to the site at any one time. **Type B residential home-based businesses require a conditional use permit and registration.**

a. Where allowed. Type B residential home-based businesses may be approved as an accessory use to a principal dwelling use. Type B residential home-based businesses are subject to all applicable regulations of this subsection.

b. Permitted and conditional uses. The home-based business regulations of this section establish regulations and standards for home-based work activities rather than limit the range of work activities to a specific list of occupations or business types. **Conditional use permits approved as to Type B Home-based businesses may include conditions that vary from the provisions of this ordinance, depending on the unique characteristics of the home-based business under consideration, in accordance with the provisions governing the issuance of conditional use permits set forth in Chapter 55, Exhibit A, Chapter 20, Article VIII, Division 3.**

c. General regulations for Type B residential home-based businesses. All Type B residential home-based businesses are subject to the following general regulations:

1. Type B residential home-based businesses are allowed only if reviewed and approved in accordance with the conditional use procedures of Chapter 55, Exhibit A, Chapter 20, Article VIII, Division 3.

2. Residential home-based businesses must be accessory and secondary to the use of a dwelling unit for residential purposes. They may not change the character of the residential building they occupy or adversely affect the character of the surrounding neighborhood. Residential home-based businesses may not, for example, produce light, noise, vibration, odor, parking demand, or traffic impacts that are not typical of a residential neighborhood in Yorkville. Residential home-based businesses must be operated so as not to create or cause a nuisance.

3. One nonresident employee is allowed with a Type B residential home-based business. Residential home-based businesses that have more than 4 clients or customers coming to the site at any one time, may not have nonresident employees. For the purpose of this section, the term "nonresident employee" includes an employee, business partner, co-owner or any other person affiliated with the residential home-based business, who does not live at the site, but who visits the site as part of the residential home-based business.

4. Customer visits are allowed only between the hours of 7:00 a.m. and 7:00 p.m.

5. Any tools or equipment used as part of a residential home-based business must be operated in a manner or sound-proofed so as not to be audible beyond the lot lines of the subject property.

6. External structural alterations or site improvements that change the residential character of the lot upon which a residential home-based business is located are prohibited. Examples of such prohibited alterations include construction of parking lots, the addition of commercial-like exterior lighting, or the addition of a separate building entrance that is visible from abutting streets.

7. Residential home-based businesses must be conducted entirely within the dwelling unit. Materials related to the home-based business must be stored entirely within the dwelling unit or an accessory structure.

8. No window display or other public display of any material or merchandise is allowed.

9. The use or storage of hazardous substances is prohibited, except at the "consumer commodity" level, as that term is defined in 49 CFR 171.8.

10. Only licensed automobiles, passenger vans and passenger trucks may be used in the conduct of a residential home-based business. No other types of vehicles may be parked or stored on the premises. This provision is not intended to prohibit deliveries and pickups by common carrier delivery vehicles (e.g., postal service, United Parcel Service, Fed Ex, Amazon, et al.) of the type typically used in residential neighborhoods.

11. The area devoted to the conduct of all Type B residential home-based businesses present on the subject property is limited to 49% of the dwelling unit's floor area or 1,000 square feet, whichever is less.

12. As part of the conditional use process, renters will need to obtain written permission from the property owner to carry out Type B residential home-based businesses.

13. The following uses are expressly prohibited as Type B residential home-based businesses:

    i. Any type of assembly, cleaning, maintenance or repair of vehicles, equipment with internal combustion engines, or of large appliances.

    ii. Dispatch centers or other businesses where employees come to the site and are dispatched to other locations.

    iii. Equipment supply or equipment rental businesses.

    iv. Eating or drinking places.

    v. Funeral or interment services.

    vi. Any use involving the use or storage of vehicles, products, parts, machinery or similar materials or equipment outside of a completely enclosed building.

d. Home-Based Business Registry.

1. Intent and Purpose. The intent and purpose of the Home-Based Business Registry is to quicken response times to home-based businesses needing fire, rescue and/or law enforcement services, and to protect the health, safety, and welfare of residents and those frequenting home-based businesses.

2. Any person receiving a conditional use permit to conduct a Type B home-based business shall file with the village clerk a Home-Based Business Registration Form. The Home-Based Business Registration Form shall contain the following information:

    i. Business name and address

ii. Business owner and address

iii. Property owner name and address

iv. Hours of operation

v. Whether the business is continuous or seasonal

vi. Number of employees

vii. Estimated number of customers or clients per day

viii. Description of products sold and/or services provided

ix. Emergency contact information

x. Hazardous chemicals and/or substances kept on site

xi. Form of ownership (i.e., sole proprietorship, partnership, corporation, or limited liability company)

3. Changes and updates. The operator of a home-based business shall submit an updated Home-Based Business Registration Form if any information located on the form has changed or is no longer current.

(3) Rural home-based businesses. Rural home-based businesses are those that do not comply with the Type A or Type B residential home-based business regulations and in which household residents use the dwelling unit they occupy or an accessory building as a place of work. **Rural home-based businesses are permitted in the A-2 General Farming and Residential District II or A-3 General Farming District III and require a conditional use permit and registration**.

a. Where allowed. Rural home-based businesses may be approved as an accessory use to a principal dwelling use or accessory use to an agricultural use only in the A-2 General Farming and Residential District II or A-3 General Farming District III. Rural home-based businesses are subject to the supplemental regulations of Subsection (c) and all other applicable regulations of this section.

b. Permitted and conditional uses. The home-based business regulations of this section establish regulations and standards for home-based work activities rather than limit the range of work activities to a specific list of occupations or business types. **Conditional use permits approved as to Rural Home-Based Businesses may include conditions that vary from the provisions of this ordinance, depending on the unique characteristics of the home-based business under consideration, in accordance with the provisions governing the issuance of conditional use permits set forth in Chapter 55, Exhibit A, Chapter 20, Article VIII, Division 3.**

c. Supplemental regulations for rural home-based businesses.

1. Rural home-based businesses are allowed only if reviewed and approved in accordance with the conditional use procedures of Chapter 55, Exhibit A, Chapter 20, Article VIII, Division 3.

2. A maximum of three nonresident employees are allowed with a rural home-based business.

3. Customer visits are allowed only between the hours of 7:00 a.m. and 7:00 p.m.

4. Rural home-based businesses must be accessory and secondary to the use of a dwelling unit for residential purposes or accessory to any on-site agricultural use. They may not change the character of the property they occupy or adversely affect the character of the surrounding area. Rural home-based businesses may not, for example, produce light, noise, vibration, odor, parking demand, or traffic impacts that are not typical of a rural or semirural area in Yorkville. Rural home-based businesses must be operated so as not to create or cause a nuisance.

5. Rural home-based businesses may be conducted within the principal dwelling unit or within an accessory building.

6. Accessory buildings in which rural home-based businesses are conducted must be set back at least 150 feet from any offsite dwelling unit.

7. Any tools or equipment used as part of a rural home-based business must be operated in a manner or sound-proofed so as not to be audible beyond the lot lines of the subject property.

8. No window display or other public display of any material or merchandise is allowed.

9. The use or storage of hazardous substances is prohibited, except at the "consumer commodity" level, as that term is defined in 49 CFR 171.8.

10. As part of the conditional use process, renters will need to obtain written permission from the property owner to carry out the rural home-based business.

11. Roadside stands, as defined in Section 20-1, and permitted as an accessory use in agriculturally zoned districts, are not subject to any of the home-based business provisions set forth in this ordinance.

12. The following uses are expressly prohibited as rural home-based businesses:

i. Any type of motor vehicle repair, except where permitted pursuant to a conditional use permit as a rural home-based business under this ordinance.

ii. Any use involving the use or storage of vehicles, products, parts, machinery or similar materials or equipment outside of a completely enclosed building.

13. Home-based agricultural related businesses (HBARB) must comply with the following standards, as set forth in Section 20-1226 (15):

i. Allowed as a conditional use approval in all agricultural districts.

ii. The operator shall reside in a residence on the property.

iii. The operator shall grow the primary portion of materials or products sold onsite.

iv. The HBARB must be located on a parcel not less than five (5) acres in area.

v. Maximum two (2) persons other than members of the immediate family may be employed in the HBARB at any given time.

vi. Any signage associated with the HBARB must comply with Chapter 55 of this code and will require zoning permit approval.

vii. Any structure that is utilized at the subject site that is associated with any aspect of the HBARB must meet the principal structure setbacks for the zoning district.

viii. Any accessory building used in association with the HBARB shall be clearly incidental to the principal use.

ix. Retail sales of ancillary non-agricultural items is subject to detailed plan approval by the Plan Commission and Village Board.

x. Proper sanitation approval must be obtained in full compliance with state sanitation codes.

xi. The HBARB product must consist of farm commodities that are entirely, or the majority of which are, planted or produced on the farm premises, or are agriculturally related.

xii. Food shall not be served to patrons other than small sample of product produced by the HBARB.

xiii. Limited outside customer activity may occur on the premises in accordance with Village approval.

d. Home-Based Business Registry.

1. Intent and Purpose. The intent and purpose of the Home-Based Business Registry is to quicken response times to home-based businesses needing fire, rescue and/or law enforcement services, and to protect the health, safety, and welfare of residents and those frequenting home-based businesses.

2. Any person receiving a conditional use permit to conduct a rural home-based business shall file with the village clerk a Home-Based Business Registration Form. The Home-Based Business Registration Form shall contain the following information:

i. Business name and address

ii. Business owner and address

iii. Property owner name and address

iv. Hours of operation

v. Whether the business is continuous or seasonal

vi. Number of employees

vii. Estimated number of customers or clients per day

viii. Description of products sold and/or services provided

ix. Emergency contact information

x. Hazardous chemicals and/or substances kept on site

xi. Form of ownership (i.e., sole proprietorship, partnership, corporation, or limited liability company)

3. Changes and updates. The operator of a home-based business shall submit an updated Home-Based Business Registration Form if any information located on the form has changed or is no longer current.

e. Unsafe home-based businesses. If any home-based business has become dangerous or unsafe; presents a safety hazard to the public, pedestrians on public sidewalks, or motorists on a public right-of-way; or presents a safety hazard to adjacent or nearby properties, residents, or businesses, the Zoning Administrator, Building Inspector or Code Enforcement Officer shall issue an order to the dwelling owner and/or tenant on the property on which the home-based business is being undertaken, directing that the home-based business immediately be made safe or be terminated. The property owner and/or tenant shall take the necessary corrective steps or measures and notify the official who issued the order of the corrective

action taken. In the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period, the Village may take any and all available enforcement actions to render the home-based business and dwelling safe. Costs incurred by the Village if forced to take enforcement actions, shall be borne by the property owner and the failure to take corrective action shall be treated as a zoning violation.

Sec. 20-1016. - Pyramiding.

No pyramiding, as defined in section 20-1, shall be permitted on any lands fronting a public body of water except as may be specifically permitted accessory to a marina or resort or which may be allowed under the terms of a conditional use permit for a planned residential development or which may be approved as a part of a subdivision plat review.

Sec. 20-1017. - Reduction or joint use.

No lot, yard, parking area, building, area, or other space shall be reduced in area or dimension so as not to meet the provisions of this chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.
(Code 1975, § 7.029)

Sec. 20-1018. - Pet and animal regulations.

Except for the commercial raising, propagation, boarding, or butchering of animals or foul, which are conditional uses, any restriction of the number and type of animals and pets permitted within a particular district shall be the responsibility of the local village boards. This includes beekeeping in districts zoned residential.

In this section, commercial shall mean any activity conducted with the intent of realizing a profit from the sale of goods or services to others.
(Ord. No. 93-183, 1-11-94; Ord. No. 2016-52, 6-14-16)
Cross reference— Animals generally, Ch. 4.

Sec. 20-1019. - Community and other living arrangements.

In any district which allows single-family or two-family residences as a principal use, the following are permitted uses:

(1) Licensed community living arrangements which have a capacity for eight (8) or fewer persons, subject to the limitations set forth in W.S.A., § 59.97(15).

(2) Licensed family foster homes subject to the regulations set forth in W.S.A., § 48.62.

(3) Licensed family day care homes subject to the regulations set forth in W.S.A., § 48.65 and must meet W.S.A., § 91.01(1)(d).

(Ord. No. 93-183, 1-11-94; Ord. No. 2015-90, 12-15-15)

Sec. 20-1020. - Single family dwelling and two-family dwelling requirements.

No single family dwelling or two-family dwelling shall be erected or installed in any zoning district unless it meets all of the following:

(1) Is set on an enclosed foundation in accordance with W.S.A., § 70.043(1), which meets the standards set forth in Subchapters III, IV, and V of Chapter ILHR 21 Wis. Adm. Code, or is set on a comparable enclosed foundation system approved by the village building inspector. The building inspector may require a plan certified by a registered architect or registered professional engineer to be submitted in order to ascertain that a proposed comparable foundation system provides proper support for the structure.

(2) Is properly connected to utilities.

(3) For structures with multiple floors, the core area of living space measured at the ground floor shall be no less than one thousand (1,000) square feet per family in size.

(4) Regardless of the number of floors a structure is comprised of, the total core area of living space shall be at least fourteen hundred (1,400) square feet per family.

Subject to provisions (1)-(4) above, manufactured dwellings, manufactured homes, and modular homes that are installed in accordance with the manufacturer's instructions or a plan certified by a registered architect or engineer so as to insure proper support for the home, are permitted in any district where single family dwellings or two-family dwellings are shown as permitted or conditional uses.

(Ord. No. 94-235, 2-28-95; Ord. No. 96-116, 10-8-96)

Secs. 20-1021—20-1035. - Reserved.

DIVISION 3. - SHORELAND[14]

Footnotes:

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Cross reference— Schedule of deposits for violation of the provisions in this section, § 5-3.

State Law reference— Construction site erosion and storm water management zoning, W.S.A., § 59.974.

Sec. 20-1036. - Application.

(a) In addition to any other applicable use, site or sanitary regulation, the provisions of this division shall apply to shorelands within the county.

(b) With respect to the application of this division during such time period, if any, when any village in the county shall not have adopted this chapter and related zoning map, see section 20-8.

(Code 1975, § 7.028)

Sec. 20-1037. - Tree cutting, shrubbery clearing.

(a) Tree cutting and shrubbery clearing are prohibited except for home and park site development, access roads, customary trimming, dead tree removal, stream and drainage projects approved by the planning and development committee, and managed timber harvesting under a state district forester's plan within the following distances from high-water elevation:

(1) Lakes 50 acres or more in area ..... 300 feet
(2) Lakes less than 50 acres in area ..... 200 feet
(3) Navigable streams ..... 100 feet
(4) All other streams ..... 50 feet

(b) Within the Lake Michigan shoreland area, such tree cutting and shrubbery clearing, except for the permitted uses noted above, shall be prohibited within the SSO structural setback overlay district and the NSO nonstructural setback overlay district.

(Code 1975, § 7.028)

Sec. 20-1038. - Clearing requiring approval.

Site, road (except roads used primarily for agricultural purposes), path, and trail development and all other cutting and trimming within the shoreland area may be conditional uses requiring review, public hearing and approval by the planning and development committee or may be subject to review and approval by the zoning administrator in accordance with section 20-1141 et seq.

(Code 1975, § 7.028)

Sec. 20-1039. - Earth moving activities.

(a) Earth movements and soil disturbance activities such as grading, topsoil removal, filling, road cutting, construction, altering, or enlargement of waterways, removal of stream or lakebed material, excavation, channel clearing, ditching, dredging, lagooning, and soil and water conservation structures may be conditional uses requiring review, public hearing, and approval by the planning and development committee or may be subject to review and approval by the zoning administrator in accordance with section 20-1141 et seq., in addition to the permit required from the state agency having jurisdiction under W.S.A., §§ 30.11, 30.12, 30.19, 30.195, 30.20. Within the Lake Michigan shoreland area, the construction of new permanent residential, institutional, commercial, industrial, agricultural and transportation structures is prohibited within the SSO structural setback overlay district and the NSO nonstructural setback overlay district, section 20-916 et seq.

(b) In addition, only filling, grading, lagooning, dredging, ditching or excavating that is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat may be permitted in the shoreland area. Filling, grading, lagooning, dredging,

ditching or excavating in a SWO shoreland-wetland overlay district may be permitted only if the requirements of section 20-966 et seq. are met.

(c) A state or federal permit may be required, in addition to a permit under this chapter, if state or federal laws are applicable to the filling, grading, lagooning, dredging, ditching or excavating that is proposed.

(Code 1975, § 7.028; Ord. No. 86-17, § 7.028, 7-22-86)

Sec. 20-1040. - Residential uses.

All new, single-family residential parcels created in the shoreland area shall at the minimum meet either the standards of the R-5A urban residential district (III) in areas with public sanitary sewer or the standards of the R-2 suburban residential district (unsewered) in those areas without public sanitary sewer.

(Ord. No. 86-17, § 7.028, 7-22-86)

Sec. 20-1041. - Relocatable structures.

Within the NSO nonstructural setback overlay district, relocatable structures may be allowed as a conditional use provided that:

(1) The property extends sufficiently outside the NSO nonstructural setback overlay district so that the structure can be relocated outside the NSO district in the future; and

(2) The structure is certified by a professional building moving contractor as being relocatable at a cost not exceeding thirty (30) percent of the estimated equalized value of the structure.

This conditional use requires review, public hearing, and approval by the planning and development committee and approval by the zoning administrator in accordance with section 20-1141 et seq. Relocatable structures are not allowed as conditional uses within the SSO structural setback overlay district.

(Code 1975, § 7.028)

Sec. 20-1042. - Grazing, feeding, fertilizing restricted.

Grazing, livestock watering and feeding, and application of fertilizers shall be prohibited unless conducted in accordance with the county's conservation standards, as such standards are formulated and adopted by the planning and development committee.

(Code 1975, § 7.028)

Sec. 20-1043. - Approval for state permit.

Where W.S.A., §§ 30.18, 144.025(2) and 144.555, require a state permit for surface waters withdrawal, diversion or discharge for irrigation, processing, cooling or any other purpose, then such activities may be a conditional use requiring review, public hearing and approval by the planning and development committee or may be subject to review and approval by the zoning

administrator in accordance with section 20-1141 et seq. The planning and development committee shall advise the state agency having jurisdiction of the results of the public hearing or the zoning administrator's review and whether the conditional use was approved.
(Code 1975, § 7.028)

Sec. 20-1044. - Crop production on eroded lands.

(a) In order to help prevent and control further erosion and consequent sedimentation of the surface waters of the county, crop production on lands that are severely eroded is prohibited, and such lands shall be planted to permanent vegetation.

(b) For purposes of this section, all lands designated by the U.S. Soil Conservation Service as having an erosion factor of three (3) or more, as shown on the operational soil survey maps on file with the zoning administrator, shall be considered as being severely eroded. An erosion factor of three (3) means that three-fourths or more of the surface soil has been removed by erosion.

(Code 1975, § 7.028)

Sec. 20-1045. - No structure permitted within shoreland setback area.

Within the shore yard setback area in conformance with the regulations of the Wisconsin Department of Natural Resources, no structures are permitted. "Structures" includes fences, ice fishing shanties, accessory buildings other than boathouses, minor structures, and any retaining wall not approved by a site plan review/conditional use approval or approved by the Wisconsin Department of Natural Resources.
(Ord. No. 91-130, § 7-028, 11-5-91; Ord. No. 2011-61, 11-8-11)

Sec. 20-1046. - Mitigated shore yard structure.

Notwithstanding section 20-1045 above, special zoning permission shall be granted for the construction or placement of a structure on property in a shore yard setback area if all of the following apply:

(1) The part of a structure that is nearest to the water is located at least thirty-five (35) feet landward from the ordinary highwater mark.

(2) The total floor area of all of the structures in the shore yard setback area of the property will not exceed two hundred (200) square feet. In calculating this square footage, boathouses shall be excluded.

(3) The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.

(4) Once the location of the structure is approved by the county, a plan must be submitted by the applicant(s) for county approval. The plan must be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least seventy (70) percent of the half of the shore yard setback area that is nearest to the water. The plan shall contain the following information:

a. Location of mitigated structure.

b. Location of vegetative buffer.

c. Number, type and size of proposed native vegetation to be installed or identification of existing plant/materials to be maintained.

d. Installation schedule/deadline.

e. Erosion control measures.

f. Maintenance plan to replace dead/diseased vegetation.

g. Before and after photographs of vegetative buffer area.

h. Description of how the project is to be implemented.

(5) The structure meets the height and street, side and rear yard setback requirements for the zoning district in which it is located.

(6) The structure shall not be used for principal or accessory uses not allowed in the district.

(7) Such structure shall be colored in earth tones to decrease the visual intrusion near the natural shoreline.

For purposes of this section, special zoning permission includes, but is not limited to the following: shoreland contract, conditional use, special exception, special permit, zoning variance, conditional permit and words of similar intent.
(Ord. No. 2000-251S, 8-28-01)

Secs. 20-1047—20-1060. - Reserved.

DIVISION 4. - PERFORMANCE STANDARDS[15]

Footnotes:
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Cross reference— Schedule of deposits for violation of the provisions in this division, § 5-3.

Sec. 20-1061. - Compliance.

This chapter permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. All structures, lands, air and waters shall hereafter, in addition to their use, site and sanitary, floodland and shoreland regulations, comply with the following performance standards.
(Code 1975, § 7.091)

Sec. 20-1062. - Water quality protection.

No residential, commercial, industrial, institutional or recreational use shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid,

gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might run off, seep, percolate or wash or be harmful to human, animal, plant or aquatic life. This section shall not apply to uses other than those enumerated in it.
(Code 1975, § 7.092)

Sec. 20-1063. - Noise.

All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittance, duration, beat frequency, impulse character, periodic character or shrillness.
(Code 1975, § 7.093)

Sec. 20-1064. - Radioactivity and electrical disturbances.

No activity shall emit radioactivity or electrical disturbances so as to endanger the use of neighboring premises.
(Code 1975, § 7.094)

Sec. 20-1065. - Outdoor lighting.

(a) Purpose.

The outdoor lighting regulations of this article are primarily intended to advance the general purposes of this zoning ordinance and to:

(1) Provide adequate light for safety and security;

(2) Promote efficient and cost-effective lighting and to conserve energy;

(3) Reduce light pollution, light trespass, glare and offensive light sources;

(4) To help avoid unsafe and unpleasant conditions as the result of poorly designed or installed outdoor lighting; and

(5) To discourage excessive lighting.

(b) Applicability.

The outdoor lighting regulations of this article apply to all outdoor lighting installed after December 15, 2022, except that they do not apply to any of the following:

(1) Public street lights;

(2) Approved signs;

(3) Safety lights required by state or federal regulations;

(4) Spotlighting of official government flags, provided that such lighting consists of no more than one fully shielded spotlight light fixture placed as close to the base of the flagpole as reasonably possible;

(5) Outdoor lighting used exclusively for and during public recreational activities, sporting events at stadiums and ball fields or other outdoor public spaces or venues, provided such lighting is extinguished by 11:00 p.m.;

(6) Low-voltage (12 volt maximum), low-wattage ornamental landscape lighting fixtures, and solar operated light fixtures with self-contained rechargeable batteries, provided that any single light fixture does not exceed 100 lumens, based on the manufacturer's specifications.

(7) Soffit or wall-mounted luminaries that are permanently attached to buildings occupied by one or 2 dwelling units, provided that they are mounted below the eave and directed away from abutting residential uses.

(8) Outdoor lighting used for emergency equipment and work conducted in the interest of law enforcement or for public health, safety or welfare;

(9) Outdoor lighting in association with special events approved by the village; and

(10) Customary holiday lights displayed for no more than 30 days before or after the subject holiday.

(11) Temporary and/or mobile lighting from agricultural activities in an Agricultural District.

(c) Prohibited lighting.

The following light fixtures and sources are prohibited:

(1) Mercury vapor lamps;

(2) Low-pressure sodium lamps;

(3) Blinking, flashing, moving, revolving, flickering, changing intensity or color, and chase lighting;

(4) Any light fixture that may be confused with or construed as a traffic control device or emergency vehicle lights;

(5) Any upward oriented lighting except as otherwise expressly allowed in this article;

(6) Searchlights, beacons, and laser source light fixtures;

(7) Exposed linear lamps that include, without limitation, neon, Light Emitting Diode (LED), and fluorescent lighting, primarily intended as an architectural highlight to attract attention or used as a means of identification or advertisement;

(8) Any lamp or bulb, except for seasonal displays and landscape ornamental lighting, that is visible beyond the property line of the lot on which it is located; and

(9) Any lamp or bulb with a correlated color temperature (CCT) that exceeds 4,000 degrees Kelvin, based on the manufacturer's specifications.

(10) Any private light fixture that is placed in the public right of way or easement dedicated for use as a public right-of-way.

(d) Design standards.

(1) *Shielding*. All light sources must be concealed or fully shielded to minimize the potential for glare and unnecessary diffusion and light trespass onto adjacent property.

(2) *Fixture Height*. Freestanding lighting fixtures, including base, pole and luminaire, may not exceed the height limits of Table 1.

TABLE 1 – MAXIMUM FIXTURE HEIGHTS

Location	R Districts, C Districts, and P.U.D. with Underlying Residential	P Districts	All Other Districts
In Parking Lots	20 Feet	20 Feet, but 20 feet within 50 feet of R zoned lot	30 feet, but 20 feet within 50 feet of R district
In parking lots and outdoor storage areas 3 acres or larger	20 Feet		35 feet, but 20 feet within 50 feet of R district
All other areas	15 feet	20 feet	15 feet

(3) *Maximum light levels at lot lines*.

a. The maximum light level at any point on a lot line may not exceed 0.5 footcandles within or adjacent to a residential zoning district or 2.0 footcandles within all other zoning districts.

b. The maximum light level at any point on a lot line butting a public right-of-way may not exceed 1.2 footcandles.

c. Illumination measurements must be taken from the top of the fence or wall along the lot line or at a height of 4.5 feet above finished grade at the lot line if there is no fence or wall.

d. Lighting intensity regulations of this section do not apply to abutting properties under common ownership.

(4) *Minimum parking lot lighting*. A minimum of 0.5 foot-candle of illumination is required in all parking areas, including the parking surface and drive aisles.

(5) *Lights Adjacent to Residential Zoning Districts, Residential Uses, or Public Rights of Way.* Any light fixture located within 10 feet of an R-zoned, a lot occupied by a residential dwelling unit, or a public right-of-way must be:

a. Aimed away from such lots and rights-of-way; and

b. Shielded on the side closest to such lots and rights-of-way.

(6) *Building Mounted Lighting*. Building mounted security light fixtures such as wall packs may not project above the fascia or roof line of the building and must be full cut-off. Building mounted fixtures may not be substituted for parking area or walkway lighting and are restricted to use in loading areas, storage areas, service areas, and similar locations.

(7) *Canopy Lighting*. Lighting fixtures mounted under fueling station, automatic teller machine, and similar canopies must be aimed downward and installed so that the bottom of the light fixture or its lens, whichever is lower, is recessed or mounted flush with the bottom surface of the canopy. A full cutoff light fixture may project below the underside of a canopy. All light emitted by an under-canopy fixture must be substantially confined to the ground surface directly beneath the perimeter of the canopy. No lights are permitted on the top or sides of a canopy.

(8) *Architectural Lighting of Building Facades.* The lighting of a building facade for architectural, aesthetic, or decorative purposes is permitted subject to the following restrictions:

a. Building facade lighting must be fully shielded, fully confined from projecting into the sky by eaves, roofs, or overhangs, and mounted as flush to a wall as possible.

b. Building facade lighting must be fully contained within the vertical surface of the wall being illuminated.

(9) *Lighting for Security Purposes.* Motion detector security lights, which are normally "off' and which are activated "on" for less than 4 minutes occasionally when motion is detected, are exempt from the requirements of this ordinance, but are not exempt from the requirements of Sections (d) (1), (2), (3), and (6) of this ordinance.

(e) Light plans.

(1) *When Required.* Outdoor lighting plans must be included with all required site plans, or if no site plan is required, with building permit applications, provided that lighting plans are required for residential projects only when any single outdoor light fixture exceeds 2,600 lumens output, based on the manufacturer's specifications.

(2) *Required Information.* Lighting plans must include the following information:

a. Plans indicating the location, type, intensity, and height of luminaires including both building- and ground-mounted fixtures;

b. A description of the luminaires, including lamps, poles or other supports and shielding devices, which may be provided as catalogue illustrations from the manufacturer;

c. Photometric data, such as that furnished by the manufacturer, showing the angle of light emission and the foot-candles on the ground; and

d. Additional information as may be required by the zoning administrator in order to determine compliance with this article.

(f) Measure of illumination.

(1) Light levels expressed in terms of maximum foot-candles must be measured with a direct-reading, light meter.

(2) For the purpose of measuring footcandles along property lines, the light meter's sensor must be located at the top of any visual screening fence or wall along on the property line (or at a height of 4 feet above finished grade at the property line if there is no fence or wall), aimed towards the subject property in horizontal position. Readings must be recorded after the value has stabilized. Measurements are made after establishment of darkness, first with the light sources to be measured illuminated, and then with those light sources extinguished. The difference between these readings must then be compared to the maximum allowed illumination at the property line. In this way, contributions to light levels by the moon and other ambient light sources are eliminated and the light intensity from the subject light sources can be accurately determined.

(g) Definitions.

(1) The definitions of this section supplement the general definitions for the purpose of interpreting and administering the outdoor lighting regulations of this article.

a. Fixture. A complete lighting assembly (including the lamp, housing, reflectors, lenses, and shields), less the support assembly (pole or mounting bracket); a light fixture. Includes luminous tubes, lamps or similar devices, permanently installed or portable, used for illumination, decoration, or advertisement.

b. Footcandle. A quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square foot.

c. Fully Shielded (Full-Cutoff) Fixture. A light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane through the luminaire's lowest light-emitting part.

d. Glare. Intense or blinding light that is sufficiently brighter than the level to which the eyes are adapted, to cause visual discomfort, or loss of visual performance and ability.

e. Light Source. The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

f. Light Trespass. Light falling where it is not wanted or needed including spill light and obtrusive light.

g. Lumen. A quantitative unit measuring the amount of light emitted by a light source.

h. Kelvin. A measurement used to describe the color temperature of a light source. This is the specification that gives a description of the warmth or coolness of a light source. For instance, a 1000 kelvin light source will emit a dark, low intensity, orange light and a 5000 kelvin light source will emit a bright, high intensity, white light.

Sec. 20-1066. - Maintenance.

Any fence, wall, hedge, yard space or landscaped area required by this chapter or grant of variance or conditional use shall be kept free of an accumulation of refuse or debris. Plant materials must be well kept in a healthy, growing condition; and structures, such as walls and fences, shall be maintained in sound conditions, good repair and appearance at all times. (Ord. No. 86-86, § 7.096, 8-26-86)

Sec. 20-1067. - Odors.

No residential, commercial, industrial, institutional or recreational use shall emit an odor of such nature or quantity as to be offensive or unhealthful which is detectable at the lot line. The guide for determining odor measurement and control shall be Chapter NR 429 of the Wisconsin Administrative Code and amendments thereto.
(Ord. No. 93-3, 5-11-93)
Cross reference— Outdoor burning, § 13-51 et seq.

Sec. 20-1068. - Reserved.

Editor's note— Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-1068 which pertained to floodproofing and derived from Ord. No. 94-155, § 11, adopted Nov. 10, 1994.

Secs. 20-1069—20-1085. - Reserved.

DIVISION 5. - OFF-STREET PARKING AND TRAFFIC REGULATIONS

Sec. 20-1086. - Traffic visibility.

(a) No obstructions, such as structures, parking or vegetation, shall be permitted in any district between the heights of two and one-half (2½) feet and ten (10) feet above the plane through the mean curb-grades within the triangular space formed by any two (2) existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of fifteen (15) feet from their intersection.

(b) In the case of arterial streets' intersection with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

(Code 1975, § 7.051)

Sec. 20-1087. - Loading requirements.

In all 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. (Code 1975, § 7.052)

Sec. 20-1088. - Parking requirements.

(a) In all districts and in connection with every use, there shall be provided, at the time any use or building is erected, enlarged, extended or increased, off-street parking stalls for all vehicles in accordance with the provisions of this section.

(b) Adequate access to a public street shall be provided for each parking space, and driveways shall be at least ten (10) feet wide for one- and two-family dwellings and a minimum of twenty-four (24) feet for all other uses.

(c) Each parking space shall be not less than nine (9) feet in width and not less than one hundred eighty (180) square feet in area exclusive of the space required for ingress and egress.

(d) Location shall be on the same lot as the principal use or not over four hundred (400) feet from the principal use. No parking stall or driveway except in residential districts shall be closer than twenty-five (25) feet to a residential district lot line or a street line opposite a residential district.

(e) All off-street parking areas shall be graded and surfaced so as to be dust free and properly drained. Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.

(f) Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines.

(g) All open, off-street parking areas providing more than twenty-five (25) parking spaces, except parking areas restricted to use by employees only, shall provide parking spaces

for use by motor vehicles which transport physically disabled persons in accordance with the requirements of W.S.A., §§ 346.50, 346.503, and 346.505.

Number of parking stalls required:

Single-family dwelling and mobile homes	2 stalls for each dwelling unit
Two-family and multi-family dwellings	2 stalls for each dwelling unit
Hotels, motels	1 stall for each guest room plus 1 stall for each 3 employees
Hospitals, clubs, lodges, sororities, dormitories, lodginghouses and boardinghouses	1 stall for each 2 beds plus 1 stall for each 3 employees
Sanitariums, institutions, rest and nursing homes	1 stall for each 5 beds plus 1 stall for each 3 employees
Medical and dental clinics	3 stalls for each doctor plus 1 stall for each employee
Churches, theaters, auditoriums, community centers, vocational and night schools and other places of public assembly	1 stall for each 5 seats
Colleges, secondary and elementary schools	1 stall for each 2 employees plus a reasonable number of stalls for student and other parking
Restaurants, bars, places of entertainment, repair shops, retail and service stores	1 stall for each 150 square feet of floor area
Manufacturing and processing plants, laboratories and warehouses	1 stall for each 2 employees during any 12-hour period
Financial institutions; business, governmental and professional offices	1 stall for each 300 square feet of floor area
Funeral homes	1 stall for each 4 seats
Bowling alleys	5 stalls for each alley

In the case of structures or uses not mentioned, the provision for a use which is similar shall apply.

(h) Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use during such periods of time as the various uses are reasonably likely to be simultaneously requiring parking for employees, customers and other persons.

(Code 1975, § 7.053; Ord. No. 88-160, § 7.053, 1-10-89)

Sec. 20-1089. - Driveway access.

(a) No direct access shall be permitted to the existing or proposed rights-of-way of expressways, freeways or interstate highways, nor to any other road, street or highway, without permission of the authority maintaining the facility.

(b) Vehicle entrances and exits to drive-in theaters, banks, and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than two hundred (200) feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or place of public assembly.

(c) Adjacent residential uses may agree to establish a common driveway. In such cases, the driveway midpoint should be the property line between the two (2) parcels; however, the precise location of such driveway will be determined by the jurisdictional highway authority. The driveway must meet standard specifications and the landowner(s) shall record cross access agreements to ensure continued use, upkeep and maintenance of the combined access points.

(d) Sharing of access to state and county trunk highways by commercial or industrial land uses may also be permitted. Such shared access shall be shown on an adopted neighborhood or similar village plan as may be determined by the planning and development committee. Such shared access shall have the approval of the county highway department or state department of transportation, depending upon jurisdiction. A cross access agreement shall be recorded by all landowners utilizing such shared access. Such shared access must meet standard specifications.

(e) When a parcel contains two (2) or more different zoning districts, a driveway shall not traverse the district abutting the highway to service a use/structure on the rear portion of the parcel in a different zone(s) unless that use/structure is also permitted in the zoning district abutting the highway or when specifically allowed in a planned unit development.

(f) New or reconstructed access drives onto existing county trunk highways require the review and approval of the Racine County Public Works Department prior to their construction. Such approval will be based upon sight distances, road speeds, adopted public works department policy, and other factors.

(g) Access drives to principal structures which traverse wooded, steep, or open fields shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. All driveways shall have a minimum width of twelve (12) feet with road strength capable of supporting emergency and fire vehicles, in compliance with any village standards.

(Code 1975, § 7.054; Ord. No. 86-86, § 7.054, 8-26-86; Ord. No. 2000-251S, 8-28-01; Ord. No. 2005-69S, 9-13-05)

Sec. 20-1090. - Off-street parking in B-4, B-5, B-6 districts.

Off-street parking is permitted in all yards of the B-4, B-5 and B-6 business districts, but shall not be closer than twenty-five (25) feet to any public right-of-way.
(Code 1975, § 7.062)

Sec. 20-1091. - Abandoned, unlicensed, inoperative, discarded or junked vehicles.

The outside storage of abandoned, unlicensed, inoperative, discarded or junked vehicles on privately owned properties within Racine County is a source of annoyance to members of the

public and to owners and occupants of adjacent land. The outdoor storage of such vehicles on private property is unsightly and constitutes an attractive nuisance to children and peril to their safety. This legislation is intended hereby to protect public health and safety and to curb the deterioration of the community environment.

