

**MUNICIPAL CODE**  
**VILLAGE OF STURTEVANT**

(Last Update 2019-06; Oct. 2019)

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## CHAPTER 1

### GENERAL GOVERNMENT

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## GENERAL PROVISIONS AS TO OFFICIALS

### **1.01 ELECTED OFFICIALS.**

The elected officials of the Village shall be the Village President, to be elected during odd numbered years for a term of 2 years, commencing on the third Tuesday of April in the year of election, 6 trustees, 3 of whom shall be elected annually during the spring election for terms of 2 years, and a Municipal Judge, whose term shall commence May 1 in the year of election.

### **1.02 APPOINTED OFFICIALS.** (Am. #098-14)

The following officials of the Village shall be appointed in the manner and for the term indicated below:

<u>Official</u>	<u>How Appointed</u>	<u>Term</u>
VILLAGE ATTORNEY	President, subject to confirmation by the Board	Indefinite
VILLAGE POLICE CHIEF	President, subject to confirmation by the Board	Indefinite
EMERGENCY GOVERNMENT DIRECTOR	President, subject to confirmation by the Board	Indefinite
PLUMBING INSPECTOR	President, subject to confirmation by the Board	Indefinite
HEALTH OFFICER	Board of Health	Indefinite
VILLAGE ENGINEER	Village Board	Indefinite
BUILDING INSPECTOR	President, subject to confirmation by the Board	Indefinite
ELECTRICAL INSPECTOR	President, subject to confirmation by the Board	Indefinite
PUBLIC WORKS SUPERVISOR	President, subject to confirmation by the Board	Indefinite
UTILITY MANAGER	President, subject to confirmation by the Board	Indefinite
VILLAGE CLERK/TREASURER	President, subject to confirmation by the Board	Indefinite
VILLAGE ACCOUNTANT/DEPUTY CLERK	President, subject to confirmation by the Board	Indefinite
WEED COMMISSIONER	Village President	Indefinite
VILLAGE ASSESSOR	President, subject to confirmation by the Board	Set by Contract

### **1.03    OATHS AND BONDS.**

Elected and appointed officials shall take and file the official oath within 5 days after notice of their election or appointment as provided in §61.21, Wis. Stats., and shall execute and file the official bond as required by state statute and this Municipal Code.

### **1.04    REMOVALS.**

- (1)    **ELECTED OFFICIALS.** Elected officials may be removed by the Village Board as provided in §17.13(2), Wis. Stats., or by a judge of the circuit court for cause pursuant to §17.13(3), Wis. Stats., or as provided by §17.16, Wis. Stats.
- (2)    **APPOINTED OFFICIALS.** Appointed officials may be removed as provided in §§17.13(1), 17.13(3) and 17.16, Wis. Stats., except that the Village Police Chief may only be removed as provided in §62.13, Wis. Stats.

### **1.05    VACANCIES.**

- (1)    **HOW OCCURRING.** Vacancies in elective and appointive positions are caused as provided in §§17.03 and 17.035, Wis. Stats.
- (2)    **HOW FILLED.**
  - (a)    Elected Officials. A vacancy in any elective office shall be filled by appointment by a majority of the members of the Village Board. A trustee may be appointed to fill an unexpired term of a vacating Village President.
  - (b)    Appointed Officials. A vacancy in appointive office shall be filled in the same manner as the original appointment to such office.

### **1.06    SALARIES.**

The salaries of all elected and appointed officials, including members of boards and commissions, shall be as determined by the Village Board from time to time, provided the salary of the President and members of the Board shall not be increased or decreased during their terms of offices. (See §66.196, Wis. Stats.)

### **1.07    PUBLIC RECORDS.**

- (1)    **DEFINITIONS.**

- (a) Authority. Any of the following entities having custody of a Village record: an officer, elected or appointed official, agency, board, commission, committee, council, municipal court, department or public body corporate and politic created by constitution, law, ordinance, rule or order, or a formally constituted subunit of the foregoing.
- (b) Custodian. That officer, department head, division head or employee of the Village, designated under sub. (3) or otherwise, responsible by law to keep and preserve any Village records or file, deposit or keep such records in his office, or who is lawfully in possession or entitled to possession of such public records and is required by this section to respond to requests for access to such records.
- (c) Record. Any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, and which has been created or is being kept by an authority. Record includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. Record does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale or which are available for inspection at a public library.

(2) DUTY TO MAINTAIN RECORDS.

- (a) Except as provided under sub. (7), each officer and employee of the Village shall safely keep and preserve all records received from his predecessor or other persons and required by law to be filed, deposited or kept in his office or which are in the lawful possession or control of the officer or employee or his deputies, or to the possession or control of which 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 Village 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. (Am. #90-2)

(3) LEGAL CUSTODIANS.

- (a) Each elected or appointed official is the legal custodian of his records and the records of his office, but may designate an employee of his staff to act as the legal custodian.
- (b) Unless otherwise prohibited by law, the Village Clerk or his designee shall act as legal custodian for the Village Board and for any committees, commissions, boards or other authorities created by ordinance or resolution of the Village Board. The Village Police Chief or his designee shall act as legal custodian of all Police Department and Fire Department records. (Am. #90-2)
- (c) For every authority not specified in par. (a) or (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his staff to act as the legal custodian.
- (d) Each legal custodian shall name a person to act as legal custodian in his absence or the absence of his designee.
- (e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under subch. II of Ch. 19, Wis. Stats., and this section. The designation of a legal custodian does not affect the powers and duties of an authority under this section.

(4) PUBLIC ACCESS TO RECORDS.

- (a) Except as provided in sub. (6), any person has a right to inspect a record and to make or receive a copy of any record as provided in §19.35(1), Wis. Stats.
- (b) Records will be available for inspection and copying during all regular office hours.
- (c) 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) A requester shall be permitted to use facilities comparable to those available to Village employees to inspect, copy or abstract a record.
- (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 \$.25 per page. Such cost has been calculated not to exceed the actual, necessary and direct cost 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, 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.
  - 7. Elected and appointed officials of the Village shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
  - 8. The legal custodian may provide copies of a record without charge or at a reduced charge where he determines that waiver or reduction of the fee is in the public interest.
- (g) Pursuant to §19.34, Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display and make available for

inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This subsection does not apply to members of the Village Board. Each authority shall also prominently display at its offices for the guidance of the public a copy of §§19.31 to 19.39, Wis. Stats.

(5) ACCESS PROCEDURES.

- (a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record 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 §19.37, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under sub. (4)(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, federal law or regulations so require.
- (b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the Village Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his request in a manner which would permit reasonable compliance.
- (c) A request for a record may be denied as provided in sub. (6). If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within 5 business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, then the determination is subject to review upon petition

for a writ of mandamus under §19.37(1), Wis. Stats., or upon application to the Attorney General or a district attorney.

(6) LIMITATIONS ON RIGHT TO ACCESS.

- (a) As provided by §19.36, Wis. Stats., the following records are exempt from inspection under this section:
  - 1. Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law.
  - 2. Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state.
  - 3. Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection.
  - 4. A record or any portion of a record containing information qualifying as a trade secret.
- (b) As provided by §43.30, Wis. Stats., public library circulation records are exempt from inspection under this section.
- (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, demotion, compensation, performance or discipline of any Village officer or employee, or the investigation of charges against a



Village officer or employee, unless such officer or employee consents to such disclosure.

4. Records concerning current strategy for crime detection or prevention.
  5. Records of current deliberations or negotiations on the purchase of Village property, investing of Village funds or other Village business whenever competitive or bargaining reasons require nondisclosure.
  6. Financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
  7. Communications between legal counsel for the Village and any officer, agent or employee of the Village when advice is being rendered concerning strategy with respect to current litigation in which the Village or any of its officers, agents or employees is, or is likely to become, involved, or communications which are privileged under §905.03, Wis. Stats.
- (d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the Village Attorney prior to releasing any such record and shall follow the guidance of the Village Attorney when separating out the exempt material. If, in the judgment of the custodian and the Village Attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

(7) DESTRUCTION OF RECORDS.

- (a) Village officers may destroy the following non-utility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the Bureau of Municipal Audit or an auditor licensed under Ch. 442, Wis. Stats., but not less than 7 years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public

Records Board pursuant to §16.61(3)(e), Wis. Stats., and then after such shorter period.

1. Bank statements, deposit books, slips and stubs.
  2. Bonds and coupons after maturity.
  3. Cancelled checks, duplicates and check stubs.
  4. License and permit applications, stubs and duplicates.
  5. Official bonds.
  6. Payroll and other time and employment records of personnel included under the Wisconsin Retirement Plan.
  7. Receipt forms.
  8. Special assessment records.
  9. Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- (b) Village officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the Bureau of Municipal Audit or an auditor licensed under Ch. 442, Wis. Stats., subject to State Public Service Commission regulations, but not less than 7 years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to §16.61(3)(e), Wis. Stats., and then after such shorter period, except that sewer and water stubs, receipts of current billings and customers' ledgers may be destroyed after 2 years:
1. Contracts.
  2. Excavation permits.
  3. Inspection records.
  4. Water stubs.
  5. Sewer rental charge stubs.

6. Receipts of current billings.
  7. Customers' ledgers.
- (c) Village officers may destroy the following records of which they are the legal custodians and which are considered obsolete, but not less than 7 years after the record was effective unless another period has been set by statute, and then after such period, or unless a shorter period has been fixed by the State Public Records Board pursuant to §16.61(3)(e), Wis. Stats., and then after such shorter period:
1. Assessment rolls and related records, including Board of Review minutes.
  2. Contracts and papers relating thereto.
  3. Correspondence and communications.
  4. Financial reports other than annual financial reports.
  5. Insurance policies.
  6. Oaths of office.
  7. Reports of boards, commissions, committees and officials duplicated in the Board minutes.
  8. Petitions.
  9. Election notices.
  10. Cancelled registration cards.
  11. Traffic forfeiture and ordinance violation case files. (Cr. #91-3)
  12. Police records other than investigative records. However, unless the records are subject to a pending open records request or in any way relate to a matter pending before a court or quasi-judicial body, the following exceptions apply: (Cr. #93-7)
    - a. Videotape and audiocassette recordings utilized for purposes related to law enforcement may be destroyed, erased or reused after 120 days.

- b. Recordings made of radio dispatches and telephone calls to and from the dispatch operator may be destroyed, erased or reused after 120 days.
  - (d) Unless notice is waived by the State Historical Society, at least 60 days' notice shall be given to the State Historical Society prior to the destruction of any record as provided by §19.21(4)(a), Wis. Stats.
  - (e) Any tape recordings of a governmental meeting of the Village may be destroyed, erased or reused no sooner than 90 days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.
- (8) **PRESERVATION, THROUGH MICROFILM.** Any Village officer or the director of any department or division of Village government may, subject to the approval of the Village Board, keep and preserve public records in his possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in §16.61(7)(a) and (b), Wis. Stats., and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of State law and subs. (4) through (6) of this section.

## OFFICIALS

### **1.10 VILLAGE PRESIDENT AND TRUSTEES.**

- (1) **ELECTION AND TERM.** See §1.01. (2)
- (2) **DUTIES AND POWERS.**
  - (a) Village President. In addition to the powers and duties prescribed by §61.24, Wis. Stats., the Village President shall be the chief executive officer of the Village and shall possess such additional powers as are herein imposed and conferred.
  - (b) Village Board. The Village President and Trustees shall constitute the Village Board and shall have such duties and powers as are enumerated in Ch. 61, Wis. Stats., and elsewhere in the statutes.
  - (c) Police Powers. See §4.05 of this Municipal Code.

- (3) **AUTHORITY.** The Village Board shall have all powers of the Village not specifically given to some other body or officer. Except as otherwise provided by law, the Village Board shall have the management and control of the Village property, finances, highways, streets, utilities and the public service and may act for the government and good order of the Village, for its commercial benefit and for the health, safety, welfare and convenience of the public and may carry its powers into effect by license, regulations, suppression, borrowing, taxation, special assessment, appropriation, imposition of forfeitures and other necessary or convenient means. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.
- (4) **OTHER PROVISIONS.** See also Ch. 2 of this Municipal Code.

### **1.11 MUNICIPAL JUDGE AND MUNICIPAL COURT.**

- (1) MUNICIPAL COURT. There is hereby created the Municipal Court of the Village.
- (2) MUNICIPAL JUDGE. There is hereby created the position of Municipal Judge of the Village, who shall preside in the Municipal Court of the Village. The Municipal Judge shall be elected at large for a term of 4 years, which shall commence on May 1 of the year of election.
- (3) BOND AND OATH. The Municipal Judge shall within 10 days after notice of his election or appointment has been given to him by the Village Clerk, execute and file with the Clerk of Circuit Court in and for Racine County, Wisconsin, the oath prescribed by law in §757.02, Wis. Stats., as follows:

STATE OF WISCONSIN )  
 ) ss  
COUNTY OF RACINE )

I, the undersigned, who have been elected (appointed) to the office of Municipal Judge, have not yet entered upon the duties thereof, do solemnly swear that I will support the constitution of the United States and the constitution of the state of Wisconsin; that I will administer justice without respect to persons and will faithfully and impartially discharge the duties of said office to the best of my ability. So help me God.

(Signature)

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

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Notary Public

and a bond in the penal sum of \$1,000 shall be furnished by a surety company as provided in §755.03, Wis. Stats.

- (4) SALARY. The Municipal Judge shall be paid such salary as may be fixed from time to time by the Village Board.
- (5) JURISDICTION. The Municipal Court shall have jurisdiction as provided in §§755.045, 755.05, and 938.17, Wis. Stats.
- (6) PROCEDURE.
  - (a) The Court of the Municipal Judge shall be called the “Municipal Court for Sturtevant, Wisconsin” and shall be opened as determined by the Village Board.
  - (b) The Municipal Judge shall hold court in the Municipal Building.
  - (c) Except as provided by law, the procedure in Municipal Court shall be the same as applicable to other judges.
  - (d) The Municipal Judge shall collect all forfeitures, fines and taxable costs in any action or proceeding before him and shall pay over such moneys to the Village Treasurer not later than the 5th day of the month succeeding his receipt thereof.
  - (e) The Municipal Judge shall accept bail from persons accused of offenses in such form as is prescribed by the Wisconsin Statutes.
- (7) APPOINTMENT OF A CLERK OF MUNICIPAL COURT.
  - (a) The Municipal Judge is authorized to appoint one part-time clerk to perform the clerical functions necessary to the operation of the Municipal Court. The appointment of a clerk may be made at any time during the term of the Municipal Judge. Any such appointment shall be made in

writing. Each such appointment shall expire at the end of the Municipal Judge's term in office.

- (b) Before entering upon the duties of the office, each court clerk shall execute and file with the Village Clerk the oath prescribed by law in §19.01, Wis. Stats.
- (c) The Clerk shall receive such compensation as may be fixed from time to time by the Village Board.

(8) **CONTEMPT PROCEDURE.**

- (a) A Municipal Judge may punish for contempt for conduct as defined in §785.01(1), Wis. Stats.
- (b) No person may be punished for contempt before a Municipal Judge except in accord with the procedure provided in §785.03, Wis. Stats.
- (c) The Municipal Judge may impose a forfeiture for contempt under par. (a) in an amount not to exceed \$50 or, upon nonpayment of the forfeiture, a jail sentence not to exceed 7 days.

(9) **ALTERNATIVE JUVENILE DISPOSITIONS AND SANCTIONS.**

- (a) For a juvenile adjudged to have violated an ordinance, the Municipal Court is authorized to impose any of the dispositions listed in §§938.343 and 938.344, Wis. Stats., in accordance with the provisions of those statutes.
- (b) For a juvenile adjudged to have violated a condition of a dispositional order of the court under §938.343 or §938.344, Wis. Stats., the Municipal Court is authorized to impose any of the sanctions listed in §938.355(6)(d), Wis. Stats., in accordance with the provisions of those statutes.

**1.12 VILLAGE ENGINEER.**

(1) **APPOINTMENT AND TERM.** See §1.02 of this chapter.

(2) **POWERS AND DUTIES.** The Village Engineer shall:

- (a) Furnish and perform for the Village Board such professional engineering services as may be required to protect the interests of the Village in any public construction, improvements or work including, but not limited to,

in an initial or consulting capacity as the Village Board shall provide: making such preliminary investigations and reports; preparing and/or reviewing any designs, plans and specifications; preparing estimates of costs; preparing or examining surveys, plats or maps; supervising the construction; examining and approving or disapproving construction during and after construction; approving periodic and final payments; advising the Village Board and other Village officers relative to any such planning and construction; establishing street and sidewalk lines and grades; and such other duties as herein set forth or as the Village Board may from time to time designate.

- (b) Examine and approve or disapprove all designs, plans and specifications which may be prepared by others with respect to Village construction, improvements or works and shall insist and make certain that materials of the first grade are used and incorporated in any such construction, improvement or work. Acceptance by the Village Engineer shall give such designs, plans and specifications the same legal and professional responsibility as if such designs, plans and specifications had been prepared by the Village Engineer.
  - (c) Periodically inspect all public construction, improvements or works, whether designed by him or others, and if at any time he finds or determines that the same departs from the plans and specifications or is in any way defective, the Village Engineer shall immediately stop further construction with respect to such improper construction and shall immediately make a report of the same to the Village Board. The Village Board shall thereafter determine what, if any, corrective measures are to be taken. Thereafter, the Village Engineer shall see to compliance with the determination of the Village Board.
  - (d) In making a final inspection of any public construction, improvement or work, indicate in writing his approval or disapproval of the job for final payment by the Village. In the event of disapproval, the Village Engineer shall also specify the reasons therefor.
  - (e) Meet with the Village Board or with any committee of the Village Board upon receipt of 48 hours' notice from the Board or such committee.
- (3) CONSULTING ENGINEERS. The appointment by the Village Board of a Village Engineer shall not in any way restrict the Village Board from appointing one or more consulting engineers to work with the Village Engineer, and such power is specifically retained by the Village Board.



- (4) **INSURANCE.** As a condition to acceptance of appointment, the Village Engineer shall provide the Village Board with evidence that he is insured with an insurance company authorized to do business in Wisconsin, insuring him against liability for errors, omissions or other professional negligence in the sum of not less than \$100,000.

### **1.13 INSPECTORS.**

- (1) The offices of the Building Inspector, Electrical Inspector and Plumbing Inspector are hereby created, and such officials shall be appointed by the Village President, subject to confirmation by the Village Board. Such inspectors shall be under the jurisdiction and control of the Building Committee of the Village Board; provided, however, that the Building Inspector shall have supervisory power over the Electrical Inspector and the Plumbing Inspector.
- (2) Appointment shall be made in May on odd numbered years and shall be for a term of 2 years.
- (3) The Village Board may from time to time and for such length of time as it deems advisable, appoint one or more deputy building, electrical or plumbing inspectors, and may discharge the same at will. Such deputy inspectors shall be paid such compensation as shall be established by the Village Board.