(1) No property shall be used for the outside storage of abandoned, unlicensed, inoperative, dismantled, partially dismantled, discarded or junked vehicles, except as may be otherwise permitted in this chapter.

(2) No dismantled, partially dismantled or parts of vehicles shall be stored outside on any property within the county, except as otherwise permitted within this chapter.

(3) No person shall abandon any vehicle within Racine County and no person shall leave any vehicle at any place within the county for such time and under such circumstance as to reasonably cause such vehicle to appear to have been abandoned.

(4) As used in this section, an abandoned, unlicensed, inoperative, discarded or junked vehicles is:

a. Any vehicle that is:

1. Without a current license;

2. Being held or used for the purpose of resale of used parts therefrom or for the purpose of reclaiming for use some of the materials therein for the purpose of disposing of the same;

3. Wrecked, discarded or dismantled;

4. In such a condition as to cost more to repair and place in operating condition than its reasonable market value after such repair; or

5. Left unattended for more than forty-eight (48) hours on property of another, if left without permission of the property owner.

b. With respect to any vehicle not required to be licensed or not usually used on the public highways, the fact that such vehicle has remained unused for more than six (6) months and is not in condition to be removed under its own power shall be presumptive evidence that such vehicle is an abandoned, junked and/or inoperative vehicle.

c. The fact that a vehicle does not display a current motor vehicle registration or license plate shall be presumptive evidence that such vehicle is not in any condition for legal use upon the highways.

(5) The provisions of this section do not apply to vehicles kept by collectors or hobbyists pursuant to W.S.A., 341.266(4) or 341.268(4).

(Ord. No. 2005-69S, 9-13-05)

Secs. 20-1092—20-1110. - Reserved.

DIVISION 6. - HEIGHT AND AREA REGULATIONS

Sec. 20-1111. - Height.

The district height limitations stipulated elsewhere in this ordinance may be exceeded, but such modification shall be in accord with the following:

(1) Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this chapter.

(2) Special structures, such as elevator penthouses, gas tanks, grain elevators, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, are exempt from the height limitations of this chapter.

(3) Essential services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this chapter.

(4) Communication structures, such as radio and television transmission, receiving, and relay towers, aerials, and observation towers, shall not in any event exceed in height their distance from the nearest lot line, provided, however that any such structure, aerial or tower, if located within three (3) miles of a boundary line of an airport and landing strips, may not exceed the height limitations of the district in which it is located without prior proof of written notification of the public hearing to the owner of the said airport or landing strip, and prior written approval from the F.A.A. and Wisconsin Bureau of Aeronautics, if applicable.

(5) Agricultural structures, such as barns, silos and windmills, shall not exceed in height twice their distance from the nearest lot line.

(6) Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.

(Code 1975, § 7.061; Ord. No. 99-58S, pt. 2, 7-13-99; Ord. No. 2011-61, 11-8-11)

Sec. 20-1112. - Modification of yard requirements.

The yard requirements stipulated elsewhere in this chapter may be modified as provided in this division.
(Code 1975, § 7.062)

Sec. 20-1113. - Projections into yards.

(a) Pergolas and otherwise uncovered decks, stairs, landings and fire escapes may project into any yard, but not to exceed six (6) feet and not closer than three (3) feet to any lot line.

(b) Architectural projections, such as chimneys, flues, sills, eaves, belt courses, ornaments, decorative projections, lighting fixtures, balconies, and bay/bow windows, may project into any required yard; but such projection shall not exceed two (2) feet and bay/bow windows must be less than or equal to eight (8) feet wide.

(c) The projections permitted in paragraph (a) above shall not encroach into the minimum required shore yard setback area, except as allowed by section 20-1046, and no projection shall be closer than ten (10) feet from any street right-of-way.

(d) The zoning administrator shall be authorized to review and issue a zoning permit to allow a nonconforming building addition projection, such as a wheelchair ramp, that is needed to allow the minimum required reasonable accommodation that is necessary to allow ingress/egress by a handicapped or disabled person to the following:

(1) A residential structure utilized by such person that lives on the property or such person employed in a home occupation on the property. Any such addition shall be removed within thirty (30) days from the time that the structure is no longer serving the aforementioned handicapped or disabled person. A deed restriction to this effect shall be recorded with the register of deeds department and proof of such shall be submitted to the zoning administrator before a zoning permit will be issued.

(2) A commercial facility or any other structure that provides public accommodations.

Any such projection should be designed to be at least three (3) feet from any lot line and have a minimal intrusion into a floodplain, wetland, environmental corridor, or required shore yard setback.
(Code 1975, § 7.062; Ord. No. 97-203, 1-13-98; Ord. No. 2000-251S, 8-28-01; Ord. No. 2003-197, 2-12-04; Ord. No. 2007-28, 6-26-07; Ord. No. 2011-61, 11-8-11)

Sec. 20-1114. - Security fences.

Security fences are permitted on the property lines in all districts except residential districts and as required under section 20-1226, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

Sec. 20-1115. - Accessory regulations.

(a) Except for signs and towers for broadcast facilities and/or wind energy, which are regulated separately, any detached accessory structure less than thirty-six (36) square feet in area is exempt from the requirement for obtaining a zoning permit. In addition, any temporary, seasonal outdoor above-ground swimming pool, hot tub, or whirlpool bath that does not remain erected on the same lot for more than one hundred twenty (120) consecutive days is exempt from the requirement for obtaining a zoning permit.

(b) Detached accessory structures shall not be closer than ten (10) feet to the principal structure; not closer than three (3) feet to a side or rear lot line if ≤ seven hundred twenty (720) square feet in footprint area or five (5) feet to a side or rear lot line if > seven hundred twenty (720) square feet in footprint area; not closer than five (5) feet to an alley line; shall not exceed the maximum height prescribed in the zoning code for district in which the accessory structure is located; and are permitted in the rear and side yards only, except as follows:

(1) Except for storage containers, storage pods, polystructures, or polyshelters as described in Sec. 10-148, accessory structures within the shoreland area are permitted in the street yard portion of waterfront lots provided that they are not placed within the required minimum street yard setback.

(2) For lots with multiple street yards and no defined rear yard area, accessory structures are permitted in the street yard portion of the secondary or non-access street provided that they are not placed within the minimum required street yard setback.

(3) Except for storage containers, storage pods, polystructures, or polyshelters as described in Sec. 10-148, accessory structures may be placed in the street yard portion of a lot if the street yard setback of a principal structure exceeds the required setback for the particular district in question, provided that the street yard setback of the accessory structure is not less than the required setback for the district or the average street yard setback of principal structures on abutting parcels, if any, whichever is greater. On vacant parcels, the minimum setback may be used for averaging.

(4) Accessory structures placed in the street yard portion of a lot pursuant to (1), (2), or (3) above that are less than one hundred (100) feet from a road right-of-way line must have exterior building materials that are the same as or in harmony with the principal structure on the lot, unless the principal and accessory structure's street yard setbacks are within seventy-five (75) feet of each other.

(5) Accessory structures located in the R-1 district and other non-"R" districts are limited in height to that listed for the accessory structures in those districts. A greater height may be approved through a site plan review process and as allowed in section 20-1111. The minimum setback from a lot line shall be one-half (1/2) of the building height or that required by section 20-1115(b), whichever is greater.

a. An accessory structure with a height greater than the height listed for the principal structures in a zoning district may be allowed if the property is devoted primarily to agricultural use. An agricultural use is one that bears physical evidence consistent with the use of the property for agricultural purposes, such as furrows, crops, fencing or livestock, appropriate to the production season and includes such activities included in subsector 111 Crop Production and 112 Animal Production, set forth in the North American Industry Classification System (NAICS). If physical evidence of agricultural use is not sufficient to determine the nature of the use, the Village may request of the owner or agent of the owner such information as is necessary to determine whether the use is an agricultural use.

(6) Any portion of an accessory structure placed or constructed in a side yard area of a nonconforming principal structure shall not encroach into the minimum required street and/or shore yard setback.

(7) Tower broadcast facilities and wind energy facilities restrictions may be found in articles X and XI, respectively.

(8) *Permanent Storage Containers*.

a. *Applicability*. The permit requirements of this Section shall only apply to permanent storage containers placed after August 30, 2024.

b. *Minimum lot size.* Permanent storage containers, those storage containers that will remain in place for more than six (6) months, shall only be a permitted accessory use on parcels five (5) acres or greater in size located in A-2, A-3, A-4, and R-2 zoning districts.

c. *Maximum storage pod size.* No permanent storage container shall exceed the following dimensions: 10 feet wide, 20 feet long, and 10 feet high.

d. *Other permits required*. In addition to an Accessory Structure Permit under this section, a Building Permit is required for permanent storage container per Sec. 10-148(g)(3).

e. No storage pod, polystructure, or polyshelter shall be considered a permanent storage container, as defined by Sec. 10-148 of the Village of Yorkville Municipal Code.

(c) The aggregate total footprint area for all accessory structures shall not exceed the following square footage for the stated lot size, exclusive of road right-of-way:

Lot Size / Accessory Structure(s) Maximum Aggregate Total Footprint Area

< 10,000 square feet lot = 720 square feet
≥ 10,000 square feet lot to 20,000 square feet lot = 1,000 square feet
> 20,000 square feet to < 1 acre lot = 2,600 square feet

1 acre to < 2 acre lot = 4,000 square feet
2 acre to < 3 acre lot = 5,000 square feet
3 acre to < 4 acre lot = 6,000 square feet
4 acre to < 5 acre lot = 7,500 square feet
5 acre to < 10 acre lot = four (4) percent of lot area
≥ 10 acre lot = five (5) percent of lot area.

Note: A greater amount of square footage per lot size may be allowed if approved as part of a conditional use permit or site plan review when needed as an integral part of the plan of operation and where said structure(s) is used solely accessory to the permitted principal or conditional use on said lot.

(d) Where an accessory structure is permanently attached to the principal structure by a roof or wall-to-wall, such accessory structure shall be considered as a part of the principal

structure. Pergolas, decks, stairs and landings that abut a principal structure, whether or not physically attached, and outdoor swimming pools, hot tubs or whirlpools on top of, within, or immediately abutting such shall be considered to be part of the principal structure and principal structure setbacks would apply for required setbacks except where sections 20-1113, 20-1118, and 20-1120 setbacks apply. Items such as a fence, trellis, retaining wall, and sidewalk, driveway or patio less than six (6) inches from grade are not considered an attachment, and are exempt from setbacks except where regulated by shoreland, floodplain or traffic visibility regulations.

(e) Accessory structure heights in all zoning districts shall be measured from the base of a wall of the subject structure in a straight line to the highest point (the “peak”) of the roof on that structure.

Sec. 20-1116. - Exemptions from yard requirements.

(a) Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this chapter.

(b) Landscaping and vegetation are exempt from the yard requirements of this chapter.
(Code 1975, § 7.062)

Sec. 20-1117. - Boathouses.

(a) Boathouses accessory to residential uses may be located within a shore yard but shall:

(1) Be no closer than twenty (20) feet to the average annual high-water elevation of the stream, lake, pond or wetland. This distance may be varied by the board of adjustment in accordance with section 20-31 et seq.; in no case, however, shall boathouses be allowed to project beyond the shoreline;

(2) Not exceed one (1) boathouse on the premises for each shoreland lot;

(3) Not exceed a height of fifteen (15) feet above the high-water elevation;

(4) Not exceed two hundred fifty (250) square feet in horizontal area covered; and

(5) Not be closer than fifteen (15) feet to any side lot line.

(6) Be constructed in such a manner as to orient the main opening of the boathouse toward the body of water.

(7) Be used strictly for the storage of boats and water-related recreational accessories.

(b) The use of a boathouse for human habitation is prohibited. No plumbing, heating or cooking facilities may be provided in or for a boathouse.

(c) The roof of a boathouse shall not be used as a deck or for other such purposes, nor shall railings be placed on top of the boathouse.
(Code 1975, § 7.062; Ord. No. 86-17, § 7.062, 7-22-86; Ord. No. 97-203, 1-13-98)

Sec. 20-1118. - Adjustment of shore yards.

Shore yards may be reduced to the average of the shore yards existing on the abutting properties within a straight-line distance of one hundred (100) feet, excluding highway right-of-way or road easements, of the subject site but shall not be reduced to less than fifty (50) feet. Only principal structures on abutting lots within one hundred (100) straight-line feet of the proposed structure may be used for averaging. Any existing uncovered and/or unenclosed portion of a principal structure, such as deck or covered porch, can only be used for averaging with a similar uncovered and/or unenclosed portion of a proposed structure. If an abutting lot is vacant or the existing principal structures are greater than one hundred (100) feet from the proposed structure, seventy-five (75) feet shall be used for averaging purposes. If a principal structure on an abutting lot within one hundred (100) feet is greater than the required minimum shore yard setback, the actual setback shall be used for averaging. On substandard lots, fifty (50) feet is used as the minimum setback for averaging purposes.

(Code 1975, § 7.062; Ord. No. 86-17, § 7.062, 7-22-86; Ord. No. 2000-251S, 8-28-01; Ord. No. 2007-28, 6-26-07)

Sec. 20-1119. - Building projections into street yards.

Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.
(Code 1975, § 7.063)

Sec. 20-1120. - Average street yards.

The street yard may be increased or decreased in any residential or business district to the average of the existing street yards of the abutting structures on each side. However, in no case may the street yard be decreased to less than the district minimum setback or minimum substandard lot setback, whichever applies. Only principal structures on abutting lots within one hundred (100) straight-line feet of the proposed structure may be used for averaging. Any existing uncovered and/or unenclosed portion of a principal structure, such as deck or covered porch, can only be used for averaging with a similar uncovered and/or unenclosed portion of a proposed structure. If an abutting lot is vacant or the existing principal structure is greater than one hundred (100) feet from the proposed structure, the minimum required setback for the district may be used or the minimum substandard setback may be used when said abutting lot is a substandard lot.
(Code 1975, § 7.064; Ord. No. 2000-251S, 8-28-01; Ord. No. 2007-28, 6-26-07)

Sec. 20-1121. - Lot area requirements and street yard setbacks.

All lot area requirements are measured exclusive of any highway right-of-way and all street yard setbacks are measured from the outer limit of the highway right-of-way or private road easement.
(Ord. No. 2000-251S, 8-28-01)

Secs. 20-1122—20-1140. - Reserved.

ARTICLE VIII. - CONDITIONAL USES

DIVISION 1. - GENERALLY

Sec. 20-1141. - Time limitations for decision and expiration of use.

(a) The Village Board, after consideration of the recommendations of the Plan Commission, and acting in accordance with the provisions of section 20-1181 et seq., shall decide all applications for a conditional use within sixty (60) days after the public hearing, unless the time is extended with the concurrence of the applicant, and shall transmit a signed copy of its decision to the applicant.

(b) Conditional use or temporary use permits shall expire within nine (9) months unless substantial work has commenced pursuant to such grant.

(c) Any conditional use granted under this article that is discontinued or terminated for a period of twelve (12) consecutive months or eighteen (18) cumulative months in a three (3) year period shall be considered abandoned and any future use thereof will require additional Plan Commission and Village Board review and approval. A business of a seasonal nature shall not be deemed to be discontinued during periods in which it is normally inactive (e.g., summer camps, snowmobile courses, ski areas, marinas, quarries, etc.).

Secs. 20-1142—20-1159. - Reserved.

DIVISION 2. - PERMITS[16]

Sec. 20-1160. – Authority.

The Village Board, after consideration of the recommendations of the Plan Commission, shall hear and decide applications for conditional uses or special exceptions to the terms of this zoning code and may authorize the issuance of a conditional use permit after its review and determination. The Village Board is designated the “Zoning Board” for purposes of Wis. Stat. §62.23(7)(de).

Sec. 20-1161. - Application.

Applications for conditional use permits or amendments to existing conditional use permits provided for in this chapter shall be made to the zoning administrator on forms furnished by the zoning administrator and shall include the following:

(1) Names and addresses of the applicant, owner of the site, architect, professional engineer, and contractor.

(2) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; a parking plan and the zoning district within which the subject site lies.

(3) Plat of survey prepared by a registered land surveyor showing all of the information required under section 20-81 et seq. for a zoning permit and, in addition, the following: mean and historic high-water lines, on or within forty (40) feet of the subject premises, and existing and proposed landscaping.

(4) For floodland conditional uses, the applicant shall include information that is necessary for the Plan Commission and Village Board to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill or storage elevations, lowest floor elevations of structures, size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types and other pertinent information.

(5) Additional information as may be required by the Plan Commission, Village Board, engineer, or building inspector for the purpose of assisting the Plan Commission and Village Board in their review of the application.

(6) Fee receipt from the zoning administrator for the fee required by the schedule of fees adopted by the village board from time-to-time.

Sec. 20-1162. – Publication and public hearing.

(1) Upon receipt of an application for a conditional use permit and payment of the required fee, a notice of public hearing on the application shall be published as a Class 2 notice pursuant to Wis. Stat., Chapter 985.

(2) Prior to the public hearing the zoning administrator shall provide written notice to all property owners of land adjacent to or within five hundred (500) feet of the property which is the subject of the application for a conditional use permit.

(3) A public hearing shall be held before the Plan Commission and Village Board prior to the issuance of the Plan Commission's recommendation and the Village Board's decision to approve or deny an application for conditional use permit.

Sec. 20-1163. - Notice to DNR of hearings on shoreland, shoreland-wetland floodplain uses.

A copy of all notices for public hearings on applications for shoreland and shoreland-wetland conditional uses or for conditional uses in the floodland districts, including a copy of the application, shall be transmitted to the State Department of Natural Resources for review and comment at least ten (10) days prior to the hearing. Final action on floodland applications shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. A copy of any decision on any such conditional use shall be mailed to the DNR district office within ten (10) days after it is granted or denied.

Sec. 20-1164. - Failure to comply.

(a) No person, firm or corporation shall violate, disobey, neglect or refuse to comply with or abide by the terms and conditions of a conditional use permit.

(b) The failure of any person, firm or corporation to obtain a conditional use permit when required shall constitute a violation of this chapter.

(c) In the event of a violation of subsection (a), above, the zoning administrator or designee may revoke any conditional use permit, whether or not a citation is issued or injunctive relief is sought. Before the zoning administrator may revoke a conditional use permit, the Plan Commission and Village Board shall follow the revocation procedure set forth below.

Sec. 20-1165. - Modification of existing conditional use permit.

Should the conditions of the area in which a conditional use exists change such that the conditional use allowed by the permit presents an imminent and substantial threat to public health, safety, or property, the Plan Commission and Village Board may review such conditional use permit upon notification and hearing as set forth in this chapter. Any review conducted hereunder shall be limited to revision of the permit to eliminate the threat(s) to public health, safety, or property. Revision of the permit may include addition and/or deletion of specific conditions.

Sec. 20-1166. - Conditional use permit revocation.

Should a permit applicant, or the applicant's heirs or assigns, fail to comply with the conditions of the conditional use permit issued by the Village Board or should the use, or characteristics of the use be changed without prior approval by the Village Board, the conditional use permit may be revoked. The process for revoking a permit shall follow the same procedures as those required for granting a conditional use permit as set forth in this Section. Additional grounds for revocation shall include, but not be limited to, the following:

(1) A change in conditions affecting the public health, safety, and welfare since adoption of the conditional use permit; or

(2) Fraudulent, false, or misleading information supplied by the applicant or his agent for the conditional use permit; or

(3) Improper public notice of the conditional use permit public hearing(s) when the permit was considered by the Plan Commission and Village Board.

Secs. 20-1167. —20-1180. - Reserved.

DIVISION 3. - REVIEW PROCEDURE AND APPROVAL STANDARDS

Sec. 20-1181. – Standards in reviewing conditional uses.

In reviewing the proposed conditional uses, the Plan Commission and the Village Board shall consider all factors relevant to the issuance of the conditional use including but not limited to the following:

(1) All conditional uses must be in accordance with the purpose, intent and specific conditions of this chapter and the particular zoning district in which the property is located and which authorizes the conditional use.

(2) A review of the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation and improvement upon flood damage protection, water quality, shoreland cover, natural beauty and wildlife habitat.

(3) Reasonable conditions necessary to protect adjacent properties, uses and structures and to protect the health, safety and welfare of the public, To the extent practicable, conditions must be measurable and may include conditions such as the permit's duration, transfer, or renewal. Conditions may include, without limitation, the following subject matters:

a. Landscaping; existing topography, and vegetative cover; planting screens.
b. Drainage facilities, including drain tile, swales, retention/detention basins, terraces, stream bank protections and storm water piping;
c. Architectural design;
d. Type of construction, construction commencement and completion dates;
e. Sureties or letter of credit;
f. Lighting;
g. Fencing;
h. Location, size and number of signs;
i. Operation control;
j. Hours of operation;
k. Road access restrictions;
l. Deed restrictions;
m. Parking requirements; adequacy of existing and proposed parking areas and driveway locations.
n. Traffic movement and control; existing and proposed traffic generation and circulation.
o. Impact on water, sanitation, and utilities; adequacy of existing and proposed public services; adequacy of proposed water supply and waste disposal systems;
p. Higher performance standards;
q. Street dedication;
r. Land divisions;
s. Police and fire Protection.
t. Other reasonable conditions required by the specific proposed use.
u. Any harmful, offensive or otherwise adverse impacts on the environment.
v. Duration of the permit if granted.
w. Transfer of the permit if granted
x. Renewal of the permit if granted.
y. Compatibility of the use with other uses on adjacent properties.
z. Flood proofing.

aa. Increased yard setbacks or additional parking to comply with this chapter and state law, including the provisions of the state's floodplain and shoreland management programs.

(4) Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards, shall be required of all conditional uses. Variances shall only be granted as provided in section 20-31 et seq.

(5) With respect to conditional uses within shorelands, the standards set forth in W.S.A., § 144.26(5)(a), in particular as they relate to the avoidance or control of pollution.

Sec. 20-1182. - Determination.

(a) The Village Board may issue a conditional use permit with appropriate conditions, deny the permit with reasons, or require the submittal of a modified application. The decision must be supported by substantial evidence.

(b) All conditions imposed by the Village Board must be related to the purpose of the ordinance and shall be based on substantial evidence.

(c) The Village Board shall grant a conditional use permit if the applicant meets or agrees to meet the requirements and conditions established by the Village.

(d) "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements an applicant must meet to obtain a conditional use permit and that a reasonable person would accept in support of a conclusion.

(e) The applicant must demonstrate that the application and all requirements and conditions established by the Village are or shall be satisfied, both of which must be supported by substantial evidence.

Sec. 20-1183. – Appeal.

If the Village Board denies an application for a conditional use permit, the applicant may appeal the decision to circuit court under the procedures set forth in Wis. Stat. Section 62.23(7)(e)(10).

Sec. 20-1184. - Review and approval of minor additions and accessory structures.

(a) Approval of minor additions, expansions or alterations to principal or accessory structures, where such structures were previously approved after a conditional use public hearing, may be granted without further public hearing as a site plan review function of the planning and development committee and the appropriate village board. Such additions, expansions or alterations may be approved in this manner provided that total lifetime additions, alterations or expansions do not exceed fifty (50) percent of the current equalized assessed value of the structure to which they are being attached. Further accessory structures for such previously approved uses/structures may also be approved via site plan review.

(b) The applicant may request a public hearing if he does not agree with the provisions of the conditions of approval or feels that a public hearing is in the applicants' best interest.

(c) The planning and development committee through the zoning administrator may request technical assistance from the county land conservation office, county park department, county highway engineer, county environmental control department or other county officers, departments, commission, and boards in reviewing a site plan approval application prior to setting forth the provisions of site plan approval. Such provisions shall be in compliance with the standards set forth in this division.

(d) The zoning administrator shall mail a copy of the application together with all maps, plans, and other documents submitted by the applicant to the village board within which the subject land lies. The village board shall have the power to impose conditions on site plan approval applications which are more strict than those imposed by the planning and development committee or may approve or deny the request. The village board shall have twenty (20) days from the receipt of the application to notify the zoning administrator of the more strict conditions being imposed or if the request is approved or denied.

Sec. 20-1185. - Reserved.

Editor's note— Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-1185 which pertained to general standards applicable to all floodplain districts and derived from Ord. No. 2005-155, adopted Jan. 10, 2006.

Secs. 20-1186—20-1200. - Reserved.

DIVISION 4. - MOBILE HOME PARKS[17]

Footnotes:
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Cross reference— Mobile homes and mobile home parks in the floodplain overlay districts, § 20-1270.

Sec. 20-1201. - Definitions.

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

Lot shall mean a mobile home space plus all required yards for a mobile home.

Mobile home shall have the meaning listed in section 20-1. Any additions, attachments, annexes, foundations and appurtenances shall be approved by the village building inspector.

Mobile home park shall have the meaning listed in section 20-1.
Space shall mean a plot of ground designed for the accommodation of one (1) mobile home.

(Code 1975, § 7.048(A); Ord. No. 94-235, 2-28-95)
Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 20-1202. - When, where allowed.

Mobile home parks may be allowed as a conditional use in the A-2 agricultural district subject to the requirements of this division and all provisions of this chapter pertaining to conditional uses. No mobile home shall be used as a residence within the county unless located within a mobile home park.
(Code 1975, § 7.048)

Sec. 20-1203. - Application for zoning permit.

(a) An application for a county zoning permit for a mobile home park shall be accompanied by a duly issued license or permit from the village in which the mobile home park is to be located. In the absence of such village license or permit, the application for a county permit shall be denied. The application shall be filed with the zoning administrator in duplicate and shall be accompanied with duplicate sets of plans and specifications which shall be in compliance with all county or village ordinances and provisions of the state division of health and a performance bond in the sum of five thousand dollars ($5,000.00) to insure completion of the mobile home park within nine (9) months from the date of the issuance of the county zoning permit and insuring further that such completion is in compliance with the requirements of this chapter. No mobile home shall be occupied until all conditions of this chapter have been met and an occupancy permit issued.

(b) The life of a county zoning permit for a mobile home park shall be nine (9) months, but may be extended for not more than an additional ninety (90) days in the aggregate by the zoning administrator with the approval of the planning and development committee upon the holder of the county zoning permit showing good cause arising out of an act of God, delay in construction due to the elements, fire or due to a strike that is not within the control of the person requesting the extension.

(c) The application shall contain the following information:

(1) Name, address and telephone number of applicant;

(2) A legal description of the land upon which applicant seeks to have a zoning permit for a mobile home park;

(3) The names and addresses of all persons owning land abutting upon such land; and

(4) The names and addresses of all persons owning lands located across the street from such land.

(Code 1975, § 7.048(B); Ord. No. 2011-61, 11-8-11)

Sec. 20-1204. - Location.

No mobile home shall be located less than fifty (50) feet from any highway right-of-way line. The location of each mobile home park shall be approved or denied in writing within sixty (60) days. In approving such location, the zoning administrator shall view the proposed site or sites and shall consider such evidence as may be presented, bearing upon the general purposes and intent of this chapter to promote the public health, safety and general welfare and the specific purpose of

this section to prevent the overcrowding of land and the development of housing blight in rural area.
(Code 1975, § 7.048(C))

Sec. 20-1205. - Specific requirements.

(a) *Drainage.* Every mobile home park shall be located on a well-drained site and shall be so graded and adequately drained as to eliminate collection of surface waters at any point in the mobile home park and drainage easements obtained when necessary.

(b) *Sewage.* Adequate provisions shall be made for the disposal of all sewage from a mobile home park into a municipal sanitary sewer where available, or by properly constructed and maintained sewage exidation system approved by the state DNR.

(c) *Water.* Where a public water supply is not available within the mobile home park an adequate supply of pure water for drinking and domestic purposes shall be provided in an amount sufficient to care for the needs of the maximum number of persons which can be accommodated in such mobile home park, approved by the state DNR.

(d) *Refuse.* Every mobile home in the park shall have at least two (2) containers with close fitting covers for garbage and provisions shall be made for the handling and removal of all garbage, trash or refuse from the park no less than twice each week.

(e) *Lighting.* All entrances, exits, lanes, and driveways between rows of trailers used or occupied in any mobile home park shall be lighted by electric lighting of at least one (1) watt per lineal foot.

(Code 1975, § 7.048(D))

Sec. 20-1206. - Mobile home lots.

(a) Each mobile home shall be located on a lot of not less than five thousand (5,000) square feet.

(b) Each mobile home lot shall contain a parking space upon which the mobile home shall be situated which parking space shall be graveled or paved with concrete or bituminous material. Each parking space shall be not less than ten (10) feet wide nor of less length than the length of the trailer to be parked therein, plus five (5) feet.

(c) There shall be additional parking spaces for automotive vehicles within such park, surfaced as required above. Each automobile parking space shall be not less than nine (9) feet wide and one hundred sixty (160) square feet in area, exclusive of maneuvering and access space.

(d) There shall be a system of driveways, with a minimum of thirty-six (36) feet widths, surfaced as required by subsection (b) above, providing access from each and every trailer and automobile parking space within such mobile home park to the public street or highway; provided that there shall not be more than two (2) entrances from or exits to such street or highway from any one (1) such park.

(e) Each mobile home space shall be separated from all other mobile home spaces, automobile parking spaces or service buildings or structures within such park by open spaces, permanently planted to grass, flowers, shrubs or trees, which shall be not less than fifteen (15) feet wide, except that there need not be more than a five-foot setback from an access driveway; provided, however, that such five-foot setback shall apply to the longest trailer to be accommodated within such park.

(f) Each mobile home park shall be completely surrounded, except for permitted entrances and exits, by a yard, in addition to all other required yards and open spaces, which shall not be less than fifteen (15) feet wide.

(Code 1975, § 7.048(E))

Sec. 20-1207. - Mobile home use restrictions.

(a) *Businesses prohibited.* No business shall be conducted in any trailer in a mobile home park.

(b) *Registers.* Each mobile home park shall maintain an office where a register shall be kept for the registration of all occupants, which register shall be open to county or village officials for inspection and shall contain information as follows:

(1) Name and address of each occupant;

(2) Trailer license number and manufacturer's name;

(3) Automobile license number, and name and make of automobile;

(4) Number of site to which assigned;

(5) Last place of location;

(6) Date of arrival; and

(7) Date of departure.

(Code 1975, § 7.048(F), (G))

Sec. 20-1208. - Appeal from denial.

In the event the zoning administrator is required to deny an application for a county zoning permit for a mobile home park, the applicant has the right to appeal to the board of adjustment as in other cases for a variance.
(Code 1975, § 7.048(H))

Secs. 20-1209—20-1225. - Reserved.

DIVISION 5. - INDUSTRIAL AND AGRICULTURAL USES

Sec. 20-1226. - Uses permitted conditionally.

The following industrial and agricultural uses shall be conditional uses and may be permitted as specified:

(1) Animal hospitals in the A-1 and must meet W.S.A. § 91.01(1), A-2 and A-4 agricultural districts, the B-5 business district and the M-2 and M-3 industrial districts; provided the lot area is not less than three (3) acres, and all principal structures and uses are not less than one hundred (100) feet from any residential district.

(2) Commercial raising, propagation, boarding or butchering of animals, such as dogs, mink, rabbits, foxes, goats and pigs; the commercial production of eggs; and the hatching, raising, fattening or butchering of fowl in the A-1 and A-2 agricultural districts. Pea vineries, creameries and condenseries in all agricultural districts and the M-3 industrial district.

(3) Manufacture and processing of abrasives, acetylene, acid, alkalies, ammonia, asbestos, asphalt, batteries, bedding, bleach, bone, cabbage, candle, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal tar, coffee, coke, cordage, creosote, dextrine, disinfectant, dye, excelsior, felt, fish, fuel, furs, gelatin, glucose, gypsum, hair products, ice, ink, insecticide, lampblack, lime, lime products, linoleum, matches, meat, oil cloth, paint, paper, peas, perfume, pickle, plaster of paris, plastics, poison, polish, potash, pulp, pyroxylin, radium, rope, rubber, sausage, shoddy, shoe and lampblacking, size, starch, stove polish, textiles, and varnish, manufacturing, processing, and storage of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar and yeast; manufacture and bottling of alcoholic beverages, bag cleaning, bleacheries, canneries, cold storage warehouses; electric and steam generating plants; electroplating; enameling; forges, foundries; garbage; incinerators; lacquering; lithographing; offal, refuse, or animal reduction; oil, coal, and bone distillations; refineries, road test facilities; slaughterhouses; smelting; stockyards; tanneries; and weaving, all in the M-3 heavy industrial district and shall be at least six hundred (600) feet from residential and public and semipublic districts.

(4) Outside storage and manufacturing areas in the M-3 heavy industrial district. Wrecking, junk, demolition and scrap yards shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way and shall be at least six hundred (600) feet from residential, public and semipublic districts.

(5) Commercial service facilities, such as restaurants and fueling stations, in the M-1, M-2 and M-3 industrial districts, provided all such services are physically and sales-wise oriented toward industrial district users and employees and other users are only incidental customers.

(6) The parking of school buses, semi-tractors and trailers or other vehicles of a commercial nature in the A-2 agricultural district by the occupant, provided all such uses are at least six hundred (600) feet from any residential district and one hundred (100) feet from any other residence and landscape screening to be determined on a site-specific basis is in place: If the vehicles are parked inside a structure, the above distance may be reduced. Only one (1) vehicle unit (a school bus, a semi-tractor or trailer, etc.) may be allowed on a parcel of land with the exception that two (2) vehicle units may be allowed if both are parked within a fully enclosed structure.

(7) Sanitary landfills and their related accessory uses when operated in accordance with the provisions of the applicable chapters of the Wisconsin Administrative Code in the M-3 industrial district.

(8) Airports, airstrips and landing fields for the use of the property owner for personal and farm related activities in the A-1 and A-3 agricultural districts and must meet W.S.A., § 91.01(1).

(9) Airports, airstrips and landing fields in the A-2 district.

(10) Storage and maintenance of construction equipment and vehicles, including landscaping vehicles and equipment, in the A-2 district. The storage area for all such equipment and vehicles shall be at least six hundred (600) feet from residential, public and semi-public districts. If the vehicles and equipment are parked/stored inside a structure, the above distance may be reduced. Some landscaping business type activities in the A-2 district may be regulated as a home occupation if the applicant secures a home occupation permit and abides by section 20-1015, including that there is no outdoor display or storage of materials, goods, or supplies and that no stock in trade shall be displayed or sold upon the premises.

(11) Recycling centers and recycling plants in the M-3 district.

(12) This conditional use category is created in recognition of the potential which exist in livestock facility operations for uncontrolled runoff and animal waste pollution of surface and groundwater and potential for such uses to become a nuisance. Livestock facilities as defined herein, including livestock and poultry of all types, may be permitted as conditional uses in all agricultural districts subject to the following:

a. No livestock facility operation shall be permitted on less than thirty-five (35) acres of agriculturally-zoned land (including A-2) nor closer than one thousand (1,000) feet from any land presently zoned residential (does not include A-2 zoned parcels).

b. No accessory residence shall be permitted closer than one hundred (100) feet to the livestock facility.

c. Except as provided for waste storage structures, no part of the livestock facility operation shall be closer than one hundred (100) feet from the right-

of-way line of any public road if the livestock facility will have fewer than one thousand (1,000) animal units, and one hundred fifty (150) feet if the livestock facility will have one thousand (1,000) or more animal units, nor closer than one hundred (100) feet if the livestock facility will have fewer than one thousand (1,000) animal units, and two hundred (200) feet if the livestock facility will have one thousand (1,000) or more animal units from any other lot lines of the site on which the production unit is situated. In addition the requirements below, proximity to lakes, ponds, rivers, streams, wells, bedrock and groundwater for feedlot and manure storage facility must meet NRCS standards.

d. A new waste storage structure may not be located within three hundred fifty (350) feet of the nearest point of any public road right-of-way.

A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:

- Located on the same tax parcel as a waste storage structure in existence before May 1, 2006;
- No larger than the existing structure;
- No further than fifty (50) feet from the existing structure; or
- No closer to the road or property line than the existing structure.

This setback requirement does not apply to existing waste storage structures, except that an existing structure within three hundred fifty (350) feet of a property line or road may not expand toward that property line or road.

e. A livestock facility shall comply with setback and related requirements in any applicable shoreland or wetland zoning ordinances enacted within the scope of authority granted under W.S.A., § 59.692, 61.351 or 62.231, Stats., and a livestock facility shall comply with setback and related requirements in any applicable floodplain zoning ordinance that is enacted within the scope of statutory authority granted under W.S.A., § 87.30, Stats.

f. All wells located in a livestock facility shall comply with chs. NR811 and 812. New or substantially altered livestock structures shall be separated from existing wells by the distances required in chs. NR 811 and 812, regardless of whether the livestock facility operator owns the land on which the wells are located. A livestock structure in existence on May 1, 2006, may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.

g. A conservation plan addressing the proposed methods of manure handling, storage, disposal and waste runoff controls shall be prepared and made a part of the plan of operation and shall be approved by the Racine County Land Conservation Division.

h. Animal waste shall be applied in accordance to the NRCS 590 Nutrient Management Standard and reviewed by the Racine County Land Conservation Division staff.

i. The site plan must show surface water drainage patterns and the methods to be employed to control, contain or divert clean water runoff from the manure storage facilities.

j. An operations plan detailing the method of operation and the equipment necessary to accomplish a safe and sanitary disposal of animal waste. An agreement must be filed with the county by the owner of the land that any manure discharged in a drainage way or a public way, either intentionally or accidentally, will be cleaned up by the owner and that the county may clean up such condition and the cost thereof assessed back to the property owner.

k. A statement of the maximum number of animals to be contained in the proposed livestock facility. This plan shall include numbers, types, and weights.

l. No single-family residence shall be constructed within one thousand (1,000) feet of a livestock structure or building. This provision shall not apply to dwelling units that are accessory to a livestock facility.

(13) Off-season storage facilities for boats and other recreational vehicles, such as campers, travel trailers, snowmobiles, off-road vehicles, and motor homes, in the B-3, B-5, M-2, M-3, and A-2 districts.

In the A-2 district, such storage may only occur in a barn or other accessory building that was constructed prior to January 1, 2000.
In the B-3, B-5, and M-2 districts, such storage may only occur as an accessory use to an approved self-service storage facility.

(14) Motorized off-road vehicle tracks as a conditional use in the A-2, B-3, B-5 and P-2 districts. Off-road vehicle tracks intended for any and all self-propelled two-, three, or four-wheeled recreational vehicles and any that have ground contact and are equipped with a saddle for the use of the operator, including, but not limited to, motorized scooters, mini-bikes, motorcycles, ATVs, UTVs, snowmobiles and off-road vehicles. This regulation does not apply to same type of vehicles used strictly for agricultural, governmental, emergency or utility purposes, which would be allowed in all zoning districts without permits.

(15) Standards for home-based agricultural related business (HBARB):

a. Allowed as a conditional use approval in all agricultural districts.

b. The operator shall reside in a residence on the property.

c. The operator shall grow the primary portion of materials or products sold onsite.

d. The HBARB must be located on a parcel not less than five (5) acres in area.

e. Maximum two (2) persons other than members of the immediate family may be employed in the HBARB at any given time.

f. Any signage associated with the HBARB must comply with chapter 20 zoning of the Racine County Code of Ordinances and will require zoning permit approval.

g. Any structure that is utilized at the subject site that is associated with any aspect of the HBARB must meet the principle structure setbacks for the zoning district.

h. Any accessory building used in association with the HBARB shall be clearly incidental to the principle use.

i. Retail sales of ancillary non-agricultural items is subject to detailed plan approval by the committee and local municipality.

j. Proper sanitation approval must be obtained in full compliance with state sanitation codes.

k. The HBARB product must consist of farm commodities that are entirely, or the majority of which are, planted or produced on the farm premises, or are agriculturally related.

l. Food shall not be served to patrons other than small sample of product produced by the HBARB.

m. Limited outside customer activity may occur on the premises in accordance with village/county approval.

(16) Non-farm residences require a conditional use permit, unless the residence legally existed prior to January 1, 2014, and thus qualifies as a prior nonconforming use.

a. Creation of a non-farm residence or conversion of a farm residence to a non-farm residence through a change in occupancy, subject to the following requirements:

1. The ratio of all non-farm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than one (1) to twenty (20) after the residence is constructed or converted to a non-farm residence.

2. There will not be more than four (4) dwelling units in non-farm residences, nor more than five (5) dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a non-farm residence.

3. The location and size of the proposed non-farm residential parcel (residence and lot) will not do any of the following:

i. Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a non-farm residential parcel or a non-farm residence.

ii. Significantly impair or limit the current or future agricultural use of other protected farmland.

4. A deed restriction shall be recorded at the Racine County Register of Deeds office prior to release of any permits for construction on new parcels created for farm residential uses.

b. Creation of a non-farm residential cluster that covers more than one (1) non-farm residence if all of the following apply:

1. The parcels on which the non-farm residences would be located are contiguous.

2. Each non-farm residence constructed in the non-farm residential cluster must satisfy the requirements of section 20-1226(16)(a).

(17) A-1 farmland preservation zoning district rezonings.

a. Except as provided in section 20-1226(17)(b), the Racine County Board and the Racine County Economic Development and Land Use Planning Committee may not rezone land out of the farmland preservation zoning district unless the Racine County Economic and Development and Land Use Planning Committee finds all of the following in writing, after public hearing, as part of the official record of rezoning:

1. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.

2. The rezoning is consistent with any applicable comprehensive plan.

3. The rezoning is substantially consistent with the Racine County Farmland Preservation Plan, which is in effect at the time of the rezoning.

4. The rezoning will not substantially impair or limit current of future agricultural use of other protected farmland.

b. Section 20-1226(17)(a) does not apply to any of the following:

1. A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) under W.S.A., ch. 91.

2. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the Racine County Farmland Preservation Plan map, certified under W.S.A., Ch. 91, which is in effect at the time of the rezoning.

c. By March 1 of each year, the Racine County Public Works and Development Services Department shall provide to the DATCP a report of the number of acres that Racine County has rezoned out of the farmland preservation zoning district under section 20-1226(16)(a) during the previous year and a map that clearly shows the location of those acres.

(Code 1975, § 7.049; Ord. No. 93-99, 9-14-93; Ord. No. 97-155, 11-11-97; Ord. No. 2005-69S, 9-13-05; Ord. No. 2006-91, 10-26-06; Ord. No. 2007-28, 6-26-07; Ord. No. 2008-127, 2-10-09; Ord. No. 2011-61, 11-8-11; Ord. No. 2013-54, 8-13-13; Ord. No. 2014-87, 12-9-14; Ord. No. 2015-90, 12-15-15; Ord. No. 2016-53, 6-14-16)

Sec. 20-1227. - Application.

Application for the conditional use permit for sanitary landfills shall be accompanied by the following:

(1) A plat of survey of the proposed site and an adequate description of the operational methods, including leachate collections and disposition;

(2) A list of equipment, machinery, and structures to be used;

(3) The source, quantity, and disposition of any water or other material to be used in the sanitary landfill operation;

(4) A topographic map of the site showing existing contours with a maximum vertical contour interval of two (2) feet, existing trees, proposed and existing access roads, and the depth of all existing and proposed excavations and fills; and

(5) A restoration and reuse plan. The restoration and reuse plan provided by the applicant shall contain:

a. Proposed contours after filling or restoration;

b. Depth of the restored topsoil; and

c. Planting or restoration and reforestation commencement and completion dates.

(Code 1975, § 7.049)

Sec. 20-1228. - Mineral extraction.

Mineral extraction operations, including washing, crushing or other processing, are conditional uses and may be permitted in the M-4 quarrying district provided:

(1) The application for the conditional use permit shall include: an adequate description of the operation; a list of equipment, machinery and structures to be used; the source, quantity and disposition of water to be used; a topographic map of the site showing existing contours with a contour interval no greater than five (5) feet, trees, proposed and existing access roads, the depth of all existing and proposed excavations; and a restoration plan.

(2) The restoration plan provided by the applicant shall contain proposed contours after filling, depth of the restored topsoil, type of fill, planting or reforestation, restoration commencement and completion dates. The applicant shall furnish the necessary fees to provide for the county's inspection and administrative costs and the necessary sureties which will enable the county to perform the planned restoration of the site in event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the county engineer, and the form and type of such sureties shall be approved by the corporation counsel.

(3) The conditional use permit shall be in effect for a period not to exceed two (2) years and may be renewed upon application for a period not to exceed two (2) years. Modifications or additional conditions may be imposed upon application for renewal.

(4) The planning and development committee shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the locality and shall also consider the practicality of the proposed restoration of the site.

(Code 1975, § 7.0410)

Secs. 20-1229—20-1245. - Reserved.

DIVISION 6. - RECREATIONAL USES

Sec. 20-1246. - Uses permitted conditionally.

(a) The following public recreational facilities shall be conditional uses and may be permitted as specified: archery ranges, bathhouses, beaches, boating, camps, conservatories, driving ranges, firearm ranges, golf courses, gymnasiums, hunting, ice boating, marinas, music halls, polo fields, pools, riding academies, skating rinks, sport fields, stadiums, swimming pools and zoological and botanical gardens in the P-2 district provided that the lot area is not less than three (3) acres and all structures are not less than fifty (50) feet from any district boundary.

(b) Commercial recreation facilities, such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, racetracks, rifle ranges, turkish baths, skating rinks and theaters are conditional uses and may be permitted in the B-3, B-4, B-5 and B-6 business districts.

(Code 1975, § 7.0411)

Secs. 20-1247—20-1265. - Reserved.

DIVISION 7. - LIVESTOCK FACILITY SITING

Secs. 20-1266. - Procedures for siting livestock facilities.

(a) These procedures apply to livestock facilities that require a conditional use permit under this chapter which are all new or expanded livestock facilities that will have five hundred (500) or more animal units.

(b) *Permits for existing livestock facilities.*

(1) A permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:

a. The applicable size threshold for a conditional use permit established in the zoning district where the facility is located.

b. The maximum number previously approved or, if no maximum number was previously approved, a number that is twenty (20) percent higher than the number kept on May 1, 2006, or on the effective date of the permit requirement, whichever date is later.

(2) A permit is not required for livestock facility that existed before May 1, 2006, or before the effective date of the permit requirement in this division, except as provided in subsection (1).

(3) A permit is not required for livestock facility that was previously issued a conditional use permit or other local approval, except as provided in subsection (1). A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, expect as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.

(c) *Application procedures.* In addition to the standard conditional use application requirements of section 20-1161, a livestock operator must complete the application and worksheets prescribed by § ATCP 51, including any authorized local modifications. The application requirements specified in § ATCP 51, Wis. Adm. Code, are incorporated by reference, without reproducing them in full. The application form and worksheets establish compliance with the standards in ATCP 51 and this division.

The operator must file four (4) duplicate copies of the § ATCP 51 application form, including worksheets, maps and documents (other than engineering design specifications) included in the application.

(d) *Application fee.* In addition to the standard conditional use filing fee, a non-refundable §

ATCP 51 application fee as established by board of supervisors resolution shall accompany an application.

(e) *Application review procedure.*

(1) Within forty-five (45) days after the planning and development department receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within fourteen (14) days after the applicant provides all of the required information, the department shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.

(2) Within fourteen (14) days after the department notifies an applicant that the application is complete, the department shall notify adjacent landowners of the application. The department shall use the approved notice form in § ATCP 51, and mail a written notice to each adjacent landowner.

(3) The economic development and land use planning committee shall grant or deny an application within ninety (90) days after the notice of a complete application is provided as required by subsection (2) above. The economic development and land use planning committee may extend this time limit for good cause, including any of the following:

a. The committee needs additional information to act on the application.

b. The applicant materially modifies the application or agrees to an extension. The committee shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the committee will act on the application.

(f) *Public hearing.* The economic development and land use planning committee will schedule a public hearing on the application within ninety (90) days after issuing notice of a complete application.

(g) *Standards.* The standards for issuing a permit are as follows:

(1) The state livestock facility siting standards adopted under § ATCP 51, Wis. Adm. Code. These standards are incorporated by reference, without reproducing them in full.

(2) Setbacks authorized by this chapter.

(h) *Criteria for issuance of a permit.*

(1) A permit shall be issued if the application for the proposed livestock facility contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in the ordinance. Note: If the application and worksheets prescribed by ATCP 51 are properly completed, there is a rebuttable presumption that the

applicant has met the application requirements.

(2) A permit may be denied if any of the following apply:

a. The application, on its face, fails to meet the standard for approval.

b. The political subdivision finds, based on other clear and convincing information in the record, that the proposed livestock facility does not comply with applicable standards in this division.

c. Other grounds authorized by W.S.A., § 93.90, that warrant disapproving the proposed livestock facility.

(3) No conditions may be imposed on the permit other than the standards provided in this chapter.

(i) *Record of decision.*

(1) The economic development and land use planning committee shall issue its decision in writing. Its decision shall be based on written findings of fact supported by evidence in the record.

(2) In the event that a permit is approved, the applicant shall receive a duplicate copy of the approved application, marked "approved." The duplicate copy must include worksheets, maps and other documents (other than engineering specifications) included in the application.

(j) *Notice to the department of agriculture, trade and consumer protection.* The Village, as required by § ATCP 51.34(5), within thirty (30) days of the decision on the application shall do all of the following:

(1) Give the department of agriculture, trade, and consumer protection written notice of the decision.

(2) File with the ATCP a copy of the final application granted or denied, if the Village has granted or denied an application under this ordinance. (The copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications).

(3) If the VIllage has withdrawn a local approval under this division, file with the department a copy of the final notice or order withdrawing the local approval.

(k) *Expiration of permit.* A permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under the permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the political subdivision may treat a permit as lapsed and withdraw the permit if the permit holder fails to do all of the following within two (2) years after the issuance of the permit:

(1) Begin populating the new or expanded livestock facility.

(2) Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the permit application.

(l) *Permit modifications.* The operator may make reasonable changes that maintain compliance with the standards in this division, and the Village shall not withhold authorization for those changes. It is the Village's responsibility to determine what changes are reasonable.

(m) *Compliance monitoring.* The Village shall monitor compliance with the chapter as follows:

(1) Upon notice to the livestock facility owner, request the right of the zoning administrator to personally view the permitted facility at a reasonable time and date to ensure that all commitments of the application as approved are being complied with.

(2) If the livestock facility owner refuses the zoning administrator the right to view the permitted facility, the zoning administrator may request the assistance of the sheriff or deputy sheriff to obtain an inspection warrant from the circuit court to inspect the permitted facility for the purpose of protection of the public health and safety under W.S.A., § 66.0119.

(3) If a permitted facility is found not to be in compliance with the commitments made in the approved application, the zoning administrator shall issue a written notice to the livestock facility owner stating the conditions of non-compliance and directing that compliance of the commitments of the approved application be complied with in a reasonable amount of time stated in this notice.

(4) If non-compliance of the permit conditions as described in the written notice given by the zoning administrator continue past the stated reasonable time to comply, the zoning administrator may take further action as provided in this division, including, but not limited to, issuance of a citation or seeking of injunctive relief.

(5) If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within five (5) days of receipt of the notice of non-compliance. The economic development and land use planning committee shall schedule a hearing within five (5) days to determine if the conditions of the permit have been complied with or whether non-compliance of the commitments of the approved application and local approval exists. The date of the hearing shall be based on the economic development and land use planning committee's published hearing schedule.

(n) *Terms of the permit.* A permit and the privileges granted by a permit issued under this chapter are conditioned on the livestock operator's compliance with the standards in this chapter and with commitments made in the application for a permit. The Village is authorized to suspend a permit or seek other redress provided in this division for non-compliance.

(o) *Transferability.*

(1) A permit and the privileges granted by the permit run with the land and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval. An applicant may record

with the register of deeds, at the applicant's expense, the duplicate copy of the approved application.

(2) Upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Village Clerk providing pertinent information, including, but not limited to, such information as the name and address of the new owner and date of transfer of ownership.

Sec. 20-1267 – 20-1290. - Reserved.

DIVISION 8. - SHORELAND USES

Sec. 20-1291. - Uses permitted conditionally.

The uses set forth in this division may be conditional uses requiring review, public hearing, and approval by the planning and development committee or may be permitted by the zoning administrator subject to the provisions of this article.
(Code 1975, § 7.0413)

Sec. 20-1292. - Tree cutting, shrubbery clearing.

(a) Tree cutting and shrubbery clearing not prohibited in section 20-1036 et seq. may be permitted, provided that such cutting and clearing within thirty-five (35) feet inland from the ordinary high-water mark shall not exceed thirty (30) feet in any one hundred (100) feet, as measured along the ordinary high-water mark and shall be so regulated as to prevent erosion and sedimentation, preserve and improve scenic qualities, and during foliation substantially screen any development from stream or lake uses. Paths and trails shall not exceed ten (10) feet in width and shall be so designed and constructed as to result in the least removal and disruption of shoreland cover and the minimum impairment of natural beauty. Any path or trail within the thirty-five-foot area described above shall be constructed and surfaced so as to effectively control erosion.

(b) The planning and development committee or the zoning administrator shall request a review of such tree cutting and shrubbery clearing in excess of one (1) acre by the state department of natural resources and await their recommendations before taking final action, but not to exceed sixty (60) days.

(Code 1975, § 7.0413; Ord. No. 86-17, § 7.0413, 7-22-86)

Sec. 20-1293. - Earth movements.

(a) Earth movements, such as grading, topsoil removal, stream course changing, road cutting, waterway construction or enlargement, removal of stream or lake bed materials, excavation, channel clearing, ditching, dredging, lagooning, and soil and water conservation structures, may be permitted provided that such uses are so regulated as to prevent erosion and sedimentation and to least disturb the natural fauna, flora, watercourse, water regimen, and topography.

(b) The planning and development committee or the zoning administrator shall request a review of such earth movement by the county land conservation office and the state district

fish and game managers and a review of each such cutting and clearing from the state district forester and await their recommendations before taking final action, but not to exceed sixty (60) days.

(c) A copy of the planning and development committee's or the zoning administrator's decision on such application shall be forwarded to the department of natural resources and the Region 2 Water Resources Advisory Board within ten (10) days of such decision.

(Code 1975, § 7.0413)

Sec. 20-1294. - Shore protection structures.

(a) Shore protection structures for the Lake Michigan shoreline include such items as groins, revetments, breakwaters, bulkheads and piers, and may be permitted. All such structures shall meet the criteria set forth in recommendations of the Racine County Technical Subcommittee on Shoreland Development Standards to the Racine County Land Use Committee, 1982.

(b) The planning and development committee or the zoning administrator shall request a review of such shore protection structures by the county technical subcommittee on shoreland development standards and await their recommendations before taking final action, but not to exceed sixty (60) days.

(Code 1975, § 7.0413)

Sec. 20-1295. - Relocatable structures.

(a) The placement of relocatable structures or buildings within the NSO district may be permitted.

(b) The property owner shall submit a report from a professional building moving contractor certifying that the structure can be feasibly moved at a cost not to exceed thirty (30) percent of the equalized value of the structure. In addition, the property shall extend sufficiently outside the NSO district so that the structure can be relocated in the future outside the NSO district. Relocatable structures are not permitted within the SSO structural setback overlay district.

(Code 1975, § 7.0413)

Secs. 20-1296—20-1335. - Reserved.

Editor's note— Ord. No. 2003-132, adopted Nov. 18, 2003, repealed Art. VIII, Div. 9, in its entirety. Former Div. 9 pertained to Adult entertainment uses, and derived from Code 1975, § 7.0415, and Ord. No. 85-2, § 7.0415, adopted May 14, 1985.

DIVISION 9. - REGULATIONS FOR OTHER SPECIFIC USES

Editor's note— Ord. No. 2003-132, adopted Nov. 18, 2003, renumbered former Div. 10 as Div. 9 to read as set out herein.

Sec. 20-1336. - Public and semipublic uses.

The following public and semipublic uses shall be conditional uses and may be permitted as specified:

(1) Airports, airstrips and landing fields in the M-2 and M-3 industrial districts, the A-2 and A-4 agricultural districts and the P-1 institutional park district, provided the site area is not less than twenty (20) acres.

(2) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums in all residential and business districts; M-1, M-2 and M-3 industrial districts, and P-1 and P-2 park districts.

(3) Utilities in all districts provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line. Utilities in the A-1 district must meet W.S.A., § 91.46(4).

(4) Public passenger transportation terminals, such as heliports, bus and rail depots, except airports, airstrips and landing fields, in all business districts and the M-1, M-2 and M-3 industrial districts, provided all principal structures and uses are not less than one hundred (100) feet from any residential district boundary.

(5) Public and parochial and private elementary and secondary schools and churches in all residential districts and P-1 institutional park district, provided the lot area is not less than two (2) acres and all principal structures and uses are not less than fifty (50) feet from any lot line.

(6) Colleges; universities; hospitals; sanitariums; religious, charitable, penal and correctional institutions; cemeteries and crematories in the A-2 and A-4 agricultural districts and P-1 institutional park district, provided all principal structures and uses are not less than fifty (50) feet from any lot line.

(7) Clubs, fraternities, lodges, sororities and similar semipublic associations, where the principal purpose of the facility is for social, educational, recreational or similar nonresidential type use in the B-3 or B-5 districts, provided that all principal structures and uses conform to the setbacks for those districts.

(Code 1975, § 7.044; Ord. No. 86-243, § 7.044, 2-24-87; Ord. No. 2015-90, 12-15-15)

Sec. 20-1337. - Residential uses.

The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

(1) Planned residential developments in the R-8 residential district. In addition to the development, park land, lot, building and yard requirements specified in the R-8 residential district, deed restrictions enforceable by the county shall be given to assure the proper preservation, care and maintenance, by the original and all subsequent owners, of the exterior design and layout of the development and of all common structures, facilities, utilities, accesses, open spaces and park lands.

(2) Clubs, fraternities, lodges, sororities, religious and charitable institutions, where the principal purpose of the facility is to provide lodging and meals for the members of such organization in the R-7 residential district, provided that all principal structures and uses are not less than twenty-five (25) feet from any lot line. This provision is not intended to limit "community living arrangements" as defined by the state statutes.

(3) Rest homes, nursing homes, homes for the aged, clinics and children's nurseries in the R-6 or R-7 residential districts provided all principal structures and uses are not less than fifty (50) feet from any lot line.

(4) Cluster residential developments in the C-2 district shall be permitted as a conditional use. The district regulations may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than one (1) dwelling unit per five (5) acres. The original and all subsequent owners shall assure, by deed restrictions enforceable by the jurisdictional zoning body, proper preservation, care, and maintenance of: exteriors; designs; all common structures; facilities; utilities; accesses; and open spaces.

Development		
Area	Minimum	20 acres
Lot		
Width	Minimum	150 feet
Area	Minimum	40,000 square feet
Buildings		
Dwelling	Height maximum	35 feet
Residential accessory structures	Height maximum	17 feet
Agricultural structures such as barns, silos, sheds and storage bins	Height maximum	Two (2) times the distance from the nearest lot line
Yard setbacks		
All structures		
Rear	Minimum	50 feet
Side	Minimum	15 feet
Street	Minimum	50 feet
Shore	Minimum	75 feet

(5) Bed and breakfast (B&B) in all residential districts and the A-2 district.

(6) Servant's quarters not for rent in any district that allows residential development as a principal use; itinerant agricultural laborer's quarters not for rent in any

agricultural district. All such structures must be clearly accessory to the principal use. In the A-1 district all servant's and itinerant agricultural labor's quarters must qualify under W.S.A., § 91.01(19).

(Code 1975, § 7.045; Ord. No. 86-243, § 7.045, 2-24-87; Ord. No. 89-255, 2-27-90; Ord. No. 97-203, 1-13-98; Ord. No. 2000-251S, 8-28-01; Ord. No. 2003-197, 2-12-04; Ord. No. 2007-28, 6-26-07; Ord. No. 2015-90, 12-15-15)

Sec. 20-1338. - Temporary structures.

Temporary structures are intended to facilitate occasional, temporary uses and activities authorized pursuant to Section 20-1012, when consistent with the overall purposes of this zoning ordinance and the uses and/or structures allowed in a particular zoning district, and when the operation or use of the temporary structure will not be detrimental to the public health, safety or general welfare. Because the nature, character or circumstances of temporary structures are unique and dependent upon specific conditions, specifying all temporary structures and associated standards, regulations or conditions necessary or appropriate for a temporary structure to be granted is not practical. Therefore, all requested temporary structures shall require a conditional use permit as approved by the Village Board after a duly noticed public hearing before the Plan Commission and Village Board.

Sec. 20-1339. - Highway-oriented uses.

(a) The following commercial uses shall be conditional uses and may be permitted as specified:

(1) Drive-in theaters in the B-5 business district provided that a planting screen at least twenty-five (25) feet wide is created along any side abutting a residential district and no access is permitted to or within one thousand (1,000) feet of an arterial street.

(2) Drive-in establishments serving food or beverages for consumption outside the structure in the B-3, B-5 and B-6 business districts.

(3) Motels in the B-5 and B-6 business districts.

(4) Funeral homes in the B-2 and B-5 business districts, provided all principal structures and uses are not less than twenty-five (25) feet from any lot line.

(5) Drive-in banks in the B-2, B-3, B-4 and B-5 business districts.

(6) Tourist homes in the B-5 and B-6 business districts provided such district is located on a state trunk or U.S. numbered highway.

(7) Truck and bus terminals for the parking, repair and servicing of vehicles, provided no trans-shipment or warehousing facilities are provided, in the B-5 highway business district.

(8) Self-service storage facilities including incidental managers office/quarters in the B-3 business district along county trunk highways, state trunk highways and other similar major arterials, the B-5 business district and in the M-2 and M-3 industrial districts. The maximum lot coverage by structures for a self-service storage facility shall not exceed fifty (50) percent, and such facility shall not exceed in height the maximum allowed for principal structures for the district in which it is located and shall meet the setbacks for the district in which it is located.

(9) Vehicle sales, service, washing and repair stations, garages, taxi stands and public parking lots, in all business districts provided all gas pumps are not less than thirty (30) feet from any side or rear lot line and twenty-five (25) feet from any existing or proposed street line.

(b) Any development within five hundred (500) feet of an existing or mapped right-of-way of a freeway or expressway and within one thousand five hundred (1,500) feet of their existing or mapped centerline of interchange with any other road shall be deemed to be a conditional use. Any development within fifty (50) feet of any existing or mapped state trunk highway or county trunk highway and within one hundred fifty (150) feet of an existing or mapped centerline of intersection with any other road shall be deemed to be a conditional use.

(Code 1975, § 7.047; Ord. No. 86-86, § 7.047, 8-26-86; Ord. No. 87-144, 11-10-87; Ord. No. 88-160, § 7.047, 1-10-89)

Sec. 20-1340. - Business uses.

The following uses shall be conditional uses and may be permitted as specified:

(1) Recycling drop-off sites in the B-3, M-2, M-3 and P-1 (for municipally owned sites) zoning districts subject to the following criteria:

a. Sites shall be located so as to generate minimum impact on adjacent areas.

b. Sites shall be fenced so that their hours can be controlled and site locked when not open.

c. It is preferred that sites be accessory to established commercial, industrial or municipal uses.

d. The site's storage area, parking area, and driveway shall be maintained in an all-weather, dust-free surface. Parking for a minimum of five (5) vehicles shall be provided.

e. The non-surfaced areas of the site shall be landscaped and maintained.

f. Trash receptacles shall be provided at the site, in addition to the receptacles for recyclable materials.

g. Security lighting shall be provided.

h. Sites shall not occupy required parking, not impede vehicular or pedestrian traffic flow nor disrupt on site drainage for the principal use.

i. Sites shall be limited to collection of recyclable materials as defined in this chapter. Each site will be limited to acceptance of those materials approved by the committee and the affected village.

j. No composting is permitted on the site.

k. Owner and/or operator shall keep each site clean and in a neat appearance and shall dispose of material and other litter from the site.

l. Signs shall indicate only name of site, operator, phone number, hours of collection, and types of materials collected.

(2) Licensed commercial day care centers in the R-6 and R-7 residential districts; the B-1, B-2, and B-3 commercial districts; and in the P-1 institutional park district.

(3) Flea markets in the B-3 and B-5 business district.

(4) In any business district any development involving multiple, principal use buildings or multiple tenants in a single building or any single commercial building two thousand five hundred (2,500) gross square feet or larger.

(5) Brew pubs in the B-3 business district.

(6) Landscape contractors offices and yards in the B-3 business district.

(Ord. No. 93-99, 9-14-93; Ord. No. 93-183, 1-11-94; Ord. No. 2000-251S, 8-28-01)

Secs. 20-1341—20-1355. - Reserved.

ARTICLE IX. - SIGNS[19]

Footnotes:
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Editor's note— Ord. No. 2004-190, adopted Mar. 8, 2005, repealed Art. IX in its entirety and reenacted a new Art. IX to read as set out herein. Former Art. IX pertained to similar subject matter and derived from Code 1975m §§ 7.071—7.076, 7.078, 7.079; Ord. No. 87-113, § 7.0710, adopted Oct. 13, 1987; Ord. No. 88-160, § 7.073, adopted Jan. 10, 1989; Ord. No. 89-89, § 7.074, adopted Aug. 8, 1989; Ord. No. 90-255, § 7.704, adopted Mar. 12, 1991 and Ord. No. 93-9, adopted May 11, 1993.
Cross reference— Schedule of deposits for violation of the provisions in this section, § 5-3; district regulations, § 20-211 et seq.; supplementary district regulations and requirements, § 20-986 et seq.
State Law reference— Authority to regulate billboards, etc., W.S.A., § 59.07(49).

DIVISION 1. - GENERALLY

Sec. 20-1356. - Scope, purpose, and findings.

(1) *Scope and Purpose*

(a) The sign regulations of this division establish regulations for the fabrication, construction, and use of signs in the Village. The regulations govern the location, type, size, and height of signs within the Village.

(b) These sign regulations do not regulate every form and instance of visual communication that may be displayed. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more general purposes or findings set forth in this division.

(2) *Findings.* The adoption of this division reflects the formal findings by the Plan Commission and Village Board that these sign regulations advance the following compelling governmental interests:

(a) Protecting Village residents. Signs can obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately require regulation.

(b) Protecting property values. Regulating signs preserves the character of various neighborhoods, creates a harmonious community, and encourages economic development. This division allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs.

(c) Promoting public health, safety and general welfare. Regulating signs helps protect all persons using public thoroughfares and rights-of-way within the Village in relation to the signage displayed thereon, or overhanging, or projecting into such public spaces.

(3) *Interpretation and administration.* The regulations of this division must be interpreted and administered in a manner consistent with the First Amendment guarantee of free speech.

(4) *Content neutrality.* Any sign allowed under this chapter may contain, in lieu of any other message or copy, any lawful noncommercial message, as long as the sign complies with all size, height, location and other applicable regulations of this division.

(5) *Compliance required.* The sign regulations of this division and all local and state building codes apply to all signs in all zoning districts, except as may be otherwise expressly stated in this chapter.

(6) *General government exemption.* The sign regulations of this division are not intended to and do not apply to signs erected, maintained or otherwise posted, owned or leased by the Village, state, or federal government. The inclusion of the term "government" in describing some types of signs does not subject the government to regulation but instead

is intended to help clarify the types of signs that are exempt under this general government exemption.

Sec. 20-1357. Signs – Definitions.

The following definitions are used in this article:

Abandoned or Obsolete Sign. Any display or sign remaining in place or not maintained for a period of ninety (90) days, which no longer identifies an ongoing business, product, or service available on the premises where the display or sign is located or where the building, business, or establishment to which the display or sign is related has ceased operation. For purposes of this definition, abandonment for the applicable period shall be deemed conclusive evidence of abandonment regardless of the property, business, or sign owner's intent.

Agricultural Homestead Sign. A sign with the principal purpose of identifying the name and address of a farm operation and/or date of establishment.

Awning. A hood or cover which projects from the wall of the building. Some may be retractable, folded, or collapsed against the face of a supporting structure.

Banner. Any sign or attractant made of non-structural materials such as cloth or flexible plastics.

Billboard. A sign which may pertain to the premises where the sign is located or directs persons to a different location from where the sign is located.

Canopy. A roof-like cover that projects from the wall of a building. Canopies may be freestanding, such as a covering over a service station island.

Changeable copy signs. Any message on a sign that may be changed by electronic process. Includes electronic signs that display the time and temperature.

Directly illuminated. Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

Drive through Sign. A menu or pre-menu information sign displaying menu-related information for a restaurant with a drive-through facility.

Electronic Signs. A sign which has an electronically controlled, illuminated display surface which allows all, or a portion, of the sign to be changed or illuminated in different ways.

Flashing. Any direct or indirect illumination of a sign on which artificial light is not stationary and constant in intensity and color at all times when in use.

Government Sign. A sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government.

Ground Sign. A freestanding, self-supported sign structure erected or supported from the ground containing one or more faces for sign or display purposes.

Identification. Any name or logo of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.

Indirect illumination. Shall mean a source of illumination outside of the actual sign.

Marquee. A permanent roof-like area to mount a sign that projects beyond a building wall at an entrance to a building or extends along and projects beyond the building's wall and is generally designed and constructed to provide protection against weather.

Nonconforming sign. Any sign that does not conform to the regulations of this article.

Off-Premises sign. Any sign that is five hundred (500) feet or more from a building or *Premises*.

On-Premises sign. Any sign that is less than five hundred (500) feet from a building or *Premises*.

Pole Sign. A sign that is mounted on a freestanding pole or other support.

Portable Sign Structure. Any structure without a permanent foundation or otherwise permanently attached to a fixed location, which can be carried, towed, hauled or driven and is primarily designed to be moved rather than be limited to a fixed location regardless of modifications that limit its movability.

Premises. A house or building, together with its land and outbuildings.

Projecting Sign. Any structure extending more than eighteen (18) inches, but less than sixty (60) inches from the face of a wall or building and not to exceed thirty-six (36) inches into the road right-of-way designed to carry a sign.

Recreational Directory Signs. A sign indicating the direction and/or distance to a specific cottage, resort, residence, or recreation facility that is located within an agricultural, resource conservation or park district.

Roof signs. A sign affixed to a roof of a building where the top edge of any point of that sign does not exceed the height of the roof plane to which it is affixed.

Sandwich Board Sign. An outdoor freestanding structure designed with an A-Frame construction no larger than twenty-five (25) inches wide by forty-five (45) inches tall capable of holding signage on both sides with a signage area typically twenty-four (24) inches by thirty-six (36) inches.

Sign. Any device, structure, fixture, painting, or visual image using words, graphics, symbols, numbers, or letters designed for the purpose of conveying information or attracting attention.

Temporary sign. Any sign structure intended to display a sign for a short period of time.

Time and/or temperature devices. An electronic sign that displays the time, temperature, or both. Time and/or temperature information may be in addition to other sign copy or advertising.

Wall Sign. Structure attached to, erected on, or painted on the wall of a building that supports or permits the mounting of signage, such as letters, pictures and symbols.

Way-finding sign. A sign with the purpose of serving the public welfare through way-finding by displaying the address of the residence, name of the destination, arrow, and/or distance.

Window sign. Any sign area located within an enclosed building and visible from a public way, also including signage mounted onto window surfaces.

Sec. 20-1358. - Existing signs.

(a) Signs (including billboards) lawfully existing at the time of the adoption or amendment of this article may be continued, although the use, size, height, or location does not conform to the provisions of this article. However, they are deemed a nonconforming use or structure and the provisions of section 20-186 et seq. apply. Notwithstanding section 20- 186 et seq., the zoning administrator is authorized to issue a zoning permit for conversion of an existing nonconforming sign from static to digital display, even if the costs of conversion exceed fifty (50) percent of the equalized assessed value, as long as the sign meets the requirements of this article, and does not otherwise become more nonconforming in its overall size, location or height. A conversion from static to digital display that increases the nonconformity of the overall size, location or height of an existing nonconforming sign will require approval via the site plan review process or a petition for a variance to the village board of appeals.

(b) Except as provided in subsection (a), a sign loses its legal nonconforming status if the overall size, design, structure, location or height of the sign is altered in any way that makes the sign less in compliance with requirements of this article than it was before alteration.

(c) Notwithstanding subsection 20-1360(1), a zoning permit will be required for any structural alteration, addition, or repair to a legal nonconforming sign.

Sec. 20-1359. - Obsolete signs.

Upon vacating a commercial, industrial, agricultural, or institutional establishment, obsolete signs must be removed within sixty (60) days, or for wall signs, may be painted out to match the building's exterior color, by the owner, agent, or person having the beneficial use of the property, building, or structure upon which such signs may be found.

Sec. 20-1360 - Prohibited signs and sign characteristics.

(1) No sign may be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit, except as provided herein and except for

normal maintenance and repair, without being in conformity with the provisions of this article.

(2) An applicant may seek village board review of an application for a sign permit for any prohibited sign or sign characteristic listed in this section. The village board will then either approve a variance for the sign along with reasonable conditions, or deny the sign application.

(3) The following signs and sign characteristics are prohibited except as otherwise expressly stated:

(a) Signs for which no required permit has been issued;

(b) Signs that by reason of position, shape, color or design interfere with, obstruct the view of, or may be confused with any authorized traffic sign, signal or device;

(c) Signs that use words such as "stop," "look," "danger," or any other word, phrase, symbol, or character in a manner that interferes with, misleads, or confuses users of streets or highways;

(d) Fluttering, undulating, swinging, rotating, or otherwise moving signs, such as wind socks, motorized signs, pennants, pinwheels, festoons, inflatables, and streamers (does not apply to banner signs) except as may be allowed under Section 20-1380 and Section 12-1404;

(e) Signs that project above the building parapet or eave;

(f) Flashing, scrolling, or animated signs;

(g) Beacons and search lights;

(h) Abandoned signs;

(i) Portable trailer signs with backlighting;

(j) Signs that prevent free ingress to or egress from any door, window, or fire escape;

(k) Signs attached to a standpipe or fire escape;

(l) Roof signs;

(m) Signs attached to or painted on a licensed motor vehicle if the sign:

(1) Directs attention to a business, service, commodity, or activity offered or sold on the premises; and

(2) If the vehicle is parked closer to the street than the nearest building wall (does not apply to vehicles parked for the purpose of immediate loading and unloading).