### **1.14 VILLAGE CLERK/TREASURER.**

- (1) **APPOINTMENT AND TERM.** See §1.02.
- (2) **DUTIES AND POWERS.** The Village Clerk/Treasurer shall perform such duties as are prescribed by §§61.25 and 61.26, Wis. Stats., and by order of the Village Board. See also Section 2.32 of this Code.

### **1.15 VILLAGE ACCOUNTANT/DEPUTY CLERK.**

- (1) **APPOINTMENT AND TERM.** See §1.02.
- (2) **DUTIES AND POWERS.** The Village Accountant/Deputy Clerk shall report to the Village Clerk/Treasurer and shall be responsible for maintaining the financial records of the Village and its sub-entities. The Village Accountant/Deputy Clerk shall also perform such duties as are prescribed by Section 2.32 of this Code and §§61.25 and 61.26, Wis. Stats., when the Village Clerk/Treasurer is absent, and such other duties as may be ordered from time to time by the Village Clerk/Treasurer or the Village Board.

**1.16 VILLAGE POLICE CHIEF.**

- (1) APPOINTMENT AND TERM. See §1.02.
- (2) DUTIES AND POWERS. The Village Police Chief shall have the duties and powers as prescribed in Ch. 4 of this Code, and as directed by the Village President.

**1.17 PUBLIC WORKS SUPERVISOR/UTILITY MANAGER.**

- (1) APPOINTMENT AND TERM. See §1.02.
- (2) DUTIES AND POWERS. See Ch. 8 of this Municipal Code.

**1.18 VILLAGE ASSESSOR.**

- (1) APPOINTMENT AND TERM. See §1.02. (2).
- (2) DUTIES AND POWERS.
  - (a) Statutory Duties. See §§70.12, 70.13, 70.17, 70.18, 70.23, 70.29, 70.30, 70.32, 70.34, 70.345, 70.35, 70.365, 70.43, 70.44, 70.45, 70.48, 70.49, 70.50, 70.501 and 70.503, Wis. Stats., in particular.
  - (b) Other Duties Prescribed by Law. He shall perform such other duties as shall be prescribed by state law, supervisory personnel of the State Department of Revenue and the Village Board, including attendance at all meetings of the Board of Review.

**1.19 EMERGENCY GOVERNMENT DIRECTOR.**

- (1) APPOINTMENT AND TERM. See §1.02.
- (2) DUTIES AND POWERS. See Ch. 6 of this Municipal Code.

**1.20 WEED COMMISSIONER.**

- (1) APPOINTMENT, OATH, TERM. The President of the Village shall appoint one or more commissioners of noxious weeds and shall report the names of such appointees to the Wisconsin Department of Agriculture on or before the 15th day of May of each year. The Weed Commissioner shall take the official oath, which oath shall be filed in the office of the Village Clerk, and shall hold his office for one year and until his successor has qualified.

- (2) DUTIES, POWERS, COLLECTION OF TAX. Those provisions of the Wisconsin Statutes now in force or which may be enacted in the future, relating to the subject of duties, powers and collection of tax, are adopted as a portion of this Code so far as applicable to villages. See §66.98, Wis. Stats.

## **1.21 VILLAGE ADMINISTRATOR.**

In order to provide the Village of Sturtevant with a more efficient, effective and responsible government under a system of a part-time Board and Village President (hereinafter referred to as “Board”) at a time when village government is becoming increasingly complex, there is hereby created the Office of Village Administrator for the Village of Sturtevant (hereinafter referred to as “Administrator”).

- (1) APPOINTMENT, TERM OF OFFICE AND REMOVAL. The Administrator shall be appointed on the basis of merit with due regard to training, experience, administrative ability and general fitness for the office, by a majority vote of the Board. The Administrator shall hold office for an indefinite term subject to removal at any time by a three-fourths vote of the Board. This section, however, shall not preclude the Board from establishing other employment terms and conditions not inconsistent with the provisions of this ordinance or the Municipal Code of the Village of Sturtevant.
- (2) RESIDENCY. The Administrator shall become a resident of the Village of Sturtevant within one year following the date of appointment, unless this requirement is specifically waived or varied by contract authorized by the Board.
- (3) FUNCTIONS AND DUTIES OF THE ADMINISTRATOR. The Administrator, subject to the limitations defined in resolutions and ordinances of the Village of Sturtevant and Wisconsin State Statutes, shall be the chief administrative officer of the Village, responsible only to the Board for the proper administration of the business affairs of the Village, pursuant to the Wisconsin State Statutes, the ordinances of the Village of Sturtevant, and the resolutions and directives of the Board, with power and duties as follows:
- (a) General Duties.
1. Carry out directives of the Board which require administrative implementation, reporting promptly to the Board any difficulties encountered herein;
  2. Be responsible for the administration of all day-to-day operations of the Village government including the monitoring of all Village ordinances, resolutions, board meeting minutes and state statutes;

3. Prepare a plan of administration, including an organization chart, which defines authority and responsibility for all non-statutory positions of the Village, and submit it to the Village Board for adoption as the official organization and administrative procedure plan for the Village;
4. Establish when necessary administrative procedures to increase the effectiveness and efficiency of Village government according to current practices in local government, not inconsistent with paragraph 3 above or directives of the Board;
5. Serve as ex-officio nonvoting member of all boards, commissions and committees of the Village, except as specified by the Board or Wisconsin State Statutes;
6. 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;
7. Keep informed concerning the availability of federal, state and county funds for local programs. Assist department heads and the Board in obtaining these funds under the direction of the Board;
8. Represent the Village in matters involving legislative and inter-governmental affairs as authorized and directed as to that representation by the Board;
9. Act as public information officer for the Village with the responsibility of assuring that the news media are kept informed about the operations of the Village and that all open meeting rules and regulations are followed;
10. Establish and maintain procedures to facilitate communications between citizens and Village government to assure that complaints, grievances, recommendations and other matters receive prompt attention by the responsible official, and to assure that all such matters are expeditiously resolved;
11. Promote the economic well being and growth of the Village through public and private sector cooperation.

(b) Responsibilities to the Village Board.

1. Attend all meetings of the Board, assisting the Board as required in the performance of its duties;
2. In coordination with the Board, and the Clerk, ensure that appropriate agendas are prepared for all meetings of the Board, all Board committees, and all other appropriate committees and commissions of the Village, together with such supporting material as may be required with nothing herein being construed as to give the administrator authority to limit or in any way prevent matters from being considered by the Board, or any of its committees and commissions;
3. Assist in the preparation of ordinances and resolutions as requested by the Board, or as needed;
4. Keep the Board regularly informed about the activities of the Administrator's office by oral or written report at regular and special meetings of the Board;
5. In the event that action normally requiring Board approval is necessary at a time when the Board cannot meet, the administrator shall receive directives from the President.

(c) Personnel.

1. Be responsible for the administrative direction and coordination of all employees of the Village according to the established organizational procedures of the Village and the Wisconsin State Statutes;
2. Recommend to the Board the appointment, promotion, and when necessary for the good of the Village, the suspension or termination of department heads, except those officials selected by boards and commissions defined in Wisconsin State Statutes;
3. In consultation with the appropriate department head, make recommendations to the Board regarding the appointment, promotion, and when necessary for the good of the Village, the suspension or termination of employees, except those employees in units governed by other personnel procedures defined in the Wisconsin State Statutes;

4. Serve as personnel officer for the village with responsibilities to see that complete and current personnel records, including specific job descriptions, for all Village employees are kept; evaluate in conjunction with department heads the performance of all employees, with the exception of the Clerk/Treasurer, on a regular basis; recommend salary and wage scales for Village employees not covered by collective bargaining agreements; develop and enforce high standards of performance by Village employees; assure that Village employees have proper working conditions; work closely with department heads to promptly resolve personnel problems or grievances;
5. Assist in labor contract negotiations and collective bargaining issues;
6. Work closely with department heads to assure that employees receive adequate opportunities for training to maintain and improve their job-related knowledge and skills and act as the approving authority for requests by employees to attend conferences, meetings, training schools, etc., provided that funds have been budgeted for these activities.

(d) Budgeting and Purchasing.

1. Be responsible for the preparation of the annual Village budget, in accordance with guidelines as may be provided by the Village Board and in coordination with department heads, and pursuant to state statutes, for review and approval by the Board;
2. Administer the budget as adopted by the Board;
3. Report to the Board on the current fiscal position of the Village as the Board requests;
4. Ensure that the accounting system employs methods in accordance with current professional accounting practices and with State Statutes;
5. Serve as the purchasing agent for the Village, supervising all purchasing and contracting for supplies and services, subject to the purchasing procedures established by the Board and any limitation contained in the Wisconsin State Statutes.

(e) Planning.

1. Advise the Planning Commission and Board on current and long term planning issues.
- (4) COOPERATION. All officials and employees of the Village shall cooperate with and assist the Administrator so that the Village government shall function effectively and efficiently.

## BOARDS AND COMMISSIONS

### **1.30 BOARD OF REVIEW.**

- (1) There is hereby constituted a Board of Review, which shall consist of the President or the President's appointee, the Clerk and two of the Trustees of the Village, one of whom shall be an alternate member who shall serve only if another member is removed from the board under §70.47(6m), Wis. Stats., to be elected by the Village Board on the 3rd Tuesday in April of each year. The President or the President's designee, who shall be a voting member of the Board of Review, shall attend a Wisconsin Department of Revenue training session under §73.03(55), Wis. Stats., within two years of the Board of Review's first meeting. The Village Clerk shall provide an affidavit to the Department of Revenue stating whether this training requirement has been fulfilled.
- (2) Such Board shall meet annually at any time during the 30-day period beginning on the 2nd Monday of May at the Municipal Building of the Village, and a majority of such Board shall constitute a quorum except that 2 members may hold any hearing of the evidence if the requirements of § 70.47(9), Wis. Stats., are met.
- (3) At least 15 days before the first session of the Board of Review, the Clerk shall publish a class 1 notice, place a notice in at least three public places, and place a notice on the door of Village hall. The notice must state the time and place of the first meeting of the Board of Review and the requirements for challenging an assessment under §70.47(7)(aa) and (ac) to (af), Wis. Stats.
- (4) The Village Clerk shall be Clerk of the Board of Review and shall keep an accurate record of all its proceedings in the minute book.
- (5) After the Assessor shall have laid before the Board of Review the assessment roll of real estate with the sworn statements and valuations of personal property as provided by §70.47, Wis. Stats., the Board of Review shall remain in session

on the first meeting of the Board for at least 2 hours, and shall exercise such duties and powers as prescribed by §70.47, Wis. Stats.

- (6) The Board may adjourn from time to time until its business is completed. If an adjournment is for more than one day, a written notice shall be posted on the outer door of the place of meeting stating to what time the meeting is adjourned.
- (7) The Board shall carefully examine the assessment roll and other pertinent information of all property, and shall fulfill all of its duties and obligations under Ch. 70, Wis. Stats.
- (8) Whenever the Assessor, in the performance of the Assessor's duties, requests or obtains income and expense information pursuant to §70.47(7)(af), Wis. Stats., or any successor statute thereto, then 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 discharge 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 §70.47(7)(af), Wis. Stats., unless a court determines that it is inaccurate, is, pursuant to §70.47(7)(af), not subject to the right of inspection and copying under §19.35(1), Wis. Stats.
- (9) The Board is authorized to exercise authority, pursuant to §70.47(7)(c), Wis. Stats., to grant a taxpayer a 60-day extension for a hearing upon submission by the taxpayer of an objection form, extension request and \$100 fee. The provisions of §70.47(7)(c), and any amendments thereto, are incorporated herein by reference.

### **1.31 BOARD OF HEALTH AND HEALTH OFFICER.**

- (1) INTERMUNICIPAL AGREEMENT PROVIDING FOR JOINT LOCAL BOARD OF HEALTH, JOINT LOCAL HEALTH DEPARTMENT AND JOINT LOCAL HEALTH OFFICER. The Village of Sturtevant has approved a certain intermunicipal agreement with the Village of Caledonia, the Village of Mount Pleasant and the Village of North Bay for the creation of a Joint Local Board of Health and the establishment of a Joint Local Health Department and a Joint Local Health Officer to service all four villages.



- (2) **DESIGNATION OF LOCAL BOARD OF HEALTH, LOCAL HEALTH DEPARTMENT AND LOCAL HEALTH OFFICER.** The Central Racine County Board of Health created by the intermunicipal agreement with the Village of Caledonia, the Village of Mount Pleasant and the Village of North Bay is hereby designated and established as the local board of health of the Village of Sturtevant pursuant to Section 251.02(3m), Wisconsin Statutes. The Central Racine County Health Department established pursuant to the intermunicipal agreement with the Village of Caledonia, the Village of Mount Pleasant and the Village of North Bay is hereby designated and established as the local health department of the Village of Sturtevant pursuant to Section 251.02(3m), Wisconsin Statutes. The local health officer, designated as the Director of Public Health, and provided for in the intermunicipal agreement with the Village of Caledonia, the Village of Mount Pleasant and the Village of North Bay is hereby designated as the local health officer.
- (3) **LOCAL BOARD OF HEALTH.** The local Board of Health shall be designated as the Central Racine County Board of Health and shall have the following 9 members:
  - i. Medical Advisor (1), appointed and confirmed by Board of Health
  - ii. Health Officer (1), appointed and confirmed by Board of Health
  - iii. Mt. Pleasant Trustee (1), appointed by the Village President
  - iv. Caledonia Trustee (1), appointed by the Village President
  - v. North Bay Trustee or citizen (1), appointed by the Village President
  - vi. Sturtevant Trustee, employee or citizen (1), appointed by the Village President
  - vii. Mt. Pleasant citizen, preferably a registered nurse (1), appointed by the Village President
  - viii. Caledonia citizen, preferably a registered nurse (1), appointed by the Village President
  - ix. Citizen member-at-large (1), appointed by Health Officer, confirmed by Board of Health

The Board of Health shall elect a chairperson, vice-chairperson and secretary.

Each appointing authority shall have the authority to remove, with or without cause, and replace any member of the Board of Health that was appointed by it.

- (4) **POWERS AND DUTIES OF LOCAL BOARD OF HEALTH.** The Board of Health shall constitute the policy-making body of the joint local health department. The Board of Health shall be responsible for operating and maintaining a Level I local health department to jointly serve all four Villages. It shall have such powers and perform such duties as are prescribed in Section

251.04, Wisconsin Statutes, except as otherwise specifically provided by the intermunicipal agreement or in the Ordinances adopted by the Villages, and as required to provide a Level I class of health services for the four Villages.

- (5) EFFECT OF INTERMUNICIPAL AGREEMENT. In all other respects such intermunicipal agreement executed by the four Villages shall govern the administration of the Central Racine County Board of Health, health department and joint local health officer.
- (6) REPEAL OF INCONSISTENT ORDINANCES. This section shall terminate the Sturtevant Board of Health and shall supersede any inconsistent provisions of this Code of Ordinances, which inconsistent provisions shall be, and hereby are, repealed as of the effective date of this ordinance.

### **1.32 BOARD OF APPEALS.**

See §17.40 of this Municipal Code.

### **1.33 PLAN COMMISSION.**

See §17.45 of this Municipal Code.

### **1.34 BOARD OF ETHICS.**

See §2.40 of this Municipal Code.

### **1.35 COMMUNITY DEVELOPMENT AUTHORITY.**

The Village Board, pursuant to its authority under §§66.436 and 66.4325, Wis. Stats., adopted a resolution declaring that a need for blight elimination, slum clearance, urban renewal and community development programs and projects and housing projects exists in the Village, and creating a Community Development Authority as a separate entity for the purpose of fulfilling these needs.

## **ELECTIONS**

### **1.40 NONPARTISAN PRIMARY.**

Candidates for elective Village offices shall be nominated by a nonpartisan primary conducted pursuant to §§8.05(4) and (5), Wis. Stats. Such candidate shall file with his nomination papers a declaration that he will qualify for the office to which he may be elected.

**1.41 REGISTRATION OF ELECTORS.**

- (1) All electors within the Village shall register in the manner provided in the State Statutes.
- (2) The Village Clerk shall provide the forms necessary for registration of electors and shall prepare and file such reports as are required and provided for in the Wisconsin Statutes.
- (3) Registration of electors shall be required for all elections, whether primary, general or special.

**1.42 POLL HOURS.**

The polls at any election held within the Village shall be open from 7 a.m. to 8 p.m.

**1.43 BOARD OF ELECTION INSPECTORS.**

There is hereby constituted a Board of Election Inspectors of the Village, whose composition, selection, powers and duties shall be those as are prescribed by the Wisconsin Statutes now in force or which may be enacted in the future, so far as applicable to villages.

## CHAPTER 2

### THE GOVERNING BODY

<b><i>Section Number</i></b>	<b><i>Title</i></b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
2.01	The Village Board		
2.02	Meetings, Regular and Special	2005-13	01/03/05
2.03	Presiding Officer		
2.04	Quorum		
2.05	President of Village Board		
2.06	Roll Call: Procedure When Quorum Not in Attendance	2008-23	12/16/08
2.07	Absence of the President		
2.08	Action of Village Board Levying Taxes, Appropriating Funds or Creating Village Liability		
2.09	Order of Business	2010-02	02/02/10
2.10	Ordinances, Resolutions and Communications to be in Writing		
2.11	Standing Committees	2003-14 2007-05-S 2014-08 2015-02 2016-06	05/06/03 05/15/07 10/07/14 03/17/15 05/17/16
2.12	Reference to Committees		
2.13	Reading of Ordinances and Resolutions	2010-02	02/02/10
2.14	Accounts Contracted Against the Village		
2.15	Examination and Approval of Accounts		
2.16	Motions		
2.17	Votes; How Taken		
2.18	Motions Which Take Precedence When a Question is Under Debate		
2.19	Division of Question		
2.20	Resolutions and Motions Entered in Minutes		
2.21	Reconsideration		
2.22	Members Must Address Presiding Officer		
2.23	Limitation on Debate		
2.24	Call of the Village Board		
2.25	Disturbance or Disorderly Conduct at Village Board Meeting		
2.26	Interruption of Speaker		

- 2.27 Appropriations and Accounts
- 2.28 Amendment of Rules

<b><i>Section Number</i></b>	<b><i>Title</i></b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
2.29	Suspension of Rules		
2.30	Remarks by Nonboard Members		
2.31	Ordinances and Resolutions Engrossed and Enrolled by Clerk		
2.32	Duties of Clerk		
2.33	Committee Quorums		
2.34	Deferring Action		
2.35	Seal		
2.36	Robert's Rules of Order		
2.37	Appeal From Decision of President or Presiding Officer		
2.38	New Ordinances to be Numbered		
2.39	Publication of Ordinances		
2.40	Ethics Code	2008-23	12/16/08

## **2.01 THE VILLAGE BOARD.**

See §1.10 of this Municipal Code.