(n) Signs attached to or painted on an inoperable or unlicensed vehicle (motorized or nonmotorized) located in view of the right-of-way;

(o) Signs located in or obstructing required parking or loading spaces, or that otherwise obstruct vehicular or pedestrian access or circulation, or that pose any other hazard to motorized or nonmotorized travel;

(p) Signs that violate the intersection visibility regulations of Sec. 20-1086;

(q) Signs located in or that project into the right-of-way of a public street, except as expressly allowed under this division or as otherwise permitted by the Village;

(r) Sign displays with a brightness of such intensity or brilliance that they impair the vision or endanger the safety and welfare of any pedestrian, cyclist, or person operating a motor vehicle;

(s) No sign may be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered in any conservancy district, SWO district, or any floodplain district other than the FFO Urban Floodplain Fringe Overlay District; and

(t) Signs that are located in a vision corner or vision triangle unless in compliance with section 20-1086.

Sec. 20-1361. - Construction, maintenance and appearance.

(1) All signs must be constructed, mounted, and maintained so as to comply with all applicable provisions of the building code and electrical code.

(2) The base or supports of all ground-mounted signs must be securely anchored to a concrete base or footing and must meet applicable minimum wind load capabilities.

(3) The footing and related support structure of a permanent freestanding sign, including bolts, flanges, and brackets, must be concealed by landscaping.

(4) Signs must be mounted so that the method of installation is concealed.

(5) Signs must be anchored to minimize any lateral movement that would cause wear on the sign face or supporting members or connections.

(6) All permanent signs and their supporting members must be constructed of standardized sign materials.

(7) No combustible materials other than approved plastics may be used in the construction of electric signs.

(8) All signs must remain in a state of proper maintenance, including the absence of loose materials (including peeling paint, paper or other material), the lack of excessive rust, the lack of excessive vibration or shaking, and the presence of the original structural integrity of the sign, its frame and other supports, its mounting, and all other components.

(9) Any signs that are rotted, unsafe, or that are not in a state of proper maintenance must be repaired or removed by the licensee or owner of the sign or owner of the property upon which the sign stands, upon notice of the Village.

(10) All signs erected or installed after [effective date of this ordinance], must display in a conspicuous place thereon the date of erection, the manufacturer's name, the permit number, and the voltage of any electrical apparatus used in connection with the sign.

(11) The owner, lessee, or manager of a sign, and the owner of the land on which the same is located, must keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the site on which the sign is located.

(12) If a permitted sign is suspended or projects above a public right-of-way, the issuance and continuation of a sign permit must be conditioned on the sign owner agreeing to hold the Village harmless and obtaining and maintaining in force liability insurance for such a sign in an amount of at least One Million Dollars ($1,000,000) per occurrence per sign or such greater amount as the Village may reasonably determine.

Sec. 20-1362. - Sign permits.

(1) A sign permit must be obtained for any and all signs that are located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered, unless otherwise expressly stated in this division.

(2) Sign permits are not required for repainting, changing of parts, and preventive maintenance of signs if such activities result in absolutely no change in the appearance of the sign from that which was originally approved.

(3) Notwithstanding section 20-81, a zoning permit application for a sign must be submitted to the Village’s zoning administrator on forms provided by the zoning administrator. The zoning permit application must contain or have attached thereto at least the following information:

(a) Applicant's name, address, and telephone number.

(b) Location of building, structure, or lot to which or upon which the sign is to be located.

(c) Name of person, firm, corporation, or association erecting the sign.

(d) Written consent of the owner or lessee of the building, structure, or land to or upon which the sign is to be located. Owner or lessee's signature on the zoning permit application is considered written consent. The signature of an owner's representative or agent is acceptable provided a letter of agency is on file with the Zoning Administrator.

(e) A drawing of such sign indicating the materials to be used, the type of illumination, if any, and the method of construction and attachment. Said drawing must be drawn at a scale no smaller than one-tenth (1/10) inch equals one (1) foot or dimensions must be shown on the drawing.

(f) A drawing indicating the location and position of such sign in relation to nearby buildings, structures, and lot lines. Said drawing must include the sign's height above finished yard grade. Said drawing must be at a scale no smaller than one (1) inch equals fifty (50) feet or dimensions must be shown on the drawing.

(g) Signs requiring state or federal approval must provide a copy of such approval with the sign permit application.

(h) Additional information as may be required by the zoning administrator.

Secs. 20-1363. – 20-1379. Reserved.

DIVISION 2. – ADMINISTRATION

Sec. 20-1380. Signs for which no permit is required—All zoning districts.

The following signs may be erected and maintained without a sign permit as long as they do not constitute a hazard or nuisance. Such signs are not counted as signs for purposes of determining the number of signs or amount of signage on a lot.

(a) Signs erected and maintained pursuant to the discharge of governmental functions, or that are required by law, ordinance, or government regulation, or that are required to be posted in order to effectuate a legal right;

(b) Operational signs designating entrances, exits, service areas, parking areas, restrooms and other such signs relating to the functional operation of the subject building or premises, including "no trespassing," “no hunting,” and warning signs;

(c) Signs, plaques, or carvings that are affixed to a building with identifying information of a building or occupants, addresses, or dates of construction that are necessary to the public interest and that:

(1) Are not illuminated; and

(2) Do not exceed two (2) square feet in area per sign.

(d) Interior and inside-window signs intended for viewing from inside or outside the building, provided that such signs are permitted only on buildings occupied by nonresidential uses and may cover or obscure no more than 40% of the subject building facade's total window area; and

(e) Fuel price signs on lots occupied by fueling stations, as required by § 100.18(8), Wis. Stats.

(f) Signs advertising events or activities sponsored or authorized by a governmental body, as defined in Wis. Stat. Sec. 19.82(1). Such signs are not subject to the signage requirements set forth in Secs. 1400(1)(a) or (b).

Sec. 20-1381. - Signs for which no permits are required—Agricultural, resource conservation, and park districts.

The following signs may be located in all agricultural, resource conservation, and park districts without a permit and subject to the conditions herein specified:

(1) On-premises or off-premises recreational directory signs not to exceed two (2) in number not to exceed twelve (12) square feet in display area on one (1) side and twenty-four (24) square feet on all sides, five (5) feet in height and no closer than ten (10) feet to any right-of-way or property line.

(2) Signs over show windows or doors of a nonconforming business establishment not to exceed two (2) in number announcing, without display or elaboration, only the name and occupation of the proprietor and not to exceed a total of twenty (20) square feet in area for all signs, and twenty (20) feet in height.

(3) On-premises agricultural homestead signs, where the principal purpose of the sign is to identify the name and address of a farm operation and/or date of establishment, which may not exceed twenty-four (24) square feet in area on one (1) side and forty-eight (48) square feet in area on all sides, limited to one (1) sign for any one (1) farm, and such signs are located at least ten (10) feet from the outer limits of the street right-of-way or any property line, and such signs do not exceed ten (10) feet in height. Such signs may be exempt from the aforementioned height limit if painted upon the wall of an accessory structure. The size of such wall signs may exceed twenty-four (24) square feet if done in an aesthetically pleasing manner that is approved through a site plan review by the zoning administrator.

(4) Residential subdivisions located in C2 conservancy zoning are prohibited from erecting signs permitted under this section.

Secs. 20-1382. – 20-1399. Reserved.

DIVISION 3. - SPECIFIC SIGN REGULATIONS

Sec. 20-1400. - Signs allowed in all zoning districts.

(1) Signs allowed at any time.

(a) Up to three (3) square feet of window signage or window signage covering up to 25% of the window, whichever is lesser, is allowed per window.

(b) Up to four (4) square feet of (non-window) temporary signage not more than six (6) feet in height is allowed per 100 (100) feet of lot frontage, subject to a maximum of thirty-two (32) square feet of signage per parcel.

(2) Temporary signs on property being opened to the public. In addition to the other signs allowed under this section, six additional square feet of temporary signage per 100 feet of lot frontage, subject to a maximum of twelve (12) additional square feet of signage per parcel, may be located on the owner's property on a day when the property owner is opening the property to the public; provided, however, that the owner may not use this

type of sign in a residential district on more than nine (9) days in a year and may not use this type of sign in any commercial district for more than 30 (30) days in a year. For purposes of this section, a year is counted from the first day on which the sign is erected counting backwards and from the last day on which the sign exists counting forward.

(3) Additional temporary development signs for the purpose of designating a new building or development or for promotion of a subdivision may be permitted for a period up to two (2) years, and extensions may be granted for a period not to exceed five (5) years total. Signs may not exceed forty-eight (48) square feet in area on one (1) side and ninety-six (96) square feet in area on all sides; may not exceed twelve (12) feet in height, and must be located not closer than fifteen (15) feet from any street right-of-way and seventy-five (75) feet from any street right-of-way intersection, nor closer than ten (10) feet to any side or rear lot line. Only one (1) such sign is permitted per street frontage.

(4) Additional temporary signs on property for sale, rent or lease. In addition to the other signs allowed under this section, up to twelve (12) additional square feet of temporary signage is allowed per 100 feet of lot frontage, subject to a maximum of twelve (12) additional square feet of signage per parcel in the following cases:

(a) The owner consents and that property is being offered for sale, rent or lease through a licensed real estate agent or through advertising in a local newspaper of general circulation or equivalent web-based advertising.
(b) For up to thirty (30) days following the date on which a contract of sale has been executed by a person purchasing the property.
(c) During the time between the issuance of a building permit for construction on the subject property and issuance of a certificate of occupancy.

(d) Up to thirty (30) days immediately following issuance of a certificate of occupancy for the subject property.

(e) When a property is offered for sale and being opened to the general public, including a period of seventy-two (72) hours before that opening.

(f) The traditional arm and post residential real estate signs are allowed.

(g) For square footage and sign counting requirements, an arm and post sign with a small (2 sq. ft.) rider sign attached shall count as one sign.

(h) Notwithstanding the above, commercial or non-residential real estate signs are allowed up to 32 square feet in area and shall not exceed ten (10) feet in height.

Note: Typical residential real estate signs are approximately 12 square feet and are double sided. Rider signs are typically 2 square feet. Commercial real estate signs are typically 32 square feet.

(5) General regulations. Under the sign regulations of this section

(a) Any street frontage under 100 feet is counted as 100 feet. Additional allowances are per 100 feet and not awarded at a ratio.

(b) Each street frontage of a corner lot or double-frontage lot is counted separately and is given its own allowances.

(c) Additional signage allowances are not mutually exclusive; properties that meet multiple conditions that allow for additional temporary signage are allowed additional signage for each.

(d) Sign allowances under section 20-1400 can be subdivided or combined among individual signs, so long as any one sign does not exceed 12 square feet in a residential district or 32 square feet in any nonresidential district.

(e) The lessor of a property is considered the owner of the subject property if the lessor holds a right to use exclusive of others (or the sole right to occupy).

Sec. 20-1401. – Billboards permitted in all commercial and industrial districts with a permit.

(a) Billboards may be erected in all commercial and industrial districts with a permit and subject to the conditions specified in this section.

(b) No billboard erected in the Village shall be within twenty (20) feet of a side or rear lot line and fifty (50) feet of a street right-of way line, and all such billboards shall be set back at least one hundred (100) feet from any freeway or expressway. Such street setback shall be measured from the outer right-of-way line of the freeway complex including frontage roads regardless of jurisdiction.

(c) Billboards designed, intended or located in a manner to be visible to the traveling public on a freeway or expressway shall be limited to seven hundred fifty (750) square feet in area including temporary cutouts or extensions but excluding ornamental base or apron, supports and other structural members. The maximum size limitation shall apply to each side of a billboard and may be double faced, V type or placed back to back.

(d) Billboards designed, intended or located in such a manner as to be visible to the traveling public on a freeway or expressway shall be limited to forty (40) feet in height. Such height shall be measured from the mean centerline street grade of such freeway or expressway to which the billboard is oriented or ground level at the billboard location, whichever is higher.

(e) Illuminated billboards shall be erected or maintained so that the beams or rays of light are effectively shielded so as not to cause glare or impair the vision of the driver of any motor vehicle and while changeable copy signs are allowed, they shall contain no flashing, intermittent or moving lights.

(f) No billboard shall be erected within a two-thousand-foot radius of any other billboard or within two thousand (2,000) feet of any intersection, or within two thousand (2,000) feet of the property line of any airport, airfield or landing strip. In those instances where vision corners are a part of the right-of-way, the two-thousand-foot distance shall be measured from the intersection right-of-way lines as if the vision corner did not exist.

(g) Billboards which are not designed, intended or located in a manner so as to be visible to the traveling public on freeways and expressways shall not exceed twenty (20) feet in height above mean centerline street grade and shall not exceed three hundred (300) square feet on one (1) nor six hundred (600) feet on all sides for any one (1) sign.

(h) The owner of any billboard shall keep it in sound condition, well-maintained, and in good appearance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing billboard to its original condition, and shall maintain the premises on which the billboard is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, refuse, debris and weeds.

(i) All billboards designed, intended or located in a manner to be visible to the traveling public on a freeway or expressway shall be erected on a single steel pole upright.

(j) No off-premise changeable copy sign may be located within four hundred (400) feet of any "R-zoned" residential district from which the sign face is visible. The distance must be calculated as the shortest measurable distance between the nearest point of the sign to the edge of the residential zoning district, in a straight line and without regard to intervening structures.

(k) Nuisance light on residential properties is prohibited. Spill light is considered a nuisance when measurement in the nearest habitable area of the residential property at the location where the alleged nuisance occurs reveals that such light produces 0.2 foot-candles or more measured perpendicular to the ground at approximately four (4) feet from the ground at which the measurement is taken.

(l) The required light standard during daylight hours is five thousand (5,000) NITs (candelas per square meter), and five hundred (500) NITs (candelas per square meter) between dusk and dawn or the minimum standards set by the Federal Highway Administration, whichever is more restrictive.

Sec. 20-1402. - On-premises signs permitted in all residential districts with a permit.

The following signs may be located in any residential district and are subject to the conditions herein specified:

(1) Single-family, two-family, and multi-family permanent residential development signs not to exceed forty-eight (48) square feet in area on one (1) side and ninety-six (96) square feet in area on all sides, that are located at entrances to subdivisions or developments or along abutting streets or highways, identifying residential complexes or displaying the property addresses. Said signs must be located on an outlot, permanent easement, or other common area and they must be located not closer than fifteen (15) feet to any street right- of-way, nor closer than ten (10) feet to any side or rear lot line. Said signs may also be located within a street center island, boulevard, or median strip with proper jurisdictional approval. Such signs may not exceed twelve (12) feet in height. No more than two (2) such signs are permitted for any one (1) subdivision or development.

Sec. 20-1403. - On-premises signs permitted in all business and industrial districts with a permit.

The following signs may be located in all business and industrial districts subject to the conditions herein specified:

(1) Wall signs placed against the exterior walls of buildings may not extend more than twelve (12) inches outside of a building's wall surface may not exceed thirty (30) feet in height, and may not extend above the roof line of a flat roof, or the eave line of a building with a gambrel, gable, dome, or hip roof or the deckline of a building with a mansard roof. Total area of all wall signs may not exceed five hundred (500) square feet in area for any one (1) premises; except that in multi-tenant shopping centers, the anchor tenant(s) may each have five hundred (500) square feet of allowable sign area and the total area of all individual wall signs for non-anchor businesses within such multi-tenant structures shall not exceed fifty (50) square feet per tenant. An anchor tenant is defined as the major store or stores within a shopping center exceeding forty thousand (40,000) square feet in total floor area.

(2) Projecting signs fastened to, suspended from, or supported by structures may not extend more than six (6) feet from said structure; may not be less than ten (10) feet from all lot lines; may not exceed a height of twenty (20) feet; and the bottom of the sign may not be less than twelve (12) feet above the sidewalk or fifteen (15) feet above a driveway or an alley. Total area of all projecting signs may not exceed one hundred (100) square feet in area for any one (1) premises, regardless of the number of projecting signs on the site.

(3) Marquee, awning, and canopy signs affixed flat to the surface of a marquee, awning, or canopy are permitted provided that the signs do not extend more than six (6) inches vertically or horizontally beyond the limits of such marquee, awning, or canopy. A marquee, awning, or canopy for a shopping center may not extend beyond a point one (1) foot back from the vertical plane formed by the curbline in the shopping center. No marquee, awning, or canopy may project into a required street yard, side yard, or rear yard, unless such structure already exists as an existing legal nonconforming structure or was approved by variance by the village board of appeals and such sign does not increase the dimensional nonconformity by more than six (6) inches. A name sign not exceeding two (2) square feet in area located immediately in front of the entrance to an establishment may be suspended from a marquee, awning, or canopy provided that the bottom of the name sign is at least twelve (12) feet above the sidewalk or fifteen (15) feet above a driveway or alley. Total area of all marquee, awning, or canopy signs may not exceed sixty (60) square feet in area for any one (1) premises, except that gas station canopies over gas islands may have an additional sixty (60) square feet in area for each additional canopy beyond the first one.

(4) Ground signs may not exceed fifteen (15) feet in height and may not exceed one hundred (100) square feet on one (1) side or two hundred (200) square feet on all sides for any one (1) premises. Ground signs must be located not closer than fifteen (15) feet to a street right-of-way or closer than ten (10) feet to a side or rear lot line.

(5) Pole signs may not exceed a height of twenty (20) feet; the bottom of the sign may not be less than six (6) feet above the lot grade; may not exceed two hundred (200) square feet

on one (1) side or four hundred (400) square feet on all sides for any one (1) premises. Pole signs must be located not closer than twenty-five (25) feet from a street right-of-way or closer than twenty (20) feet to a side or rear lot line. The area of signs may be increased to a total of three hundred (300) square feet of one (1) side and six hundred (600) square feet on all sides if the sign is within one hundred (100) feet of the right-of-way of an interstate freeway and is designed and located to be read from the interstate freeway. One (1) pole sign within one hundred (100) feet of the right-of-way of an Interstate freeway may be up to thirty- five (35) feet in height.

(6) Roof signs may not exceed ten (10) feet in height above the roof; may not extend horizontally beyond the wall of the roof to which they are attached; may not exceed height requirements for the district in which they are located; and may not exceed three hundred (300) square feet in area on all sides for any one (1) premises.

(7) Changeable copy signs may be erected as wall signs, projecting signs, ground signs, canopy signs, or pole signs and must meet the requirements attendant to those sign types. Notwithstanding the provisions of section 20-1360(2), time and/or temperature devices may change their copy not more than once every four (4) seconds.

(8) Window signs, except for painted signs and decals, that may be placed on the outside of the glass, may be placed only on the inside of buildings and only in first floor windows/doors. No permit is required for window signs that are not readable from the street right-of-way. The total area of all window signs requiring a permit shall not cover more than twenty (20) percent of the total window area or door window area to which they are applied, or one hundred (100) square feet, whichever is less.

(9) Signs on any one (1) site are further limited as follows:

a. Shopping centers and multi-tenant buildings may provide one (1) ground or pole sign for each street frontage. Such facilities may also provide one (1) wall sign or one (1) sign for each business in the building.

b. Gasoline stations, service stations, convenience stores with pumps, or any combination thereof may provide one (1) ground sign and one (1) additional pole or ground sign. Wall signs and canopy signs may also be provided subject to total square footage limitations. Signs advertising incidental products for sale that are window signs or located on the gasoline pumps, and are not readable from the street right-of-way, will not require permits or be regulated in number.

c. For all other uses, total signs are limited to one (1) ground or pole sign and two (2) other signs per street-view frontage.

d. For subsections (9)(a), (b), and (c) above, window signs are not subject to the limitation on number of signs. However, such signs may not occupy more than twenty (20) percent of the total window area or one hundred (100) square feet, whichever is less.

e. The total of all signs that require permits that are erected or placed on any one (1) premises may not exceed twelve hundred (1,200) square feet in total display area, except for multi-tenant shopping centers, which will be allowed an additional five

hundred (500) square feet of display area for each anchor store beyond the first one, under subsection (1) above.

f. As an alternative to limitations in subsections (1), (2), (3), (4), and (5) above, the parcel owner may submit a master sign plan to the zoning administrator for review and to the Village board for approval. This master sign plan must indicate the type, construction, location, size and height of each proposed sign on the site. Approval of the master sign plan is required before issuance of the permit for the proposed sign on the property. After approval of a master sign plan, no sign shall be erected, placed, altered, moved, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this chapter. In cases of any conflict between the provision of such a plan and any other provisions of this chapter, the chapter shall control.

(10) Any sign authorized in this chapter is allowed to contain non-commercial copy in lieu of any other copy.

Sec. 20-1404. - On premises temporary signs in business or industrial district with a permit.

(a) A permit is required for temporary signs in business or industrial districts, including portable signs and banners, and such signs must conform to all regulations of this section. These provisions do not apply to subsections 20-1380(12), (14) and (19), section 20-1402(2), and subsection 20-1407(a).

(b) Such signs for on-premises advertising purposes are allowed in any business or industrial district provided that such signs will not be located closer than fifteen (15) feet to any street right-of-way, will not be located closer than ten (10) feet to an adjacent property line, will not exceed twenty (20) feet in height {six (6) feet for a portable sign}, will not cause a hazard to traffic or adjoining properties, will not exceed thirty-two (32) square feet in area on one (1) side nor sixty-four (64) square feet in area on all sides for any one (1) premises.

(c) The application for a temporary sign permit must state who is responsible for the removal of the sign and must include that person's address and telephone number. Such permit authorizing any temporary sign may not exceed thirty (30) days in a calendar year and the sign may not remain more than three (3) days after the expiration of the permit. Only one (1) such permit may be issued per premises per year.

Sec. 20-1405. - On premises signs permitted in park and resource conservation districts with a permit.

(a) Public and private institutional and park name signs shall be permitted in the P-1, P-2, C- 1, and C-2 districts with a permit. Such signs may be erected as wall signs, projecting signs, ground signs, or pole signs and shall meet the requirements under section 20-1403.

(b) Cluster residential developments in the C-2 district may have permanent residential development signs pursuant to the provisions of subsection 20-1402(1).

Sec. 20-1406. - Institutional signs with a permit.

Institutional signs in any zoning district, except for signs in zoning districts regulated by section 20-1405, must be located on the same premises as the institution and may be displayed after obtaining a zoning permit, subject to the following restrictions:

(1) Projecting signs may not project further than four (4) feet into any required yard, except that no such projection is allowed into the shore yard. Roof, wall, or projecting signs may not exceed thirty-two (32) square feet in area for one (1) side and sixty-four (64) square feet in area on all sides, may not exceed the height requirement of the district, and the number of signs may not exceed two (2) signs per street frontage.

(2) Ground signs must be located not less than fifteen (15) feet from the street right- of-way line, nor closer to the rear or side yard line than ten (10) feet. Such institutional ground signs may not at any point exceed fifteen (15) feet in height. The area of such sign may not exceed sixty-four (64) square feet on one (1) side and one hundred twenty-eight (128) square feet in area on all sides. The number of signs may not exceed two (2) signs per street frontage.

Sec. 20-1407. - Agricultural signs with a permit.

(a) Agricultural signs pertaining to the sale of products actually grown on the farm or in connection with a roadside stand not to exceed thirty-two (32) square feet in area on one (1) side and sixty-four (64) square feet on all sides for no more than two (2) signs on any one (1) farm, such signs are located at least ten (10) feet from the outer limits of the street right-of-way or any property line, such signs do not exceed fifteen (15) feet in height, and such signs are located on the same premises as the products for sale.

(b) Signs for agricultural businesses approved by conditional use shall be treated as commercial/industrial signs pursuant to section 20-1403 and are also allowed in agriculturally zoned districts.

Sec. 20-1408. – Signs in Shoreland Areas.

All signs in shoreland areas that are readable to stream or lake users at any time of the year may not exceed twenty-five (25) square feet in area on one (1) side or fifty (50) square feet in area on all sides for any one (1) premises; the sign may not exceed a height of twenty (20) feet, may not be located closer than twenty-five (25) feet to any side lot lines, and may not be located closer than seventy-five (75) feet to the ordinary high water mark of any navigable water body, unless the signs are official signs of any public or governmental agency, such as railroad crossing signs, trespassing signs, signs indicating danger, or signs used as aids to service or safety including water dependent informational signs with public health, safety or regulatory information that are no larger than necessary to accommodate the information that needs to be displayed.

Sec. 20-1409. - Way-finding signs.

A single permanent sign placed by the property owner for the purpose of serving the public welfare through way-finding is permitted in all nonresidential zoning districts. Such way-finding signs may not exceed 12 square feet in area, except that such signs may be up to 30 square feet in area if

a substantial landscape area is provided around the base of the sign and illumination on each side is limited to exterior lighting, not exceeding 1,100 lumens per 15 square feet of sign area.

Sec. 20-1410. - Drive-through signs.

Drive-through signs are permitted in conjunction with drive-through uses, in accordance with the following regulations:

(1) Drive-through signs must be located within 10 feet of a drive-through lane.

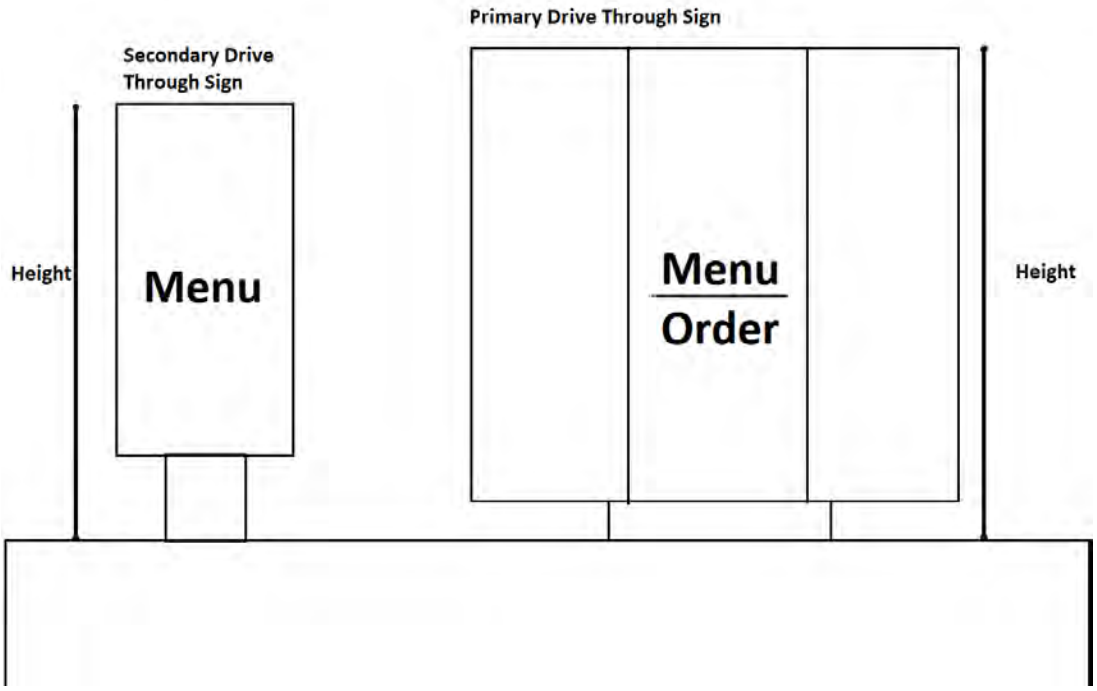
(2) One primary drive-through sign not to exceed 36 square feet in area or eight feet in height is allowed per order station up to a maximum of two primary drive-through signs per lot. One secondary drive-through sign not to exceed 15 square feet in area or six feet in height is allowed per lane.

(3) Drive-through signs must be set back at least 25 feet from residential zoning districts.

(4) Drive-through signs must be oriented to be visible by motorists in allowed drive-through lanes.

(5) Internal illumination is permitted only when the sign is completely screened from view of abutting residential zoned lots.

Figure 20-14010-1 Drive-Through Sign



Sec. 20-1411. - Sign illumination.

(a) Signs may not be erected or maintained if they contain, include, or are illuminated by any flashing light, electronic change in messages, electronic change in

background colors, electronic change in light intensity, or electronic video display, except for electronic messaging signs permitted under § 20-1411.

(b) External light sources used to illuminate signs must be effectively shielded so as to prevent:

(1) Beams or rays of light from being directed at any portion of the traveled way of any roadway; or

(2) Beams of light of such intensity or brilliance as to cause glare or impair vision of the operator of any motor vehicle.

Sec. 20-1412. - Electronic signs.

(a) **Prohibited electronic signs.** The following types of electronic signs are prohibited:

(1) Video display signs

(b) **Electronic messaging signs.** Unless otherwise expressly prohibited under this division, a freestanding sign or on-building sign may be an electronic messaging sign or include electronic messaging elements, subject to compliance with the following regulations:

(1) An electronic messaging sign or sign element may not exceed thirty (30) percent of the maximum sign area allowed for the subject sign type.

(2) The electronic display background color tones, lettering, logos, pictures, illustrations, symbols, and any other electronic graphic or video display may not blink, flash, rotate, scroll, change in illumination intensity, or otherwise change in outward appearance, except when the electronic message or display is changed to another message or display.

(3) The images and messages displayed on an electronic messaging sign must have a minimum dwell time of at least twenty (20) seconds and may not contain any movement, animation, audio, video, pyrotechnics or other special effects. The images and messages displayed must be complete in and of themselves within the required dwell time.

(4) The transition or change from one message to another must occur in two seconds or less and involve no animation or special effects.

(5) Electronic messaging signs must be equipped with a default mechanism that will stop the messaging or freeze the image in one position when a malfunction in electronic programming occurs.

(6) Electronic messaging signs must have a nonilluminated background.

(7) The maximum illumination level of the display on an electronic messaging sign may not exceed 0.3 footcandle above ambient light levels, measured as follows:

a. At least thirty (30) minutes past sunset, and with the electronic display either turned off, showing all black copy, or blocked, a footcandle (light) meter must be used to record the area's ambient light level. An ambient reading will be taken with the meter aimed directly at the electronic display and at the following distance:

Electronic Display Area (square feet)	Measurement Distance (feet)
Up to 100	100
More than 100	150

b. To establish the illumination level, the electronic display must be turned on to show all white copy and a second reading taken. The difference between the two readings is the electronic display's illumination level.

(8) Electronic messaging signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one-half (1/2) hour before sunset and one-half (1/2) hour after sunrise.

(9) Audio speakers are not allowed with any electronic messaging sign.

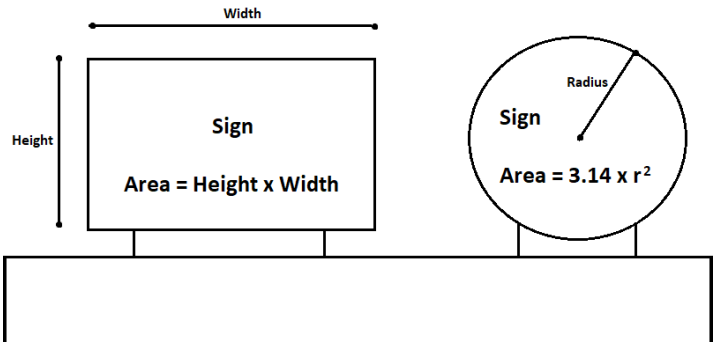
(10) Any form of pyrotechnics is prohibited in association with an electronic messaging sign.

Sec. 20-1413. - Measurements.

(a) Measurement of sign area. Sign area is calculated as follows:

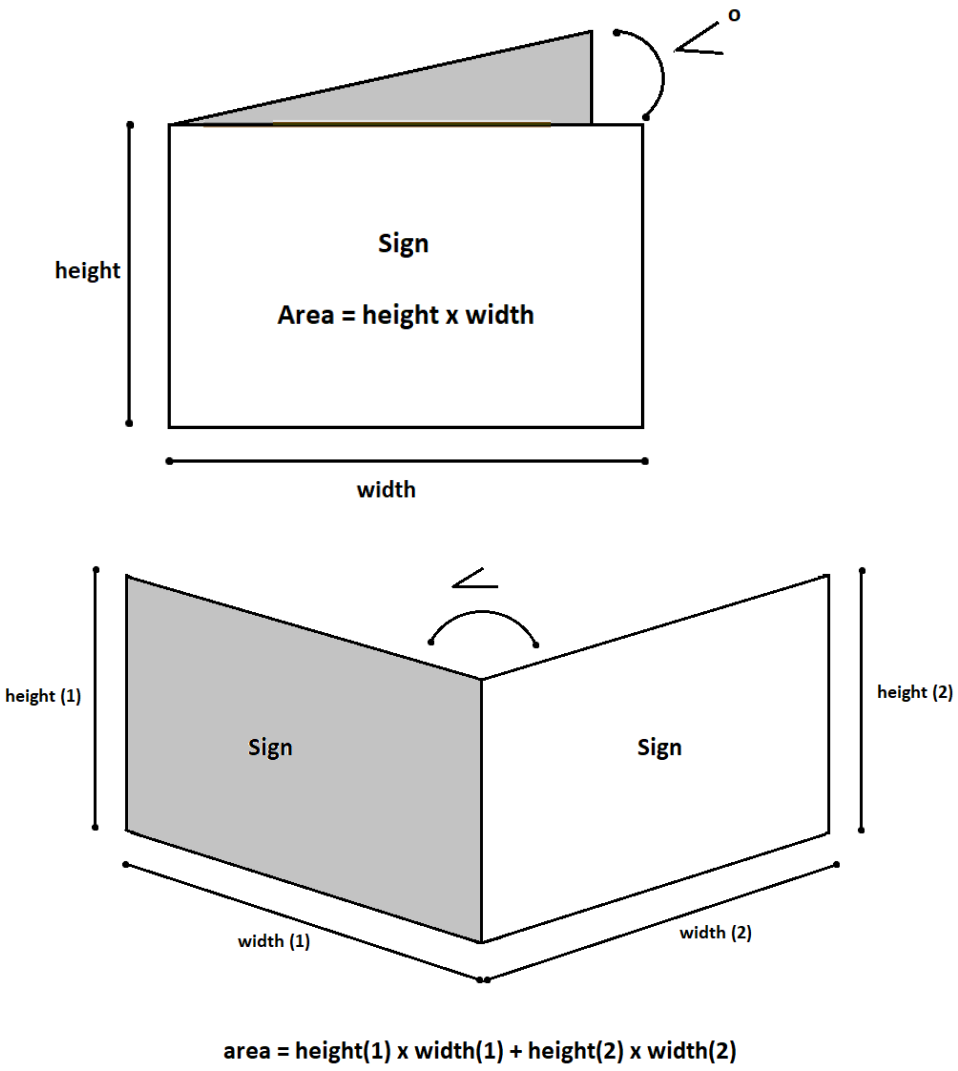
(1) The area of a sign enclosed in a frame or cabinet is determined based on the outer dimensions of the frame or cabinet surrounding the sign face.

Figure 20-1413-1 Sign Area



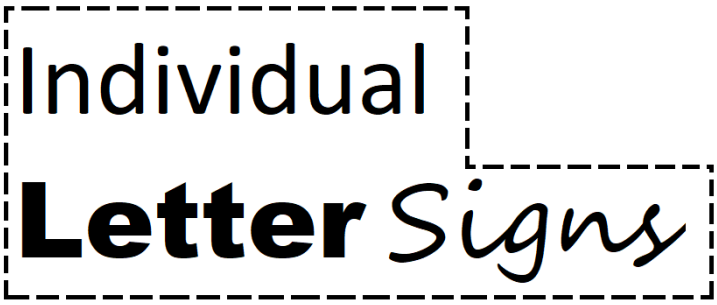
(2) When the sign faces of a multisided sign are parallel or within 30° of parallel, only one side of the sign is counted for the purpose of determining the area and number of signs. If the sign faces are not parallel or within 30° of parallel, all sign faces are counted in determining the number and area of signs on the subject lot.

Figure 20-1413-2 Multisided Sign



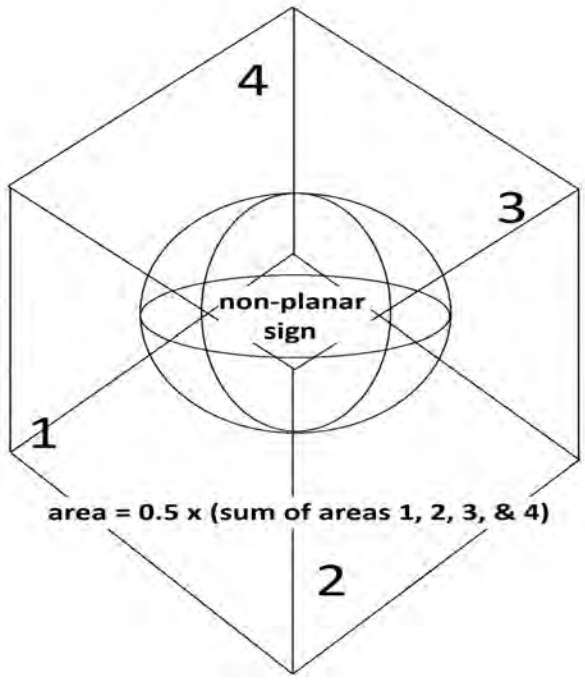
(3) The area of a sign comprised of individual letters or elements attached to a wall is determined by calculating the area of the smallest square, rectangle, or circle that can be drawn around the letters and graphic elements of the sign. Signs consisting of individual letters and/or graphic elements will be measured as one sign when the distance between the letters and/or elements is less than the largest dimension of the largest sign letter.