## **2.02 MEETINGS, REGULAR AND SPECIAL.**

The first regular meeting of the Village Board shall be held on the 3rd Tuesday of April of each year and thereafter regular meetings of the Board shall be held on the 1st and 3rd Tuesdays of each month. The meetings shall be at a time set by the Village Board. The Village Board shall meet at such other times as the Board may direct, but special meetings may be called by any 2 trustees in writing filed with the Clerk, who shall thereupon notify all trustees of the time and place thereof by giving to the trustees a notice in writing at least 24 hrs. previous to the time of the meeting. All meetings of the Village Board, its committees, boards and commissions shall be held in compliance with the Wisconsin Open Meeting Law.

## **2.03 PRESIDING OFFICER.**

- (1) The President shall preside at all meetings when present, and shall at the hour of meeting call the Board to order. He shall preserve order and decorum and decide all questions of order, subject to an appeal to the Board.
- (2) The presiding officer shall not engage in debate nor shall he speak for or against any measure before the Board unless he shall have first relinquished his chair as presiding officer for the duration of such debate speech.

## **2.04 QUORUM.**

Four trustees shall constitute a quorum, and a less number may adjourn from time to time.

## **2.05 PRESIDENT OF VILLAGE BOARD.**

The President of the Village Board shall not appoint himself to any committee as a regular member thereof, provided, however, that he shall serve as a member ex-officio of each committee without the power of vote but with the right to debate.

**2.06 ROLL CALL: PROCEDURE WHEN QUORUM NOT IN ATTENDANCE.**

As soon as the Board shall be called to order, the Clerk shall proceed to call the names of the members in alphabetical order, noting who are present and who are absent, and record the same in the minute book adopted for that purpose. If it shall appear that there is not a quorum present, the facts shall be entered upon the record, and the President and members of the Board may adjourn or the President, and in his absence the Clerk, may direct the Village Police Chief or other police officer to immediately summon the absentees.

**2.07 ABSENCE OF THE PRESIDENT.**

In the case of the absence of the President at the time of the meeting, the Clerk shall call the Village Board to order and the Board shall elect another trustee as President pro tem.

**2.08 ACTION OF VILLAGE BOARD LEVYING TAXES, APPROPRIATING FUNDS OR CREATING VILLAGE LIABILITY.**

Except upon the unanimous consent of all members present, no resolution or measure assessing or levying taxes, appropriating or disbursing money or creating any liability or charge against the Village or any funds thereof shall be adopted without first having been referred to a committee and the report thereon of such committee having been made to the Village Board, unless the resolution is one that carries into effect the action of the Village Board upon a committee report. All other resolutions may be adopted at the same meeting at which they are introduced, provided, however, that action upon any resolution shall be deferred until the next meeting of the Village Board upon request of one of the trustees present.

**2.09 ORDER OF BUSINESS.**

At each regular meeting of the Village Board the order of business shall be as follows:

- (1) Reading and correcting the minutes of the preceding meeting.
- (2) Presentation of petitions, memorials, remonstrances, resignations and other communications.
- (3) Reports of committees may be made and considered, first from standing committees and next from select committees.

- (4) Resolutions may be introduced and acted upon.
- (5) Ordinances may be introduced, and ordinances introduced at a previous meeting may be put on their passage.
- (6) Accounts may be introduced and acted upon.
- (7) Unfinished business may be taken up.
- (8) Miscellaneous business.

**2.10 ORDINANCES, RESOLUTIONS AND COMMUNICATIONS TO BE IN WRITING.** [Am. #093-23]

All ordinances, resolutions, memorials or other communications shall be in writing with a brief statement of their contents endorsed thereon, together with the name of the member presenting the same, and shall be delivered to and shall be read by the Clerk. Each committee to which any matter shall be referred shall report thereon in writing.

**2.11 STANDING COMMITTEES**

The standing committees of the Village Board shall be appointed by the Village President at the President's discretion notwithstanding any other provision of this code. Such appointment shall be for one year. Each trustee shall be chairman of at least one committee and serve on two others. The standing committees shall be as follows:

- (1) FINANCE AND BUDGETARY
- (2) PUBLIC SAFETY AND HEALTH
- (3) STORM AND WASTEWATER (also referred to as the Sewer Utility Committee in Chapter 13 and as the Stormwater Committee in Chapter 21)
- (4) PUBLIC WORKS AND CAPITAL IMPROVEMENTS
- (5) ADMINISTRATION, PERSONNEL, POLICY AND LEGAL
- (6) ECONOMIC DEVELOPMENT AND REDEVELOPMENT
- (7) PUBLIC SAFETY, TECHNOLOGY, AND HEALTH



(8) **PROPERTY GROUNDS, RECREATION, AND FIREWORKS**

**2.12 REFERENCE TO COMMITTEES.**

All matters presented to the Board which require reference shall be referred by the President to the proper committee with the motion, unless objection is made.

**2.13 READING OF ORDINANCES AND RESOLUTIONS.** (Am. #093-23)

- (1) Every proposed ordinance shall have its first reading at the time of its introduction and shall be referred to the appropriate committee. The first reading shall be by title. Prior to adoption at a subsequent meeting, an ordinance shall have a second reading, which shall be by title only, unless a full reading is requested by a majority of the members present. First and second reading of an ordinance may be given at the same meeting upon a vote of 2/3 of the members present.
- (2) Every proposed resolution shall have its reading at the time of its introduction. The reading shall be by title only, unless a full reading is requested by a majority of the members present. The resolution may be adopted at the same meeting it is introduced.

**2.14 ACCOUNTS CONTRACTED AGAINST THE VILLAGE.**

Every committee or officer who shall have contracted an account against the Village by authority of the Village Board shall cause such account to be presented to the Board within one month thereafter.

**2.15 EXAMINATION AND APPROVAL OF ACCOUNTS.**

All accounts against the Village shall be first examined and approved by the Village Board before being paid.

**2.16 MOTIONS.**

When a motion is made and seconded, it shall be stated by the presiding officer or read by the Clerk previous to debate.

**2.17 VOTES; HOW TAKEN.**

All questions shall be put in this form: “Those who are in favor of the motion, (state the question) say aye; those opposed say no”; and in doubtful cases, or before the question is decided, any member may call for a division of the ayes and noes; and when the ayes and noes are called for and ordered, the vote shall be entered on the minutes. The ayes and noes shall in all cases be ordered when called for by one trustee.

**2.18 MOTIONS WHICH TAKE PRECEDENCE WHEN A QUESTION IS UNDER DEBATE.**

No motion shall be received unless to adjourn, to lay on the table, or for the previous question, to commit, to amend, to postpone, and these several motions shall have precedence in the order in which listed.

**2.19 DIVISION OF QUESTION.**

Any member may call for a division of the question when the same may admit thereof.

**2.20 RESOLUTIONS AND MOTIONS ENTERED IN MINUTES.**

In all cases where a resolution or motion shall be entered on the minutes, the name of the member moving the same shall be entered on the minutes.

**2.21 RECONSIDERATION.**

When a question has once been decided, it shall be in order for any member voting in the affirmative to move for a reconsideration thereof at the same or the next regular meeting.

**2.22 MEMBERS MUST ADDRESS PRESIDING OFFICER.**

When any member is about to speak or deliver any matter to the Village Board, he shall rise from his seat and respectfully address himself to the President, but shall not proceed with his remarks until recognized by the Chair.

**2.23 LIMITATION ON DEBATE.**

When a member is called to order, he shall take his seat, and shall not be allowed to proceed until the question of order is decided, and no member shall speak more than twice at the same meeting on any question except by leave of the Village Board.

**2.24 CALL OF THE VILLAGE BOARD.**

A call of the members of the Board shall be ordered at any time by request of one or more members, and absent members shall be sent for, but a call cannot be made after voting has commenced; and a call of the Board being requested and ordered and the absentees noted, the doors shall be closed until the report of the police officer has been received and acted upon, or further proceedings under call be dispensed with by a majority of the Board. Any member of the Board absent at a call of the members of the Board shall, without a valid excuse for his absence, be required to pay the expense of the police officer in procuring his attendance.

**2.25 DISTURBANCE OR DISORDERLY CONDUCT AT VILLAGE BOARD MEETING.**

When any disturbance or disorderly conduct shall occur at any of the meetings of the Board, the presiding officer shall have power to cause the room to be cleared of all persons guilty of such disorderly conduct, except members of the Board. In case a member of the Board shall be guilty of disorderly conduct, the presiding officer shall have power to order the police officer to take him into custody for the time being, or until the Board shall adjourn. Such member shall have the right to appeal from such order to the Board as in other cases, but shall not be permitted to debate the appeal.

**2.26 INTERRUPTION OF SPEAKER.**

When any member is speaking, no member shall entertain any private discourse or in any way interrupt the speaker, except as to a question of order.

**2.27 APPROPRIATIONS AND ACCOUNTS.**

No ordinance shall be passed, accounts allowed or appropriation of money voted unless a majority of the whole Board shall vote in favor thereof. The vote shall be by ayes and noes and shall be recorded in the journal. No ordinance shall be passed, accounts allowed or appropriation of money voted at any special meeting.

## **2.28 AMENDMENT OF RULES.**

These rules may be rescinded, amended or altered, or new rules adopted by a 2/3 vote of all the members of the Board on the report of a committee to which the subject has been referred at a previous meeting.

## **2.29 SUSPENSION OF RULES.**

It shall require a vote of 2/3 of the members present to suspend any rule of the Village Board. The vote shall be by ayes and noes and shall be recorded in the journal.

## **2.30 REMARKS BY NONBOARD MEMBERS.**

- (1) Persons who are not members of the Village Board shall be allowed to speak at any Village Board meeting upon suspension of the rules and upon the request of a trustee for unanimous consent that such person be heard.
- (2) Members of the public permitted to be heard as provided above shall come forward and give their name and address to the Clerk. Upon being heard such persons shall answer questions directed to them by Village Board members. Upon completion of being heard such member of the public shall return to his seat in the audience. Members of the Board or other members of the public shall not be permitted to enter into debate at any time.

## **2.31 ORDINANCES AND RESOLUTIONS ENGROSSED AND ENROLLED BY CLERK.**

The Village Clerk shall see that all ordinances and resolutions are correctly engrossed and enrolled before the same are published or signed by the President.

## **2.32 DUTIES OF CLERK.**

In addition to his other duties, the Clerk shall:

- (1) Be present at all meetings of the Board and keep a correct journal of the proceedings of each meeting, and make a correct record of the same.
- (2) Engross all ordinances and bylaws and record the same in a book of ordinances.

- (3) Furnish the committees with copies of resolutions and other matters that may be referred to them (unless the original papers are furnished).
- (4) Keep a true account of the expenditures of money by order of the President and Board.
- (5) Do such other clerical duties as may be prescribed by the Board.

### **2.33 COMMITTEE QUORUMS.**

A majority of the members of any committee shall constitute a quorum.

### **2.34 DEFERRING ACTION.**

Action upon any report of a committee to the Board shall be deferred to the next regular meeting of the same by request of one of the trustees present.

### **2.35 SEAL.**

- (1) The Village Board is empowered and instructed to adopt and procure for the Village an official seal. Such seal shall be of the usual form and size.
- (2) The Village Clerk shall have the custody of the seal with power to affix the same to all documents requiring the corporate seal, the same to be attested by his signature.

### **2.36 ROBERT'S RULES OF ORDER.**

The rules of parliamentary practice comprised in "Robert's Rules of Order," latest edition, shall govern the Village Board in all cases in which they are applicable and in which they are not inconsistent with these rules.

### **2.37 APPEAL FROM DECISION OF PRESIDENT OR PRESIDING OFFICER.**

No appeal from the decision of the President or presiding officer shall be sustained, except by a 2/3 vote of all members of the Board present at the meeting.

**2.38 NEW ORDINANCES TO BE NUMBERED.**

All ordinances, the substance of which would have the effect of amending, altering or adding to the provisions of this Municipal Code, shall be drawn as amendments, alterations or additions to such Code, and every section shall be given a number which shall locate such section in the proper sequence in the Code. The Village Attorney shall assign proper section numbers for all ordinances introduced into the Village Board creating new sections to this Code. No such ordinance shall be introduced into the Village Board unless so numbered.

**2.39 PUBLICATION OF ORDINANCES.**

The ordinances and bylaws of the Village shall be published by posting the same in at least 3 public places in the Village, and proof thereof filed and recorded by the Village Clerk, and the same shall take effect the day after the proof of posting has been filed and recorded, or a later date if expressly provided in the ordinance. If any penalty or forfeiture is imposed by the ordinance, the ordinance shall be published as a Class 1 notice under Chapter 985, Wis. Stats., and shall take effect on the day after its publication, or a later date if expressly provided in the ordinance.

**2.40 ETHICS CODE.**

- (1) **DECLARATION OF POLICY.** The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a Code of Ethics for all of the Village of Sturtevant officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the Village. The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the Village of Sturtevant and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the Village. The provisions and purpose of this Code of Ethics and such rules and regulations as may be established are hereby declared to be in the best interests of the Village of Sturtevant.

- (2) **DEFINITIONS.** The following definitions shall be applicable in this Ethics Code:
- (a) **ANYTHING OF VALUE.** Any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the Village or political contributions which are reported under Ch. 11 of the Wisconsin Statutes.
  - (b) **EMPLOYEE.** Any person excluded from the definition of an official who is employed by the Village.
  - (c) **FINANCIAL INTEREST.** Any interest which shall yield, directly or indirectly, a monetary or other material benefit to the official or employee or to any person employing or retaining the services of the official or employee.
  - (d) **GIFT.** The payment or receipt of anything of value without valuable consideration.
  - (e) **IMMEDIATE FAMILY.** An individual's spouse, and an individual's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the individual or from whom the individual receives, directly or indirectly, more than one-half of his or her support.
  - (f) **OFFICIAL.** Any person serving in a statutory elected or appointed office and any members appointed to boards, committees or commissions established or appointed by the Village Board and/or Village President pursuant to this Code of Ordinances, whether paid or unpaid.
  - (g) **PERSONAL INTEREST.** Any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.
  - (h) **PERSON.** Any person, corporation, partnership, joint venture, association, company, firm, enterprise, trust or other legal entity.
- (3) **RESPONSIBILITY OF PUBLIC OFFICE.** Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of the State of Wisconsin, and carry out impartially the laws of the nation, state and Village, to observe in their official acts the highest standards of integrity, and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern. Their conduct in

both their official and private affairs should be above reproach so as to foster respect for all government.

(4) DEDICATED SERVICE.

- (a) All officials and employees of the Village of Sturtevant should be loyal to the objectives expressed by the electorate and the programs developed to attain these objectives. Appointive officials and employees should adhere to the rules of work performance established as the standard for their position by the appropriate authority.
- (b) Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or officially recognized confidentiality of their work.

(5) FAIR AND EQUAL TREATMENT.

- (a) USE OF PUBLIC PROPERTY. No official or employee shall use or permit the use of Village-owned vehicles, equipment, materials or property for personal convenience or profit without prior approval from the Village Board, unless such services are available to the public generally.
- (b) OBLIGATIONS TO CITIZENS. No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

(6) CONFLICT OF INTEREST.

- (a) INTEREST PROHIBITED. No official or employee of the Village shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of their official duties in the public interest contrary to the provisions of this Ethics Code or which would tend to impair their independence of judgment or action in the performance of their official duties.
- (b) INCOMPATIBLE EMPLOYMENT. No official or employee shall engage in or accept private employment or render service for private interest, when such employment or service is incompatible with the proper discharge of their official duties or would tend to impair their independence of judgment or action in the performance of their official duties, unless otherwise permitted by law and unless disclosure is made as hereinafter provided.



- (c) **DISCLOSURE OF CONFIDENTIAL INFORMATION.** No official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the Village, nor shall they use such information to advance the financial or other private interest of themselves or others.
  - (d) **REPRESENTING PRIVATE INTERESTS BEFORE VILLAGE AGENCIES OR COURTS.** No official or employee shall appear on behalf of any private person, other than himself, his spouse or minor children, before any Village agency or municipal court. However, a member of the Village Board may appear before Village agencies on behalf of their constituents in the course of their duties as a representative of the electorate or in the performance of public or civic obligations.
- (7) **GIFTS AND FAVORS.**
- (a) No official or employee, personally or through a member of his immediate family, may solicit or accept, either directly or indirectly, from any person anything of value if it could reasonably be expected to influence the official or employee's vote, official actions or judgments, or could reasonably be considered as a reward for any official action or inaction on the part of the official or employee.
  - (b) No official or employee shall accept any one gift with a value of more than \$25.00, or gifts having an aggregate value of more than \$100.00 in any calendar year, from any person if such person:
    - 1. Has or is seeking to obtain a contractual or other business or financial relationship with the Village or the Board; or
    - 2. Conducts operations or activities which are regulated by the Village or the Board; or
    - 3. Has interests which may be substantially affected by the Village or the Board.
  - (c) No official or employee personally, or through a member of his immediately family, shall accept anything of value from any person which may tend to impair the official or employee's independent judgment or action in the performance of his duties, or grant in the discharge of his duties any improper favor, service or thing of value.

- (d) Gifts received at modest ceremonial events--e.g., ground breakings and grand openings--business meals, outings, conferences, and mementos such as coffee cups and candy, are exempt from the \$100.00 calendar year limit, so long as the value of any such gift does not exceed \$25.00 and the distribution of the gift is of a general nature.
  - (e) Gifts received by an official or employee or a member of their immediate family under unusual circumstances shall be referred to the Ethics Board within ten days of receipt for recommended disposition.
- (8) **CONTRACTS WITH THE VILLAGE.** No Village official or employee who, in their capacity as such official or employee, participates in making of a contract in which they have a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring exercise of discretion on his part, shall enter into any contract with the Village unless, within the confines of §946.13 of the Wisconsin Statutes:
- (a) The contract is awarded through a process of public notice and competitive bidding; or
  - (b) The Ethics Board and the Village Board waive the requirement of this section after determining that it is in the best interest of the Village to do so.
- (9) **DISCLOSURE OF INTEREST IN LEGISLATION.**
- (a) Any member of the Village Board who has a financial interest or personal interest in any proposed legislation before the Village Board shall disclose on the records of the Village Board the nature and extent of such interest. Such person shall not participate in debate or discussion or vote for adoption or defeat of such legislation.
  - (b) Any other official or employee who has a financial interest or personal interest in any proposed legislative action of the Village Board and who, directly or indirectly, participates in discussions with or gives an official opinion or recommendation to the Village Board shall disclose on the records of the Village Board the nature and extent of such interest.
- (10) **CAMPAIGN CONTRIBUTIONS.** Campaign contributions shall be reported by all candidates for Village office in strict conformity with the provisions of the Wisconsin Statutes. Any campaign contribution tendered to or accepted by a candidate subsequent to the final statutory report shall be reported to the Ethics Board.