Figure 20-1413-3 Individual Letter Signs



(4) Spherical, free-form, sculptural or other nonplanar sign area is measured as fifty (50) percent of the sum of the areas using only the four (4) vertical sides of the smallest four-sided polyhedron that will encompass the sign structure.

Figure 20-1413-4 Nonplanar Signs



(b) Assignment of sign area: multitenant buildings. The allowable area for signs is based on the linear feet of a building facade assigned to each tenant.

(c) Measurement of sign height. The height of a sign is measured by calculating the distance from the base of the sign at normal grade to the top of the sign face. Normal grade is the lower of:

(1) The existing grade prior to construction; or

(2) The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

(d) Measurements for specific sign types

(1) Sidewalk signs shall be located within 3 feet of the building face of the business, leave a minimum of five (5) feet of contiguous clear sidewalk space for pedestrian movement, and shall not have any other devices attached to it such as balloons or ribbons.

(2) Wall signs project not more than twelve (12) inches from the wall on which the sign is mounted.

Secs. 20-1414 - 20-1418. - Reserved.

ARTICLE X. - MOBILE TOWER SITING[20]

Footnotes:
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Editor's note— Ord. No. 2013-137, adopted Feb. 11, 2014, repealed the former Art. X, §§ 20-1419—20-1433, 20-1440—20-1446, and enacted a new article as set out herein. The former Art. X pertained to tower broadcast facilities and derived from Ord. No. 99-58S, pt. 1, adopted July 13, 1999.

DIVISION 1. - GENERAL

Sec. 20-1419. - Purpose.

The purpose of this section is to regulate by zoning permit, site plan review, or conditional use the siting and construction of any new mobile service support structures and/or facilities.

Mobile service support structures or other supporting buildings or structures that are used to elevate an antenna, or which act as an antenna, and are intended for wireless telecommunications, are subject to the regulations and site development standards set forth in this article.
(Ord. No. 2013-137, 2-11-14)

Sec. 20-1420. - Amateur and citizen band towers.

Amateur and citizen band towers and antennas where the structure is fifty (50) feet or more in height are exempt from the provisions of this article except for the following:

(1) The installation or construction of such structure must require a site plan review and approval in accordance with the procedure set forth in section 20-1184. The committee may request a hearing following a site plan review if it is determined that such a hearing is in the public interest.

(2) Such structures must be considered an accessory structure and may only be permitted in the side yard and rear yard. A minimum ten (10) foot side-yard and rear-yard setback must be maintained.

(Ord. No. 2013-137, 2-11-14)

Sec. 20-1421. - Application submittal requirements—New mobile service support structures.

The siting and construction of any new mobile service support structures will require a conditional use permit. All structures should be camouflaged to the greatest extent possible, including compatible building materials, colors, and screening. Per Wisconsin W.C.A., § 66.0404(4)(g), an application may not be denied based solely on aesthetics concerns. A zoning permit application must be completed by the applicant and submitted to the development services office. In addition to the requirements found in section 20-1161, the application must contain the following information:

(1) Applicant name, business address, and phone number of all known occupants of the proposed mobile service support structure, including contact individual(s) for the applicant(s). The proposed structure must be designed structurally, electronically, and in all respects to accommodate collocation of both the applicant's antennas and antennas for at least two (2) additional users. The equipment compound must also be able to accommodate multiple users.

(2) The location of the proposed mobile service support facility.

(3) If the applicant does not own the site or the tower, the applicant must provide a lease agreement or binding lease memorandum which shows on its face:

a. that it does not preclude the site owner from entering into leases on the site with other provider(s);

b. that it does not preclude the tower owner from entering into leases on the tower with other provider(s);

c. the legal descriptions and amount of property leased;

d. in the event of abandonment, the county reserves the right to remove the tower at the property owner's expense.

(4) A scaled site plan which shows property lines, location of mobile service support structure, setback distances, mobile service facility, and fencing.

(5) A sketch, concept, or rendition of the site as proposed.

(6) 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 is responsible over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is not technically feasible; or is economically burdensome to the mobile service provider.

(7) A construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

(8) A tabular and/or map inventory of all of the applicant's existing towers and antennas which are located within the county. The inventory must specify the location, antennae height, and structure type of each of the applicant's existing mobile service support facilities. The inventory must also specify whether such towers are currently in operation and indicate the ability of the existing structures to accommodate additional collocation antennas.

(9) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.

(10) Evidence that the applicant has informed local airport owners and operators about any permit application for structures above two hundred (200) feet tall or within a three-mile radius of any existing public or private airport, including all landing strips.

(Ord. No. 2013-137, 2-11-14)

Sec. 20-1422. - Application process—New mobile service support structures.

(a) If an applicant submits to the county an application to engage in an activity described in this section, which contains all of the information required under this article, the county must consider the application complete. If the county does not believe that the application is complete, the county must notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. The applicant may resubmit an application as often as necessary until it is complete.

(b) Within ninety (90) days of its receipt of a completed application, the county must complete all of the following or the applicant may consider the application approved, except that the applicant and the county may agree in writing to an extension of the ninety (90) day period:

(1) Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this article;

(2) The economic development and land use planning committee must make a final decision whether to approve or deny the application;

(3) The county must notify the applicant in writing of the committee's final decision;

(4) If the application is approved, the development services office will issue the applicant a zoning permit;

(5) If the decision is to deny the application, the county must include with the written notification substantial evidence which supports that decision.

(c) The county may deny an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and does not provide the sworn statement described in section 20-1420(6).

(d) If an applicant provides the county with an engineering certification showing that the proposed mobile service support structure is designed to collapse within a smaller area than the setback or fall zone area required in the specified zoning district, that zoning setback does not apply to the proposed structure unless the county provides the applicant with substantial evidence that the engineering certification is flawed.

(Ord. No. 2013-137, 2-11-14)

Sec. 20-1423. - Technical review.

In the event the committee determines that it is necessary to consult with a third party in considering a permit, all reasonable costs and expenses, excluding travel expenses, associated with such consultation shall be borne by the applicant. Failure to pay such costs and expenses or to provide information requested by the committee shall be grounds for denial or revocation of a conditional use permit. The applicant may provide to the committee the names of consultants believed by the applicant to be qualified to assist in resolving the issues before the committee.
(Ord. No. 2013-137, 2-11-14)

Sec. 20-1424. - Abandonment.

(a) Any mobile service support structure and facilities not in operation for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the owner of the mobile service support structure and facility of the property where the structure and facility are located must remove the support structure and all supporting equipment, buildings, and foundations to a depth of five (5) feet, and must restore the location to its natural condition (except any grading may remain in the after-condition as determined by the zoning administrator) within ninety (90) days of receipt of notice from the zoning administrator. If removal and restoration to the satisfaction of the zoning administrator does not occur within the said ninety (90) days, the zoning administrator may remove and salvage said mobile service support structure and facility and restore the site at the expense of the mobile service provider or property owner.

(b) The applicant must submit a copy of a signed agreement, which may be the lease agreement, between the property owner and the owner of the mobile service facility detailing requirements for abandonment and subsequent removal based on the provisions of section 20-1424(1). Said agreement must also identify that the agreement must be binding on future property owner(s) and future owner(s) of the mobile service support structure and facility.

(c) The mobile service support structure and facility must be recorded in the register of deed's office and a copy of the deed must be filed with the development services office.

(Ord. No. 2013-137, 2-11-14)

Sec. 20-1425. - Security for removal.

The applicant shall provide to the county, prior to the issuance of the permit, a performance bond in the amount of twenty thousand dollars ($20,000.00) to guarantee that the tower and all

supporting equipment, buildings and foundations will be removed when no longer in operation. The county must be named as obligee in the bond, and it must approve the bonding company. The face of the bond must reflect that the county will be given notice if the bonding company cancels the bond. If, prior to the removal of the tower, tower removal rates exceed twenty thousand dollars ($20,000.00), the committee reserves the right to require a corresponding increase in the bond amount.
(Ord. No. 2013-137, 2-11-14)

Sec. 20-1426. - Continued compliance.

Upon written inquiry by the economic development and land use planning committee, the permit holder under this section shall have the burden of presenting credible evidence establishing to a reasonable degree of certainty the continued compliance with all conditions placed upon the conditional use permits. Failure to establish compliance with all conditions placed upon the conditional use will be grounds for revocation of the permit.
(Ord. No. 2013-137, 2-11-14)

Sec. 20-1427. - Use of existing structures.

A mobile service facility may locate on alternative support structures, such as clock towers, steeples, silos, light poles, buildings, water towers or similar structures, provided that the placement of the antenna will not extend more than six (6) feet from the structure. Mobile service facilities located on roofs must not occupy more than fifty (50) percent of the roof surface of a building and must be secured from the remaining area to prevent unauthorized access. The mobile service facility must be painted or otherwise treated to match the exterior of the structure. Such mobile service facility installation will be classified as either a class 1 or class 2 collocation and will require a site plan review.
(Ord. No. 2013-137, 2-11-14)

Sec. 20-1428. - Application submittal requirements—Class 1 collocations.

A collocation will be classified as a class 1 collocation if the following substantial modifications are added to the exiting mobile service support structure:

(1) an increase in the overall height of the structure by more than twenty (20) feet, for structures with an overall height of two hundred (200) feet or less;

(2) an increase in the overall height of the structure by 10% or more, for structures with an overall height of more than two hundred (200) feet;

(3) an increase in width of the support structure by twenty (20) feet or more, measured at the level of the appurtenance added to the structure as a result of the modification;

(4) an increase in the square footage of an existing equipment compound to a total area of more than two thousand five hundred (2,500) square feet.

A zoning application must be completed by the applicant and submitted to the development services office. In addition to the requirements found in section 20-1161, the application must contain the following information:

(1) Applicant name, business address, and phone number of the contact individual(s) for the applicant(s).

(2) The location of the existing mobile service support structure, including legal description, amount of property leased, and the height of the proposed and existing mounted antennas and/or equipment.

(3) A construction plan which describes the proposed modifications to the mobile support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

(4) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.

(Ord. No. 2013-137, 2-11-14)

Sec. 20-1429. - Application process—Class 1 collocation.

(a) If an applicant submits to the county an application to engage in an activity described in this section, which contains all of the information required under this article, the county must consider the application complete. If the county does not believe that the application is complete, the county must notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

(b) Within ninety (90) days of its receipt of a completed application, the county must complete all of the following or the applicant may consider the application approved, except that the applicant and the county may agree in writing to an extension of the ninety (90) day period:

(1) Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this article;

(2) The economic development and land use planning committee must make a final decision whether to approve or deny the application;

(3) Notify the applicant in writing of the committee's final decision;

(4) If the application is approved, issue the applicant a zoning permit;

(5) If the decision is to deny the application, include with the written notification substantial evidence which supports that decision. (Ord. No. 2013-137, 2-11-14)

Sec. 20-1430. - Application submittal requirements—Class 2 collocation.

A collocation will be classified as a class 2 collocation if the substantial modifications described in section 20-1428 are not required for service.

A zoning application must be completed by the applicant and submitted to the development services office. In addition to the requirements found in section 20-1161, the application must contain the following information:

(1) Applicant name, business address, and phone number of the contact individual(s) for the applicant(s);

(2) The location of the existing support structure; including legal description, amount of property leased, and the height of the proposed and existing mounted antennas and/or equipment;

(3) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.

(Ord. No. 2013-137, 2-11-14)

Sec. 20-1431. - Application process—Class 2 collocation.

(a) If an applicant submits to the county an application to engage in an activity described in this section, which contains all of the information required under this article, the county must consider the application complete. If the county does not believe that the application is complete, the county must notify the applicant in writing, within five (5) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

(b) Within forty-five (45) days of its receipt of a completed application, the county must complete all of the following or the applicant may consider the application approved, except that the applicant and the county may agree in writing to an extension of the forty-five (45) day period:

(1) Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this article;

(2) The economic development and land use planning committee must make a final decision whether to approve or deny the application;

(3) Notify the applicant in writing of the committee's final decision;

(4) If the application is approved, issue the applicant a zoning permit;

(5) If the decision is to deny the application, include with the written notification substantial evidence which supports that decision.

(Ord. No. 2013-137, 2-11-14)

Sec. 20-1432. - Application process—liability.

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

Sec. 20-1433. - Site specifics.

(a) As with commercial-scale wind energy facilities, mobile service support structures setbacks must not be less than the height of the tower above grade between the base of the tower and property line. The setback may be reduced if the requirements of section 20-1421(9) are met.

(b) When more than one (1) tower is placed on a site, all setback and design requirements must be met by each tower.

(c) A site with a guyed mobile support structure must provide:

(1) A setback of at least twenty-five (25) feet between a guy anchor and any property line abutting a residential district, public property, or street; and

(2) A setback equal to or exceeding the rear setback required for the adjoining property where the adjoining property is not a public property or street, nor in a residential district.

(3) A guy anchor may be located on an adjoining property when:

a. Written authorization from the adjoining property owner is provided at the time of application for conditional use approval; and

b. The guy anchor meets the requirement of subsections (1) and (2) above, as to all other adjoining property lines.

(d) Mobile service facility accessory structures must be limited to fifteen (15) feet in height.

(e) Mobile service support structures must not be illuminated except as required by the Wisconsin Division of Aeronautics or the Federal Aviation Administration.

(Ord. No. 2013-137, 2-11-14)

Sec. 20-1434. - Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.
(Ord. No. 2013-137, 2-11-14)

Sec. 20-1435. - Fees.

Application fees for new mobile service support structures, and class 1 and 2 collocations, shall be in accordance with the Racine County fee schedule.
(Ord. No. 2013-137, 2-11-14)

Secs. 20-1436—20-1459. - Reserved.

ARTICLE XI. - WIND ENERGY FACILITIES

DIVISION 1. – GENERALLY

Sec. 20-1460. – Intent and Purpose.

It is intended that conditional use permits shall be issued under this article to promote the effective and efficient use of wind energy and to regulate the placement of wind energy facilities so that the public health and safety will not be jeopardized.

The purpose of this ordinance is to provide a regulatory scheme for the construction and operation of wind energy systems in the Village of Yorkville, Racine County, Wisconsin. This ordinance is adopted pursuant to § 66.0401, Wis. Stats., and Wis. Adm. Code Ch. PSC 128, and pursuant to the Village's general police powers. All regulations contained herein are adopted to preserve and protect the public health and safety.

This Article provides the standards and procedures to issue permits for wind energy systems. This section ensures that any proposed wind energy system complies with applicable provision of Wis. Adm. Code Ch. PSC 128, Wis. Stat. § 66.0401 and this Article.

Sec. 20-1461. – Definitions.

The definitions set forth in Wis. Adm. Code § PSC 128.01, and Wis. Stat. § 66.0401 are incorporated by reference as though fully set forth herein.

Sec. 20-1462. – Statutes, Regulations and Rules.

(a) All provisions of Wis. Adm. Code Ch. PSC 128, and Wis. Stat. § 66 .0401, are hereby adopted and by reference made part of this chapter as if fully set forth herein. Any future amendments, revisions or modifications of Wis. Adm. Code Ch. PSC 128, and Wis. Stat. § 66.0401, are intended to be made part of this chapter.

(b) This Article is subject to the provisions of the Wisconsin Statutes and all regulations and rules promulgated thereunder.

Sec. 20-1463. – Application.

(a) *Requirements*. The owner must file an application that contains the information specified in Wis. Adm. Code § PSC 128.30, except as modified by Wis. Adm. Code § PSC 128.61(6). Every application for a wind energy system permit shall be made in writing accompanied by the fees required by this ordinance and shall include the following information:

(1) Wind energy system description and maps showing the locations of all proposed wind energy facilities.

(2) Technical description of wind turbines and wind turbine sites.

(3) Timeline and process for constructing the wind energy system.

(4) Information regarding anticipated impact of the wind energy system on local infrastructure.

(5) Information regarding noise anticipated to be attributable to the wind energy system including options considered to eliminate noise, GIS maps showing noise levels surrounding wind turbines, computer modeling of noise impacts, information on ground absorption coefficients used to model noise, measures used to address low frequency noise and infrasound, and any other information necessary for the Village to assess noise impacts.

(6) Information regarding shadow flicker anticipated to be attributable to the wind energy system including alternate turbine locations considered by the applicant that would eliminate shadow flicker, GIS maps showing shadow flicker zones for each turbine, shadow flicker computer monitoring results, and any other information necessary for the Village to assess shadow flicker impacts.

(7) Information regarding the anticipated effects of the wind energy system on existing land uses within 0.5 mile of the wind energy system.

(8) Information regarding the anticipated effects of the wind energy system on airports and air space.

(9) Information regarding the anticipated effects of the wind energy system on line-of-sight communications.

(10) A list of all state and federal permits required to construct and operate the wind energy system, copies of all correspondence with state and federal agencies, statements as to whether each permit has been approved or denied, and, for those permits that have not yet been obtained, the anticipated timeline for obtaining the permit.

(11) Information regarding the planned use and modification of roads within the Village during the construction, operation, and decommissioning of the wind energy system, including a process for assessing road damage caused by wind energy system activities and for conducting road repairs at the owner's expense.

(12) A copy of all emergency plans developed in collaboration with appropriate first responders under § PSC 128.18(4)(b), Wis. Adm. Code. An owner may file plans using confidential filing procedures as necessary.

(13) A decommissioning and site restoration plan providing reasonable assurances that the owner will be able to comply with § PSC 128.19, Wis. Adm. Code.

(14) A representative copy of all notices issued under §§ PSC 128.105(1)(a) and 128.42(1), Wis. Adm. Code.

(15) Certification that the preapplication notice requirements of § PSC 128.105(1), Wis. Adm. Code, were met, including a list of all landowners who received pre-application notices under § PSC 128.105(1)(a), Wis. Adm. Code, and the date that the landowners were provided pre-application notices.

(16) Information regarding any additional turbines that may be added to the project in the future.

(17) Copies of all correspondence to or from Village residents.

(18) Any other information necessary to understand the construction, operation or decommissioning of the proposed wind energy system.

(b) *Completeness*.

(1) An application is complete if it meets the filing requirements set by this ordinance and Wis. Adm. Code § PSC 128.50(1).

(2) If the Village determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination. The owner may file a supplement to an application that the Village has determined to be incomplete. There is no limit to the number of times that an owner may refile an application.

(3) Requests for additional information. The Village may request additional information necessary to understand the wind energy system after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete and accurate manner.

(c) *Effect of ownership change on approval.* Approval of a wind energy system remains in effect if there is a change in ownership of the wind energy system. However, a wind energy system owner must provide notice within 30 days to the Village of any change of ownership of the wind energy system.

(d) *Owner requirements.* Pursuant to § PSC 128.10(1), Wis. Adm. Code, the Village incorporates by reference all owner requirements set forth in Subchapter II of Ch. § PSC 128, Wis. Adm. Code, (and all subsequent amendments thereto) to their fullest extent. (For example all permissive provisions are mandatory and all quantifiable standards are adopted in their most stringent form.)

(e) *Public participation.*

(1) The Village shall make a copy of an application for a wind energy system available for public review at a local library and at the Village Hall or location where the Village maintains records for public access, and it may make an application available on the Village website.

(2) The Village shall accept written public comments on an application for a wind energy system filed with the Village Clerk and shall make them part of the record at the public hearing held pursuant to Subsection **3** below.

(3) The Village shall hold at least one public meeting to obtain comments on and to inform the public about a proposed wind energy system.

(f) *Joint application review process.* If a wind energy system is proposed to be located in the Village and at least one other municipality with jurisdiction over the wind energy system, the Village may participate in the joint application review process set forth in § PSC 128.30(7), Wis. Adm. Code.

Sec. 20-1464. – Notice to property owners and residents.

(a) On the same day an owner files an application for a wind energy system, the owner shall, under § 66.0401(4)(a)3., Wis. Stat., use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any wind energy system facility. At the same time, a copy of the written notice shall be provided to the Village. The notification shall include all of the following:

(1) A complete description of the wind energy system, including the number and size of the wind turbines.

(2) A map showing the locations of all proposed wind energy system facilities.

(3) The proposed timeline for construction and operation of the wind energy system.

(4) Locations where the application is available for public review.

(5) Owner contact information.

(b) After the Village receives an application for a wind energy system, the Village shall publish the notice required by Wis. Stat. § 66.0401(4)(a)(1), which shall include a brief description of the proposed wind energy system and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the Village, and the approximate schedule for review of the application by the Village.

(c) *Fees.* At the time of application filing, the applicant shall deposit an application fee as set by Board resolution from time to time and as reflected on the fee schedule on file at the Clerk's office.

(1) All costs incurred by the Village relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, acousticians, and other consultants or experts shall be reimbursed to the Village by the Applicant. The amount of reimbursement will be based on the actual and necessary cost of the review and processing of the wind energy system application.

Sec. 20-1465 – Additional requirements.

The Village requires the following as conditions for approval of an application to construct a wind energy system:

(a) *Information*. The owner shall inform the Village in writing whether the owner has consulted with and received any nonbinding recommendations for constructing, operating or decommissioning the wind energy system from a state or federal agency, and whether the owner has incorporated such non-binding recommendations into the design of the wind energy system.

(b) *Studies.* The owner shall cooperate with any study of the effects of wind energy system coordinated by a state agency.

(c) *Monetary compensation*. The owner of a wind energy system shall offer an agreement that includes annual monetary compensation to the owner of a nonparticipating residence, if the residence is located within 0.5 mile of a constructed wind turbine. For one turbine located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be $600. For two turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be $800. For three or more turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be $1,000. The initial monetary compensation under this subsection shall apply to agreements entered into in the year 2023. For agreements entered into in the year of 2024 and thereafter, the initial annual amounts shall increase each year by the greater of 2% or the increase in the Consumer Price Index, as described in § 196.374(5)(bm)2.b., Wis. Stat., from the previous year. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under § PSC 128, Wis. Adm. Code, and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under § PSC 128, Wis. Adm. Code.

(d) *Aerial spraying.* The owner of a wind energy system shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within 0.5 mile of a constructed wind turbine if the farm operator demonstrates all of the following:

(1) Substantial evidence of a history, before the wind energy system owner gives notice under § PSC 128.105(1), Wis. Adm. Code, of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans, sweet corn or other crops on all or part of a farm field located within 0.5 mile of a constructed wind turbine.

(2) A material reduction in potato, pea, snap bean, sweet corn or other crop production or a material increase in application costs on all or part of a farm field located within 0.5 mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.

(e) *Permits.* The owner shall submit to the Village copies of all necessary county, state, and federal permits and approvals.

(f) *Annual reports.* The owner shall file an annual report with the Village documenting the operation and maintenance of the wind energy system during the previous calendar year. The annual report must be filed on or before the anniversary date of the issuance of the owner's permit.

Sec. 20-1466 – Written Decision and Record Requirements.

(a) The Village shall issue a written decision to grant or deny an application. The written decision shall include findings of fact, supported by evidence in the record. If an application is denied, the decision shall specify the reason for the denial. The Village shall provide its written decision to the owner and to the Public Service Commission of Wisconsin. If the Village approves an application for a wind energy system, the Village shall provide the

owner with a duplicate original of the decision. If an application is approved, the Village will issue a written permit with conditions.

(b) The owner shall record the duplicate original of a decision approving an application with the Register of Deeds for Racine County, Wisconsin.

(c) The Village shall keep a complete written record of its decision-making relating to an application for a wind energy system. The record of a decision shall include all of the following:

(1) The approved application and all additions or amendments to the application.

(2) A representative copy of all notices issued under §§ PSC 128.105(1)(a), 128.30(5) and 128.42(1), Wis. Adm. Code.

(3) A copy of any notice or correspondence that the Village issues related to the application.

(4) A record of any public meeting under § PSC 128.30(6)(c), Wis. Adm. Code, and any hearing related to the application. The record shall include any documents or evidence submitted by meeting or hearing participants.

(5) Copies of any correspondence or evidentiary material that the Village considered in relation to the application, including copies of all written public comments filed under § PSC 128.30(6)(b), Wis. Adm. Code.

(6) Minutes of any Village Board or committee meetings held to consider or act on the application.

(7) A copy of the written decision under § PSC 128.32(3)(a), Wis. Adm. Code.

(8) Other materials that the Village prepared to document its decision-making process.

(9) A copy of any Village ordinance cited in or applicable to the decision.

(d) If the Village denies an application, the Village shall keep the record for at least seven years following the year in which it issues the decision.

(e) If the Village approves an application, the Village shall keep the record for at least seven years after the year in which the wind energy system is decommissioned.

(f) The Village may deny without a hearing an application for approval of a wind energy system with a nominal capacity of at least one megawatt if the proposed site of the wind energy system is in an area primarily designed for future residential or commercial development as shown on a map adopted as part of the Village's comprehensive plan or on such maps adopted by the Village under § 66.1001(2)(i), Wis. Stats.

Sec. 20-1467 – Aerial Restrictions.

The applicant shall comply with any restrictions established for public use airports or heliports under Wis. Stats., § 114.135 or 114.136. If no such restrictions are effective, wind turbine height

and setback distances shall comply with the Federal Aviation Administration's obstruction standards in 14 CFR Part 77.

Sec. 20-1468 – Post Construction Filing Requirement.

Within 90 days of the date a wind energy system commences operation, the owner shall file with the Village an as-built description of the wind energy system, an accurate map of the wind energy system showing the location of all wind energy system facilities, geographic information system information showing the location of all wind energy system facilities and current information identifying the owner of the wind energy system. An owner shall in the filings under this section label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under § PSC 128.18(1)(g), Wis. Adm. Code.

Sec. 20-1469 – Modifications to an approved wind energy system.

(a) *Material change.*

(1) An owner may not make a material change in the approved design, location or construction of a wind energy system without the prior written approval of the Village, unless the Village automatically approves the material change by taking either of the steps specified in § PSC 128.32(2)(b)1. or 2., Wis. Adm. Code.

(2) An owner shall submit to the Village an application for a material change to an approved wind energy system.

(b) *Review limited*.

(1) The Village, upon receipt of an application for a material change to a wind energy system may not reopen the merits of the earlier approval but may consider only those issues relevant to the proposed change.

(2) An application for a material change in subject to §§ PSC 128.30(1), (3) to (5), (6)(a) and (b) and (7) and 128.31 to 128.34, Wis. Adm. Code.

(3) An application for a material change shall contain information necessary to understand the material change as determined by the Village.

(4) The Village may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved wind energy system.

Sec. 20-1470 – Monitoring compliance.

(a) *Monitoring procedure*. The Village may establish a procedure to monitor compliance by the owner with any condition on an approved wind energy system or to assess when wind energy system facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public. Such procedures shall be

included in the permits granted under this ordinance. The owner shall cooperate with the Village during its monitoring.

(b) *Third-party inspector during construction*. The Village may require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the Village regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request.

Sec. 20-1471 – Notice of complaint process.

(a) *Notice of process for making complaints*. Before construction of a wind energy system begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within 0.5 mile of any wind energy system facility. An owner shall include in the notice the requirements under § PSC 128.40(1), Wis. Adm. Code, for submitting a complaint to the owner, a petition for review to the Village, and an appeal to the Commission, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning.

(b) *Notice to Village.* An owner shall provide a copy of the notice provided under Subsection (1) to the Village, and the owner shall keep the contact person and telephone number current and on file with the Village.

Sec. 20-1472 – Small Wind Energy Systems.

(a) All of the provisions of this ordinance apply to small wind energy systems except for provisions adopted under the following subsections of Ch. PSC 128, Wis. Adm. Code, §§ 128.14(4)(d), 128.15(1)(c), (3)(b) to (e), and (5), 128.16(2) to (4), 128.18(1)(g), (2)(b) and (c), (3)(am), (b) and (c), and (4)(b) to (f), 128.19(1)(c) to (e), (3), and (4), 128.30(2)(L) and (m), 128.33(1) to (3m) and (5), 128.34(3), 128.36, 128.40(2)(b) to (e), 128.41, and 128.42.

(b) The standards in this ordinance applicable to wind energy systems are modified for small wind energy systems as follows:

(1) The preapplication notice shall be filed at least 60 days before an owner files an application to construct a small wind energy system and the notice shall be provided only to adjacent landowners and the Village.

(2) Setback distances for small wind energy systems are as set forth in § PSC 128.61(3), Wis. Adm. Code.

(3) An Owner shall provide notice of the requirements of § PSC 128.14, Wis. Adm. Code, only to each adjacent nonparticipating residence or occupied community building before the initial operation of the small wind energy system.

(4) For purposes of § PSC 128.19(1), Wis. Adm. Code, a small wind energy system is presumed to be at the end of its useful life if it generates no electricity for a continuous five-hundred-forty-day period.

(5) For purposes of § PSC 128.30(2)(g), Wis. Adm. Code, the information regarding the anticipated effects of the small wind energy system on existing land uses shall be only for parcels adjacent to the wind energy system.

(6) Written notice of the filing of an application shall be provided only to property owners and residents located adjacent to the small wind energy system.

(7) Under § PSC 128.30(6)(c), Wis. Adm. Code, the Village may hold at least one public meeting to obtain comments on and to inform the public about a proposed small wind energy system.

(c) *Application Fee*. At the time of application filing, the applicant for a small wind energy facility shall deposit an application fee as set by Board resolution from time to time and as reflected on the fee schedule on file at the Clerk's office.

(1) All costs incurred by the Village relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, acousticians, and other consultants or experts shall be reimbursed to the Village by the Applicant. The amount of reimbursement will be based on the actual and necessary cost of the review and processing of the wind energy system application.

Sec. 20-1473 – Revocation and enforcement.

Any permit granted for the installation, construction or expansion of a wind energy system may be revoked by the Village if the permit holder, its heirs, or assigns, violates the provision of this ordinance or the provisions of a wind energy system permit granted pursuant to this ordinance. Violations of this ordinance are also punishable by forfeitures of not less than $200 and not more than $500 per violation plus costs and attorneys' fees. Each day a violation exists constitutes a separate offense. The Village may also seek equitable and injunctive relief in the event of a violation. Further, the Village may deny a pending application in the event of the applicant's failure to comply with the provisions of this ordinance.

Sec. 20-1474. - Severability.

If any section, subsection, sentence or phrase of this ordinance shall be held invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance; and there shall be substituted for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue.

DIVISION 2. - SOLAR ENERGY SYSTEMS

Sec. 20-1475 Solar Energy Systems.

(b) *Definitions.*

(1) *Agrivoltaics* - A solar energy system co-located on the same parcel of land as

agricultural production, including crop production, grazing, apiaries, or other agricultural products or services.

(2) *Building-integrated Solar Energy Systems* - A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

(3) Commu*nity-Scale Solar Energy System* - A commercial solar energy system that converts sunlight into electricity for the primary purpose of serving electric demands off-site from the facility, either retail or wholesale. Community-scale systems are principal uses and projects typically cover less than 1 acre.

(4) *Community Solar Garden* - A solar energy system that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system. Also referred to as shared solar.

(5) *Grid-intertie Solar Energy System* - A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

(6) *Ground-mount* - A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either accessory or principal uses.

(7) *Large-Scale Solar Energy System* - A commercial solar energy system that converts sunlight into electricity for the primary purpose of retail or wholesale sales of generated electricity to many customers and/or is not primarily for consumption of electricity on the property on which the system is located. A large-scale solar energy system will have a project size greater than 1 acre and is the principal land use for the parcel(s) on which it is located.

(8) *Off-grid Solar Energy System* - A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

(9) *Passive Solar Energy System* - A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

(10) *Photovoltaic System* - A solar energy system that converts solar energy directly into electricity.

(11) *Renewable Energy Easement, Solar Energy Easement* - An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to sunlight passing over the burdened land, consistent with Wis. Statutes §700.35.

(12) *Roof-mount* - A solar energy system mounted on a rack that is fastened to or ballasted on a structure roof. Roof-mount systems are accessory to the principal use.

(13) *Roof Pitch* - The final exterior slope of a roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.

(14) *Solar Access* - Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

(15) *Solar Carport* - A solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.

(16) *Solar Collector* - A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.

(17) *Solar Daylighting* - Capturing and directing the visible light spectrum for use in illuminating interior building spaces in lieu of artificial lighting, usually by adding a device or design element to the building envelope.

(18) *Solar Energy* - Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

(19) *Solar Energy System* - A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.

(20) *Solar Hot Air System* - (also referred to as Solar Air Heat or Solar Furnace) - A solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance includes a solar collector to preheat air or supplement building space heating, typically using a vertically mounted collector on a south-facing wall.

(21) *Solar Hot Water System* - A solar energy system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

(22) *Solar Mounting Devices* - Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

(23) *Solar Resource* - A view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on all days of the year and can be measured in annual watts per square meter.

(24) *Viewshed* - a natural or historic environment that is visible from a viewing point.

(b) *Permits and Approvals*. The following permits, agreements and/or approvals are required for installation of any Village-regulated Solar Energy System:

(1) A building permit, zoning permit and site plan are required for all Accessory Use Solar Energy Systems. The owner must pay any applicable fees, and provide any information specified in the Village zoning ordinance with permit applications. Site plans shall contain to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.

(2) In addition to a building permit, zoning permit and required fees, a conditional use permit is required for all Large-Scale Solar Energy Systems designed for operation at a capacity of less than 100 megawatts. A conditional use permit application must be on a form approved or provided the Village and provide the information required in the Village ordinance.

(3) Plan Approvals - Applications for Accessory Use and Large-Scale Solar Energy Systems shall require review and recommendation by the Plan Commission and approval by the Village Board. Plan approval does not indicate compliance with Building Code or Electric Code. For Large-Scale Solar Energy Systems, written confirmation by the Union Grove – Yorkville Fire Department that the project site can be safely accessed for fire and rescue calls must be obtained by the applicant and submitted to the Village.

(4) Solar Energy Systems designed for operation at a capacity of 100 megawatts or more are under the jurisdiction of the Public Service Commission and not subject to this ordinance.

(c) *Solar Energy System - Accessory Use*. Solar Energy systems which are not a principal use are a permitted accessory use in all zoning districts where structures of any sort are allowed, subject to certain requirements as set forth below. Solar carports and associated electric vehicle charging equipment are a permitted accessory use on surface parking lots in all districts regardless of the existence of another building. Solar Energy Systems that do not meet the following design standards will require a conditional use permit.

(1) Height - Solar energy Systems must meet the following height requirements:

a. Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in the underlying zoning district. For purposes of height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to height standards as building-mounted mechanical devices or equipment.

b. Ground or pole-mounted solar energy systems shall not exceed maximum allowed height for accessory structures in the underlying zoning district.

(2) Setback. Solar Energy Systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located, except as allowed below.

(3) Roof or Building-Mounted Solar Energy Systems. The collector surface and mounting devices for roof-mounted Solar Energy Systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side-yard exposure. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and are regulated as awnings.

(4) Ground-mounted Solar Energy Systems - Ground-mounted solar energy systems may not extend into the side-yard or rear-yard setback when oriented at minimum design tilt, except as otherwise allowed for building mechanical systems.

(5) Building Integrated Photovoltaic Systems - Building integrated photovoltaic solar energy systems shall be allowed provided the building component in which the system is integrated meets all required setbacks, land use, or performance standards for the district in which the building is located.

(6) Aesthetic restrictions - Roof-mount or ground-mount solar energy systems shall not be restricted for aesthetic reasons.

(7) Reflectors. All Solar Energy Systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties.

(8) Lot Coverage. Ground-mount systems total collector area shall not exceed half the building footprint of the principal structure if applicable.

a. Ground-mount systems shall be exempt from lot coverage or impervious surface standards if the soil under the collector is maintained in vegetation and not compacted, and the system area is less than one acre in size.

b. Ground-mounted systems shall not count toward accessory structure limitations.

c. Solar carports in non-residential districts are exempt from lot coverage limitations.

(d) *Solar Energy System Principal Use - Large-Scale Solar Energy Systems designed for operation at a capacity of less than 100 megawatts*. The development of commercial or utility scale Solar Energy Systems are permitted where such systems present few land conflicts with current and future development patterns. Large-Scale Solar Energy Systems designed for operation at a capacity of less than 100 megawatts are conditional uses.

(1) Principal Use General Standards.