(11) **BOARD OF ETHICS CREATED.** There is hereby created a Board of Ethics consisting of three members and one alternate who shall serve without compensation unless the Village Board otherwise provides. The members of the Board shall not be elected officials, full-time appointed officials or Village employees, nor shall they be currently serving on any other Village board or commission. An election poll worker is not disqualified from serving on the Board of Ethics. Each member shall be appointed by the Village President and subject to confirmation by the Village Board. The Village Attorney shall furnish the Board with whatever legal assistance is necessary in carrying out its function. Terms of office shall be three years, except that when the initial appointments are made one member shall be appointed for one year, one for two years, and one for three years. The alternate shall serve on the Board when one of the members of the Board is unavailable. The term of the alternate shall be for three years. The Board shall elect its own chairman and vice chairman.

(12) **DUTIES OF ETHICS BOARD.**

- (a) The Board of Ethics may adopt and develop written guidelines and procedures, which shall be submitted to the Village Board for approval. A copy of such rules shall be on file with the Village Clerk.
- (b) Any person to whom this ordinance applies may apply in writing to the Board of Ethics for an advisory opinion and shall be guided by the opinion rendered. Such person shall have the opportunity to present their interpretation of the facts at issue and of the applicability of provisions of this Ethics Code before the advisory opinion is rendered. The Board's advisory opinion shall be in writing. The Board's deliberations and action upon such applications shall be in meetings not open to the public. Records of the Board's opinions, opinion requests and investigations of violations shall be closed to public inspection. The Board, however, may make such records public with the consent of the individual requesting the advisory opinion. In the event the Board deems it necessary or appropriate, it may request an advisory opinion from the Village Attorney.
- (c) The Board shall investigate any complaint properly filed with it, except as otherwise provided in this Ethics Code.
- (d) The Board shall accept from any person, or make upon its own motion, a verified complaint in writing which shall state the name of the official or employee alleged to have committed a violation of this Ethics Code and which shall set forth the particulars of the alleged violation. The Board shall within ten days of receipt of the verified complaint, or of the filing of a verified complaint made pursuant to the Board's motion, forward a copy

of the complaint to the official or employee who is accused of violating this Ethics Code. If no action on the verified complaint is taken by the Board within sixty days of filing with the Board, the complaint shall be void.

- (e) Following the receipt or filing of a verified complaint upon its own motion, the Board may make preliminary investigations with respect to alleged violation(s) of this Ethics Code. No preliminary investigation of the activities of any official or employee may be initiated unless such official or employee is notified in writing prior to such investigation. The notice shall state the exact nature and purpose of the investigation, the individual's specific actions or activities to be investigated, and a statement of such person's due process rights.
- (f) If, after such investigation, the Board finds probable cause to believe a violation exists, it shall conduct a hearing on the matter which shall be held not more than thirty days after such finding. The Board shall give the accused at least twenty days' notice of the hearing date. Such hearings shall be at closed session unless the accused petitions for a hearing open to the public. The hearing shall be conducted in accordance with the Wisconsin Rules of Criminal Evidence. Counsel for the Board and the accused or his counsel may present evidence, call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the Board chairman. The chairman is empowered to issue subpoenas to compel attendance of witnesses at such hearing.
- (g) During all stages of any investigation or proceeding conducted under this section, the accused or any persons whose activities are under investigation shall be entitled to be represented by counsel of his own choosing.
- (h) DETERMINATION. Upon conclusion of the hearing the Board shall within twenty days make a written determination as to the existence of a violation of the Code of Ethics by the accused official or employee. The determination shall be signed by all participating Board Members with findings of fact and conclusions of law concerning the propriety of the conduct of the official or employee. If appropriate, the Board shall make a written recommendation as to what action, if any, shall be taken to discipline such official or employee, or what action should be taken to correct the violation. The Board may recommend censure, suspension, removal from office or employment, and/or may impose a forfeiture not to exceed \$1,000 for each violation. Such determination and recommendation shall be mailed to such official or employee within the 20-day period. Copies shall also be delivered to the Village Board for such action as the Village Board may deem proper.

- (i) The affirmative vote of the Ethics Board shall be required for any action taken by the Board, with the exception that action taken by the Board pursuant to a hearing shall require a two-thirds vote.
- (13) **APPLICABILITY OF ETHICS CODE.** This Ethics Code shall be operative in all instances covered by its provisions except when superseded by state law or when the application of a state statutory provision is discretionary but determined by the Ethics Board to more appropriate or desirable. When an ethics complaint is filed against the Village Police Chief, a police officer or a firefighter, the complaint shall be referred to the Village Board for processing in accordance with §61.65 of the Wisconsin Statutes.
- (14) **SEVERABILITY.** If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions of application of this ordinance that can be given effect without the invalid or unconstitutional provision or application.

## CHAPTER 3

### FINANCE AND TAXATION

<i><b>Section Number</b></i>	<i><b>Title</b></i>	<i><b>Ordinance Number</b></i>	<i><b>Date of Ordinance</b></i>
3.01	Preparation of Tax Roll and Tax Receipts		
3.02	Fiscal Year		
3.03	Budget		
3.04	Changes in Budget		
3.05	Village Funds to be Spent in Accordance with Appropriations		
3.06	Claims Procedure		
3.07	Letting of Contracts		
3.08	Duplicate Treasurer's Bond		
3.09	Temporary Investment of Funds Not Immediately Needed		
3.10	Personal Property Taxes, Interest	2019-01	06/04/2019
3.11	Collection of Tax on Overnight Lodging	2018-10	12/04/2018

### **3.01 PREPARATION OF TAX ROLL AND TAX RECEIPTS.**

- (1) AGGREGATE TAX STATED ON ROLL. Pursuant to §70.65(2), Wis. Stats., the Clerk/Treasurer shall, in computing the tax roll, insert only the aggregate amount of State, County, school, vocational district and local taxes in a single column on the roll opposite the parcel or tract of land against which the tax is levied or, in the case of personal property, in a single column opposite the name of the person against whom the tax is levied.
- (2) TAX RECEIPTS. Pursuant to §74.08(1), Wis. Stats., the Clerk/Treasurer shall enter in each receipt 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.

### **3.02 FISCAL YEAR.**

The calendar year shall be the fiscal year.

### **3.03 BUDGET.**

- (1) DEPARTMENTAL ESTIMATES. Annually, at a time specified by the Village President, each officer, department and committee shall file with the Village Clerk/Treasurer an itemized statement of disbursements made to carry out the powers and duties of such officer, department or committee during the preceding fiscal year; a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department or committee during such year and of the conditions and management of such fund; and detailed estimates of the same matters for the current and ensuing fiscal years. Such statements, which shall be designated as “Departmental Estimates,” shall be presented in the form prescribed by the Village Clerk/Treasurer, such form to be as nearly uniform as possible for the main division of all departments.
- (2) PREPARATION OF PROPOSED BUDGET.
  - (a) Village Clerk/Treasurer to Prepare. The Village Clerk/Treasurer shall prepare and submit to the Board a proposed budget presenting a financial plan for conducting the affairs of the Village for the ensuing fiscal year.
  - (b) 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. All existing indebtedness to the Village, including the amount of interest payable and principal to be redeemed on any outstanding general obligation bonds of the Village and any estimated deficiency in the sinking fund of any such bonds during the ensuing fiscal year.
  4. An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
  5. Such other information as may be required by the Board and by State law.
- (c) Copies Required. The Village shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.
- (3) HEARING. The Village Board shall hold a formal public hearing on the budget at the time of its presentation by the Village President.

### **3.04 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 2/3 vote of all the members of the Village Board. Notice of such change shall be given by publication within 15 days thereafter.

### **3.05 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 3.04. 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 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 either been accomplished or abandoned.

### **3.06 CLAIMS PROCEDURE.**

- (1) **GENERALLY.** Payments may be made from the Village treasury after the Clerk/Treasurer audits and approves each claim as a proper charge against the treasury, and endorses his approval on the claim after having determined that the following conditions have been complied with:
  - (a) That funds are available therefor pursuant to the budget approved by the Village Board.
  - (b) That the item or service covered by such claim has been duly authorized by the proper official, department head, board or commission.
  - (c) That the item or service has been actually supplied or rendered in conformity with such authorization.
  - (d) That the claim is just and valid pursuant to law. The Clerk, in his discretion, may require the submission of such proof and evidence to support the foregoing.
- (2) **MONTHLY REPORT.** The Clerk/Treasurer shall file with the Village Board not less than monthly a list of the claims approved, showing the date paid, name of claimant, purpose and amount.
- (3) **ANNUAL AUDIT.** The Village Board shall authorize an annual detailed audit of its financial transactions and accounts by the Department of Revenue pursuant to §73.10, Wis. Stats., or by a public accountant licensed under Ch. 442, Wis. Stats., the designation to be made by the Village Board.
- (4) **BOND REQUIRED.** The Clerk/Treasurer shall be covered by a fidelity bond of not less than \$5,000, pursuant to §66.044(4), Wis. Stats.
- (5) **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 official and filed with the Village Clerk/Treasurer in time for payment on the regular pay day.

### **3.07 LETTING OF CONTRACTS.**

As a complete alternative to the requirements established by §§61.54 and 61.55, Wis. Stats., §62.15, Wis. Stats., shall apply to Village contracts. The authority vested in the Board of Public Works by §62.15, Wis. Stats., shall be exercised by the Village Board, or as delegated by the Village Board.

### **3.08 DUPLICATE TREASURER'S BOND.**

- (1) ELIMINATED. The Village elects not to give the bond on the Village Clerk/Treasurer provided for by §70.67(1), Wis. Stats.
- (2) VILLAGE LIABLE FOR DEFAULT OF TREASURER. Pursuant to §70.67(2), Wis. Stats., the Village shall pay, if the Clerk/Treasurer fails to do so, all State and County taxes required by law to be paid by such Clerk/Treasurer to the County Treasurer.

### **3.09 TEMPORARY INVESTMENT OF FUNDS NOT IMMEDIATELY NEEDED.**

The Clerk/Treasurer may invest any Village funds not immediately needed, pursuant to §66.04(2), Wis. Stats.

### **3.10 PERSONAL PROPERTY TAXES, INTEREST.**

- (1) All personal property taxes shall be due and payable on or before the 31st day of January of each year.
- (2) Anyone failing to pay the personal property tax on or before the date set out in sub. (1) shall pay interest from the date it became due at the rate of 1% per month.
- (3) Except as otherwise provided by the ordinances of the Village, any services rendered to the individuals or property of the Village, which are to be paid by a date determined, bear interest upon the balance at the rate of 1% per month.

### **3.11 COLLECTION OF TAX ON OVERNIGHT LODGING.**

- (1) DEFINITIONS. In this chapter, the following shall apply:

*Gross receipts* has the meaning as defined in Wis. Stat. Sec. 76.48(d): “*Gross receipts*” means total revenue received from the retail furnishing of rooms, lodging, or similar accommodations by a hotel or motel as defined herein.

*Hotel* and *motel* have the meaning as defined in Wis. Stat. Sec. 77.52(2) (a)1:

“*Hotel and motel*” means a building or a 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, bed and breakfast establishments, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins, commercial indoor lodging facilities and any other building or group of building in which accommodations are available to the public, except accommodations rented for a continuous period of more than 30 consecutive days and accommodations furnished by any hospitals, sanitariums or nursing homes or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

“*Municipality*” means the Village of Sturtevant, Wisconsin.

“*Payor*” means the person or entity who owes the tax imposed by this article.

“*Room tax*” means the tax imposed by this Ordinance.

*Tourism* has the meaning as defined in Wis. Stat. Sec. 66.0615(1)(e): “*Tourism*” means any travel for recreational, business or educational purposes.

*Transient* has the meaning as defined in Wis. Stat. Sec. 77.52(2) (a)1: “*Transient*” means any person residing for a continuous period of less than 30 consecutive days in a hotel, motel, or other furnished accommodations available to the public.

“*Tourism Entity*” means a nonprofit organization that provided staff, development or promotional services for the tourism industry in the municipality, and as one of its primary purposes the generation of paid overnight stays. The tourism entity must have a governing board comprised of over 50% representation from the area's restaurants, drinking places, gift/souvenir shops, hotels, motels, bed and breakfasts, tourist rooming houses, public golf courses, amusement parks or other tourist attractions; 25% or more of the total board must be owner's or operators of room tax paying lodging establishments.

*Tourism promotion and development* has the meaning as defined in Wis. Stat. Sec. 66.0615(1) (fm): “Tourism promotion and development” means any of the following that are significantly used by transient tourists and reasonably likely to generate paid overnight stays at more than one establishment on which a room tax may be imposed, that are owned by different persons and located within the municipality; or, if the municipality has only one such establishment, reasonably likely to generate paid overnight stays in that establishment:

1. Marketing projects, including advertising media buys, creation and distribution of printed or electronic promotional tourist materials, or efforts to recruit conventions, sporting events, or motor coach groups.
  2. Transient tourist informational services.
  3. Tangible municipal development, including a convention center.
- (2) IMPOSITION OF ROOM TAX. Pursuant to Wis. Stat. Sec. 66.0615, a tax is hereby imposed on the privilege and services of furnishings, at retail, of rooms or lodging to transients by hotel keepers, motel, operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of 8% of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by Wis. Stat. Sec. 77.52(2) I and may not be imposed upon sales to the federal government and persons listed under Wis. Stat. Sec. 77.54 (9a).
- (3) DISTRIBUTION OF ROOM TAXES COLLECTED. Upon receipt of the room taxes that are collected, the Village shall distribute all 75% of the room taxes to the Tourism Commission. If the Village retains 25% of the room taxes or less, then such funds shall be retained by the Village in its general fund.
- (4) CREATION AND DUTIES OF TOURISM COMMISSION:
- a. The Tourism Commission shall consist of six members who shall be appointed by the Village President with approval of the Village Board. The Tourism Commission will consist of the following personnel:
    1. Two representatives for the local lodging industry;
    2. A Village Board Member;
    3. Two representatives for the tourism industry; and

4. The Village President or Village Administrator who shall serve as Chairperson, or their designee.
  5. Except for the Village President or Village Administrator, each member's term will be for a one-year period and each member may serve multiple terms.
- b. The Tourism Commission shall contract with the Tourism Entity who shall spend the room taxes on tourism promotion and development.
  - c. The Tourism Commission and Tourism Entity, with whom it contracts, shall not use any of the room tax revenue to construct or develop a lodging facility.
- (5) TRACKING AND REPORTING ROOM TAX REVENUE EXPENDITURES. The Tourism Commission shall track the use of room tax revenue expenditures and state its impact on generating paid overnight stays in the community. The Tourism Commission shall permit and allow inspections of its records pertaining to the use of the room tax funds upon request of the Tourism Commission at reasonable times. The Tourism Commission shall provide a written report as determined by the Tourism Commission, no less than annually, and such report shall be available to the Municipality and public upon request.
- (6) COLLECTION OF TAXES.
- a. The collection of the tax imposed by this article shall administered by the city treasurer. The tax imposed is due and payable on the last day of the month next succeeding the calendar quarters for which imposed. A return shall be filed with the Village Treasurer, by those furnishing at retail such rooms and lodging, on or before the same date on which the tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarters from such retail furnishings of rooms or lodging, the amount of taxes imposed for such period, and such other non-confidential information as the Village Treasurer deems reasonably necessary. Every person required to file such a quarterly return shall, with their first return, elect to file an annual calendar or fiscal year return. Such annual return shall be filed within 90 days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain such additional non-confidential information as the Village Treasurer requires. Such annual returns shall be made on forms as prescribed by the Village Treasurer. All such returns shall be signed by the person required to file a return or their duly authorized agent but need not be verified by oath. The Village Treasurer may, for good

cause, extend the time for filing any return, but in no event longer than one month from the filing date.

- b. The correct amount of tax shall accompany each quarterly tax return and be made payable to the village.

(7) **SALE OR CONVEYANCE OF BUSINESS.** If any person liable for any amount of tax under this section sells out their business or stock of goods or quits the business, their successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Village Treasurer that is has been paid or a certificate stating that no amount is due. If [any] person subject to the tax imposed by this section fails to withhold such amount of tax from the purchase price as required, they shall become personally liable for payment of the amount required to be withheld by them to the extent of the price of the accommodations valued in money.

(8) **DETERMINATION OF TAX BY AUDIT.**

- a. The Village Treasurer may, by office audit, determine the tax required to be paid to the village or the refund due to any person under this chapter. This determination may be made upon the basis of the facts contained in the return being audited or based on any other information within the Village Treasurer's possession. One or more such office audit determinations may be made of the amount due for anyone or for more than one period.
- b. The Village Treasurer may, by field audit, determine that tax required to be paid to the village or the refund due to any person under this chapter. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the Village Treasurer's possession. Whenever the Village Treasurer has probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, the Village Treasurer is authorized to examine and inspect the financial records pertaining to the furnishing of accommodations at the establishment in question to verify the tax liability of that person or of another person.

(9) **FAILURE TO FILE ROOM TAX RETURN.** If any person fails to file a return by this chapter, the Village Treasurer shall make an estimate of the amount of the gross receipts under subsection [10- I05]. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the Village Treasurer's possession or may come into their possession. Based on this estimate, the Village Treasurer shall compute and

determine the amount required to be paid to the village. One or more such determinations may be made for one or more than one period.

(10) FORFEITURE RELATING TO FAILING TO COMPLY WITH A REQUEST TO INSPECT AND AUDIT THE PERSON'S FINANCIAL RECORDS AND FAILING TO FILE RETURNS TIMELY.

- a. A forfeiture, not to exceed 5% of the room tax, may be imposed on a person who fails to comply with a request to inspect and audit the person's financial records.
- b. Require the person who is subject to pay an amount of taxes that is due to pay said tax plus interest at the rate of 1% per month on the unpaid balance. No refund or modification of the payment determined may be granted until the person files a correct room tax return and permits the municipality to inspect and audit their financial records.
- c. A forfeiture, not to exceed 25% of the room tax due for the previous year or \$3,000, whichever is less, of the tax imposed, will be imposed in the event that the room tax is not paid.

(11) RECORD KEEPING REQUIREMENTS. Every person liable for the tax imposed by this ordinance shall keep or cause to be kept such records, receipts, invoices and other pertinent papers relating to the payment of room taxes in such form as the Village Treasurer requires.