Solar Energy System in the A-1, A-2, A-4, and M-1 Districts.

a. Minimum lot size and frontage: Lot size and frontage requirements shall generally be consistent with the requirements for the underlying zoning district but may be varied based upon the specific Solar Energy System

being proposed, and the substantial evidence presented as part of the conditional use permit process.

b. Minimum setbacks: Setbacks, shall be measured from the foundation of any associated system building, the outer edge of battery storage system, converter or inverter or from the solar collector extended at full tilt parallel to the ground. Setbacks shall generally be consistent with the setback provisions for the underlying zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.

c. Maximum height for solar collectors: Height requirements shall generally be consistent with the height provisions for the underlying zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.

d. Shall not be located within the 100-year floodplain.

e. Shall not be located within a designated wetland.

f. Any buildings associated with the Solar Energy System shall meet the building requirements specified in the underlying zoning district related to building size and height but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.

g. Any Solar Energy System that is on-grid shall comply with the Public Service Commission of Wisconsin's Rule 119, Rules for Interconnecting Distributed Generation Facilities.

h. Agreement Exhibits: The following exhibits shall be submitted:

1. Proposed Site Plan: Exhibit A is the proposed plan for above-ground facilities of the Solar Energy System.

2. Proposed Haul Route: Exhibit B is a map depicting proposed Solar Energy System equipment Haul Routes.
3. Construction Schedule: Exhibit C is the proposed Construction Schedule.

4. Vegetation Management Plan: Exhibit D is the Vegetation Management Plan.

5. Drain Tile Management Plan: Exhibit E is the Drain Tile Management Plan.

6. Decommissioning Plan: Exhibit F is the Decommissioning Plan.

i. Archeology: Shall conduct an Archeological Site Assessment with review by the Wisconsin State Historical Preservation Office.

j. Fencing: Other than the fencing directly surrounding the Solar Energy System substation, O&M and BESS the Solar Energy System perimeter fencing shall consist of “deer fencing" (wire mesh), which can be described in greater detail as a six (6) to ten (10) foot in height woven wire partition with posts. Fences will be set within/inside property lines or rights-of-way edges unless otherwise requested from the landowner. Alternate fencing specifications may be requested by the applicant or imposed by the Village as part of the conditional use process to better complement the specific project under consideration.

1. Installed fencing shall be adequately maintained at all times during the Solar Energy System operation. The depths of the fence posts shall be installed per prudent engineering practice based on the height of the fence and the type and slope of the terrain. Impairments to either the woven wire or wooden posts shall be remedied within two weeks of written notification from the Village’s Zoning Administrator, Code Enforcement Officer, or designee. "Leaning" of the fence shall not be allowed to exceed plus or minus 10 degrees of perpendicular. In the event leaning or tilting of the fence does occur, it will be corrected back to perpendicular within two weeks of receiving written notice on the issue.

k. Visual Considerations: The Solar Energy System shall not be used for any type of advertising. The Solar Energy System may erect and maintain a single Solar Energy System identification sign subject to sign requirements of Article IX of Exhibit A to Section 55-1(a). The Solar Energy System shall be minimally lighted so as not to disturb neighboring properties. Necessary lighting to provide safety and security of facilities shall meet the lighting requirements of Section 20-1065 of Exhibit A of the Municipal Code for the Village. Solar Energy System will provide the Village with a description of permanent Solar Energy System lighting plans as part of the conditional use process.

l. Drain Tile: Solar Energy System shall contract with an experienced and qualified regional drain tile contractor to gather information concerning participating landowner drain tile, avoid said tile where commercially reasonable, and mitigate the landowner and non-participating landowners' drainage issues where significant impact is expected as a result of drain tile alteration. The Solar Energy System Owner agrees to discuss and address identified drain tile concerns at the post-construction meeting to finalize remedies to known drainage issues on either participating or non-participating property. Solar Energy System Owner shall receive, investigate, and remedy drain tile issues due to the Solar Energy System that arise subsequent to the post-construction meeting pursuant to the Drain Tile Management Plan attached hereto as Exhibit E.

1. If drainage infrastructure or systems are damaged by the Solar Energy System and the result is reduced drainage performance that adversely affects non-participating landowners, Solar Energy System Owner shall restore the drainage infrastructure or system to pre-existing condition or better in accordance with the Drain Tile

Management Plan attached as Exhibit E. Pre-existing condition shall mean the flow capacity existing immediately prior to the Solar Energy System commencing construction. If previous flow capacity cannot be determined, Solar Energy System Owner and landowners agree to negotiate an adequate solution in good faith. Solar Energy System Owner is responsible for all expenses related to repairs, restoration, relocations, reconfigurations and replacements of drainage infrastructure and systems that are damaged by the Solar Energy System as provided in Exhibit E. The intent of this Section is to make landowners whole where drainage infrastructure or systems are damaged by the Solar Energy System. For example, and without limitation due to enumeration, if damage to drainage infrastructure or systems is caused by the Solar Energy System on a participating property ("Solar Energy System -related Damage"), and the Solar Energy System-related Damage causes damages to non-participating property owners upstream of the Solar Energy System-related Damage, including crop loss and/or blowout damage to the drain tile system on the non-participating owner's property, Solar Energy System Owner shall reasonably compensate the non-participating owner for crop loss and for repairs to the non-participating property owner's drain tile system. Solar Energy System Owner agrees to cooperate with non-participating landowners as outlined in Exhibit E that desire to repair or replace drainage tile affecting their properties to the extent that such work does not interfere with the Solar Energy System or its related facilities. Solar Energy System Owner will not unreasonably withhold approval for access to the Property that lies outside of any fenced solar collector area, to the extent participating property owners also agree to such access.

2. For purposes of this agreement, participating landowner or property owner shall mean a property owner who has signed a solar lease and easement agreement, collection easement, or purchase option for the use of his or her property for solar generation, construction access, and/or placement of facilities associated with the Solar Energy System. Non-participating landowner or property owner shall mean a property owner who is not a participating landowner. A solar lease and easement agreement does not include a good neighbor agreement.

m. Stormwater Management and Erosion Control: Solar Energy System Owner shall ensure compliance with Chapter 10, Article IX (“Erosion Control”) and Article X (“Post-Construction Storm Water Management”) of the Municipal Code of Village of Yorkville and shall ensure that a plan for compliance with said chapter is presented at the pre-construction meeting. Solar Energy System Owner will comply with stormwater and erosion control requirements imposed by the Wisconsin Department of Natural Resources (WDNR). Where the lands associated with the proposed Solar Energy System are adjacent to the East Branch of the Root River Canal, the land owner and Solar Energy System Owner shall grant and convey to the Village a permanent easement and right-of-way, including the perpetual

right to enter upon the easement areas described, including the East Branch of the Root River Canal, to construct, improve, alter, maintain or repair drainage channels, drains, pipelines and appurtenances thereto for the purpose of draining, conveying, and transporting storm water over, across, under, and through such lands with all necessary and proper workers, equipment and materials, and the right to remove such trees, bushes, undergrowth, and other obstructions which may interfere with the location, construction, improvement, alteration, maintenance, or repair of such drainage channels, drains, pipelines and appurtenances; and a temporary construction easement to further the above-described activities.

n. Ground cover and buffer areas: The following provisions shall be met related to the clearing of existing vegetation and establishment of vegetated ground cover. Additional requirements and standards may apply as required by the Village.

1. Large-scale removal of mature trees on the site is discouraged. The Village may set additional restrictions on tree clearing or require mitigation for cleared trees.

2. To the greatest extent possible, the topsoil shall not be removed during development, unless part of a remediation effort.

3. Soils shall be planted and maintained for the duration of operation in perennial vegetation to prevent erosion, manage run off, and improve soil.
4. Seeds should include a mix of grasses and wildflowers (pollinator habitat), exclusively native to the region of the Solar Energy System site that, which will result in a short stature prairie with a diversity of forbs or flowering plants that bloom throughout the growing season. Blooming shrubs may be used in buffer areas as appropriate for visual screening.

5. Seed mixes and maintenance practices shall be consistent with those recommendations made by the Village and/or Wisconsin DNR.
6. The applicant shall submit a financial guarantee in the form of a letter of credit, cash deposit or bond in favor of the Village equal to one hundred twenty-five (125) percent of the costs to meet the ground cover and buffer area standard. The financial guarantee shall remain in effect until vegetation is 75% established.

7. Solar Energy System Owner shall contact every owner of property with a residential dwelling immediately adjacent to solar collector and discuss in good faith a reasonable, strategically-located visual buffer of plants that, upon mutual agreement, shall be installed at Solar Energy System Owner's expense prior to the completion of construction of the Solar Energy System. Where the Solar Energy System Owner and the adjacent property owner are unable to agree on the type of visual buffer and the adjacent property owner makes

a request in writing to Solar Energy System Owner to provide a visual buffer, the Solar Energy System owner shall install a vegetative buffer on the Solar Energy System site equal to the length of the non-participating residence and designed to achieve at least 50% opacity at ground level within 5 years. Proposals and plans for vegetative buffers will be finalized in writing by the pre-construction meeting with the Village.

8. Solar Energy System Owner shall submit a vegetative buffer plan for a visual barrier along all roadways subject to approval by the Village.

o. Road Use: The Solar Energy System Owner and its successors, assigns, contractors, agents and representatives may use public roads as part of the construction, operation, maintenance and repair of the Solar Energy System. The Solar Energy System Owner acknowledges that in connection with construction, operation and maintenance of electric collection lines, communications cables and other equipment, that Solar Energy System facilities may cross road rights-of-way and/or drainage systems. The Solar Energy System Owner agrees that it shall seek and obtain all permits typically required of others, including permits required under Section 38-81 of the Village's Code of Ordinances, entitled "Occupancy of public rights-of-way."

1. The Solar Energy System Owner further agrees that the construction process may cause wear, tear, and damage to the Haul Route roads identified in Exhibit B above. In addition to providing the Village engineer with a written description of the designated haul roads, vehicles to be utilized, and the type of materials being hauled to or removed from a project site, the engineer shall be provided sufficient time to inspect the designated haul roads before they are used. Said inspection shall include, if requested, a representative of the Solar Energy System Owner. The engineer will document any deficiencies or special conditions regarding the existing roads and structures. During the hauling operations, the Solar Energy System Owner and its contractors shall use only designated haul roads, observe legal weight and speed limits, provide an adequate water supply, applying water as needed to control dust, and shall perform minor preventative and repair maintenance as necessary (after giving reasonable notice to the Village engineer), to minimize damage to the haul roads. All haul roads must be maintained in a dust-controlled condition and any dust palliatives must be approved by the DNR prior to usage. The Solar Energy System Owner shall clean applicable rights-of-way of mud, dirt, stone or debris related to the project within twenty-four (24) hours after receiving verbal notice from the Village Engineer, or designee. If the rights-of-way are not cleaned up after notification, the Village reserves the right to do so at the expense of the Solar Energy System Owner. Prior to commencement of construction, the Solar Energy System Owner shall post a letter of credit in an amount approved by the Village Board, upon the

recommendation of its engineer, taking into account the duration and nature of the project, haul route to be utilized and materials to be transported. All minor road repairs and general maintenance shall be inspected and approved by the Village engineer or designee to ensure that the repair or maintenance meets Village standards.

2. Throughout the construction of the Solar Energy System, the Solar Energy System Owner shall work cooperatively to maintain public road infrastructure in a safe condition for passage by the public. During the ongoing construction of the Solar Energy System, Solar Energy System Owner shall regularly monitor its designated haul roads, and at its expense, shall repair any significant damage that jeopardizes the safety of the travelling public. In the event the Village engineer or designee notifies the Solar Energy System Owner of a safety concern to the traveling public the Solar Energy System Owner shall carry out the necessary repair to mitigate the unsafe road condition. In the event a unsafe road condition exists that presents a safety hazard to the public use of the road and is not promptly repaired by Solar Energy System Owner within one week after receipt of notice of the unsafe condition, the Village may make emergency road repairs, or order emergency road repairs to be performed by qualified contractors, and Solar Energy System Owner will promptly reimburse the Village for reasonable emergency road repairs. The Village reserves the right to access the letter of credit posted by the Solar Energy System Owner if reimbursement is not made within thirty (30) days of notice.

3. After the hauling operations are concluded, the Village engineer or designee, and Solar Energy System Owner's representative, if requested, shall jointly inspect the designated haul roads. The Village engineer will review the results of the initial and final inspections and will consider the impacts of other parties that used the haul roads. Upon consideration of all pertinent factors, the engineer will determine the amount of restoration necessary to return the haul roads to their condition at the time of the initial inspection. The Village Board shall decide whether to permit the Solar Energy System Owner to undertake the necessary restoration, or to undertake the work as a publicly bid project, utilizing the Solar Energy System Owner's letter of credit toward the cost of the project. If there is a deficiency in the estimated cost of the project, less any proceeds posted by the Solar Energy System Owner, the Solar Energy System Owner shall submit the difference within thirty (30) days of notice.

4. Solar Energy System Owner shall be responsible for addressing applicable road use issues with other entities to the extent they have jurisdiction over roads to be used for the Solar Energy System.

p. Foundations: A qualified engineer shall certify, by sealed stamped and signed plans that the foundation and design of the solar panels' racking

and support is within accepted professional standards, given local soil and climate conditions.

q. Power and communication lines: Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Village in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Department as shown by adequate soil borings.

r. Agricultural Protection: Commercial use Solar Energy Systems must comply with site assessment or soil identification standards that are intended to protect agricultural soils.

s. Aviation Protection: For Solar Energy System s located within 1,000 feet of an airport or within approach zones of an airport or landing strip, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Solar Energy Systems on Federally Obligated Airports, or most recent version adopted by the FAA.

t. Decommissioning: Solar Energy System Owner shall implement the Decommissioning Plan attached as Exhibit F to this Agreement upon permanent cessation of the commercial operation of the Solar Energy System. For the purposes of this Agreement, permanent cessation of the commercial operation of the Solar Energy System shall mean that the entire Solar Energy System has ceased commercial operation for a consecutive period of twelve (12) months for reasons other than a force majeure event. The Solar Energy System shall be deemed to be in commercial operation if the Solar Energy System is under active construction activities including but not limited to construction activities in connection with Solar Energy System-wide replacements or upgrades.

1. The Solar Energy System Owner acknowledges that a Decommissioning Plan shall be submitted that includes a detailed Decommissioning Cost Analysis and will provide such a plan to the Village when the analysis is available. The Solar Energy System Owner agrees that the Decommissioning Plan shall require Solar Energy System Owner to, at a minimum:

   a) Notify the Department when permanent cessation has been determined.

   b) Remove, at its expense, all Solar Energy System components including but not limited to solar collectors and associated facilities, buried wires and transmission lines, to a depth of 4 feet and properly dismantle all components that

shall be disposed of at a licensed solid waste disposal facility and/or otherwise in a manner consistent with federal, state, and local regulations.

c) Restore the land to a condition reasonably similar to pre-existing conditions, including de-compacting areas where Solar Energy System access roads were installed and any other areas of substantial soil compaction, and installing a new drainage system including drainage tile to the extent those facilities were present at the commencement of the project. The Solar Energy System's Access Roads can remain in place if requested by the property owner.

d) Prior to the issuance of a zoning permit, the Solar Energy System owner shall post a commercially reasonable financial assurance (bond, letter of credit) in the amount of 120% of the reasonably estimated costs of decommissioning the Solar Energy System as determined by the Village engineer, or designee. The costs of this determination are to be paid by the Solar Energy System Owner. The need for and amount of the financial assurance shall be reviewed by a qualified engineer, and if applicable, updated approximately every 5 years.

e) All solar equipment shall be decommissioned and disposed of in accordance with State, Federal and local regulations.

u. Replacement of Lost Property Tax Revenue: Properties hosting qualifying utility generating facilities under Chapter 76 Wis. Stats. and approved by the PSCW are removed from the local property tax roll. Solar Energy System Owner will establish a program (the "Lost Revenue Program") to reimburse the local school districts for lost revenue following completion of the Solar Energy System, when the specific, qualified utility properties are identified. The Lost Revenue Program will calculate the amount of lost revenue based on local tax rates for the land at the time the Solar Energy System is placed in service. Payment amount for each taxing authority will be increased annually by Two Percent (2%). Solar Energy System Owner will execute the Lost Revenue Program only to the extent the amount promised is recoverable by the Solar Energy System Owner through approval by the PSCW of rates under Wis. Stat. 196.20. The Solar Energy System Owner's obligation to make such payments shall be suspended if the State adopts or implements a new mechanism to replace the Utility Aid Shared Revenue payments, to the extent that the new payment system provides payments equal or greater than the payments provided herein. In such case of suspension of payments, the Solar Energy System Owner's payment obligations as set forth herein will only be reinstated if such new payment system is eliminated by the Legislature.

v. Insurance for Solar Energy Systems as Principal Use: Large-Scale Solar Energy Systems designed for operation at a capacity of less than 100 megawatts.

1. Solar Energy System Owner and its Contractors/Subcontractors:

a) At all times during construction and operation Owner and its contractors/subcontractors shall maintain Commercial General Liability Coverage of: $3,000,000 per occurrence; $5,000,000 general aggregate; $5,000,000 products-completed operations aggregate.

b) Coverage shall list the Village as an additional insured.

c) Coverage shall be primary and non-contributory to the insurance of the Village.

d) Coverage shall provide a Waiver of Subrogation in favor of the Village.

e) Umbrella/Excess Liability - $3,000,000 each occurrence; $5,000,000 annual aggregate; $5,000,000 completed operations aggregate. The policy shall follow form to the Commercial General Liability policy.

f) Automobile Liability - $1,000,000 Combined Single Limit

1) Coverage shall list the Village as Additional Insureds.

g) Workers Compensation - Workers Compensation as required by the State of Wisconsin Statute.

w. Limitations upon authority: The Village's review and action in the matter shall be subject to the limitations imposed by § 66.0401, Wis. Stats. In the event the applicant believes the Village has exceeded its authority in this regard, the applicant shall notify the Village and it may reconsider the matter. In that event, the applicable permit authority of the Village may modify the requirements of this section as applied to that application, on a case-by-case basis if, and only to the extent, such modification is necessary to ensure that applicable laws are followed. This section is intended to allow case-by-case consideration of the standards of § 66.0401(1m), Wis. Stats., as needed.

(b) *Community-Scale Solar Energy System Standards*:

(1) Community-scale uses - Ground-mount Community Solar Energy Systems are a conditional use in all districts.

(2) Dimensional standards - Setbacks and height standards shall generally be consistent with the setback and height provisions for the underlying zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.

(3) Other standards - Ground-mount systems shall generally be consistent with the

standards for the underlying zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.

(c) *Approved Solar Components*. Electric solar energy system components must have a UL or equivalent listing and solar hot water systems must have an SRCC rating.

(c) *Compliance with Building Code*. All solar energy systems shall meet approval of the building inspector, consistent with the State of Wisconsin Building Code and solar thermal systems shall comply with HVAC related requirements of the Energy Code.

(d) *Compliance with State Electric Code*. All photovoltaic systems shall comply with the Wisconsin State Electric Code.

(e) *Compliance with State Plumbing Code*. Solar thermal systems shall comply with applicable Wisconsin State Plumbing Code requirements.

(f) *Utility Notification*. All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

(g) *Rooftop Community Solar Gardens*. Rooftop community solar garden systems are a permitted accessory use in all districts where buildings are permitted.

Secs. 20-1476 — 20-1489. - Reserved.

ARTICLE XII. - FLOODLANDS

Sec. 20-1490. - Finding of fact.

Uncontrolled development and use of the floodplains and rivers of Racine County would impair the public health, safety, convenience, general welfare and tax base.
(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1491. - Statutory authorization.

This article is adopted pursuant to the authorization in W.S.A., §§ 61.35 and 62.23, for villages and cities; §§ 59.69, 59.692, and 59.694 for counties; and the requirements in § 87.30.
(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1492. - Statement of purpose.

This article is intended to regulate floodplain development to:

(1) Protect life, health and property;

(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.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1493. - Title.

This article shall be known as the Floodplain Zoning Ordinance for Racine County, Wisconsin. (Ord. No. 2011-131S, 4-10-12)

Sec. 20-1494. - General provisions.

(1) *Areas to be regulated.* This article regulates all areas that would be covered by the regional flood or base flood as shown on the flood insurance rate map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the flood insurance study (FIS) and are shown as AE, A1-30, and AH zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional flood elevations (RFE) may be derived from other studies. If more than one (1) map or revision is referenced, the most restrictive information shall apply.

(2) *Official maps and revisions.* The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the flood insurance study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the flood insurance rate map (FIRM) must be reviewed and approved by the DNR and FEMA through the letter of map change process (see section 20-1691) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the county public works and development services department. If more than one (1) map or revision is referenced, the most restrictive information shall apply.

(a) *Official maps—Based on the FIS:* Flood Insurance Rate Map (FIRM), panel numbers

55101C009D,	55101C0016D,
55101C0017D,	55101C0018D,

55101C0028D,	55101C0029D,
55101C0033D,	55101C0034D,
55101C0036D,	55101C0037D,
55101C0038D,	55101C0039D,
55101C0041D,	55101C0042D,
55101C0043D,	55101C0044D,
55101C0053D,	55101C0054D,
55101C0059D,	55101C0061D,
55101C0062D,	55101C0063D,
55101C0064D,	55101C0067D,
55101C0068D,	55101C0069D,
55101C0078D,	55101C0079D,
55101C0086D,	55101C0088D,
55101C0089D,	55101C0133D,
55101C0134D,	55101C0141D,
55101C0142D,	55101C0143D,
55101C0144D,	55101C0152D,
55101C0153D,	55101C0154D,
55101C0158D,	55101C0159D,
55101C0160D,	55101C0161D,
55101C0162D,	55101C0163D,
55101C0164D,	55101C0170D,
55101C0176D,	55101C0178D,
55101C0179D,	55101C0181D,
55101C0182D,	55101C0183D,
55101C0184D,	55101C0187D,
55101C0191D,	55101C0192D,
55101C0201D,	55101C0202D,
55101C0203D,	55101C0204,
55101C0211D,	55101C0212D,
55101C0256D,	55101C0257D,
55101C0276D,	55101C0277D,

dated May 2, 2012; with corresponding profiles that are based on the Flood

Insurance Study (FIS) dated May 2, 2012, Volume numbers 55101CV001A and 55101CV002A.

(b) *Official maps—Based on other studies:* Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

1. 100-Year Hickory Lake Dam Failure Floodplain Map, dated March 14, 2003 prepared by Southeastern Wisconsin Regional Planning Commission. The general floodplain boundaries for Tributary No. 2 to the West Branch of the Root River Canal and an unnamed tributary to Tributary No. 2, both of which are located in United States Public Land Survey section 4 and 5, Township 3 North, Range 21 East, Village of Yorkville shall be determined through the use of the flood elevations.

2. Reischl Dam Failure Analysis, dated April 27, 2012, prepared by GEI Consultants.
3. Letter of Map Revision (LOMR), FEMA Case Number 11-05-2911P, dated January 17, 2012, Spring Brook, City of Burlington.

(3) *Establishment of floodplain zoning districts.* The regional floodplain areas are divided into three (3) districts as follows:

(a) The floodway district (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE zones as shown on the FIRM.

(b) The floodfringe district (FF) is that portion between the regional flood limits and the floodway and displayed as AE zones on the FIRM.

(c) The general floodplain district (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.

(4) *Locating floodplain boundaries.* Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subsection (a) or (b) below. If a significant difference exists, the map shall be amended according to this article. 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 20-1674(3) and the criteria in subsections (a) and (b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to this article.

(a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

(b) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

(5) *Removal of lands from floodplain.* Compliance with the provisions of this article shall not be grounds for removing land from the floodplain unless it is filled at least two (2) feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to this article.

(6) *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.

(7) *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 W.S.A., § 13.48(13), applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation is exempt when W.S.A., § 30.2022, applies.

(8) *Abrogation and greater restrictions.*

(a) This article supersedes all the provisions of any municipal zoning ordinance enacted under W.S.A., §§ 59.69, 59.692 or 59.694 for counties; § 62.23 for cities; § 61.35 for villages; or § 87.30, which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(b) This 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.

(9) *Interpretation.* In their interpretation and application, the provisions of this article are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this article, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this article or in effect on the date of the most recent text amendment to this article.

(10) *Warning and disclaimer of liability.* The flood protection standards in this article are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This article does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This article does not create liability on the part of, or a cause of action against, Racine County or any officer or employee thereof for any flood damage that may result from reliance on this article.

(11) *Severability.* Should any portion of this article be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected.

(12) *Annexed 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 municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the county public works and development services department. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

(Ord. No. 2011-131S, 4-10-12; Ord. No. 2012-87, 1-8-13; Ord. No. 2012-117, 2-26-13)

Secs. 20-1495—20-1509. - Reserved.

Sec. 20-1510. - General standards applicable to all floodplain districts.

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this article and all other requirements in section 20-1662(2). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1511. - Hydraulic and hydrologic analyses.

(1) No floodplain development shall:

(a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or

(b) Cause any increase in the regional flood height due to floodplain storage area lost.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height,

based on the officially adopted FIRM or other adopted map, unless the provisions of this article are met.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1512. - Watercourse alterations.

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the county has notified in writing all adjacent municipalities, the department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of section 20-1511 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six (6) months after the date of the watercourse alteration or relocation and pursuant to this article, the community shall apply for a letter of map revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process. (Ord. No. 2011-131S, 4-10-12)

Sec. 20-1513. - W.S.A., chs. 30, 31, development.

Development which requires a permit from the department, under W.S.A., 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 floodplain zoning ordinance are made according to this article.

Sec. 20-1514. - 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 services;

(2) A conditional use permit for the campground is approved by the appropriate county board of supervisors development committee;

(3) The character of the river system and the campground elevation are such that a seventy-two-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 (1) calendar year, at which time the agreement shall be reviewed and updated, by the officials identified in subsection

(4), to remain in compliance with all applicable regulations, including those of the state department of health services and all other applicable regulations;

(6) Only camping units that are fully licensed, if required, and ready for highway use are allowed;

(7) The camping units shall not occupy any site in the campground for more than one hundred eighty (180) consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of twenty-four (24) hours;

(8) All camping units that remain on site for more than thirty (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 one hundred eighty (180) days and shall ensure compliance with all the provisions of this section;

(9) The county shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

(10) All camping units that remain in place for more than one hundred eighty (180) consecutive days must meet the applicable requirements in either sections 20-1531, 20-1559, or 20-1570 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; and

(12) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

Secs. 20-1515—20-1530. - Reserved.

Sec. 20-1531. - Floodway district (FW).

Sec. 20-1532. - Applicability.

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to section 20-1574.
(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1533. - Permitted uses.

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

- They are not prohibited by any other ordinance;
- They meet the standards in sections 20-1534 and 20-1535; and

- All permits or certificates have been issued according to section 20-1662.

(1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture, grazing, sod farms, truck farming, and wild crop harvesting.

(2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

(3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of section 20-1534(4).

(4) Uses or structures accessory to open space uses, or classified as historic structures that comply with sections 20-1534 and 20-1535.

(5) Extraction of sand, gravel or other materials that comply with section 20-1534(4).

(6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with W.S.A., chs. 30 and 31.

(7) Public utilities, streets and bridges that comply with section 20-1534(3).

(8) Accessory structures for navigation controls and aids and bridge approaches may be permitted by conditional use;

(9) Conditional uses. (See section 20-1631.)

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1534. - Standards for developments in the floodway.

(1) *General.*

(a) Any development in the floodway shall comply with section 20-1510 and have a low flood damage potential.

(b) Applicants shall provide the following data to determine the effects of the proposal according to section 20-1511:

1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or

2. An analysis calculating the effects of this proposal on regional flood height.

(c) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subsection (b) above.

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

(a) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;

(b) Shall have a minimum of two (2) openings on different walls having a total net area not less than one (1) square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one (1) foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;

(c) Must be anchored to resist flotation, collapse, and lateral movement;

(d) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and

(e) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

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

(a) Adequate floodproofing measures are provided to the flood protection elevation; and

(b) Construction meets the development standards of section 20-1511.

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

(a) The requirements of section 20-1511 are met;

(b) No material is deposited in navigable waters unless a permit is issued by the department pursuant to W.S.A., ch. 30, and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;

(c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

(d) The fill is not classified as a solid or hazardous material.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1535. - Prohibited uses.

All uses not listed as permitted uses in section 20-1533 are prohibited, including the following uses:

(1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;

(2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

(3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

(4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;

(5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;

(6) Any solid or hazardous waste disposal sites;

(7) Any wastewater treatment ponds or facilities, except those permitted under § NR 110.15(3)(b), Wis. Adm. Code; and

(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.

(Ord. No. 2011-131S, 4-10-12

Secs. 20-1536—20-1569. - Reserved.

Sec. 20-1570. - General floodplain district (GFP).

Sec. 20-1571. - Applicability.

The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones. (Ord. No. 2011-131S, 4-10-12)

Sec. 20-1572. - Permitted uses.

Pursuant to section 20-1574, it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the floodway (section 20-1533) are allowed within the general floodplain district, according to the standards of section 20-1573, provided that all permits or certificates

required under section 20-1662 have been issued. (Ord. No. 2011-131S, 4-10-12)

Sec. 20-1573. - Standards for development in the general floodplain district.

(1) In AO/AH zones the structure's lowest floor must meet one of the conditions listed below, whichever is higher:

(a) At or above the flood protection elevation; or

(b) Two (2) feet above the highest adjacent grade around the structure; or

(c) The depth as shown on the FIRM.

(2) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1574. - 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 (2) copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures, and the flood zone as shown on the FIRM.

(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 hydrologic and hydraulic study as specified in section 20-1662(2)(c).

(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) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(Ord. No. 2011-131S, 4-10-12)

Secs. 20-1575—20-1590. - Reserved.

Sec. 20-1591. - FFO urban floodplain fringe overlay district.

Sec. 20-1592. - Purpose.

The FFO urban floodplain fringe overlay district is intended to provide for and encourage the most appropriate use of land and water in the urban or urbanizing areas of the county subject to periodic flooding and to minimize flood damage to people and property. The FFO district shall not be utilized in any area of the county except where used to complement the FW district and only where public sanitary sewer facilities are currently available or are programmed to be made available within twenty-four (24) months and where the elevation of the regional flood elevation has been increased by two (2) or more feet since such elevation was originally established.

The FFO urban floodplain fringe overlay district is located in select locations around or near the tri-lake area (Wind Lake, Long Lake, and Waubeesee Lake) within the Town of Norway. The FFO includes the following sections and quarter-sections of T4N, R20E: 3 (NW, SW ¼), 4 (NW, NE, SW, SE ¼), 5 (SW ¼), 6 (SE ¼), 7 (NE, SE ¼), 8 (NW, NE, SW, SE ¼), 9 (NW, SW, SE ¼), 10 (NW, SW ¼), 16 (NW, NE ¼), 17 (NW, NE ¼), and 18 (NE ¼). FFO maps are available for review at the county public works and development services department.
Overlay districts provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements; the more restrictive of the conflicting requirements shall apply.
(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1593. - Permitted uses.

The uses permitted in the FFO urban floodplain fringe overlay district are as follows:

(1) *Principal uses.* Any use of land, including structures, that is permitted in the underlying basic use district. Examples of such use would be croplands in an agricultural district; required yards in a residential district; or parking or loading areas in a commercial or industrial district, provided that inundation depths for parking and loading areas do not exceed two (2) feet above the regional flood elevation.

(2) *Conditional uses.* (See section 20-1631.)

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1594. - Incompatible uses prohibited.

Lands lying within the FFO urban floodplain fringe overlay district shall not be used for any solid or hazardous waste disposal site, on-site soil absorption sanitary sewage disposal site or the construction of any well which is used to obtain water for ultimate human consumption.
(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1595. - Standards for development in the FFO.

Section 20-1511 shall apply in addition to the following requirements according to the use requested. Any existing structure in the FFO urban floodplain fringe overlay district must meet the requirements of section 20-1643, Nonconforming uses in floodlands.

(a) Residential, commercial, and institutional structures shall be permitted in the FFO urban floodplain fringe overlay district provided that the structure is permitted in the underlying basic use district and subject to the standards of subsection (b).

(b) Residential uses. Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of section 20-1643, Nonconforming uses in floodlands.

1. The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of section subsection (2) can be met. The fill shall be one (1) foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure. If fifteen (15) feet is unattainable due to lot configuration retaining walls may be utilized. The county public works and development services department recommends that the project be designed or reviewed by a registered engineer who can certify that the retaining walls are functionally and structurally adequate for the project. This approval does not warrant the retaining walls against design or structural failure, and the county will accept no liability through approval or through the issuance of a zoning permit. The retaining walls are the landowner's responsibility. If the retaining walls become damaged or destroyed, it is the property owner's responsibility to repair or replace the walls.

2. The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation.

3. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (4).

4. In developments where existing street or sewer line elevations make compliance with subsection (3) impractical, the county may permit new development and substantial improvements where roads are below the regional flood elevation, if:

   i. the municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or

   ii. the municipality has a DNR-approved emergency evacuation plan. The Town of Norway Floodplain Emergency Action Plan has been adopted pursuant to this article and is in effect for the area encompassed by the town sanitary district in the Town of Norway.

5. Conditional uses. (See section 20-1631.)

(c) Accessory structures associated with agricultural, residential, commercial, institutional, or industrial uses in the FFO urban floodplain fringe overlay district are permitted, provided that all structures, when permitted, are not attached to the principal structure, are not designed for human occupancy or the confinement of animals, have a low flood damage potential, are constructed and placed to provide minimum obstruction to flood flows (whenever possible, accessory structures shall be placed with their longitudinal axis parallel to the flow of floodwaters), are firmly anchored to prevent them from floating away and restricting bridge openings, and have all service facilities (such as electrical and heating equipment) at an elevation at least two (2) feet above the regional flood elevation.

1. Except as provided in subsection (2), an accessory structure which is not connected to the principal structure may be constructed with its lowest floor at or above the regional flood elevation.

2. An accessory structure which is not connected to the principal structure and which is less than six hundred (600) square feet in size and valued at less than then thousand dollars ($10,000.00) may be constructed with its lowest floor no more than two (2) feet below the base flood elevation; it meets all the provisions of section 20-1534, and materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, or aquatic life be stored at or above the flood protection elevation or floodproofed. Adequate measures shall be taken to ensure that such material will not enter the water body during flooding.

(d) In commercial and institutional areas, any structure or building which is to be erected, constructed, reconstructed, altered or moved into the floodfringe area shall meet the requirements for residential use, subsection (b). Storage yards, parking lots, and other accessory structures or land uses may be at lower elevation, subject to the storage requirements of section 20-1531 et seq. However, no such area in general use by the public shall be inundated to a depth greater than two (2) feet. Inundation of such yards or parking areas exceeding two (2) feet may be allowed provided that an adequate warning system exists to protect life and property.

(e) Industrial structures in the FFO urban floodplain fringe overlay district are permitted provided that the structure is permitted in the underlying district and provided that the fill requirements and dryland access requirements for residential structures in the FFO district comply with subsection (b). However, when the intent and purpose of this chapter cannot be fulfilled by filling the floodplain fringe due to existing and committed development, and when the appropriate county board of supervisors development committee has made a finding to this effect, all new structures and all additions to existing structures in the FFO urban floodplain fringe overlay district shall be floodproofed in accordance with the standards set forth in section 20-1666 of this article to a point two (2) feet above the regional flood elevation.

(f) Mobile home parks and mobile home units located within a mobile home park in the FFO urban floodplain fringe overlay district are permitted, provided that the use is permitted in the underlying use district and that a conditional use permit pursuant to section 20-1201 et seq. has been granted. Mobile home parks and mobile home units are also subject to the requirements of subsection (k).

(g) Storage of materials. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with section 20-1666. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(h) 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 or repair of such facilities shall only be permitted if they are designed to comply with section 20-1666.

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.

(i) All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to section 20-1666(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(j) All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to section 20-1666(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(k) Manufactured homes or mobile homes.

1. 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.

2. In existing manufactured/mobile home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

i. Have the lowest floor elevated to the flood protection elevation; and

ii. Be anchored so they do not float, collapse or move laterally during a flood.

3. 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/mobile homes shall meet the residential development standards for the floodfringe in subsection (b).

(l) All mobile recreational vehicles that are on site for one hundred eighty (180) consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in subsection (k)(1) and (2). 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. Recreational vehicles shall not be considered to be manufactured/mobile homes.

(m) 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. Recreational vehicles shall not be considered to be manufactured/mobile homes.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1596. - Preservation of drainageways.

No permit granted for filing or development in the FFO urban floodplain fringe overlay district shall be permitted to adversely affect the channels, floodways, or shorelands of any navigational water in the county, or other land lying outside the floodlands.

(Ord. No. 2011-131S, 4-10-12)

Secs. 20-1597—20-1615. - Reserved.

Sec. 20-1616. - Limited floodplain boundary adjustments.

(a) Limited floodplain boundary adjustments by a combination of excavating and filling may be permitted in the GFP general floodplain district provided that:

1. The excavation shall take place prior to or simultaneously with the filling and be in areas either within or contiguous to the floodland.

2. At a minimum, the area removed from the floodplain shall be the same or less than the area created.

3. The fill must be at least two (2) feet above the regional or base flood elevation; the fill must be contiguous to land outside the floodplain and the map must be amended pursuant to section 20-1682.

4. The excavated earth material, if suitable for reuse in the area to be filled, shall be so used and, if not suitable or if insufficient in quantity for the fill required, the applicant may be permitted to utilize suitable fill obtained from land other than that which is being excavated.