(12) CONFIDENTIALITY OF TAX RETURNS.

- a. All tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the Village Treasurer are deemed to be confidential, except the Village Treasurer may divulge their contents to the following, and no others:
  1. The person who filed the return.
  2. Employees or agents of the Village Treasurer or other persons for use in the discharge of the duties of their office (unless otherwise prohibited by law), or by order of court.
- b. No person having an administrative duty under this section shall make known in any manner the business affairs, operations or information obtained by an investigation of records or any person on whom a tax is imposed by this article, or the amount of source of income, profits, losses,

expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person, except as otherwise provided in this ordinance.

- (13) EXEMPTIONS. For the tax year 2019, any person or business otherwise required to file a return and make payment to the village under this article will be allowed an exemption from the requirement to collect and pay room tax for any signed contract dated prior to adoption of this article in which the contract guarantees the lodging rates. This exemption will expire end of 2019.



## CHAPTER 4

### LAW ENFORCEMENT

(Recodify 2016-02; Adopted 04/06/16)

<i><b>Section Number</b></i>	<i><b>Title</b></i>	<i><b>Ordinance Number</b></i>	<i><b>Date of Ordinance</b></i>
4.01	Police Department Personnel	2008-23	12/16/08
4.02	Village Police Chief: Duties and Powers	2008-23	12/16/08
4.03	Police Officers: Duties and Powers		
4.04	Power of Arrest		
4.05	Law Enforcement Standards Board Program		
4.06	Alarm Systems	2008-23	12/16/08
4.07	Motor Vehicle Recovery and Towing	2010-04	04/07/10

#### **4.01 POLICE DEPARTMENT PERSONNEL.**

- (1) **ENUMERATED.** The Village Police Chief shall head the Police Department. The Police Department shall also include such police officers as the Village Board may prescribe by ordinance or resolution. The police officers shall be appointed by the Village Police Chief, subject to approval by the Village Board.
- (2) **SALARY; COLLECTION OF FEES.** The Village Police Chief and the police officers shall receive a salary fixed by the Village Board and shall not be entitled to any other compensation. All fees, bail deposits and other special remuneration or funds collected or received by the Department or any officers thereof shall be deposited with the Clerk of Municipal Court.
- (3) **TENURE OF VILLAGE POLICE CHIEF AND POLICE OFFICERS.** The Village Police Chief and non-probationary police officers may be suspended, reduced in rank, suspended and reduced in rank, or removed at any time only for just cause under §62.13(5), Wis. Stats. Probationary police officers may have their employment terminated during a probationary period with or without cause and they shall not be entitled to a hearing or review of such termination.

#### **4.02 VILLAGE POLICE CHIEF: DUTIES AND POWERS.**

- (1) The Village Police Chief shall have general supervision of and be responsible for the personnel and general efficiency of the Police Department.
- (2) The Village Police Chief shall obey all lawful written orders of the President or Village Board.
- (3) The Village Police Chief shall cause the public peace to be preserved and ensure that all laws and ordinances of the Village and State are enforced; and whenever any violation thereof comes to his knowledge, he shall cause the requisite complaint to be made and see that the evidence is procured for the successful prosecution of the offender.
- (4) The Village Police Chief shall be solely responsible for the care and condition of the equipment used by his Department.
- (5) The Village Police Chief shall keep an accurate and complete record of all complaints, arrests, traffic violations, convictions and dispositions of the Department. Such records shall be open to public inspection at times set by the

Department, shall be the property of the Village and shall be turned over by the Village Police Chief to his successor in office.

- (6) The Village Police Chief shall devote his entire on-duty time to his official duties.
- (7) The Village Police Chief shall keep an accurate and complete record of all fees, bail deposits and any other special remuneration or funds received by the Department.

#### **4.03 POLICE OFFICERS: DUTIES AND POWERS.**

The Police Chief and each police officer of the Department shall possess the powers conferred on marshals and constables by law and shall preserve the public peace and enforce the laws and ordinances of the state and Village subject to the orders, rules and regulations of the Village Police Chief, the President and the Village Board.

#### **4.04 POWER OF ARREST.**

The Village Police Chief and police officers shall arrest any person in the Village found in the act of violating any law of the state or ordinance of the Village; shall arrest without warrant any person whom they have reasonable grounds to believe has violated any law or ordinance and who will not be apprehended unless immediately arrested; shall take any arrested person in charge and confine such person; and shall, within a reasonable time, bring such person before the court having jurisdiction thereof to be dealt with according to law.

#### **4.05 LAW ENFORCEMENT STANDARDS BOARD PROGRAM.**

- (1) PROBATIONARY AND TEMPORARY OFFICERS TO MEET RECRUIT QUALIFICATIONS. Before an individual may commence employment on a probationary or temporary basis as a law enforcement officer, that individual shall have met the recruit qualifications set by the Wisconsin Law Enforcement Standards Board.
- (2) PERMANENT OFFICERS TO COMPLETE RECRUIT TRAINING COURSES.
  - (a) Before an individual may commence employment on a part or full-time permanent basis as a law enforcement officer, that individual shall have been certified by the Board as having met the recruit qualifications and as having successfully completed the preparatory training course required under the Board's recruit training standards.

- (b) Recruit training shall be successfully completed by the trainee within the probationary period. Under justifiable circumstances, this period may be extended, but the total period during which a person may serve as a law enforcement officer on a probationary or temporary basis without successfully completing a preparatory training course approved by the Wisconsin Law Enforcement Standards Board shall not exceed one year.

#### **4.06 ALARM SYSTEMS.**

- (1) PURPOSE. The purpose of this section is to establish regulations, standards and controls relating to the type, use and installation of police alarm devices, whether such alarm devices are monitored by the Police Department, a private alarm company or any other person.

- (2) DEFINITIONS.

- (a) False alarm as used in this section shall mean a signal from an alarm system resulting in a response by the Police Department when an emergency situation did not exist.
  - (b) Police alarm as used in this section shall mean a device which, when actuated by a criminal act or other emergency requiring police response, or produces an audible or visible signal designed to notify persons within audible or visual range of the signal.

- (3) PROHIBITION. No person shall sell, use or cause to be used any telephone or electronic device or attachment that automatically produces any prerecorded message to report a burglary or other emergency.

- (4) FALSE ALARMS For various reasons, false alarms for alarm systems frequently occur. Each false alarm requires response by public safety personnel, involves unnecessary expense to the Village, increases the risk of injury to persons or damage to property and dilutes the overall public safety protection to the Village. Such false alarms constitute a public nuisance and must be abated. Persons in accordance with this section shall pay to the Village a charge for false alarms responded to by a Village police officer according to the following schedule for each calendar year for each premises connected:

- |                                       |           |
|---------------------------------------|-----------|
| 1. First two false alarms             | No charge |
| 2. Third false alarm                  | \$50.00   |
| 3. Fourth and subsequent false alarms | \$100.00  |

Paragraph (4) above is intended to impose strict liability on the person responsible and applies regardless of the cause of the false alarm.

- (5) AUDIBLE OR VISUAL ALARM SYSTEM. Any person who maintains an audible or visual alarm system on his premises shall be subject to the provisions of par. (4)
- (6) INTENTIONAL FALSE ALARM. No person shall intentionally cause the activation of a police alarm device knowing that no crime or emergency exists.
- (7) AUDIBLE POLICE ALARMS. No person shall sell, use or install a police alarm which upon activation emits a sound the same as or similar to emergency vehicle sirens or civil defense sirens.
- (8) PRIVATE ALARM SYSTEMS. Persons with alarm units that are connected to private alarm companies, including those private alarm companies engaged in the business of monitoring burglary alarm systems, shall pay to the Village the false alarm charge prescribed in par.(4) for false alarms responded to by a Village police officer. The amount of such false alarm charges shall be based on the number of such police responses to each such business, commercial or residential premises.
- (9) PRIVATE ALARM COMPANIES. Any person owning, leasing or operating a private alarm system programmed to a central office shall also maintain a maintenance system during the hours that such system is in operation and shall upon request of the Police Department dispatch a company representative to the location of any alarm transmitted so that such representative arrives within one hour of such request. Each premises containing an alarm shall be considered a separate entity for purposes of this section. When reporting an alarm, the caller shall first identify the private alarm company which monitors the alarm. Private alarm companies shall provide the Village Police Chief with a telephone number at which the maintenance service may be contacted at any time.
- (10) APPEARANCE AT SITE OF ALARM. At the request of the Police Department, any person owning or leasing the premises on which an alarm is located shall dispatch a representative or appear in person at the location of any alarm transmitted so that such person or representative arrives within one hour of such request.
- (11) PENALTIES. Any person convicted of a violation of this section may be required to forfeit not less than \$50 nor more than \$500 for each such violation. Any person may, in lieu of a court appearance, forfeit the amount set by the Municipal Judge.

#### **4.07 MOTOR VEHICLE RECOVERY AND TOWING.**

##### **PURPOSE AND FINDINGS.**

The Village Board finds that there arises, from time to time, a reasonable police need to recover and tow motor vehicles. Such needs include, but are not limited to:

- (1) An unattended-to vehicle illegally parked or otherwise illegally obstructing traffic;

- (2) An unattended-to vehicle at the scene of an accident when the driver is physically or mentally incapable of deciding upon steps to be taken to deal with his property, as in the case of an intoxicated, mentally incapacitated or seriously injured driver;
- (3) A vehicle that has been stolen or used in the commission of a crime when its retention as evidence is necessary;
- (4) An abandoned vehicle or nuisance vehicle;
- (5) A vehicle so mechanically defective as to be a menace to others using the public highway;
- (6) A vehicle impoundable pursuant to ordinance or statute which provides therefore, as in the case of forfeiture.

The public convenience and necessity requires that the Sturtevant Police Department obtain recovery and towing services for such vehicles from companies which have equipment and facilities which are sufficient to ensure the public convenience and safety. Such requirements dictate the necessity of licensing such companies to perform certain services at the request of the Sturtevant Police Department.

#### 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: Assignment means a call from the village to a licensee requesting the performance of recovery and/or towing services.

*Class A wrecker* means a wrecker unit with an accepted commercially manufactured wrecker apparatus, single- or twin-boom, equipped with a mechanical or hydraulic power supply and dual rear wheel units and has a minimum gross vehicle weight (GVW) of 10,000 pounds, having a minimum unit rating of four-ton capacity as rated by the manufacturer. The wrecker apparatus shall be attached to the motor vehicle truck chassis in conformance with wrecker apparatus recommendations for truck chassis gross vehicle weight not less than 10,000 pounds GVW. The wrecker unit shall be considered as a whole for compliance with this definition and no exception shall be allowed.

*Class B wrecker* means a wrecker unit, single- or twin-boom, with an accepted commercially manufactured wrecker apparatus having a minimum unit rating of a 16-ton capacity as rated by the manufacturer, has a GVW of 20,000 pounds, has either air brakes or auxiliary air supply which is ready and available for use in the recovery or towing of motor vehicles which have an air brake system, and is equipped with a mechanical or hydraulic power supply and dual rear wheel units. The wrecker apparatus shall be attached to the motor vehicle truck chassis in conformance with wrecker apparatus recommendations of truck chassis gross vehicle weight not less than 20,000 pounds GVW. The wrecker unit

shall be considered as a whole for compliance with this definition and no exception shall be allowed, except as otherwise provided herein.

*Commercial manufacturer specifications* means the apparatus or equipment ratings established for the apparatus or equipment in question by the commercial manufacturer as accepted by the Sturtevant Police Department for conformance with this article. Commercial manufacturer rating for chassis GVW shall be determined by the commercial manufacturer. Commercial wrecker manufacturer recommendations shall be considered for wrecker unit compliance as a whole.

*Flatbed truck* means a hydraulic fill rollback bed truck, commercially manufactured and rated by the manufacturer to have a minimum winch capacity of not less than four tons by direct pull with accepted manufacturer rating. The rollback flatbed shall be attached to a truck chassis in conformance with the manufacturer's recommendations with a chassis manufacturer rating of not less than 10,000 pounds GVW and a minimum bed length of 19 feet. The unit shall be capable of and rated for a bed payload minimum of 7,000 pounds as commercially manufactured and rated. The flatbed unit shall be considered as a whole for compliance with this definition and no exception shall be allowed except as otherwise provided herein.

*Licensee* means a towing company which has been issued a license to perform recovery and towing services pursuant to this article.

*No-tow* means the response of a licensee to a specified place pursuant to the Sturtevant Police Department's request where the owner has removed the vehicle in question before the tow truck reaches the scene or when, before the vehicle is connected to the tow truck and is in motion, the owner arrives and takes possession of his vehicle.

*Storage facility* means a fenced-in, lighted, locked yard or secure indoor storage with a minimum capacity of 50 vehicles, with at least that capacity exclusively available as a place to temporarily keep vehicles towed hereunder. The facility shall conform to all building and zoning requirements and shall be owned or exclusively leased by the licensee for such purposes.

*Towing company* means any person, firm, partnership, corporation, or association engaged in the business of the recovery and towing of motor vehicles on a full-time basis.

*Wheel lift* means an accepted commercially manufactured apparatus designed for the towing and recovery of motor vehicles by the towed unit's wheels/suspension. The wheel lift apparatus shall have a minimum manufacturer lift rating of 3,000 pounds while fully extended. The wheel lift apparatus shall be attached in conformance with manufacturer's recommendations for chassis mounting on a truck chassis having a manufacturer's rating of at least 10,000 pounds GVW. The wheel lift shall be considered as an integral part of the wrecker apparatus considered as a whole for compliance with this definition and no exception shall be allowed.

LICENSE--REQUIRED; TERM; FEE.

- (a) No towing company shall recover or tow vehicles pursuant to a reasonable police need within the village for or at the request of the Sturtevant Police Department without first having obtained a license under this article. The acceptance of a license shall constitute a declaration and agreement by the licensee to perform licensed activities subject to the terms and conditions of this article. The acceptance of a license constitutes a commitment of the licensee to perform recovery towing services hereunder on each and every occasion requested and shall not be construed as a means to or authorizing of the business or practice of a licensee referring assignments to another licensee or towing company, except as herein provided.
- (b) All licenses issued under this article shall expire on June 30 of each year. The license fee shall be as established by the village board, paid at the time of application. The license fee shall not be prorated.

LICENSE--APPLICATION; INVESTIGATION; INSPECTIONS.

- (a) Application for a license shall be made to the village clerk upon forms provided by the village clerk's office. Upon receipt of an application, the village clerk shall refer the application to the Chief of Police or his designee for investigation and inspection. If the investigation and inspection under subsection (b) below, show that the applicant meets all conditions of licensing, the Chief of Police shall approve the application and forward it to the Administration Personnel/ Policy Legal Committee. If the police investigation and such inspection show that the applicant has not met the conditions of licensing, the applicant shall be so informed by the Chief of Police or his designee. If the applicant fails to meet the requirements of this chapter within 60 days after notice of failure to comply, the Chief of Police or designee shall forward the application to the Administration Personnel/ Policy Legal Committee with a recommendation of denial. The committee shall recommend to the Village Board the granting or denial of license based on the inspection findings.
- (b) Upon receipt of an application for a license hereunder, the Chief of Police shall direct that an investigation be performed to determine whether the applicant's documentation, vehicles, equipment, facilities and personnel comply with this article.

LICENSE--CONDITIONS.

As a condition to the granting of a license under this article, the applicant shall show evidence of the following and shall comply with the following conditions:

- (1) Ownership or exclusive lease of the following vehicles, which shall be registered, licensed, insured, and maintained in a safe and serviceable condition at all times that the license hereunder is in effect, except during reasonable and expeditious repairs, not to exceed 30 days:



- a. One flatbed truck and two class A wreckers, equipped with wheel lifts.
  - b. One class B wrecker, single- or twin-boom, which has either air brakes or an auxiliary air supply which is ready and available for use in the recovery or towing of motor vehicles which have an air brake system, and which is equipped with a mechanical or hydraulic power supply and dual rear wheel units.
- (2) Exclusive use by ownership or written lease of a place of business with a storage facility at a single location within the Village of Sturtevant or within ten miles of the village limits in which the licensee is the sole licensee under this article operating the premises. The place of business shall contain the licensee's telephone, two-way radio, and other equipment and personnel reasonably necessary for the licensee to perform its obligations under this article.
- (3) An executed agreement holding the village harmless from all losses, claims or damages to vehicles and vehicle contents resulting from the licensee's negligence, including but not limited to the recovery, towing and storage of vehicles.
- (4) Certificates of insurance providing a minimum of ten days' written notice to the village before any such policy is amended or cancelled, including the temporary or permanent removal of any covered vehicle from such policy. The certificate shall show statutory worker's compensation for employees, insurance on the vehicles required for issuance of the license written in comprehensive form, providing at least minimum limits of general liability and motor vehicle liability insurance for bodily injury and property damage, as required by the state for obtaining carrier authority. Such certificate shall show protection of the village and the licensee against all claims arising from injuries to persons or damage to property of others arising out of any act or omission of the licensee or its agents relative to performance of work for which the license is granted.
- (5) An inspection certificate for each tow vehicle used in licensee's business from a qualified motor vehicle repair business which is legally engaged in such business in the state, certifying that the vehicle has been inspected on the date indicated and that it complies with all applicable requirements of Wis. Stats. ch. 347 and trans code 305, Wisconsin Administrative Code. The repair business representative responsible for conducting inspections under this subsection may be required by the Chief of Police or his designee to successfully complete a written examination to demonstrate his/her applicable knowledge of the authorities indicated.
- (6) A current licensed carrier authority from the state, a copy of which shall be carried in each required vehicle at all times.
- (7) Tow trucks and equipment used in the towing operation shall be maintained in a safe condition which is adequate to perform towing services in a safe, reasonable and workmanlike manner.

- (8) Equipment to be present on each tow truck required under this article shall include dollies on class A wreckers, and all wreckers shall have brooms, shovels, one four-foot pry bar, fire extinguishers, J-hooks, T-hooks, snatch blocks with a minimum rating equal to the optional equipment made available by the manufacturer of the wrecker unit, two skotch blocks, one light bar for the towed vehicle, and at least 100 feet of cable on each winch, 50 feet for each flatbed, with a capacity of at least the tonnage rating required for the wrecker in question.
- (9) The storage facility shall be open to the public for the recovery of vehicles and personal property from 8:00 a.m. to 5:00 p.m., Mondays through Fridays, except legal holidays, and during such times the licensee shall have at least one employee on duty at the facility who has the authority to release such vehicles and property. The licensee shall, between the hours of 8:00 a.m. and 12:00 noon Saturdays, excepting legal holidays, have at least one employee available to the public by answering service who will release vehicles and/or personal property. There shall be no fee charged for the Saturday service during the indicated hours.
- (10) The licensee, prior to towing a vehicle from the scene of an accident, shall remove from the street all broken glass and other matter that may be in the street as a result of the accident.
- (11) The vehicles required under this article shall be equipped with two-way radios with a range of at least 15 miles and the licensee shall maintain a compatible base radio at its place of business so that dispatches can be made via radio during regular business hours.
- (12) The licensee shall not use any vehicle required under this article as a vehicle required to be available for service outside the county under license or contract.
- (13) The licensee shall provide to the village, upon request, the appropriate commercial/regular driver's license number for each employee who operates a wrecker for the licensee.
- (14) The licensee shall have a sufficient number of employees to operate all equipment required under this article at any time.

#### PROCEDURE.

- (a) Requests for towing service made by the Sturtevant Police Department shall be on a rotation basis from a list containing the names of all towing companies licensed under this article. Assignments shall be deemed waived by *non-response* or *nonacceptance*, and the name of such carrier shall be placed at the end of the list. In the event of *non-acceptance* or *non-response*, the towing company shall provide the Chief of Police or his designee with the factual basis for such *non-action*. The police department shall maintain records of *non-acceptance* or *non-response*, including the factual basis

therefore, and shall, upon request, forward such information to the Village Board and to each licensee with respect to its information.

- (b) If the owner of a vehicle to be towed makes a specific request for a named towing service, the police officer at the scene shall so inform the dispatcher and the owner's request shall be complied with, if reasonably possible. If the persons involved in an accident are incapacitated or otherwise unavailable or unknown, the police officer at the scene shall assume the authority and use the list for towing service. If the licensee, which responds to the scene, requires assistance to complete the towing or recovery operation, the licensee may call whom they choose upon notification to the police officer at the scene.
- (c) Upon notification by the Sturtevant Police Department, the licensee shall immediately send a tow truck to the designated scene, and the licensee shall remove disabled vehicles, and abandoned vehicles affecting traffic, stolen vehicles, vehicles held for evidence, or prisoners' vehicles, wrecked vehicles will be towed to the licensee's storage facility. If directed by a police officer, a licensee shall tow a vehicle to a different storage location as directed
- (d) Prompt and efficient service shall be provided by each licensee. Unless emergency conditions dictate otherwise, "prompt service" means arrival of the wrecker within 30 minutes following the request therefore, except as provided in the *Availability for service* section. Failure to provide prompt and efficient service shall be cause for review and suspension or revocation of the license.
- (e) Upon proof of ownership of a towed vehicle, a licensee shall provide to the owner any personal property contained in the vehicle, with the exception of components of the vehicle, such as license plates, tires, wheels, batteries, and radios, pending payment of the towing and storage charges. Upon written request by the licensee, the police department shall provide the licensee with the name and address of the last known registered owner of a vehicle towed under this article and the name of any lien holder which the police department has knowledge of. No provision of this article is intended to modify the requirements of Wis. Stats. §§ 349.13(5), 779.415 or 779.48(2).

#### AVAILABILITY FOR SERVICES.

- (a) The licensee shall furnish services on a 24-hour-a-day basis each day of the year. To ensure availability for services, the licensee shall have a single designated phone number through which the Sturtevant Police Department can request service at any time. During regular business hours, the licensee shall answer the designated phone number at its place of business required under **License Conditions**. The licensee may use an answering service for calls during other than regular business hours, but shall not use an answering machine.

- (b) Dispatch services for the Sturtevant Police Department will, if possible, inform the licensee of the make, model and year of the vehicle(s) to be towed at the time of requested service. The licensee shall charge only for equipment reasonably necessary for performance of the services rendered. The Police Chief or his designee shall make final determinations on appeals of licensees from compensation granted hereunder.

## CHAPTER 5

### **FIRE PROTECTION**

[Rep. & recr. #097-24]

	<b>Title</b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
5.01	Fire Department Recognized	2008-23	12/16/08
5.02 –	Reserved	2008-23	12/16/08
5.06			
5.07	Fire Fighting and Emergency Equipment Protection	2008-23	12/16/08
5.08	Police Power of Department	2008-23	12/16/08
5.09	Fire Inspector	2009-06	05/19/09
		2008-23	12/16/08
5.095	Fire Prevention Inspection Fees	2009-08	07/07/09
5.10	Hazardous Waste		
5.11	Fees Emergency Services	2004-09	6/15/04
		2006-10	06/06/06
		2007-18S	12/04/07
		2018-11	12/18/18
5.12	Use of Balconies and Patios in Rental Units	2009-10	11/3/09
5.15	Penalty		

### **5.01 FIRE DEPARTMENT SERVICES.**

Pursuant to Wis. Stats. §§ 61.65(2)(a)(2) and 66.0301, the Village has contracted with the Village of Mt. Pleasant for the provision of certain fire protection and emergency services to the Village by the South Shore Consolidated Fire/EMS Service (“SSCFES”), including commercial plan review for fire protection and suppression, fire inspection services, emergency medical services, fire fighting services and fire education services for the Village, all pursuant to the terms of an intermunicipal “Contract For Consolidated Fire/EMS Service,” which was entered into by the Village on October 23, 2008 (“the Intermunicipal Contract”), and as may be amended from time to time. Any references in this Code to the “Fire Department,” the “Sturtevant Fire Department,” or the “Fire Chief,” shall refer to SSCFES or to the fire chief of the SSCFES, as appropriate. SSCFES is not a department of the Village, but it shall have within the boundaries of the Village of Sturtevant all such enforcement and operational authority as is ascribed to SSCFES by state statute, by the Village of Mt. Pleasant Code of Ordinances, or by the Intermunicipal Contract, in addition to such authority as is expressly conferred by this Code.

### **5.02-5.06      RESERVED.**

### **5.07 FIRE FIGHTING AND EMERGENCY EQUIPMENT PROTECTION.**

No person shall willfully damage in any manner any fire hose, fire fighting equipment, fire hydrant or fire apparatus or building or any rescue apparatus or building belonging to any fire department. If any such damage does occur, appropriate personnel shall be notified as soon as possible. No vehicle shall be driven over an unprotected hose of a fire department when laid down on any street, private driveway or other place, to be used at any fire or alarm of fire or training without the consent of the Fire Department official in command.

### **5.08 POLICE POWER OF DEPARTMENT.**

- (1) **POLICE POWERS AT ANY INCIDENT.** The Fire Chief or his or her designee in command at any scene is hereby vested with full and complete police authority. Any such officer of the Fire Department may cause the arrest of any person interfering with the operations of the Fire Department at any fire or rescue call.
- (2) **CONTROL AT INCIDENTS.** The Fire Chief or his or her designee in command may prescribe certain limits in the vicinity of any fire within which no persons, except firefighters, law enforcement officers and those admitted by order of any

other officer of the Department shall be permitted to come. The Fire Chief or his or her designee in command shall have the power to cause the removal of any property whenever it shall become necessary for the preservation of such property from fire, to prevent the spreading of fire or to protect the adjoining property. In the progress of any fire, the Fire Chief or his or her designee shall have the power to order the removal or destruction of any property necessary to prevent the further spread of the fire. The Fire Chief or his or her designee shall also 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 the work of the Fire Department during the progress of a fire.

- (3) **FIREFIGHTERS MAY ENTER ADJACENT PROPERTY.** Any firefighter acting under the direction of the Fire Chief or his or her designee in command may enter upon the premises adjacent to or in the vicinity of any building or other property then on fire for the purpose of extinguishing such fire, and no person shall hinder, resist or obstruct any firefighter in the discharge of his/her duty as is herein provided.
- (4) **FALSE FIRE OR RESCUE ALARMS.** No person by any means or in any manner shall give, make or cause anyone else to give or make any false, misleading or untruthful call or alarm which causes or which is given under such circumstances as to be likely to cause any fire department or rescue equipment to respond with personnel or equipment as if to attend an actual fire or rescue call. (See §9.17 of this Municipal Code)

#### **5.09 FIRE INSPECTOR.**

- (1) The Fire Department shall perform fire inspection services for the Village pursuant to applicable law and the terms of the Intermunicipal Contract.
- (2) Quarterly, all buildings, except private dwellings, premises and thoroughfares within the Village shall be inspected by a fire inspector to determine, locate and correct any conditions liable to cause fires. Such conditions shall include, but shall not be limited to, violations of any and all provisions of the Wisconsin Statutes, the Wisconsin Administrative Code and this Municipal Code relating to fire hazards or to the prevention of fires.
- (3) Whenever or wherever in the Village any inspection by a fire inspector reveals a fire hazard, the Fire Chief or his or her designee shall serve a notice in writing upon the owner or occupant of the property, giving the owner or occupant a designated time by which to correct or remove the hazard. The owner or occupant shall cause such

hazard to be corrected or removed within the time designated. If the fire hazard is not corrected or removed within the time allowed, it shall be deemed a nuisance.

- (4) The Department shall keep a written record card of each property inspected, which shall conform to the requirements of the Department of Commerce, and shall make the quarterly report of inspections required by the Department of Commerce.
- (5) No person shall hinder or obstruct a fire inspector in the performance of his or her duty or refuse to perform any lawful direction given by a fire inspector.

#### **5.095 PREVENTION INSPECTION FEES.**

- (1) An annual fire prevention inspection fee shall be charged to the property owner of each residential, commercial, industrial and institutional building within the Village that is required, by state law, to undergo periodic fire prevention inspections. For purposes of this Section only, “residential” shall mean buildings composed of 4 or more dwelling units.
- (2) The annual fee, the amount of which shall be set from time to time by resolution of the Village Board, shall constitute a special charge against the property, pursuant to Wis. Stats. § 66.0627.
- (3) If not paid by October 15 of each year, the annual fire prevention inspection fee shall be considered delinquent and shall automatically be included in the current or next year’s tax roll for collection and settlement under Wis. Stats. Chapter 74.
- (4) All buildings owned by the United States, the State of Wisconsin, Racine County, and the Village of Sturtevant shall be exempt from this fire prevention inspection fee.

#### **5.10 HAZARDOUS WASTE.**

See §11.10 of this Municipal Code.

#### **5.11 FEES FOR EMERGENCY SERVICES.**

- (1) *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:



*Advance life support (ALS)* means emergency medical care provided by emergency medical technicians-paramedics that requires the use of life sustaining equipment, utilizing an ambulance equipped with a radio or constant telephone contact with a physician/hospital.

*Advanced life support (ALS)* without transport means emergency medical care provided by emergency medical technicians-paramedics that requires the use of life sustaining equipment, with a radio or constant telephone contact with a physician/hospital, without transport.

*Basic life support (BLS)* means emergency first aid services which do not meet the ALS criteria.

*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 diseases.

*Emergency medical technician (EMT BASIC)* means a person licensed to provide basic life support and who is properly trained to transport sick, disabled and injured individuals. As defined by Wis. Stats. Admin. HSS 110 Rule and/or the Fire Department's medical direction. Training includes, but is not limited to:

- 1) Basic assessment with basic cardiac life support, CPR (healthcare provider)
- 2) Anatomy and physiology
- 3) Treatment of bleeding and shock
- 4) Use of pneumatic shock garment
- 5) Soft tissue injuries
- 6) Fractures and dislocations
- 7) Emergency childbirth
- 8) Burns and hazardous materials
- 9) Automatic defibrillation

*Admin. HSS 112 Rule*, means a person who has more extensive training than the EMT-BASIC and, under medical direction, provides, but is not limited to:

- 1) Airway management
- 2) Starting and administration of intravenous fluids
- 3) Advanced rescue, emergency care and resuscitation
- 4) Cardiac rhythm interpretation and defibrillation

- 5) Advanced assessment
- 6) Insertion of advanced airways
- 7) Parenteral injections
- 8) Treatment of shocks and burns
- 9) Administration of emergency medications

*Paramedic-advanced life support intercepts* means, when it is necessary for a patient that is being transported by a non-paramedic ambulance service, to require the services of a paramedic-advanced life support ambulance service. This includes, when necessary, for two ambulance services to be involved in the transport of a patient, when either the patient is transferred from the non-paramedic ambulance to the paramedic ambulance or where the paramedic ambulance or where the paramedic staff and/or equipment board the non-paramedic ambulance.

- (2) *Provision of service.* The village provides emergency ambulance service to persons needing emergency medical attention after the sudden onset of a medical condition or trauma manifesting itself by acute symptoms of such severity, including severe pain, that the absence of immediate 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.
- (3) *Fees.*
  - (a) *Applicability; exception.* Every person receiving emergency service from the village by the use of its emergency equipment, medical drugs and disposable medical equipment in attending to and/or transporting such person from the scene of an incident to an emergency hospital, shall pay for such service if rendered within the village, unless such person is a child who is under the direction of school of attendance or is a participant in a recreation activity sponsored by the village.
  - (b) *Outlying areas with a mutual aid agreement.* In all cases where the emergency service of the village is summoned in response to an emergency call in areas outside the village where a mutual aid agreement does exist, every person receiving such emergency service, the administration of medical drugs and disposable medical equipment use in attending at the scene of the incident and transporting such person to an emergency hospital shall be charged for such service.

- (c) *Outlying areas without a mutual aid agreement.* In all cases where the emergency service of the village is summoned in response to an emergency call in areas outside of the village 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.
  - (d) *Paramedic-advanced life support intercepts.* In all cases where paramedic-advanced life support intercept service is requested from the village by a municipal ambulance service or rescue squad that does not provide a paramedic level of care, that municipality or rescue squad shall be billed for the paramedic service provided.
  - (e) *Schedule of fees for service, transfer service and disposable medical equipment.* Fees applicable for ambulance service, transfer service and disposal medicine, shall be set forth in the schedule of fees on file in the Village Clerk's office, as approved by Resolution of the Village Board from time-to-time.
  - (f) *Medications used in ALS and BLS services.* Fees are established for medications used in ALS and BLS services, shall be set forth in the schedule of fees on file in the Village Clerk's office, as approved by Resolution from time-to-time.
- (4) Charges for fire calls on highways.
- (a) There is hereby imposed upon and charged a fire call charge to the owner or user at the time of the fire call of the property involved in a fire call response by the Fire Department on any highway within the Village of Sturtevant. The fire call charge shall be set forth in the schedule of fees on file in the Village Clerk's office, as approved by Resolution from time-to-time and shall cover the cost of such fire call.
  - (b) The Fire Chief or their designee shall submit statements for such charges to all such owners or users of the property subject to a fire call on such highways as soon as practical following the completion of the fire call. All such charges shall be paid to the Fire Department.
- (5) Cleanup of Spills. Any person who possesses or controls a hazardous material or infectious agent which was discharged or who caused the discharge of a hazardous material or infectious agent shall reimburse the village for actual and necessary

expenses incurred by the village or its agent to contain, remove or dispose of the hazardous substance or infectious agent to take any other appropriate action which is deemed appropriate under the circumstances. There is hereby imposed upon and charged to the owner of the property on which was discharged or user who caused the discharge of a hazardous material or infectious agent at the time of the call and response by the Fire Department and such charge shall be, as set forth in the schedule of fees on file in the Village Clerk's office, as approved by Resolution from time-to-time.

- (6) To the extent that the Fire Department or any fire or emergency services department which provided any of the services described in this section typically charges fees in excess of the fee amounts set forth in this section, or charges additional fees than are described in this section, such higher or additional fees shall apply.

#### **5.12 USE OF BALCONIES AND PATIOS IN RENTAL UNITS.**

- (1) **PURPOSE.** The purpose of this Section is to recognize that the Sturtevant Fire Department has been receiving complaints about the use of gas and charcoal barbecue grills on Balconies and Patios; that the use of barbecue grills and similar equipment within 15 feet of Rental Unit constitutes great potential harm for loss of life and property; and that storage on Balconies, Patios and other Exits interfere with the ability of the Sturtevant Fire Department to perform its community caretaker duties.

- (2) **DEFINITIONS.**

**Balcony.** A landing or porch projecting from the wall of a building used as a means of egress, a second Exit and/or a jump platform.

**Exit.** That portion of a means of egress that is separated from all other spaces of the building or structure by construction or equipment to provide a protected way of passage to leave the building or structure. Exits include exterior Exit doors, Exit passageways, horizontal Exits and separated Exit stairs or ramps.

**Patio.** A flat surface abutting a Rental Unit, whether constructed of cement or other material, used as a means of egress or as a second Exit.

**Rental Unit.** A unit held out for rent to the public, whether in an apartment building, duplex or other similar building.

(3) PROHIBITIONS.

- (a) No person shall store or operate a barbecue grill or other similar equipment used for preparing, grilling or cooking any type of food or store gas or charcoal on a Balcony or Patio of a Rental Unit.
- (b) No person shall store or operate a barbecue grill or other similar equipment
- (c) used for preparing, grilling or cooking any type of food or store gas or charcoal within 15 feet of a Rental Unit.
- (d) No person shall place any item or materials on a Balcony that will encumber, obstruct or interfere with its instant use as an Exit in case of fire or other emergency.

(4) ENFORCEMENT.

- (a) A violation of this Section of the Code of Ordinances shall constitute a fire hazard.
  - (b) Whenever and wherever in the Village it is determined by any inspection by the Village Fire Chief or other designated person that there exists a violation of this Section, it shall be declared a fire hazard.
  - (c) When a fire hazard exists, the Village Fire Chief or other designated person shall serve a notice in writing upon the property owner or other person violating this Section giving the owner or person reasonable time in which to remove the hazard.
- (5) PENALTY. If the fire hazard is not removed within the time allowed, the person found to be in violation of any provision of this Section, or any rule or order promulgated or issued hereunder shall be subject to a forfeiture as provided in Section 25.04 of this Municipal Code. The Village, at its option, may declare the fire hazard a public nuisance if the person fails to remove the fire hazard.

**5.15 PENALTY.**

Except as otherwise provided, any person found to be in violation of any provision of this chapter or any rule or order promulgated hereunder, shall be subject to a penalty as provided in §25.04 of this Municipal Code.

## CHAPTER 6

### EMERGENCY MANAGEMENT

<i><b>Section Number</b></i>	<i><b>Title</b></i>	<i><b>Ordinance Number</b></i>	<i><b>Date of Ordinance</b></i>
6.01	Declaration of Policy	2009-13	12/15/09
6.02	Definitions		
6.03	Emergency Management Committee		
6.04	Coordinator of Emergency Management Services		
6.05	Costs of Equipment and Services		
6.06	Joint Meetings		
6.07	Utilization of Existing Services and Facilities		
6.10	Penalties		

## **6.01 DECLARATION OF POLICY.**

To prepare the Village to cope with emergencies resulting from enemy action and natural or man-made disaster, it is declared to be necessary to establish an organization for emergency government for the Village by conferring upon the Village President and other specified officers of the Village, duties and powers, consistent with Ch. 323, Wis. Stats. (2009 WISCONSIN ACT 42 published 10/20/09)

## **6.02 DEFINITIONS.**

- (1) CIVIL DEFENSE. All measures undertaken by or on behalf of the state, the county and municipalities to prepare for and minimize the effects of enemy action upon the civilian population.
- (2) EMERGENCY MANAGEMENT. Includes “civil defense” and means all measures undertaken by or on behalf of the Village.
  - (a) To prepare for and minimize the effect of enemy action and natural or man-made disaster upon the civilian population.
  - (b) To effectuate emergency repairs to or the emergency restoration of vital public utilities and facilities destroyed or damaged by such action or disaster.