5. There shall be created by the excavation floodwater storage and conveyance capacity at least equal to that which shall be lost by filling.

6. If it is determined that the floodplain boundary adjustment will be located in the floodway as determined by section 20-1616, then hydrologic and hydraulic analyses will need to be completed per section 20-1511 to determine no increase to base flood elevations.

(b) It is the express legislative intent that this section allow, after careful review, limited excavation and filling in and immediately adjacent to floodlands so as to create more usable and functional parcels in and adjacent to floodlands while not reducing the floodwater storage and conveyance capacity then existing in the floodlands.

(c) Before issuing a conditional use permit under this section, the appropriate county board of supervisors development committee shall make a specific written determination that the proposed excavation and filling complies with each of the foregoing four (4) standards as well as the standards applicable to conditional uses under section 20-1182. In making such determinations, the committee may request an advisory review by a duly constituted watershed committee of the Southeastern Wisconsin Regional Planning Commission.

(d) A limited floodplain boundary adjustment requires department of natural resources (DNR) and federal emergency management agency (FEMA) approval before a conditional use permit may be issued.

(Ord. No. 2011-131S, 4-10-12)

Secs. 20-1617—20-1630. - Reserved.

Sec. 20-1631. - Floodland uses.

Floodland uses are conditional uses and may be permitted by the appropriate county board of supervisors development committee.

(a) Open space and related uses may be permitted in any floodplain zoning district for the following uses provided that the applicant shall show that such use or improvement will not impeded drainage, will not cause ponding, will not obstruct the floodway according to the requirements in section 20-1511, will not increase flood flow velocities, will not increase the flood stage, and will not retard the movement of the floodwaters. When permitted, all structures shall be floodproofed in accordance with the standards set in section 20-1666 of this division and constructed so as not to catch or collect debris nor be damaged by floodwaters. All floodproofed structures shall be securely anchored to protect them from large floods. Certification of floodproofing shall be made to the zoning administrator and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the regional flood elevation.

1. Navigational structures.

2. Public water measuring and control facilities.

3. Bridges and approaches.

4. Marinas.

5. Utility poles, towers, and underground conduit for transmitting electricity, telephone, natural gas and similar products and services.

6. Park and recreational areas, not including structures.

7. Parking lots and loading areas accessory to permitted uses in adjacent districts, not including new or used vehicle sales or storage areas, provided that such uses shall not be subject to inundation depths greater than two (2) feet or flood velocities greater than two (2) feet per second.

8. Filing as authorized by the department to permit the establishment of approved bulkhead lines.

9. Other open space uses consistent with the purpose and intent of the district and compatible with uses in adjacent districts, not including structures.

(b) The thin mantle spreading of spoils resulting from the cleanout and/or dredging of existing drainage ditches or canals may be permitted in floodplain zoning districts provided that the spreading does not result in an increase in the regional flood elevation; the spoils are leveled to a maximum depth of twelve (12) inches; and provided that such spreading will not have a significant adverse impact upon the criteria established by the department in NR 116.07. Applicants are required to complete hydrologic and hydraulic analyses per section 20-1511 unless the applicant can demonstrate the spoils are being placed to pre-existing elevations (i.e. due to settlement or erosion).

(c) Municipal water supply and sanitary sewerage systems may be permitted provided that the system is floodproofed, in accordance set forth in section 20-1666 of this article, to an elevation at least two (2) feet above the regional flood elevation and is designed to eliminate or minimize infiltration of floodwaters into the system. All floodproofed utilities shall be anchored to prevent floatation. Certification of floodproofing shall be made to the zoning administrator and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths and other factors associated with the regional flood elevation for the particular stream reach. Municipal water supply and sanitary sewerage systems are prohibited in the floodway.

(Ord. No. 2011-131S, 4-10-12)

Secs. 20-1632—20-1642. - Reserved.

Sec. 20-1643. - Nonconforming uses in floodlands.

Sec. 20-1644. - General.

(1) Applicability. If these standards conform with W.S.A., § 59.69(10), for counties or W.S.A., § 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 article or any amendment thereto.

(2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this article may continue subject to the following conditions:

(a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this article. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or

replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed two hundred (200) square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

(b) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this article.

(c) The county shall keep a current file of all nonconforming uses and shall to the extent practical, be maintained by the zoning administrator listing the following: owners name and address, use of structure, land, or water, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;

(d) No modification or addition to any floodland nonconforming structure or any floodland structure with a nonconforming use, which over the life of the structure would equal or exceed fifty (50) percent of its present equalized assessed value of the structure, 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 article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 20-1595(b). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the fifty (50) percent provisions of this paragraph;

(e) No maintenance to any floodland nonconforming structure or any structure with a floodland nonconforming use, the cost of which would equal or exceed fifty (50) percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 20-1595(b).

(f) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds fifty (50) percent of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 20-1595(b).

(g) Except as provided in subsection (h), 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 fifty (50) percent of the structure's present equalized assessed value.

(h) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

1. *Residential structures.*

a. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of section 20-1666(2).

b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.

c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

d. In A zones, obtain, review and utilize any flood data available from a federal, state or other source.

e. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 20-1573(1).

f. in AO zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

2. *Nonresidential structures.*

a. Shall meet the requirements of subsection 1.a—b and e—f.

b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in section 20-1666(1) or (2).

c. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 20-1573(1).

(3) 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 20-1534(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with section 20-1666 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of subsection (2)(h)1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1645. - Floodway district.

(1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the floodway district, unless such modification or addition:

(a) Has been granted a permit or variance by the county which meets all ordinance requirements;

(b) Meets the requirements of section 20-1644;

(c) Shall not increase the obstruction to flood flows or regional flood height;

(d) Any addition to the existing structure shall be floodproofed, pursuant to section 20-1666, by means other than the use of fill, to the flood protection elevation; and

(e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two (2) openings must be provided with a minimum net area of at least one (1) square inch for every one (1) square foot of the enclosed area. The lowest part of the opening can be no more than twelve (12) inches above the adjacent grade;

2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;

3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

4. The use must be limited to parking, building access or limited storage.

(2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the floodway district. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, section 20-1666(3) and ch. SPS 383, Wis. Adm. Code.

(3) No new well or modification to an existing well used to obtain potable water shall be allowed in the floodway district. Any replacement, repair or maintenance of an existing well in the floodway district shall meet the applicable requirements of all municipal ordinances, section 20-1645(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1646. - Floodfringe District.

(1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of section 20-1595 except where subsection (2) is applicable.

(2) Where compliance with the provisions of subsection (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of adjustment/appeals, using the procedures established in section 20-1664, may grant a variance from those provisions of subsection (1) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

(a) No floor is allowed below the regional flood elevation for residential or commercial structures;

(b) Human lives are not endangered;

(c) Public facilities, such as water or sewer, shall not be installed;

(d) Flood depths shall not exceed two (2) feet;

(e) Flood velocities shall not exceed two (2) feet per second; and

(f) The structure shall not be used for storage of materials as described in section 20-1595(g).

(3) 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, section 20-1666(3) and ch. SPS 383, Wis. Adm. Code.

(4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this article, section 20-1666(3) and ch. NR 811 and NR 812, Wis. Adm. Code.

(Ord. No. 2011-131S, 4-10-12)

Secs. 20-1647—20-1660. - Reserved.

Sec. 20-1661. - Administration.

Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under W.S.A., §§ 59.69, 59.692 or 62.23(7), these officials shall also administer this article.
(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1662. - Zoning administrator.

(1) *Duties and powers.* The zoning administrator is authorized to administer this article and shall have the following duties and powers:

(a) Advise applicants of the article provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.

(b) Issue permits and inspect properties for compliance with provisions of this article and issue certificates of compliance where appropriate.

(c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.

(d) Keep records of all official actions such as:

1. All permits issued, inspections made, and work approved;

2. Documentation of certified lowest floor and regional flood elevations;

3. Floodproofing certificates;

4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;

5. All substantial damage assessment reports for floodplain structures; and

6. List of nonconforming structures and uses.

(e) Submit copies of the following items to the department regional office:

1. Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
2. Copies of case-by-case analyses and other required information, including an annual summary of floodplain zoning actions taken; and

3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

(f) Investigate, prepare reports, and report violations of this article to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.

(g) Submit copies of amendments and biennial reports to the FEMA regional office.

(2) *Zoning permit.* A zoning permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(a) *General information.*

1. Name and address of the applicant, property owner and contractor.

2. Legal description, proposed use, and whether it is new construction or a modification.

(b) *Site development plan.* A site plan drawn to scale shall be submitted with the permit application form and shall contain:

1. Location, dimensions, area and elevation of the lot;

2. Location of the ordinary highwater mark of any abutting navigable waterways;

3. Location of any structures with distances measured from the lot lines and street center lines;

4. Location of any existing or proposed on-site sewage systems or private water supply systems;

5. Location and elevation of existing or future access roads;

6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;

7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study, either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);

8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of section 20-1531 or 20-1595 are met; and

9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 20-1511. This may include any of the information noted in section 20-1534(1).

(c) *Hydraulic and hydrologic studies to analyze development.* All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the state. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the department.

1. *Zone A floodplains.*

a. *Hydrology.*

i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.

b. *Hydraulic modeling.* The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, Hydraulic Analysis: Determination of Regional Flood Elevation and the following:

i. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study;

ii. Channel sections must be surveyed;

iii. Minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping;

iv. A maximum distance of five hundred (500) feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location;

v. The most current version of HEC_RAS shall be used;

vi. A survey of bridge and culvert openings and the top of road is required at each structure;

vii. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than five hundred (500) feet;

viii. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices; and

ix. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

c. *Mapping.* A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.

ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing

model, unless adequate justification based on standard accepted engineering practices is provided.

2. *Zone AE floodplains.*

a. *Hydrology.* If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.

b. *Hydraulic model.* The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, Hydraulic Analysis: Determination of Regional Flood Elevation and the following:

i. Duplicate effective model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

ii. Corrected effective model. The corrected effective model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for department review.

iii. Existing (pre-project conditions) model. The existing model shall be required to support conclusions about the actual impacts of the project associated with the revised (post-project) model or to establish more up-to-date models on which to base the revised (post-project) model.

iv. Revised (post-project conditions) model. The revised (post-project conditions) model shall incorporate the existing model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.

v. All changes to the duplicate effective model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.

vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The effective model shall not be truncated.

c. *Mapping.* Maps and associated engineering data shall be submitted to the department for review which meet the following conditions:

i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or flood boundary floodway maps (FBFMs), construction plans, bridge plans.

ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.

iii. Annotated FIRM panel showing the revised one (1) percent and two-tenths (0.2) percent annual chance floodplains and floodway boundaries.

iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and state plane coordinate system in accordance with FEMA mapping specifications.

v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.

vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.

vii. Both the current and proposed floodways shall be shown on the map.

viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(d) *Expiration.* All permits issued under the authority of this article shall expire no more than one hundred eighty (180) days after issuance. The permit may be extended for a maximum of one hundred eighty (180) days for good and sufficient cause.

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

(a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this article;

(b) Application for such certificate shall be concurrent with the application for a permit;

(c) If all article provisions are met, the certificate of compliance shall be issued within ten (10) days after written notification that the permitted work is completed;

(d) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of section 20-1266 are met.

(4) *Other permits.* Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1663. - Zoning agency.

(1) The appropriate county board of supervisors development committee shall:

(a) Oversee the functions of the office of the zoning administrator; and

(b) Review and advise the governing body on all proposed amendments to this article, maps and text.

(2) The appropriate county board of supervisors development committee shall not:

(a) Grant variances to the terms of the article in place of action by the board of adjustment/appeals; or

(b) Amend the text or zoning maps in place of official action by the governing body.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1664. - Board of adjustment.

The board of adjustment/appeals, created under W.S.A., § 59.694, for counties or W.S.A., § 62.23(7)(e), for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this article. The board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the board.

(1) *Powers and duties.* The board of adjustment/appeals shall:

(a) *Appeals.* Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article;

(b) *Boundary disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and

(c) *Variances.* Hear and decide, upon appeal, variances from the article standards.

(2) *Appeals to the board.*

(a) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within thirty (30) days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

(b) Notice and hearing for appeals including variances.

1. *Notice.* The board shall:

a. Fix a reasonable time for the hearing;

b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and

c. Assure that notice shall be mailed to the parties in interest and the department regional office at least ten (10) days in advance of the hearing.

2. *Hearing.* Any party may appear in person or by agent. The board shall:

a. Resolve boundary disputes according to this chapter;

b. Decide variance applications according to this chapter; and

c. Decide appeals of permit denials according to this chapter.

(c) *Decision.* The final decision regarding the appeal or variance application shall:

1. Be made within a reasonable time;

2. Be sent to the department regional office within ten (10) days of the decision;

3. Be a written determination signed by the chairman or secretary of the board;

4. State the specific facts which are the basis for the board's decision;

5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and

6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.

(3) *Boundary disputes.* The following procedure shall be used by the board in hearing disputes concerning floodplain district boundaries:

(a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;

(b) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board; and

(c) If the boundary is incorrectly mapped, the board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to this article.

(4) *Variance.*

(a) The board may, upon appeal, grant a variance from the standards of this article if an applicant convincingly demonstrates that:

1. Literal enforcement of the article will cause unnecessary hardship;

2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;

3. The variance is not contrary to the public interest; and

4. The variance is consistent with the purpose of this article in section 20-1492.

(b) In addition to the criteria in subsection (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

1. The variance shall not cause any increase in the regional flood elevation;

2. Variances shall only be granted for lots that are less than one-half (½) acre and are contiguous to existing structures constructed below the RFE; and

3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the article.

(c) A variance shall not:

1. Grant, extend or increase any use prohibited in the zoning district;

2. Be granted for a hardship based solely on an economic gain or loss;

3. Be granted for a hardship which is self-created;

4. Damage the rights or property values of other persons in the area;

5. Allow actions without the amendments to this article or map(s) required in 20-1681; and

6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

(d) When a floodplain variance is granted the board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to twenty-five dollars ($25.00) per one

hundred dollars ($100.00) of coverage. A copy shall be maintained with the variance record.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1665. - To review appeals of permit denials in floodland districts.

(1) The zoning agency (section 20-1663) or board shall review all data related to the appeal. This may include:

(a) Permit application data listed in section 20-1662(2);

(b) Floodway/floodfringe determination data in section 20-1574;

(c) Data listed in section 20-1534(1)(b) where the applicant has not submitted this information to the zoning administrator; and

(d) Other data submitted with the application, or submitted to the board with the appeal.

(2) For appeals of all denied permits the board shall:

(a) Follow the procedures of section 20-1664;

(b) Consider zoning agency recommendations; and

(c) Either uphold the denial or grant the appeal.

(3) For appeals concerning increases in regional flood elevation the board shall:

(a) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of section 20-1681; and

(b) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1666. - Floodproofing standards for nonconforming structures or uses.

(1) No permit or variance shall be issued for a nonresidential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA floodproofing certificate.

(2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

(a) Certified by a registered professional engineer or architect; or

(b) Meets or exceeds the following standards:

1. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one (1) foot above grade; and

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(3) Floodproofing measures shall be designed, as appropriate, to:

(a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(b) Protect structures to the flood protection elevation;

(c) Anchor structures to foundations to resist flotation and lateral movement;

(d) Minimize or eliminate infiltration of flood waters; and

(e) Minimize or eliminate discharges into flood waters.

Sec. 20-1667. - Public information.

(1) Place marks on structures to show the depth of inundation during the regional flood.

(2) All maps, engineering data and regulations shall be available and widely distributed.

(3) Real estate transfers should show what floodplain district any real property is in.

Secs. 20-1668—20-1680. - Reserved.

Sec. 20-1681. - Amendments.

Obstructions or increases 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 20-1682.

(1) In AE zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 20-1682. Any such alterations must be reviewed and approved by FEMA and the DNR.

(2) In A zones increases equal to or greater than one (1.0) foot may only be permitted if the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain maps, floodway lines, and water surface profiles, in accordance with section 20-1682.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1682. - General.

The governing body shall change or supplement the floodplain zoning district boundaries and this article in the manner outlined in section 20-1683 below. Actions which require an amendment to the article and/or submittal of a letter of map change (LOMC) include, but are not limited to, the following:

(1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;

(2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;

(3) Any changes to any other officially adopted floodplain maps listed in section 20-1494(2)(b);

(4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;

(5) Correction of discrepancies between the water surface profiles and floodplain maps;

(6) Any upgrade to a floodplain zoning ordinance text required by § NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and

(7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1683. - Procedures.

Article amendments may be made upon petition of any party according to the provisions of W.S.A., § 62.23 for cities and villages, or § 59.69 for counties. The petitions shall include all data required by sections 20-1574 and 20-1662(2). The land use permit shall not be issued until a letter of map revision is issued by FEMA for the proposed changes.

(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 W.S.A., § 62.23 for cities and villages, or § 59.69 for counties.

(2) No amendments shall become effective until reviewed and approved by the Department.

(3) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

(Ord. No. 2011-131S, 4-10-12)

Sec. 20-1684. - Enforcement and penalties.

Any violation of the provisions of this article by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than fifty dollars ($50.00), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this article is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to W.S.A., § 87.30. (Ord. No. 2011-131S, 4-10-12)

Secs. 20-1685—20-1700. - Reserved.

ARTICLE XIII. - ANIMAL WASTE MANAGEMENT[21]

Footnotes:
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Editor's note— Ord. No. 2012-24, adopted June 26, 2012, set out provisions intended for use as Art. XII. Inasmuch as there were already provisions so designated, these provisions have been included as Art. XIII, §§ 20-1701—20-1721, at the direction of the county.

Sec. 20-1701. - Authority.

This article is adopted under authority granted by W.S.A., §§ 59.02, 59.70(1), 92.07, 92.15, and 92.16.
(Ord. No. 2012-24, 6-26-12)

Sec. 20-1702. - Title.

This article shall be known as, referred to, and may be cited as the Racine County Animal Waste Management Ordinance and is hereinafter referred to as the article.
(Ord. No. 2012-24, 6-26-12)

Sec. 20-1703. - Findings and declaration of policy.

The county board of supervisors finds that unregulated animal waste storage facilities not meeting current technical design and construction standards may cause pollution of the surface water and groundwater of Racine County, and may result in actual or potential harm to the health of county residents, transients, livestock, aquatic life and other animals and plants and decrease the property tax base of Racine County. The county board of supervisors also finds that improper management of animal waste storage facilities and utilization of animal wastes, including but not limited to the land application of animal waste, may cause pollution of the surface water and groundwater of Racine County. The county board of supervisors further finds that the technical standards developed by the United States Department of Agriculture - Natural Resources Conservation Service and adopted by the county economic development and land use planning committee provide effective, practical and environmentally safe methods of storing and managing animal waste.
(Ord. No. 2012-24, 6-26-12)

Sec. 20-1704. - Purpose.

The purpose of this article is to regulate the location, design, construction, installation, operation, alteration, closure and use of animal waste storage facilities; the transfer systems that convey waste into an animal storage facility; and the abandonment of an idle animal waste storage facility in order to prevent water pollution, and thereby protect the health and safety of residents and transients, prevent the spread of disease, and promote the prosperity and general welfare of the citizens of Racine County. It is also intended to provide for the administration and enforcement of the article and to provide penalties for its violation.
(Ord. No. 2012-24, 6-26-12)

Sec. 20-1705. - Interpretation.

The provisions of this article shall be considered to be minimum requirements and shall be liberally construed in favor of Racine County, and not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
(Ord. No. 2012-24, 6-26-12)

Sec. 20-1706. - Applicability.

This article shall apply to all unincorporated areas of Racine County and to all animal waste storage facilities constructed therein. Animal waste storage facilities shall comply with all federal, state, and local laws, rules, and regulations.

(Ord. No. 2012-24, 6-26-12)

Sec. 20-1707. - Definitions.

The following definitions shall apply to this article, and for purposes of this article only, shall supersede any definition in section 20-1 that is inconsistent with the definitions in this section.

Animal waste shall mean excreta from livestock, poultry, and other materials such as bedding, rain, or other water, soil, hair, feathers, and other debris normally included in animal waste handling operations.

Animal waste storage facility shall mean a concrete, steel, or otherwise fabricated structure, excavated pit or earthen impoundment, or any structure used to temporarily store, manure, waste water, and contaminated runoff.

Applicant shall mean any person who applies for a permit under this article.

Closure shall mean removal and proper disposal of accumulated wastes and proper abandonment of an animal waste storage facility.

Direct runoff shall mean a discharge of a significant amount of pollutants to waters of the state.

Land conservation committee shall mean the sub-committee of the economic development and land use planning committee, who by authority of W.S.A., ch. 92, is responsible for county-wide soil and water conservation activities conducted by the land conservation division. The sub-committee shall be referred to hereinafter as "LCC."

Land conservation division shall mean the division of the public works and development services department which is responsible for administering and enforcing this article. The division shall be referred to hereinafter as "LCD."

Livestock shall mean domestic animals such as cattle, horses, sheep, hogs, goats, poultry, fish, etc., or exotic animals such as llamas, ostriches, etc.

Livestock operation shall mean a feedlot or other facility or a pasture where animals are fed, confined, maintained, or stabled.

Milking center waste shall mean all wastewater, cleaning ingredients, and waste milk that is discharged from a milkhouse or milking parlor.

Nutrient management plan shall mean a plan that balances the nutrient needs of a crop with the nutrients available from legume crops, manure, fertilizer or other sources. Management includes the rate, method, and timing of application of all sources of nutrients to minimize the amount of nutrients entering surface and groundwater. The requirements for a nutrient management plan are as established in ATCP 50.04(3).

Permit shall mean the signed, written statement issued by the LCD under this article.

Permittee shall mean any person to whom a permit is issued under this article.

Substantially altered shall mean a change to a structure or facility that results in relocation or a significant change in size, depth or configuration including; replacement of a liner, an increase in the volumetric capacity by greater than twenty (20) percent, or a change in livestock management from one (1) species of livestock to another, such as cattle to horses.

Technical standards shall mean the Wisconsin version of the United States Department of Agriculture, Natural Resources Conservation Service field office Technical Guide as adopted by the LCC.

Unconfined manure pile shall mean a quantity of manure, at least one hundred seventy-five (175) cubic feet in volume that covers the ground surface to a depth of at least two (2) inches and is not confined within a manure storage facility, livestock housing facility or barnyard runoff control facility.

Water pollution shall mean contaminating or rendering unclean or impure the ground or surface waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life.

Water quality management areas shall mean the area within one thousand (1,000) feet from the ordinary high water mark of navigable waters that consist of lake, pond or flowage; the area within three hundred (300) feet from the ordinary high water mark of navigable waters that consist of a river or stream; and a site that is susceptible to groundwater contamination, or that has the potential to be a direct conduit for contamination to reach groundwater.

(Ord. No. 2012-24, 6-26-12)

Sec. 20-1708. - Activities subject to regulation.

(a) *General requirement.* Any person who locates, installs, moves, reconstructs, extends, enlarges, converts, substantially alters or changes use of an animal waste storage facility or parts thereof; or who employs another to do the same, on land subject to this article, shall be subject to the provisions of this article.

(b) *Compliance with permit requirements.* A person is in compliance with this article, who receives review and a permit from the land conservation division before commencing activities subject to regulation under this section, and complies with the requirements of the permit. If construction is not completed within twelve (12) months, a permit will be required under this article to continue construction. Repair, enlargement, alteration, abandonment, or temporary abandonment of pre-existing facilities requires a permit that is subject to all terms of this article.

(Ord. No. 2012-24, 6-26-12)

Sec. 20-1709. - Standards.

(a) *Standards for animal waste storage facilities.* The standards for design and construction of animal waste storage facilities and or abandonment/closure are those found in technical standards 313 (waste storage facility), 360 (waste facility closure) and 634 (waste transfer) of the technical guide as it existed on the date of the adoption of this article including any and all future standards amended thereto.

(b) *Standards for animal waste management and utilization.* The standards for management of animal waste storage facilities and utilization of animal waste are those in technical standard 590 (nutrient management) of the technical guide, including any and all existing and future standards amended thereto.

(c) *Septage.* Human waste and associated wastewater shall not be discharged into animal waste storage facilities unless permitted by applicable federal, state, or local regulations for the disposal of human waste and wastewater.

(d) *Standards for implementing prohibitions.* Prior to issuance of a permit under this article, compliance with the prohibitions, as identified in W.S.A., § 281.16(3), and any amendments thereto, shall be addressed. The prohibitions are:

(1) A livestock operation may have no overflow of an animal waste storage structure.

(2) A livestock operation may have no unconfined manure pile in a water quality management area.

(3) A livestock operation may have no direct runoff from a feedlot or stored manure into the waters of the state.

(4) A livestock operation may not allow unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod cover.

Sec. 20-1710. - Application for and issuance of permits.

(a) *Permit required.* Except as hereinafter provided, no person may undertake activity subject to this article without first obtaining a new animal waste storage facility permit, a substantially altered facility permit, or a closure of existing facility permit from the county LCD.

(b) *Exception to permit requirement.* Emergency minor repairs such as fixing a broken pipe or equipment, leaking dikes, or the removal of stoppages may be performed without a permit. If such repairs alter the original design and construction of the facility, work shall be reported to the LCD as soon as possible for a determination on whether a permit will be required for any additional alteration or repair to the facility.

(c) *Permit fees.* The fee for a permit under this article shall be determined annually by the LCC during the annual LCD budget development cycle. The fee shall be nonrefundable and payable in advance to the LCD. Temporary abandonment of an animal waste storage facility is exempt from the fee schedule.

(d) *Animal waste storage facility and nutrient management plan required.* Each application for a permit under this article shall include an animal waste storage facility plan. The plan shall include:

(1) The number and kinds of animals for which storage is provided.

(2) A sketch of the facility and its location in relation to buildings within two hundred fifty (250) feet and homes within five hundred (500) feet of the proposed facility. The sketch will be drawn to scale, with a scale no smaller than one (1) inch equals one hundred (100) feet. Include the scale of the drawing and north arrow.

(3) The structural details, including dimensions, cross sections, and concrete thickness.

(4) The location of any wells within three hundred (300) feet of the facility.

(5) The soil test pit locations and soil descriptions to a depth of at least three (3) feet below the planned bottom of the facility.

(6) The elevation of groundwater or bedrock if encountered in the soil profile and the date of any such determinations.

(7) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and ground water. If a navigable body of water lies within five hundred (500) feet of the facility, the location and distance to the body of water shall be shown.

(8) A time of schedule for construction of the proposed facility.

(9) A description of the method in transferring animal waste into and from the facility.

(10) A nutrient management plan which meets the 590 technical standard and the agricultural performance standards as listed under section 20-1709.

(11) An unconfined manure pile may not be located within twenty (20) feet of a neighboring property line. A greater distance may be required depending on slope, soil type and runoff potential as determined by the LCD.

(e) *Substantially altered facility permit.* Each application for a permit under this article shall include the facility alteration plan as listed in section 20-1710.

(f) *Closure of existing facility permit.* Each application for a permit under this article shall include the facility closure plan as listed in section 20-1710.

(g) *Review of application.* The LCD shall receive and review all permit applications. The LCD shall determine if the proposed facility meets the required standards set forth in section 20-1709. Within thirty (30) days after receiving the completed application and fee, the LCD shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the LCD shall so notify the permit applicant. The LCD has thirty (30) days from the receipt of the additional information to approve or disapprove the application. If the LCD fails to approve or disapprove the permit application in writing with thirty (30) days of receipt of the permit application or additional information, as appropriate, the application shall be deemed approved and the applicant may proceed as if the permit had been issued.

(Ord. No. 2012-24, 6-26-12)

Sec. 20-1711. - Permit conditions.

All permits issued under this article shall be subject to the following conditions and requirements:

(1) Animal waste storage facility design, construction, modification, closure and management shall be carried out in accordance with the construction plan or closure plan and applicable standards specified in this article.

(2) Any person applying for an animal waste storage facility permit or substantially altered facility permit under this article must develop a nutrient management plan as part of the application process to demonstrate their ability to utilize animal waste in an environmentally safe manner. This condition may require the applicant to hire a crop consultant to prepare the nutrient management plan.

(3) The permittee must certify in writing that all other local, city, county, state, or federally required permits have been or will be obtained from the appropriate authorities. The LCD may require proof of any permit known to be needed prior to issuing an animal waste storage facility permit, substantially altered facility permit, or closure of existing facility permit.

(4) Any change to an approved permit shall be approved in writing by the LCD. Written approval shall occur only after a registered professional engineer, DATCP engineer, or local agency staff having the appropriate engineering certification, has reviewed and approved the proposed modifications.

(5) The permittee shall give no less than two (2) days notice before starting any construction activity authorized by the permit.

(6) Activities authorized by this permit shall be completed within two (2) years from the date of issuance after which such permit shall expire.

(7) The permittee shall certify in writing, by a registered professional engineer, DATCP engineer, or local agency staff having the appropriate engineering certification that the animal waste storage was installed or closed as planned. A copy of the certification sheet shall be given to the LCD within one (1) month of completion of installation, alteration or closure. Any approved changes made to the design shall be specified in the certification. LCD personnel may conduct site inspections during and following construction to determine that the facility was installed, altered or closed as planned and designed. (Ord. No. 2012-24, 6-26-12)

Sec. 20-1712. - Permit revocation.

The LCD may revoke the permit issued under this article if the holder of the permit has misrepresented any material fact in the permit application or plans, or if the holder of the permit violates any conditions of the permit.

(Ord. No. 2012-24, 6-26-12)

Sec. 20-1713. - Delegation of authority.

The county board hereby designates the county land conservation division to administer and enforce this article.
(Ord. No. 2012-24, 6-26-12)

Sec. 20-1714. - Administrative duties.

In the administration and enforcement of this article, the LCD shall:

(1) Keep an accurate record of all permit applications, animal waste facility plans, nutrient management plans, alteration plans, closure plans, extensions issued and other official actions.

(2) Review permit applications and issue permits in accordance with sections 20-1710—20-1712.

(3) Periodically inspect animal waste storage facility construction to insure the facility is being constructed, altered or closed according to plan specifications.

(4) Investigate complaints relating to compliance with this article.

(5) Perform other duties as specified in this article.

(Ord. No. 2012-24, 6-26-12)

Sec. 20-1715. - Inspection authority.

The LCD is authorized to enter upon any lands affected by this article to inspect the land prior to or after permit issuance to determine compliance with this article. If permission cannot be received from the applicant or permittee, entry shall be according to W.S.A., § 66.0119. Refusal to grant permission to enter lands affected by this article for purposes of inspection may be grounds for denial of a permit or revocation thereof.

(Ord. No. 2012-24, 6-26-12)

Sec. 20-1716. - Enforcement authority.

The LCD is authorized to post an order stopping work upon land that has had a permit revoked or on land currently undergoing activity in violation of this article. Notice is given by both posting upon the land where the violation occurs one or more copies of a poster stating the violation, and by mailing a copy of the order by certified mail to the person whose activity is in violation of this article. The order shall specify that the activity must cease or be brought into compliance.

Any permit revocation or order stopping work shall remain in effect until retracted by the LCD, or by a court of general jurisdiction. The LCD is authorized to refer any violation of this article or of an order stopping work issued pursuant to this article, to the county corporation counsel for commencement of further legal proceedings.

Sec. 20-1717. - Violations.

(a) *Penalties.* Any person who violates, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this article shall be subject to a forfeiture of not less than two hundred dollars ($200.00) and costs of prosecution for each violation. An unlawful violation includes failure to comply with any standard of this article or with any

condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense.

(b) *Enforcement by injunction.* As a substitute for or an addition to forfeiture actions, the county may seek enforcement of any part of this article by court actions seeking injunctions or restraining orders.

(Ord. No. 2012-24, 6-26-12)

Sec. 20-1718. - Appeals.

Under the authority of W.S.A., ch. 68, the county land conservation committee, created under W.S.A., § 59.878, and acting as an appeal authority under W.S.A., § 68.09(2), is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination by the LCD in administering this article.

(Ord. No. 2012-24, 6-26-12)

Sec. 20-1719. - Procedure.

The rules, procedures, duties, and powers of the LCC and provisions of W.S.A., ch. 68, shall apply to this article.

(Ord. No. 2012-24, 6-26-12)

Sec. 20-1720. - Who may appeal.

Appeals may be taken by any person having a substantial interest which is adversely affected by the order, requirement, decision, or determination made by the LCD.

(Ord. No. 2012-24, 6-26-12)

Sec. 20-1721. - Variances.

The LCC may upon appeal authorize a variance from the requirements of this article. The granting of a variance shall:

(1) Be consistent with the spirit and purpose of this chapter as stated in section 20-1704.

(2) Not permit an activity or practice that may fail structurally or otherwise and cause significant water pollution or other offsite impacts.

(3) Be due to unique circumstances and not to the general conditions of the area.

(4) Not be granted unless it is shown that the variance will not be contrary to the public interest and will not be damaging to the rights of other persons.

(5) Not be granted solely on the basis of economic gain or loss.

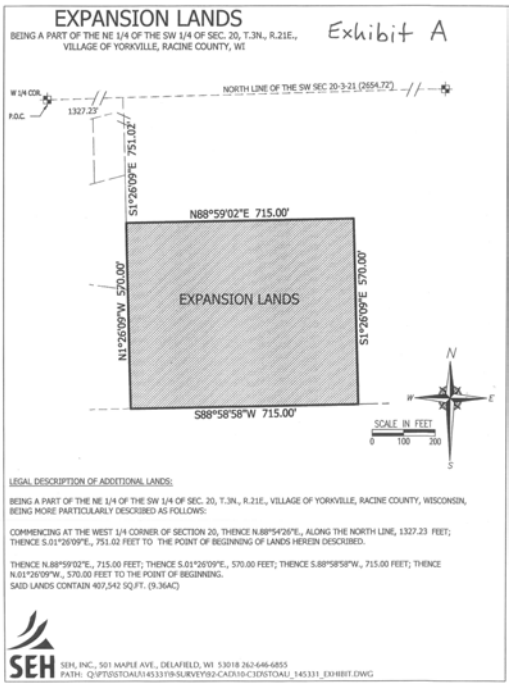
(6) Not be granted solely on the fact that certain conditions existed prior to the effective date of the ordinance from which this article is derived.

The LCC may consider decisions made by the LCD, in accordance with local ordinance provisions, when making its determination whether to accept or deny the variance.
(Ord. No. 2012-24, 6-26-12)

Sec. 55-3. Zoning Map.

The Village Board, having adopted the Racine County Zoning Code as existing at the time of adoption of Village Ordinance 2018-04, has as its official Zoning Map those maps and districts referenced in Section 20-212 of the Racine County Zoning Code. Zoning Map amendments going forward shall be determined by the Village Board for the Village of Yorkville. The following amendments have been approved by the Village:

(a) The land comprising a 9.36-acre section of Tax Parcel #018-03-21-20-040-000 is rezoned from A-2 General Farming and Residential District II to B-3 Commercial Service District, located at 18917 Spring Street (CTH C), Village of Yorkville, Racine County, Wisconsin, as depicted on Exhibit A.



(b) The land comprising tax parcels ID # 018-03-21-01-019-000 and ID # 018-03-21-01-020-000 from A-2 General Farming and Residential District II to M-3 Heavy Industrial District, located at 2232 North Sylvania Avenue and the vacant parcel immediately South of this parcel, Village of Yorkville, Racine County, Wisconsin, as depicted on Exhibit A.

HY-94 SB
HY-94 NB
N EAST FRONTAGE RD
N SYLVANIA AV
V. of Mt. Pleasant
Gleason / 2118 Sylvania Ave

Chapter 56

FLOODPLAIN ZONING

(Ordinance 2023-15; 11/13/23)

Section Number	*Title*	*Ordinance Number*	*Date of Ordinance*
	Article I. Statutory Authorization, Finding of Fact, Statement of Purpose, Title and General Provisions		
Sec. 56-1.	Statutory authorization.		
Sec. 56-2.	Finding of fact.		
Sec. 56-3.	Statement of purpose.		
Sec. 56-4.	Title.		
Sec. 56-5.	General provisions. (a) Areas to be regulated (b) Official maps & revisions (c) Establishment of floodplain zoning districts (d) Locating floodplain boundaries (e) Removal of lands from floodplain (f) Compliance (g) Municipalities and state agencies regulated (h) Abrogation and greater restrictions (i) Interpretation (j) Warning and disclaimer of liability (k) Severability (l) Annexed areas for cities and villages		
	Article II. General Standards		
Sec. 56-6.	General standards applicable to all floodplain districts.		
Sec. 56-7.	Hydraulic and hydrologic analyses.		
Sec. 56-8.	Watercourse alterations.		
Sec. 56-9.	Chapter 30, 31, Wis. Stats., Development.		
Sec. 56-10.	Public or private campgrounds.		
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	Article III. Floodway District (FW)		
Sec. 56-12.	Applicability.		
Sec. 56-13.	Permitted uses.		
Sec. 56-14.	Standards for developments in the floodway.		
Sec. 56-15	Prohibited uses.		
	Article IV. Floodfringe District (FF)		
Sec. 56-16.	Applicability.		

Sec. 56-17. Permitted uses.
Sec. 56-18. Standards for development in the floodfringe.