## **6.03 EMERGENCY MANAGEMENT COMMITTEE.**

- (1) HOW CONSTITUTED. There is hereby created an Emergency Management Committee composed of the Village President and 3 members of the Village Board, whose Chairman shall be the President of the Board. Members of the Committee shall serve for a term of one year and until their successors are appointed.
- (2) DUTIES. The Emergency Management Committee shall be an advisory and planning group and shall advise the Coordinator of Emergency Management Services and the Village Board on all emergency management matters. It shall meet monthly or upon the call of the Chairman. It shall annually prepare a budget for emergency management and present same to the Village Board for adoption. It shall prepare an annual report for the Village Board.

#### **6.04 COORDINATOR OF EMERGENCY MANAGEMENT SERVICES.**

The Village President shall appoint the Coordinator. The Coordinator of Emergency Management Services shall:

- (1) Develop and promulgate emergency management plans for the Village consistent with state and county plans.
- (2) Direct the emergency management program for the Village and perform such other duties related to emergency management as are required by the Village Board and the Emergency Management Committee.
- (3) Direct the Village emergency management training programs and exercises.
- (4) Direct Village participation in emergency management training programs and exercises.

#### **6.05 COSTS OF EQUIPMENT AND SERVICES.**

Costs of equipment and services requested by the Village shall be borne 100% by the Village with federal or state financial assistance procured by the Village Coordinator of Emergency Management Services when applicable. Federal or state financial assistance reimbursements shall be returned to the Clerk/Treasurer.

#### **6.06 JOINT MEETINGS.**

Whenever it is deemed necessary by either the County Emergency Management Committee or the Village Emergency Management Committee, there shall be a joint meeting of the Committees to decide such matters as may arise.

#### **6.07 UTILIZATION OF EXISTING SERVICES AND FACILITIES.**

- (1) **POLICY.** In preparing and executing the Emergency Management program, the services, equipment, supplies and facilities of the existing departments and agencies of the Village shall be utilized to the maximum extent practicable; and 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.
- (2) **RESPONSIBILITY.** In order to assure that in an emergency all the facilities of the existing Village government are expanded to the fullest to meet such emergency, department and agency heads assigned to specific responsibilities under the Village Emergency Operations Plan will fulfill emergency and non-emergency duties as prescribed in the plan.



## **6.10 PENALTIES.**

Whoever intentionally fails to comply with the directives of emergency management authorities promulgated under this chapter during a state of emergency or during any training program or exercise shall forfeit not more than \$200. Each violation and each day a violation continues or occurs shall constitute a separate offense.

## CHAPTER 7

### TRAFFIC CODE

<i><b>Section Number</b></i>	<i><b>Title</b></i>	<i><b>Ordinance Number</b></i>	<i><b>Date of Ordinance</b></i>
7.01	Provisions of State Law Adopted by Reference		
7.02	Speed Limits	2006-19	01/16/07
7.03	Through Streets and Stop Sign Intersections	2007-09-S	08/21/07
		2018-09	09/04/18
7.04	Parking, Stopping and Standing Regulated	2001-36	11/06/01
		2005-06	10/05/05
		2006-11	06/06/06
		2007-10	09/04/07
		2008-01	02/05/08
		2008-02	02/05/08
		2008-12	07/15/08
		2009-09	08/18/09
		2010-05	07/20/10
		2010-09	09/21/10
		2012-08	08/07/12
		2012-09	08/21/12
		2012-11	12/18/12
		2013-03	06/18/13
		2013-06	08/20/13
		2013-07	08/20/13
		2014-02	08/05/14
		2014-06*	10/07/14
		2016-05	06/07/16
		2017-06	12/05/17
		2017-07	11/21/17
7.05	Weight Limits and Heavy Traffic Routes	2013-01	03/19/13
		2018-08	09/04/18
7.06	Official Signs and Signals		
7.07	Bicycles	2005-08	12/06/05
7.08	Snowmobile Regulations	2015-01	02/03/15
7.09	Motor Driven Cycles		
7.10	Disorderly Conduct with a Motor Vehicle		
7.11	Obstruction of Streets and Highways by Trains		
7.12	Leaving Keys in Parked Motor Vehicles Prohibited		

7.13	Neighborhood Electric Vehicles Permitted	2008-18	09/02/08
7.14	Compression Brakes Prohibited	2018-07**	08/07/18
7.15	Penalty	2008-06	05/06/08
7.16	Enforcement		

**\*Ordinance 2014-06 made an incorrect reference to Section 7.04(1). The correct reference is 7.04(2).**

**\*\* Ordinance 2018-07 referenced Section 7.15. It was changed to 7.14 because that section was available.**

**7.01 PROVISIONS OF STATE LAW ADOPTED BY REFERENCE.**

- (1) **STATE TRAFFIC FORFEITURE LAWS ADOPTED.** (Am. #089-2; #95-0; #096-10) Except as otherwise specifically provided in this chapter, all provisions of Chs. 340–348, Ch. 350 and §23.33, Wis. Stats., and Ch. Trans 305, Wis. Adm. Code, and all amendments thereto, describing and defining regulations with respect to vehicles, traffic, snowmobiles and all-terrain vehicles for which the penalty is a forfeiture only, including penalties to be imposed and procedures for prosecution, except §346.56, Wis. Stats., are hereby adopted by reference and 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. Future amendments, revisions or modifications of the state statutes or administrative code incorporated herein are intended to be made a part of this Municipal Code.
- (2) **OTHER LAWS ADOPTED.** There are also hereby adopted by reference the following sections of the Wisconsin Statutes, but the prosecution of such offenses under this chapter shall be as provided in Chs. 340–348, Wis. Stats., and the penalty for violation thereof shall be limited to a forfeiture as provided in this chapter:

86.06(1) Highways Closed to Travel

941.01(1) Negligent Operation of Vehicles Off-Highway

**7.02 SPEED LIMITS.**

- (1) **STATE SPEED LIMITS ADOPTED.** The provisions of §§346.57, 346.58 and 346.59, Wis. Stats., relating to the maximum and minimum speeds of vehicles are hereby adopted as a part of this section as if fully set forth herein, except as specified by sub. (2) of this section.
- (2) **MODIFICATIONS OF SPEED LIMITS.** The speed limits upon the following portions of streets and highways in the Village are hereby established as follows:

DURAND AVE. (Hwy. 11), 30 mph from a point 0.21 of a mile east of its intersection with 86th St. westerly to 0.20 of a mile west of its intersection with 99th St.

DURAND AVE. (Hwy. 11), 45 mph easterly from point 0.3 west of 105th St. Hwy. H extension to 0.20 of a mile east of that intersection.

DURAND AVE. (Hwy. 11), 45 mph from a point 0.20 of a mile west of its intersection with 99th St. westerly to a point 0.40 of a mile west of its junction with 99th St.

WISCONSIN ST. (Cr. #092-11), 30 mph from its intersection with Durand Avenue. (Hwy 11) north to a point 0.25 of a mile north of its intersection with the centerline of Park Ct. 35 mph from a point of 0.25 of a mile north of its intersection with the centerline of Park Ct. to its intersection with Hwy 20.

WISCONSIN ST. (Cr. #092-11), 35 mph from its intersection with Hwy 20 south to a point 0.25 of a mile north of its intersection with the centerline of Park Ct. 30 mph from a point 0.25 of a mile north of its intersection with the centerline of Park Ct. south to its intersection with Durand Ave. (Hwy 11).

### **7.03 THROUGH STREETS AND STOP SIGN INTERSECTIONS.**

- (1) In the interest of public safety and pursuant to Wis. Stats sec. 349.07, the streets or portions thereof, and the intersections, designated in this section are declared to be through streets and stop intersections, and traffic signs or signals giving notice thereof shall be erected by the Department of Public Works.
- (2) The following streets and intersections shall be through streets or stop intersections, except that at intersections where traffic control signals are in operation, traffic shall operate in accordance with such traffic control signals:

(a) Through streets:

DURAND AVENUE, from the Village limits on the east to the Village limits on the west.

MICHIGAN AVENUE, from 90<sup>th</sup> Street to Wisconsin Street

WISCONSIN STREET, from Durand Avenue to the Village limits on the north.

(b) Stop Intersections:

<b>Right-of-Way Traffic On</b>	<b>Stop Sign Facing Traffic On</b>
86th Street	Buckingham Drive
86th Street	Westbrook Drive
87th Street	Corliss Avenue
90th Street	Boys Drive

90th Street	Carol Ann Drive
90th Street	Charles Street
90th Street	Chickory Creek Drive
90th Street	Citadel Terrace
90th Street	Corliss Avenue
90th Street	Florence Drive
90th Street	Hulda Drive
90th Street	Lori Lane
90th Street	Majestic Hills Drive
90th Street	Michigan Avenue
<b>Right-of-Way Traffic On</b>	<b>Stop Sign Facing Traffic On</b>
90th Street	Rayne Road
91st Place	Chickory Creek Drive
92nd Street	Corliss Avenue
92nd Street	Florence Drive
92nd Street	Mt. Pleasant Avenue
93rd Street	Chandler Avenue
93rd Street	Hulda Drive
94th Street	Angelica Drive
94th Street	Corliss Avenue
95th Street	Chandler Avenue
96th Street	Corliss Avenue
97th Street	Chandler Avenue
97th Street	Grayce Drive
97th Street	Mt. Pleasant Avenue
97th Street	Valley Drive
98th Street	Chandler Avenue
98th Street	Mt. Pleasant Avenue
98th Street	Valley Drive
Angelica Drive	92nd Place
Braun Road	Citadel Terrace
Braun Road	Willow Road
Broadway Drive	93rd Street
Broadway Drive	Buckingham Road
Broadway Drive	Crown Pointe Crossing
Buckingham Road	Coventry
Carol Ann Drive	92nd Street
Chandler Avenue	91st Street
Chandler Avenue	92nd Street
Chandler Avenue	94th Street
Corliss Avenue	89th Street
Corliss Avenue	91st Street
Corliss Avenue	93rd Street

Corliss Avenue	95th Street
Corliss Avenue	97th Street
Crown Pointe Crossing	Camelot Trace
Crown Pointe Crossing	Ivanhoe Place
Crown Pointe Crossing	Kingsway Lane
Crown Pointe Crossing	Queensbury Lane
Cty Hwy H	Braun Road
Durand Avenue	86th Street
Durand Avenue	87th Street
Durand Avenue	91st Street
Durand Avenue	92nd Street
Durand Avenue	93rd Street
Durand Avenue	94th Street
Durand Avenue	95th Street
Durand Avenue	96th Street
Durand Avenue	97th Street
Durand Avenue	99th Street
<b>Right-of-Way Traffic On</b>	<b>Stop Sign Facing Traffic On</b>
Durand Avenue	Commercial Street
Durand Avenue	West Road (For Right Turn)
Durand Avenue	Wisconsin Street
Foxhaven Chase	Contessa Drive
Foxhaven Chase	Crown Pointe Crossing
Foxhaven Chase	Princeton Way
Hulda Drive	91st Street
Hulda Drive	92nd Street
Hulda Drive	95th Street
Hulda Drive	96th Street
Kennedy Drive	Westminister Drive
Kennsington Square Road	Camelot Trace
Kennsington Square Road	Ivanhoe Place
Kennsington Square Road	Kingsway Lane
Kennsington Square Road	Queensbury Lane
Loumos Court	Westbrook Drive
Majestic Hills Drive	Contessa Drive
Majestic Hills Drive	Crown Pointe Crossing
Majestic Hills Drive	Princeton Way
Michigan Avenue	91st Street
Michigan Avenue	92nd Street
Michigan Avenue	93rd Street
Michigan Avenue	94th Street
Michigan Avenue	95th Street
Michigan Avenue	96th Street

Michigan Avenue	97th Street
Mt. Pleasant Avenue	91st Street
Mt. Pleasant Avenue	94th Street
Rayne Road	92nd Street
Rayne Road	96st Street
Renaissance Boulevard	Amerigo Avenue
Renaissance Boulevard	Exploration Court
Renaissance Boulevard	Science Drive
Renaissance Boulevard	Stellar Avenue
Renaissance Boulevard	Un-named Road
Renaissance Boulevard	Venice Avenue
Renaissance Boulevard	West Road
Washington Avenue	90th Street (For Right Turn)
Washington Avenue	92nd Street
Washington Avenue	96st Street
Washington Avenue	Hastings Court
Washington Avenue	West Road
West Road	Amerigo Avenue
Westminister Drive	Kennington Square Road
Willow Road	Foxhaven Chase
Willow Road	Majestic Hills Drive
Wisconsin Street	Charles Street
Wisconsin Street	Corliss Avenue
Wisconsin Street	Hallock Drive
<b>Right-of-Way Traffic On</b>	<b>Stop Sign Facing Traffic On</b>
Wisconsin Street	Michigan Avenue
Wisconsin Street	Park Court
Wisconsin Street	Rayne Road

## (c) All Way Stop Intersections:

86th Street and Westminister Drive
90th Street and Braun Road
90th Street and Broadway Drive
90th Street and Mt. Pleasant Avenue
93 <sup>rd</sup> Street and Hulda
93 <sup>rd</sup> Street and Mt. Pleasant Avenue
94 <sup>th</sup> Street and Broadway Drive
97 <sup>th</sup> Street and Broadway Drive



97 <sup>th</sup> Street and Hulda Drive
Broadway Drive and Kennsington Square Drive Broadway Drive and Willow Road
Buckingham Road and Mt. Pleasant Avenue Coventry and Kennedy Drive Foxhaven Chase and Kennsington Square Road Kennsington Square Road and Majestic Hills Drive 90 <sup>th</sup> Street and Majestic Hills Drive Corliss Avenue and 91st Street

#### **7.04 PARKING, STOPPING AND STANDING REGULATED.**

(1) **PARKING PROHIBITED.** No person shall park, stop or leave standing any vehicle, except in obedience to traffic regulations, signs or signals, whether such vehicle is occupied or not, in any of the following places:

- (a) Designation of No Parking or No Stopping Areas. The provision of this chapter prohibiting the stopping, standing or parking of a vehicle shall apply at all times or at those times as specified by official traffic signs, except when it is necessary in compliance for emergency or temporary conditions on the direction of the Police Chief, Public Works Director or his/or designee.
- (b) The public works director or their designee(s) as his or her discretion, add, remove, modify, suspend or relocate parking controls and regulations when it is found to be in the public interest or required for traffic safety. Before any such change may become effective, the Public Works Director or their designee(s) shall obtain the approval of the Pulic Safety, Techology & Health Committee. Such areas shall be designed with official traffic signs.
- (c) When signs are erected in any block giving notice thereof upon any of the following streets or portions of streets:

**ALL CONNECTING STREETS.** (Cr. #092-4) All connecting streets with 90th St. and Hwy 11 (Durand Ave.) a distance of 50' from its intersection with 90th St. and Hwy 11 (Durand Ave.)

BUS STOPS. Any time within 50' of an authorized bus stop sign which has been placed by the Village.

DURAND AVE. (Hwy 11), either side, from 86th St. west to West Rd.

DURAND AVE. (Hwy 11), right hand lane, no stopping or waiting to enter car wash located at 9524 Durand Ave.

EAST EXPLORATION COURT. Any where on East Exploration Court, on either side of the street.

HALLOCK DR., south side, from Wisconsin St. to a point 465.63' running east on Hallock.

HIGHWAY 11, either side, from 97th St. west to the Milwaukee Road right-of-way.

MICHIGAN AVE., south side, from the alley between 96th St. and 97th St. west to 97th St.

PARK CT., north side, from Wisconsin St. to a point 395' running east on Park Ct.

RAYNE RD., north side, from its intersection with 92<sup>nd</sup> ST. to a point 75 feet west.

RAYNE RD., north side, from its intersection with 96<sup>th</sup> ST to a point 75 feet east.

RAYNE RD, south-side of Rayne Road 56' east of 96<sup>th</sup> Street to a point 136' east; then 379' east to a point 459' east.

RAYNE RD, south-side of Rayne Road 420' west of 92<sup>nd</sup> Street; then 116' west to a point 536' west of 92<sup>nd</sup> Street.

VALLEY ST., south side, between 97th St. and 98th St.

WESTMINSTER DRIVE, north side, from 86<sup>th</sup> Street to a point 30' west from the corner on Westminster Drive.

WISCONSIN ST. (Hwy H), west side, from Durand Ave. (Hwy 11) to a point 150' north on Wisconsin St.

WISCONSIN ST. east side, in front of the U.S. Post Office premises at 2849 Wisconsin St. from Corliss Avenue to a point 70' north of corner and from Michigan Avenue to a point 25' south of corner and between these

two points there shall be 15 minute parking only Monday through Friday 8:00 a.m. to 5:00 p.m.

WISCONSIN ST. (Hwy H), east side from Durand Ave. (Hwy 11) to a point 53' north on Wisconsin St.

WISCONSIN ST. west side, from Washington Ave. (STH 20) south to a point 145 feet north the point opposite of the intersection corner of Park Court and Wisconsin Street.

WISCONSIN ST. east side, from Washington Ave. (STH 20) south to a point 145 feet north of the intersection corner of Park Court and Wisconsin Street.

90TH ST., west side, from Florence Dr. to a point 95' north on 90th St.

90TH ST., west side, from Rayne Road south to a point 220' south of corner of Rayne Road and 90<sup>th</sup> Street.

90TH ST., east and west side, south from its intersection with Hwy 11 (Durand Ave.) a distance of 225'. (Cr. #092-4)

90TH ST., east side, south from its intersection with Hwy 11 (Durand Ave.) a distance of 213 feet.

90TH ST., west side, south from its intersection with Hwy 11 (Durand Ave.) a distance of 200 feet.

90TH ST., east side, north from its intersection with Hwy 11 (Durand Ave.) a distance of 145 feet.

90TH ST., west side, north from its intersection with Hwy 11 (Durand Ave.) a distance of 209 feet.

92ND ST., west side from Washington Ave (Hwy 20) south to Rayne Road.

92ND ST., east side from a point 309' south of Washington Ave (Hwy 20) to a point 525' south of Washington Ave (Hwy 20).