Article V.
Other Floodplain Districts

Sec. 56-19. General Floodplain District (GFP)
Secs. 56-20. – 56-21. Reserved.

Article VI.
Nonconforming Uses

Sec. 56-22. General.
Sec. 56-23. Floodway district.
Sec. 56-24. Floodfringe district.

Article VII
Administration

Sec. 56-25. Administration..
Sec. 56-26. Zoning agency.
Sec. 56-27. Board of Appeals.
Sec. 56-28. To review appeals of permit denials.
Sec. 56-29. Floodproofing standards
Sec. 56-30. Public information.

Article VIII
Amendments

Sec. 56-31. Amendments.
Sec. 56-32. General.
Sec. 56-33. Procedures.

Article IX
Enforcement

Sec. 56-34. Enforcement and penalties.

Article X
Definitions

Sec. 56-35. Definitions.

Article I.
Statutory Authorization, Finding of Fact, Statement of Purpose, Title, and General Provisions

Sec. 56-1. Statutory authorization.

This ordinance is adopted pursuant to the authorization in s. 61.35 and 62.23, for villages and the requirements in s. 87.30, Stats.

Sec. 56-2. Finding of fact.

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

Sec. 56-3. Statement of purpose.

This ordinance is intended to regulate floodplain development to:

(1) Protect life, health and property;

(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.

Sec. 56-4. Title.

This ordinance shall be known as the Floodplain Zoning Ordinance for the Village of Yorkville, Racine County, Wisconsin.

Sec. 56-5. General provisions.

(a) *Areas to be regulated.* This ordinance regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, or AE on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local

community may also be regulated under the provisions of this ordinance, where applicable.

(b) *Official maps & revisions.* Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH, or AO, on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in subd. (a) below. Additional flood hazard areas subject to regulation under this ordinance are identified on maps based on studies approved by the DNR and listed in subd. (b) below. These maps and revisions are on file in the offices of the clerk and Zoning Administrator at the Union Grove Municipal Center, Union Grove, WI and the Ives Grove Office Complex, Sturtevant, WI. If more than one map or revision is referenced, the most restrictive information shall apply.

(1) *Official Maps:* Based on the Flood Insurance Study (FIS):

a. Flood Insurance Rate Map (FIRM), panel numbers 55101C0068D, 55101C0069D, 55101C0088D, 55101C0089D, 55101C0177D, 55101C0181D, 55101C0182D, 55101C0183D, 55101C0184D, 55101C0187D, 55101C0191D, 55101C0192D, 55101C0201D, 55101C0202D, 55101C0203D, 55101C0211D and 55101C0212D dated 05/02/2012

b. Flood Insurance Rate Map (FIRM), panel number 55101C0204E dated 02/01/2019

c. Flood Insurance Rate Map (FIRM), panel numbers 55101C0064E and 55101C0179E dated 01/11/2024

d. Flood Insurance Study (FIS) volumes 55101CV001C, 55101CV002C, and 55101CV003C for Racine County dated 01/11/2024

e. Letter of Map Revision (Place holder)

Approved by: Wisconsin DNR and FEMA

(2) *Official Maps:* Based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development. The most restrictive of the maps shall be enforced.

a. Hickory Lake Dam Failure Floodplain Map including:

1. Map dated March 14, 2003. The general floodplain boundaries for Tributary No. 2 to the West Branch of the Root River Canal and an unnamed tributary to Tributary No. 2 both of are located in United States Public Land Survey Section 4 and 5, Township 3 North, Range 21 East, Town of Yorkville, shall be determined through the use of the flood elevations.

(c) *Establishment of Floodplain Zoning Districts.* **T**he flood hazard areas regulated by this ordinance are divided into 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, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to Sec. 56-19(5).

(2) The Floodfringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to Sec. 56-19(5), within A Zones shown on the FIRM.

(3) The General Floodplain District (GFP) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.

(d) *Locating Floodplain Boundaries.* Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to Article VIII. *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to Sec. 56-27(3) and the criteria in (a) and (b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Article VIII. *Amendments*.

(1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

(2) Where flood profiles do not exist for projects, including any boundary of zone A, or AO, the location of the boundary shall be determined by the map scale., visual on-site inspection and any information provided by the Village's zoning and planning department under the direction of the Zoning Administrator, Department of Natural Resources, and FEMA.

(e) *Removal of Lands From Floodplain*

(1) Compliance with the provisions of this ordinance 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 Article VIII. *Amendments.*

(2) The delineation of any of the Floodplain Districts may be revised by the community

where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Wisconsin Department of Natural Resources and Federal Emergency Management Agency. A completed Letter of Map Revision is a record of this approval. The floodplain administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:

a. The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation;

b. The fill must be contiguous to land outside the floodplain; Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F;

(3) Removal of lands from the floodplain may also occur by operation of §87.30(1)(e), Wis. Stat. if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C.F.R. 70.

(4) *Limited Floodplain Boundary Adjustments*.

a. Limited floodplain boundary adjustments by a combination of excavating and filling may be permitted in the GFP general floodplain district provided that:

1. The excavation shall take place prior to or simultaneously with the filling and be in areas either within or contiguous to the floodplain.

2. At a minimum, the area removed from the floodplain shall be the same or less than the area created.

3. The fill must be at least two feet above the regional or base flood elevation; the fill must be contiguous to land outside the floodplain and the map must be amended pursuant to section 56-32.

4. The excavated earth material, if suitable for reuse in the area to be filled, shall be so used and, if not suitable or if insufficient in quantity for the fill required, the applicant may be permitted to utilize suitable fill obtained from land other than that which is being excavated.

5. There shall be created by the excavation floodwater storage and conveyance capacity at least equal to that which shall be lost by filling.

6. If it is determined that the floodplain boundary adjustment will be located in the floodway as determined by this section, then hydrologic and hydraulic analyses will need to be completed per section 56-7 to determine no increase to Base Flood Elevations.

b. It is the express legislative intent that this section allow, after careful review, limited excavation and filling in and immediately adjacent to floodplains so as to create more usable and functional parcels in and adjacent to floodplains while not reducing the floodwater storage and conveyance capacity then existing in the floodplains.

c. Before issuing a conditional use permit under this section, the Village Board shall make a specific written determination that the proposed excavation and filling complies with each of the foregoing six (6) standards as well as the standards applicable to conditional uses under the Village's Zoning Code. In making such determinations, the Board may request an advisory review by a duly constituted watershed committee of the Southeastern Wisconsin Regional Planning Commission.

d. A limited floodplain boundary adjustment requires department of natural resources (DNR) and federal emergency management agency (FEMA) approval before a conditional use permit may be issued.

(f) *Compliance*

(1) No structure or use within areas regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable regulations that apply to uses within the jurisdiction of these regulations.

(2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Sec. 56-34.

(3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications, or amendments thereto if approved by the Floodplain Administrator. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Sec. 56-34.

(g) *Municipalities and State Agencies Regulated*. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Wis. Stat., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Wis. Stat., applies. Although exempt from a local zoning permit and permit fees, DOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with Federal, State, and local floodplain standards. If a local transportation project is located within a Zone A floodplain and is not a WisDOT project under s. 30.2022, Wis. Stat., then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following apply: The applicant provides documentation to the Floodplain Administrator that the proposed project is a culvert replacement or bridge replacement under 20' span at the same location, the project is exempt from a DNR permit under s. 30.123(6)(d), Wis. Stat., the capacity is not decreased, the top road grade is not raised,

and no floodway data is available from a federal, state, or other source. If floodway data is available in the impacted area from a federal, state, or other source that existing data must be utilized by the applicant in the analysis of the project site.

(h) *Abrogation and Greater Restrictions*

(1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 61.35, Wis. Stat., for villages; or s. 87.30, Wis. Stat., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(2) This ordinance is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(i) *Interpretation.* In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(j) *Warning and Disclaimer of Liability*. The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur, or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(k) *Severability*. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(l) *Annexed Areas for Cities and Villages.* The Racine County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

Article II.
General Standards

Sec. 56-6. General standards applicable to all floodplain districts.

The Village shall review all permit applications to determine whether proposed building sites will

be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law.

(a) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:

(1) Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Be constructed with flood-resistant materials;

(3) Be constructed by methods and practices that minimize flood damages; and

(4) Mechanical and utility equipment must be elevated to or above the flood protection elevation.

(b) If a subdivision or other proposed new development is in a flood-prone area, the community shall assure that:

(1) Such proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area;

(2) Public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards.

All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in s. 52-25(b).

Sec. 56-7. Hydraulic and hydrologic analyses.

(a) No floodplain development shall:

(1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or

(2) Cause any increase in the regional flood height due to floodplain storage area lost.

(b) The zoning administrator shall recommend denial of permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of Article VIII. *Amendments* are met.

Sec. 56-8. Watercourse alterations.

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until

the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of Sec. 56-7 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to Article VIII. *Amendments,* the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

Sec. 56-9. Chapters 30, 31, Wis. Stat., Development.

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stat., such as docks, piers, wharves, bridges, culverts, dams, and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to Article VIII. *Amendments*.

Sec. 56-10. Public or private campgrounds.

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

(a) The campground is approved by the Department of Agriculture, Trade and Consumer Protection;

(b) A land use permit for the campground is issued by the village upon the recommendation of its zoning administrator;

(c) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;

(d) 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 floodplain zoning agency or village, 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;

(e) 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 sub. (4) - to remain in compliance with all applicable regulations, including those of the state Department of Agriculture, Trade and Consumer Protection and all other applicable regulations;

(f) All mobile recreational vehicles placed on site must meet one of the following:

(1) Be fully licensed, if required, and ready for highway use; or

(2) Not occupy any site in the campground for more than 180 consecutive days, at which time the recreational vehicle must be removed from the floodplain for a minimum of 24 hours; or

(3) Meet the requirements in either Articles III, IV or V for the floodplain district in which the structure is located;

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.

(g) 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 consistent with 56-10 and shall ensure compliance with all the provisions of this section;

(h) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

(i) 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; and

(j) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation; and

(k) Standards for structures in a campground:

(1) All structures must comply with section Sec. 56-10 or meet the applicable requirements in Articles III, IV or V for the floodplain district in which the structure is located;

(2) Deck/landing-a portable landing may be allowed for a camping unit for each entry provided that the landing is not permanently attached to the ground or camping unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck and/or trailer. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point. Provisions for the removal of these temporary landings during flood events must be addressed within the written agreement with the municipality compliant with section 56-10(4). Any such deck/landing structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

(3) Decks/patios that are constructed completely at grade may be allowed but must also comply with applicable shoreland zoning standards.

(4) Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground or camping unit, is not used as a habitable structure, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the

regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the municipality compliant with section 56-10(4).

(5) Once a flood warning in the written agreement has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, camping units, decks, camping equipment and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the municipality compliant with section 56-10(4).

(l) A land use permit shall be obtained as provided under Sec. 56-25(2) before any development; repair, modification, or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated.

Sec. 56-11. – Reserved.

Article III.
Floodway District (FW)

Sec. 56-12. Applicability.

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Sec. 56-19(5).

Sec. 56-13. Permitted uses.

The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- They are not prohibited by any other ordinance;
- They meet the standards in Sec. 56-14 and 56-15; and
- All permits or certificates have been issued according to Sec. 56-25.
- Comply with Sec. 56-14, “Standards for development in the floodway.”

(a) Agricultural uses, such as: farming, grazing, sod farms, 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 s. 56-14(4).

(d) Uses or structures accessory to open space uses or classified as historic structures that comply with Sec. 56-14 and 56-15.

(e) Extraction of sand, gravel or other materials that comply with Sec. 56-14(4).

(f) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.

(g) Public utilities, streets and bridges that comply with Sec. 56-14(3).

(h) Portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Ch. SPS 383, Wis. Adm. Code.

(i) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

(j) Wastewater treatment ponds or facilities permitted under s. NR 110.15(3)(b), Wis. Adm. Code.

(k) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.

(l) Accessory structures for navigation controls and aids and bridge approaches may be permitted by conditional use.

Sec. 56-14 Standards for developments in the floodway.

(a) *General*.

(1) Any development in the floodway shall comply with Sec. 56-6 and have a low flood damage potential.

(2) Applicants shall provide an analysis calculating the effects of this proposal on the regional flood height to determine the effects of the proposal according to Sec. 56-6 and 56-25(b)(3). The analysis must be completed by a registered professional engineer in the state of Wisconsin.

(3) Any encroachment in the regulatory floodway is prohibited unless the data submitted for subd. 56-14(a)(2) above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in Sec. 56-5(5).

(b) *Structures.*

Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by conditional use permit if the structures comply with the following criteria:

(1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;

(2) Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:

a. Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;

b. Have structural components capable of meeting all provisions of Section 56-14 and;

c. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 56-14.

(3) Must be anchored to resist flotation, collapse, and lateral movement;

(4) Mechanical, and utility equipment must be elevated to or above the flood protection elevation; and

(5) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

(6) For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets Sec. 56-15(2)(a) through 56-14(2)(e) and meets or exceeds the following standards:

a. The lowest floor must be elevated to or above the regional flood elevation;

b. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

c. The bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.

d. The use must be limited to parking, building access or limited storage.

(7) Certification: Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:

a. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;

b. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Sections 56-15(4) and 56-15(5);

c. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;

d. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and

e. Placement of utilities to or above the flood protection elevation.

(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 Sec. 56-7.

(d) *Fills or Deposition of Materials*

Fills or deposition of materials may be allowed by permit, if:

(1) The requirements of Sec. 56-7 are met;

(2) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;

(3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

(4) The fill is not classified as a solid or hazardous material.

Sec. 56-15 Prohibited Uses.

All uses not listed as permitted uses in Sec. 56-13 are prohibited, including the following uses:

(a) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;

(b) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

(c) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

(d) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;

(e) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;

(f) Any solid or hazardous waste disposal sites;

(g) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and

(h) 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.

Article IV.
Floodfringe District (FF)

Sec. 56-16. Applicability.

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to Sec. 56-19 (5).

Sec. 56-17. Permitted uses.

Any structure, land use, or development is allowed in the Floodfringe District if the standards in Sec. 56-18 are met, the use is not prohibited by this, or any other ordinance or regulation and all permits or certificates specified in Sec. 56-25 have been issued.

Sec. 56-18. Standards for development in the floodfringe.

Article II ~~s~~hall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Article VI *Nonconforming Uses*;

(a) *Residential Uses.*

Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of Article VI. *Nonconforming Uses*;

(1) All new construction, including placement of manufactured homes, and substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structure shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. No area may be removed from the floodfringe district unless it can be shown to meet Sec. 56-5.

(2) Notwithstanding Sec. 56-18 (1)(a), a basement or crawlspace floor may be placed at the regional flood elevation if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads

and effects of buoyancy. No floor of any kind is allowed below the regional flood elevation;

(3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (d).

(4) In developments where existing street or sewer line elevations make compliance with subd. (c) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:

a. The municipality has written assurance from police, fire and emergency services that rescue, and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or

b. The municipality has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.

(b) *Accessory structures or uses*

In addition to Article II, new construction and substantial improvements of Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(c) *Commercial uses*

In addition to Article II, any commercial structure which is erected, altered, or moved into the floodfringe shall meet the requirements of Sec. 56-18(1). Subject to the requirements of Sec. 56-18(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(d) *Manufacturing and industrial uses*

In addition to Article II, any manufacturing or industrial structure which is erected, altered, or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in Sec. 56-29. Subject to the requirements of Sec. 56-18(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(e) *Storage of materials*

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish, or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with Sec. 56-29. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(f) *Public utilities, streets and bridges*

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

(1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with Sec. 56-29.

(2) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(g) *Sewage systems*

All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to Sec. 56-29(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(h) *Wells*

All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to Sec. 56-29(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(i) *Solid waste disposal sites*

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(j) *Deposition of materials*

Any deposited material must meet all the provisions of this ordinance.

(k) *Manufactured homes*

(1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval, and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

(2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

a. Have the lowest floor elevated to the flood protection elevation; and

b. Be anchored so they do not float, collapse, or move laterally during a flood

(3) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in Sec. 56-18(1).

(l) *Mobile recreational vehicles*

All mobile recreational vehicles must be on site for less than 180 consecutive days and be either:

(1) Fully licensed and ready for highway use; or

(2) Shall meet the elevation and anchoring requirements in Sec. 56-18 (11)(b) and (c).

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.

Article V.
Other Floodplain Districts

Sec. 56-19 General Floodplain District (GFP)

(a) *Applicability*

The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the Flood Insurance Rate Maps identified in s. 56-5(2)(a).

(b) *Floodway boundaries*

For proposed development in zone A, or in zone AE within which a floodway is not delineated on the Flood Insurance Rate Map identified in Sec. 56-5(2)(a), the boundaries of the regulatory floodway shall be determined pursuant to Sec. 56-19(5). If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of Article III. If the development is located entirely within the floodfringe, the development is subject to the standards of Article IV.

(c) *Permitted uses*

Pursuant to Sec. 56-19(5) it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in the Floodway (Sec. 56-13) and Floodfringe (Sec. 56-17) Districts are allowed within the General Floodplain District, according to the standards of Sec. 56-19(4) provided that all permits or certificates required under Sec. 56-25 have been issued.

(d) *Standards for development in the general floodplain district*

Section 3.0 applies to floodway areas, determined to pursuant to Sec. 56-19(5); Article IV applies to floodfringe areas, determined to pursuant to Sec. 56-19(5).

(1) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated:

a. To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade; or

b. If the depth is not specified on the FIRM, to or above two (2) feet above the highest adjacent natural grade or higher.

(2) New Construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.

(3) In AO/AH zones, provide adequate drainage paths to guide floodwaters around structures.

(4) All development in zones AO and zone AH shall meet the requirements of Article IV applicable to flood fringe areas.

(e) *Determining floodway and floodfringe limits*

Upon receiving an application for development within zone A, or within zone AE where a floodway has not been delineated on the Flood Insurance Rate Maps, 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 flood proofing measures and the flood zone as shown on the FIRM.

(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 Hydrologic and Hydraulic Study as specified in Sec. 56-29(2)(c).

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. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

Sec. 56-20 – 56-21 Reserved.

Article VI.
Nonconforming Uses

Sec. 56-22. General.

(a) *Applicability*

(1) The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance or with s. 87.30, Stats. and §§ NR 116.12-14, Wis. Adm. Code and 44 CFR 59-72., these standards 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 ordinance or any amendment thereto. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use or structure was created.

(2) As permit applications are received for additions, modifications, or substantial improvements to nonconforming buildings in the floodplain, municipalities shall develop a list of those nonconforming buildings, their present equalized assessed value, and a list of the costs of those activities associated with changes to those buildings.

(b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

(1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 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 ordinance;

(3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;

(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% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec .56-19(1). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;

(5) No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 56-19(1). Maintenance to any nonconforming structure, which does not exceed 50% of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.

(6) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% of the present equalized assessed value, the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 56-19(1).

(7) Except as provided in subd. (h), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed, or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

(8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the following minimum requirements are met, and all required permits have been granted prior to the start of construction:

a. Residential Structures

1. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts, or perimeter walls. Perimeter walls must meet the requirements of Sec. 56-29(2).

2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and shall be constructed with methods and materials resistant to flood damage.

3. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. In A Zones, obtain, review, and utilize any flood data available from a federal, state or other source.

5. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Sec. 56-19(4).

6. in AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

b. Nonresidential Structures

1. Shall meet the requirements of Sec. 56-22(2)(h)1a-f.

2. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in Sec. 56-29(1) or (2).

3. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Sec. 56-19(4).

(c) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with Sec. 56-14 (a), flood resistant materials are used, and construction practices and floodproofing methods that comply with Sec. 56-29 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Sec. 56-22 (2)(h)1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

(d) Notwithstanding anything in this chapter to the contrary, modifications, additions, maintenance, and repairs to a nonconforming building shall not be prohibited based on cost and the building's nonconforming use shall be permitted to continue if:

(1) Any living quarters in the nonconforming building are elevated to be at or above the flood protection elevation;

(2) The lowest floor of the nonconforming building, including the basement, is elevated to or above the regional flood elevation;

(3) The nonconforming building is permanently changed to conform to the applicable requirements of Article II;

(4) If the nonconforming building is in the floodway, the building is permanently changed to conform to the applicable requirements of Sec. 56-14(1), 56-14(2)(b) through (e), 56-14(3), 56-14(4), and 56-23. Any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 56-19(5). If the encroachment is in the floodway, it must meet the standards in section 56-14(4);

(5) If the nonconforming building is in the floodfringe, the building is permanently changed to conform to the applicable requirements of Sec. 56-18 and 56-24;

(6) Repair or reconstruction of nonconforming structures and substantial improvements of residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation;

(7) Repair or reconstruction of nonconforming structures and substantial improvements of non-residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation, or (together with attendant utility and sanitary facilities) be designed so that below the base flood elevation the building is watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:

a. Where a non-residential structure is intended to be made watertight below the base flood elevation, a registered professional engineer or architect must develop and/or review structural design, specifications, and plans for the construction, and must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of s. 6.1(4)(g) above.

b. The community must maintain a record of such certification including the specific elevation to which each such structure is floodproofed;

(8) Fully enclosed areas below the lowest floor of repair or reconstruction of nonconforming structures and substantial improvements in zones A1-30, AE, and AH that are usable solely for parking of vehicles, building access, or storage, must be designed to adequately equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Subsequent improvements to repaired or reconstructed nonconforming structures must not increase the degree of their nonconformity. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet the following criteria:

a. A minimum of two openings into each enclosed area must be located below the base flood elevation and provide a total net area of not less than one square inch for every square foot of enclosed area.

b. The bottom of all openings must be no higher than one foot above the adjacent grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings if they permit the automatic entry and exit of floodwaters;

(9) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;

(10) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH on existing sites in an existing manufactured home park that is not undergoing expansion and on which a manufactured home has not incurred substantial damage as a result of flood must be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;

(11) Recreational vehicles placed on sites within zones A1-30, AH, and AE must either:

a. Be on site for fewer than 180 consecutive days; or

b. Be fully licensed and ready for highway use (a 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 type utilities and security devices, and has no permanently attached additions); or

c. Meet the elevation and anchoring requirements for manufactured homes in Sec. 56-22(4)(i) above;

(12) In a regulatory floodway that has been delineated on the FIRM in zone A1-30 or AE, encroachments, including repair or reconstruction of nonconforming structures, substantial improvement, or other development (including fill) must be prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;

(13) In zone A, the community must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source as criteria for requiring repair or reconstruction of nonconforming structures, substantial improvement, and other development to meet ss. 56-22(4)(f) through (l) (inclusive) above. Any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 56-19(5). If the encroachment is in the floodway, it must meet the standards in section 56-14(4). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;

(14) In zones A1-30 or AE where a regulatory floodway has not been delineated on the FIRM, repair or reconstruction of nonconforming structures, substantial improvement, or any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 56-19(5). If the encroachment is in the floodway, it must meet the standards in section 56-14(4). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;

(15) In zone AO, repair or reconstruction of nonconforming structures and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity; or

(16) In zone AO, repair or reconstruction of nonconforming structures and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified), or (together with attendant utility and sanitary facilities) be structurally dry-floodproofed to that level according to the standard specified in s. 56-22(4)(g) above. Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity.

Sec. 56-23. Floodway District.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:

(1) Has been granted a permit or variance which meets all ordinance requirements;

(2) Meets the requirements of Sec. 56-22;

(3) Shall not increase the obstruction to flood flows or regional flood height;

(4) Any addition to the existing structure shall be floodproofed, pursuant to Sec. 56-29, by means other than the use of fill, to the flood protection elevation; and,

(5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two 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, building access or limited storage.

(b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, Sec. 56-29(3) and Ch. SPS 383, Wis. Adm. Code.

(c) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair, or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, Sec. 56-29(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

Sec. 56-24. Floodfringe District

(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 municipality and meets the requirements of Sec. 56-19 except where Sec. 56-24(2) is applicable.

(b) Where compliance with the provisions of subd. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in Sec. 56-27, may grant a variance from those provisions of subd. (1) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

(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, shall not be installed;

(4) Flood depths shall not exceed two feet;

(5) Flood velocities shall not exceed two feet per second; and

(6) The structure shall not be used for storage of materials as described in Sec. 56-18(5).

(c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, Sec. 56-29 (3) and ch. SPS 383, Wis. Adm. Code.

(d) All new wells, or addition to, replacement, repair, or maintenance of a well shall meet the applicable provisions of this ordinance, Sec. 56-29 (3) and ch. NR 811 and NR 812, Wis. Adm. Code.

Article VII.
Administration

Sec. 56-25. Administration.

Where a zoning administrator, planning agency or a board of appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

(a) *Duties and powers*

The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

(1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.

(2) Recommend the issuance of permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate

(3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred; assist owners of substantially damaged structures with increased cost of compliance insurance claims in accordance with federal regulations.

(4) Keep records of all official actions such as:

a. All permits issued, inspections made, and work approved;

b. Documentation of certified lowest floor and regional flood elevations;

c. Floodproofing certificates.

d. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.

e. All substantial damage assessment reports for floodplain structures.

f. List of nonconforming structures and uses.

(5) Submit copies of the following items to the Department Regional office:

a. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

b. Copies of case-by-case analyses and other information required by the Wisconsin Department of Natural Resources.

c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

(6) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

(7) Submit copies of text and map amendments to the FEMA Regional office.

(8) Conduct public information activities.

a. Place marks on structures to show the depth of inundation during the regional flood.

b. All maps, engineering data and regulations shall be available and widely distributed.

c. The village must make all floodplain district information available for any parcel in the floodplain when requested.

(b) *Land use permit*

A land use permit shall be obtained before any development; repair, modification, or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. The Zoning Administrator shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding and such applications shall meet the following standards and include:

(1) General information

a. Name and address of the applicant, property owner and contractor;

b. Legal description, proposed use, and whether it is new construction or a modification;

(2) Site development plan

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

a. Location, dimensions, area and elevation of the lot;

b. Location of the ordinary highwater mark of any abutting navigable waterways;

c. Location of any structures with distances measured from the lot lines and street center lines;

d. Location of any existing or proposed on-site sewage systems or private water supply systems;

e. Location and elevation of existing or future access roads;

f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;

g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);

h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 3.0 or 4.0 are met; and

i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Sec. 56-6. This may include any of the information noted in Sec. 56-14(1).

(3) Hydraulic and hydrologic studies to analyze development

All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

a. Zone A floodplains and in AE zones within which a floodway is not delineated:

1. Hydrology

a) The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge.*

2. Hydraulic modeling

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

a) Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.

b) Channel sections must be surveyed.

c) Minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.

d) A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.

e) The most current version of HEC-RAS shall be used.

f) A survey of bridge and culvert openings and the top of road is required at each structure.

g) Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.

h) Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high-water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.

i) The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

3. Mapping

A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

a) If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.

b) If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

b. Zone AE Floodplains

1. Hydrology

If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge.*

2. Hydraulic model

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

a) Duplicate Effective Model

The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

b) Corrected Effective Model.

The Corrected Effective Model shall not include any man-made physical changes since the effective model date but shall import the model into the most current version of HEC-RAS for Department review.

c) Existing (Pre-Project Conditions) Model.

The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.

d) Revised (Post-Project Conditions) Model.

The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.

e) All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.

f) Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

3. Mapping

Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:

a) Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.

b) Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.

c) Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.

d) If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used, then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.

e) The revised floodplain boundaries shall tie into the effective floodplain boundaries.

f) All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.

g) Both the current and proposed floodways shall be shown on the map.

h) The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(c) *Expiration*

All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause. If the permitted work has not started within 180 days of the permit date, the development must comply with any regulation, including any revision to the FIRM or FIS, that took effect after the permit date.

(d) *Certificate of compliance*

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

(1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;

(2) Application for such certificate shall be concurrent with the application for a permit;

(3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;

(4) The applicant shall submit a certification signed by a registered professional engineer, architect, or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of Sec. 56-29 are met.

(5) Where applicable pursuant to Sec. 56-19(4), the applicant must submit a certification by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.

(6) Where applicable pursuant to Sec. 56-19(4), the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by Sec .56-19(4).

(e) *Other permits*

Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

Sec. 56-26. Zoning agency.

(a) The Village of Yorkville Plan Commission shall:

(1) Make recommendations to the Village Board with respect to the functions of the office of the zoning administrator; and

(2) review and advise the Village Board by making recommendations on all proposed amendments to this ordinance, maps, and text.

(3) Review and make recommendations to the Village Board on conditional uses and site plan.

(4) Ensure that the Village Clerk, or designee, publishes adequate notice pursuant to Ch. 985, Stats., specifying the date, time, place, and subject of the public hearing.

(5) Such other functions as established by the Village Board.

(b) The Village of Yorkville Plan Commission shall not:

(1) Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or

(2) Amend the text or zoning maps in place of official action by the governing body.

Sec. 56-27. Board of Appeals.

The Board of Appeals, created under s. 62.23(7)(e), Stats., for villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.

(a) *Powers and duties*

The Board of Appeals shall:

(1) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;

(2) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and

(3) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(b) App*eals to the board*

(1) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the

reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

(2) Notice and hearing for appeals including variances

a. Notice - The board shall:

1. Fix a reasonable time for the hearing;

2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place, and subject of the hearing; and

3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

b. Hearing - Any party may appear in person or by agent. The board shall:

1. Resolve boundary disputes according to Sec. 56-27(3);

2. Decide variance applications according to Sec. 56-27(4); and

3. Decide appeals of permit denials according to Sec. 56-28.

(3) *Decision*

The final decision regarding the appeal or variance application shall:

a. Be made within a reasonable time;

b. Be sent to the Department Regional office within 10 days of the decision;

c. Be a written determination signed by the chairman or secretary of the Board;

d. State the specific facts which are the basis for the Board's decision;

e. Either affirm, reverse, vary or modify the order, requirement, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and

f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(c) *Boundary disputes*

The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

(1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary.

(2) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and

(3) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to Article VIII. *Amendments*.

(d) *Variance*

(1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

a. Literal enforcement of the ordinance will cause unnecessary hardship;

b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;

c. The variance is not contrary to the public interest; and

d. The variance is consistent with the purpose of this ordinance in Sec. 56-3.

(2) In addition to the criteria in subd. (a), above, to qualify for a variance under FEMA regulations, the Board must find that the following criteria have been met:

a. The variance shall not cause any increase in the regional flood elevation;

b. The applicant has shown good and sufficient cause for issuance of the variance;

c. Failure to grant the variance would result in exceptional hardship;

d. Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

e. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.

(3) A variance shall not:

a. Grant, extend or increase any use prohibited in the zoning district;

b. Be granted for a hardship based solely on an economic gain or loss;

c. Be granted for a hardship which is self-created.

d. Damage the rights or property values of other persons in the area;

e. Allow actions without the amendments to this ordinance or map(s) required in Article VIII. *Amendments*; and

f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

(4) When a floodplain variance is granted, the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to $25.00 per $100.00 of coverage. A copy shall be maintained with the variance record.

Sec. 56-28. To review appeals of permit denials.

(a) The Plan Commission or Board shall review all data related to the appeal. This may include:

(1) Permit application data listed in Sec. 56-25(2);

(2) Floodway/floodfringe determination data in Sec. 56-19(5);

(3) Data listed in Sec. 56-14(1)(b) where the applicant has not submitted this information to the zoning administrator; and

(4) Other data submitted with the application or submitted to the Board with the appeal.

(b) For appeals of all denied permits the Board shall:

(1) Follow the procedures of Sec. 56-27;

(2) Consider zoning agency recommendations; and

(3) Either uphold the denial or grant the appeal.

(c) For appeals concerning increases in regional flood elevation the Board shall:

(1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of Article VII. *Amendments*; and

(2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

Sec. 56-29. Floodproofing standards.

(a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to or above the flood protection elevation and submits a FEMA Floodproofing Certificate. Floodproofing is not an alternative to the development standards in Articles II, III, IV or V..

(b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

(1) Certified by a registered professional engineer or architect; or

(2) Meeting or exceeding the following standards:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

b. The bottom of all openings shall be no higher than one foot above grade; and

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(c) Floodproofing measures shall be designed, as appropriate, to:

(1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(2) Protect structures to the flood protection elevation;

(3) Anchor structures to foundations to resist flotation and lateral movement;

(4) Minimize or eliminate infiltration of flood waters;

(5) Minimize or eliminate discharges into flood waters;

(6) Placement of essential utilities to or above the flood protection elevation; and

(7) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two 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, building access or limited storage.

Sec. 56-30. Public information

(a) Place marks on structures to show the depth of inundation during the regional flood.

(b) All maps, engineering data and regulations shall be available and widely distributed.

(c) Real estate transfers should show what floodplain district any real property is in.

Article VIII.
Amendments.

Sec. 56-31 Amendments.

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Sec. 56-32.

(a) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Sec. 56-32. Any such alterations must be reviewed and approved by FEMA and the DNR.

(b) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with Sec. 56-32.

Sec. 56-32. General.

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in Sec. 56-33 below. Actions which require an amendment to the ordinance and/or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

(a) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;

(b) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;

(c) Any changes to any other officially adopted floodplain maps listed in Sec. 56-5(2)(b);

(d) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;

(e) Correction of discrepancies between the water surface profiles and floodplain maps;

(f) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and

(g) All channel relocations and changes to the maps to alter 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.

Sec. 56-33. Procedures.

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats., for villages. The petitions shall include all data required by Sec. 56-19(5) and 56-25(2). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

(a) The proposed amendment shall be referred to the plan commission 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 s. 62.23, Stats., for villages.

(b) No amendments shall become effective until reviewed and approved by the Department.

(c) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

Article IX.
Enforcement.

Sec. 56-34. Enforcement and penalties.

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not more than $50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance, and the creation may be enjoined, and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

Article X.
Definitions.

Sec. 56-35. Definitions.

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

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

(2) AH ZONE – See “AREA OF SHALLOW FLOODING”.

(3) AO ZONE – See “AREA OF SHALLOW FLOODING”.

(4) ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building. An accessory structure shall not be used for human habitation.

(5) ALTERATION – An enhancement, upgrade or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

(6) AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

(7) 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.

(8) BASEMENT – Any enclosed area of a building having its floor sub-grade on all sides.

(9) BUILDING – See STRUCTURE.

(10) BULKHEAD LINE – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

(11) CAMPGROUND – Any parcel of land which is designed, maintained, intended, or

used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

(12) CAMPING UNIT – Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

(13) CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

(14) CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

(15) CRAWLWAYS or CRAWL SPACE – 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.

(16) DECK – An unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.

(17) DEPARTMENT – The Wisconsin Department of Natural Resources.

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

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

(20) ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.

(21) FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.

(22) FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

(23) FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

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

(24) FLOOD FREQUENCY – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.

(25) FLOODFRINGE – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

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

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

(28) FLOODPLAIN – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe and may include other designated floodplain areas for regulatory purposes.

(29) FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

(30) FLOODPLAIN MANAGEMENT – Policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

(31) FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship

of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

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

(33) FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the Regional Flood Elevation. (Also see: FREEBOARD.)

(34) FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

(35) FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

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

(37) HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.

(38) HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

(39) HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

(40) HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(41) HISTORIC STRUCTURE – Any structure that is either:

- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

(42) INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

(43) LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

(44) LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.

(45) LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement.

(46) MAINTENANCE – The act or process of ordinary upkeep and repairs, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems, or structures.

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

(48) MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

(49) MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

(50) MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring if concrete pads.

(51) MOBILE RECREATIONAL VEHICLE – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

(52) MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

(53) MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

(54) MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

(55) MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

(56) MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

(57) MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting, administering, and enforcing this zoning ordinance.

(58) NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea level datum, 1988 adjustment.

(59) NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.

(60) NEW CONSTRUCTION – Structures for which the start of construction commenced on or after the effective date of a floodplain zoning regulation adopted by this community and includes any subsequent improvements to such structures.

(61) NON-FLOOD DISASTER – A fire or an ice storm, tornado, windstorm, mudslide, or other destructive act of nature, but excludes a flood.

(62) NONCONFORMING STRUCTURE – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an

existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

(63) NONCONFORMING USE – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

(64) OBSTRUCTION TO FLOW – Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

(65) OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.

(66) OPEN SPACE USE – Those uses having a relatively low flood damage potential and not involving structures.

(67) ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

(68) PERSON – An individual, or group of individuals, corporation, partnership, association, municipality, or state agency.

(69) PRIVATE SEWAGE SYSTEM – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the 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.

(70) PUBLIC UTILITIES – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer, and storm sewer.

(71) REASONABLY SAFE FROM FLOODING – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

(72) REGIONAL FLOOD – A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

(73) START OF CONSTRUCTION – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The

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

(74) STRUCTURE – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lakebed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

(75) SUBDIVISION – Has the meaning given in s. 236.02(12), Wis. Stats.

(76) SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

(77) SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(78) UNNECESSARY HARDSHIP – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

(79) VARIANCE – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

(80) VIOLATION – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until

such time as that documentation is provided.

(81) WATERSHED – The entire region contributing runoff or surface water to a watercourse or body of water.

(82) WATER SURFACE PROFILE – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

(83) 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.