92ND ST., east side, from a point 140 feet north of Rayne Rd to a point 275 feet north of Rayne Rd.

92ND ST., east side, from a point 410 feet north of Rayne Rd to a point 490 feet north of Rayne Rd.

92ND ST., east side, from a point 530 feet north of Rayne Rd to a point 585 feet north of Rayne Rd.

92ND ST., east side, from its intersection with Washington Ave. (Hwy 20) to a point 75 feet south.

92ND ST., east side, from a point 360 feet south of Washington Ave. (Hwy 20) to a point 465 feet south of Washington Ave (Hwy 20).

92ND ST., west side, from its intersection with Rayne Road to a point 75 feet north.

92ND ST., west side, north from its intersection with Rayne Road a distance of 550 feet.

92ND ST., west side, south from its intersection with Washington Ave (Hwy 20) at distance of 510 feet.

96TH ST., west side, from its intersection with Washington Ave. (Hwy 20) to a point 75 feet south.

96TH ST., west side, from its intersection with Rayne Rd to a point 75 feet north.

96TH ST., west side from a point 675' south of Washington Ave (Hwy 20) to a point 755' south of Washington Ave (Hwy 20).

96TH ST., west side from a point 170' north of Rayne Road to a point 255' north of Rayne Road.

99TH ST., east side, from Durand Ave. (Hwy 11) north to the end of the street.

- (2) **HEAVY VEHICLES PROHIBITED FROM PARKING.** No Person, firm or corporation shall park any truck as hereinafter defined upon any public street, highway or alley within the confines of the Village for a period of time exceeding one hour, unless the truck is actually being used for delivery or picking up goods, or is necessary in the conduct of the truck owner's work being actually carried on by the owner upon the property abutting the street where the truck is parked and

the parking thus allowed shall be limited to the time of the delivery or pickup of goods or during the period while work is actually being performed. For purposes of this section, a truck defined as being any motor vehicle, other than a passenger car, designed for and capable of carrying loads in excess of one ton. The restriction set forth in this section shall in no way apply to vehicles commonly known as pickup, panel trucks (van) or station wagons.

- (a) **ON-STREET AND OVER-SIZED VEHICLE PARKING.** No person shall park or store any semi-tractor trailer or motor vehicle having more than two axles on any street within the Village in excess of two hours. This Ordinance shall not apply to the following:

Commercial vehicles directly engaged in activities for which such vehicles are necessary, including without limitation, loading and unloading goods, digging, hauling, plowing, and trimming. Emergency vehicles are also exempt from this restriction.

- (3) **TWENTY-FOUR HOUR PARKING PROHIBITED.** No person shall park, stop or leave standing any motor vehicle or non-motorized vehicle including trailers, boats or campers etc. whether capable of functioning or not, within the Village upon any public street, highway, alley or in any municipal parking lot which is open to the public or other area rented or owned by the Village in one place continuously for longer than a period of 24 hours consecutively. This provision does not apply to the Sturtevant Depot parking lot.

It is the intent and purpose of this section to prevent congestion on the streets, highway and alleys of the village due to the parking of vehicles for an unreasonable length of time. Mere transfer of position of the stated above items from one parking space to another in the vicinity shall not circumvent application to this section.

- (4) **DECLARATION OF SNOW EMERGENCY AND PARKING REGULATIONS.**
  - (a) Whenever snow falls during any 24 hour period to a depth of four (4) inches or more or a situation exists resulting in freezing rain resulting in ice accumulations throughout the Village of 1/8" or more, then such storm constitutes a serious public hazard impairing public transportation, public safety, and safe operations within the Village of Sturtevant and a snow emergency declaration can be issued at any time by either the Village President, Village Administrator, Public Works Committee Chairperson or a designated representative.

- (b) A snow emergency will remain in effect until such time as snowplowing or salting operations have been declared completed by the Department of Public Works Director or his/her designated representative.
  - (c) Whenever such an emergency is declared, the Police Department shall issue an announcement to not less than two (2) radio or television broadcast stations whose normal operating range includes the Village of Sturtevant.
  - (d) No person shall park, stop, or leave standing any vehicle upon any public street, highway, or alley within the Village during the emergency except for vehicles loading or unloading of passengers or property and provided that no other parking ordinance is violated for a period not to exceed 15 minutes. The provisions of this paragraph shall not apply to physicians on emergency calls.
  - (e) Any vehicle which is illegally parked on any street or alley may be moved by or under the direction of any police officer and the cost of moving and storage of such vehicle shall be added as a cost to the penalty assessed for the illegal parking of such vehicles.
- (5) **STANDING, STOPPING OR PARKING PROHIBITED DURING STATED HOURS.**
- (a) Standing, stopping or parking shall be prohibited between 7:00 AM and 3:30 PM on school days on the south side of Westminster Drive along the property between the driveways belonging to Racine Unified School District #1.
  - (b) Parking shall be prohibited except for dropping off passengers between 7:00 AM and 8:00 AM on school days on the south side of Westminster Drive from the western driveway of Racine Unified School District #1 property to a point 120' west and from the eastern driveway to a point 165' east on the south side of Westminster Drive.
  - (c) Parking shall be prohibited except for dropping off passengers between 7:00 AM and 8:00 AM on school days on the west side of 86<sup>th</sup> Street from Westminster Drive to a point 90' north from the corner on 86<sup>th</sup> Street.
- (6) **USE OF FLASHING RED WARNING LIGHTS BY SCHOOL BUS OPERATORS.** School bus operators shall use flashing red warning lights as provided in §346.48, Wis. Stats., in any and all residence and business districts within the Village whenever pupils or other authorized passengers are being loaded or unloaded at a location where there are no traffic signals and where any such persons must cross the street or highway before being loaded or after being

unloaded. The operator of a vehicle which approaches from the front or rear of any such school bus shall stop as provided in §346.48, Wis. Stats.

(7) ALTERNATE SIDE PARKING. (Cr. 697-3)

(a) General Prohibition. From December 1st through March 1st, no person shall park, stop or leave standing any vehicle on any public street in the Village of Sturtevant, between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday.

(b) Exceptions. This prohibition shall not apply to the following:

1. December 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup>, 31<sup>st</sup>, January 1<sup>st</sup> and 2<sup>nd</sup>.
2. The even-numbered side of any street on the morning of any even-numbered day.
3. The odd-numbered side of any street on the morning of any odd-numbered day.
4. Any street which is posted to provide for different parking restrictions.
5. Hawthorne Circle (all addresses are odd numbered).

(c) Notwithstanding the seasonal limitation set forth in subsection (a), those sections of Buckingham Drive and Buckingham Road between 86<sup>th</sup> Street and Mt. Pleasant Avenue shall be subject to the alternate side parking restrictions set forth at all times, with parking permitted on alternate sides of the street at 24 hour intervals beginning at 8:00 a.m. At 8:00 a.m. on an even numbered day parking will be allowed on the even side of the street until 8:00 a.m. the following day. At that time, parking will be allowed on the odd numbered side until 8:00 a.m. the next day. This will allow for alternate side parking daily, except in the event a month ends on an odd number, which will result in two odd numbered parking days in a row.

(8) PARKING OF VEHICLES ON PRIVATE PROPERTY RESTRICTED

(a) Definitions:

1. Improved Surface shall be a surface made from concrete, asphalt, gravel or material referred to as traffic bond.

- (b) No motor vehicle shall be parked on any YARD, FRONT, as defined under section 17.05 of the Code of Ordinances, area of any property that is used or zoned for residential purposes (single family or multifamily), except on a driveway or parking area that has an improved surface.
  - (c) No boat, boat trailer, truck, accessory, such as snow plows or truck caps, nor any camper, snowmobile or other recreational device shall be parked on any front lawn area which is used or zoned for residential purposes (single family or multifamily), except on a driveway or parking area that has an improved surface.
  - (d) Two wheels contacting any surface other than the driveway or other approved parking area is prima facia evidence of a violation of this section.
  - (e) This section will not apply during snow emergencies declared by the Village.
- (9) TRAILER PARKING ON VILLAGE STREETS
- (a) All trailers parked on Village of Sturtevant streets must be properly attached to a legally registered vehicle and adhere to all other parking related Ordinances.
  - (b) A special exemption permit may be acquired from the Village Clerk or Police Department for special circumstances such as construction projects at a residence or street repairs or construction.

**7.05 WEIGHT LIMITS AND HEAVY TRAFFIC ROUTES.**

- (1) HEAVY TRAFFIC ROUTES DESIGNATED. The following named streets and portions of streets are hereby designed and declared to be routes for heavy traffic:

AMERIGO AVE., from Renaissance Blvd to West Rd.

CHARLES ST., from 90<sup>th</sup> St to Wisconsin St.

DURAND AVE., from east Village limits to the west Village limits.

ENTERPRISE DR., from Renaissance Blvd to Venice Ave and from Science Dr to Stellar Ave.

EXPLORATION CT., from Renaissance Blvd east to End of Road.



LORI LN., from 90<sup>th</sup> St to 87<sup>th</sup> St.

MICHIGAN AVE, from 90<sup>th</sup> St. to Wisconsin St.

RAYNE RD., from 90<sup>th</sup> St to Wisconsin St.

RENAISSANCE BLVD., from West Rd to the north Village limits.

SCIENCE DR., from Renaissance Blvd to Enterprise Dr.

STELLAR AVE., from Renaissance Blvd to Enterprise Dr.

VENICE AVE., from Renaissance Blvd to Enterprise Dr.

WASHINGTON AVE., from east Village limits to the west Village limits.

WEST RD., from Renaissance Blvd south to the railroad tracks north of STH 11 / 105<sup>th</sup> ST.

WISCONSIN ST., from Durand Ave. to north Village limits.

87<sup>TH</sup> ST., from Lori Ln south to the Cul-de-Sac.

90<sup>TH</sup> ST., from Village limits on the south to Hwy 20.

92<sup>ND</sup> ST., from Rayne Rd to Washington Ave.

96<sup>TH</sup> ST., from Washington Ave south to Cul-de-Sac.

99<sup>TH</sup> ST., from Durand Ave north to End of Road.

105<sup>th</sup> ST., from STH 11 north to the railroad tracks.

- (2) RESTRICTIONS ON USE OF OTHER STREETS BY HEAVY TRAFFIC. No person without a permit issued under Section 17.19(6) of this Municipal Code shall operate or move a vehicle that is defined as heavy traffic in §349.17(2), Wis. Stats., excluding recreation vehicles such as motor homes and campers, on any street or alley not a part of the heavy traffic route designated in sub. (1) of this section in the Village, except for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from a place of business or residence which has an entrance on such street or alley, provided that in no event

shall the weight of the vehicle and load exceed the limitations of §348.15 or §348.16, Wis. Stats., pertaining to Class A and Class B highways.

## **7.06 OFFICIAL SIGNS AND SIGNALS.**

The Village Board shall direct and procure the erection and maintenance of appropriate standard traffic signs, signals and markings conforming to the rules of the State Department of Transportation giving notice of the provisions of this chapter. Signs shall be erected in such locations and manner as authorized by the Board as to give adequate warning to users of the street, alley or highway in question. No provision of such sections shall be enforced unless and until such signs are erected and in place and sufficiently legible to be seen by an ordinarily observant person.

## **7.07 BICYCLES.**

- (1) **REGISTRATION REQUIRED.** No person shall operate a bicycle upon any street in the Village unless such bicycle is registered and tagged as herein provided.
- (2) **APPLICATION.** Registration shall be made by filing with the Police Department the name and address of the owner, together with a complete description of the bicycle, on forms provided by the Department and paying the registration fee, if any, as may be set by resolution of the Village Board. Registrations shall be serially numbered and kept on file in the Department as a public record. Upon such registration the Department shall cause an identification tag to be affixed to the bicycle registered, serially numbered to correspond to the registration number. Such tag shall remain affixed to the bicycle unless removed by the Department for cause or the re-tagging upon re-registration. In case of theft or loss of the tag, a duplicate tag shall be issued for such amount, if any, as may be set by resolution of the Village Board.
- (3) **TERM AND FEES.** Registration shall be valid for the life of the bicycle or as long as the registered owner continues to own the bicycle, whichever is sooner.
- (4) **REMOVAL OR SUSPENSION.** No bicycle shall be registered which is in unsafe mechanical condition. The Police Department shall have authority to suspend the registration of and remove the identification tag from any bicycle operated contrary to any State law or Village ordinance or operated while in unsafe mechanical condition or in an unsafe manner, such suspension or removal to continue for a period not to exceed 10 days, provided that such registration shall not be reinstated or such identification tag be placed while such bicycle is in

unsafe mechanical condition. Such suspension and removal shall be in addition to other penalties provided hereunder.

- (5) REMOVAL, ETC. PROHIBITED. No person shall willfully remove, deface or destroy any such identification tag.
- (6) TRANSFER OR CANCELLATION. Within 10 days after any bicycle registered hereunder shall have changed ownership or been dismantled and taken out of service or operation, the person in whose name the bicycle has been registered shall report such information to the Police Department. In case of change of ownership the registration shall thereupon be changed to show the name of the new owner. In case of dismantling and taking out of service or operation, the registration shall be cancelled and identification tag returned to the Police Department.
- (7) BICYCLE REGULATIONS.
  - (a) Definitions. For the purpose of this section, “bicycle” shall mean those bicycles having larger than a 20” wheel and a 12” frame.
  - (b) Speed Limit. No person shall ride a bicycle on the streets of the Village at a speed greater than that which is reasonable and prudent under the conditions then and there existing.
  - (c) Riding on Sidewalk Prohibited. No person shall ride a bicycle in, upon or over the sidewalks or through the parks of the Village.

## **7.08 SNOWMOBILE REGULATIONS.**

- (1) USE PERMITTED. Snowmobiles shall only be operated within the Village upon the snowmobile trails established by resolution of the Village Board and on snowmobile trails established under Ch. 350, Wis. Stat. Chapter 350 of the Wisconsin Statutes is adopted herein and under Chapter 7 of the Code of Ordinances.
- (2) TRAVEL TO AND FROM SNOWMOBILE TRAILS. A snowmobile may cross and travel upon a highway to and from a snowmobile trail only as permitted under Ch. 350.02. When operation is permitted upon or adjacent to a highway snowmobiles may only travel with the flow of vehicle traffic on highways.
- (3) SPEED LIMITS. No person shall operate a snowmobile within the village at a speed that is unreasonable and improper under the circumstances and at no time

greater than applicable speed limits while permitted upon a highway within the Village and in accordance with 350.10(1)(g) and (gm).

- (4) **RESTRICTIONS ON OPERATORS.** No person under the age of 12 years shall operate, nor shall any owner knowingly authorize such person to operate, a snowmobile within the Village unless such person has a valid snowmobile safety certificate issued by the Department of Natural Resources or is accompanied by a person over 18 years of age. No person who is at least 12 years of age or older and who is born on or after January 1, 1985 may operate a snowmobile unless such person has a valid snowmobile safety certificate issued by the Department of Natural Resources.
- (5) **TRAFFIC RULES.** Unless inconsistent with this section or the Wisconsin laws applicable to snowmobiles, all traffic rules and regulations set forth in this chapter shall apply while operating a snowmobile on the streets within the Village.
- (6) **PARKS AND VILLAGE OWNED PROPERTY.** No person shall operate a snowmobile on or in any park or Village owned property in the Village, unless authorized by resolution of the Village Board.
- (7) **PASSING.** No operator of a snowmobile shall pass moving vehicles, and all snowmobiles shall travel in a single file while upon highways in the Village. All snowmobile traffic shall be restricted to the curblane, except when it is necessary to go around an obstruction, and shall conform to the flow of traffic.
- (8) **ACCIDENTS AND ACCIDENT REPORTS.**
  - (a) Insofar as he is capable of doing, the operator of a snowmobile involved in an accident within the Village shall stop his snowmobile and shall render to other persons affected thereby such assistance as may be practicable and necessary to save them from or minimize danger caused by the accident and shall give his name and address and identification of his snowmobile to any person injured and to the owner of any property damaged in the accident.
  - (b) If the snowmobile accident results in death or injury to any person or total property damage in excess of \$25, every operator of a snowmobile involved in such accident shall, as soon as possible, notify the Village Police Department of the accident and shall, within 10 days after the accident, file a written report thereof with the Police Department on forms prescribed by the Department of Natural Resources. If the snowmobile accident results in death of any person the Department of Natural Resources shall be notified.

- (c) If the operator of a snowmobile is physically incapable of making the report required by this subsection and there was another person on the snowmobile at the time of the accident capable of making the report, he or she shall make such report.
- (9) **OPERATION ON PRIVATE PREMISES RESTRICTED.** (Am. #87-5) No person shall operate a snowmobile on any private property not owned or leased by the operator within the Village without the express consent or permission of the owner or leasee of the property. Failure to post private property does not imply consent for snowmobile use.
- (10) **OPERATION ON SIDEWALKS, ALLEYS AND OTHER PROPERTIES PROHIBITED.** No person shall operate a snowmobile on any sidewalk, alley, cemetery, school, church or railroad property within the Village.
- (11) **ENFORCEMENT AND EMERGENCY OPERATION.** The Village Police Chief and Officers shall have the enforcement powers under Chapter 350.17(1). The Village Police Chief or his designee may declare snowmobile use for emergencies under Chapter 350.02(3), Wis. Stat.

## **7.09 MOTOR DRIVEN CYCLES.**

- (1) **PUBLIC POLICY.** The Village Board finds that the operation of motor driven cycles near residences within the Village is detrimental to peace, quiet and wellbeing of the Village and its residents in that such vehicles create a high degree of noise, disturbing the persons who live in the vicinity, including workers and children who are attempting to obtain needed sleep. The Village Board further finds that such activities are mostly engaged in for recreational purposes by younger persons who are not licensed to travel upon the public highways.
- (2) **DEFINITIONS.** For the purpose of this section, the following definitions shall apply:

Motor Driven Cycle. (Am. #089-3) A motor vehicle designed to travel on not more than 3 wheels in contact with the ground and having a seat for the use of the rider, including motorcycles, minibikes, power driven cycles and motor bicycles, but excluding tractors and all-terrain vehicles.

Muffler. A device consisting of a series of chambers of baffle plates or other mechanical design for receiving exhaust gases from an internal combustion engine and which is effective in reducing noise.

Residence. Any building within or without the Village which is occupied by one or more persons as a living quarters.

- (3) OPERATIONS REGULATED. No person shall operate a motor driven cycle in the Village within 300' of a residence, except for the following:
  - (a) Operation on a public highway or public right-of-way.
  - (b) Operation within 300' of a residence for the limited purpose of entering or leaving private land upon which the operator has a right to be, as for example, entering and leaving one's own driveway.
  - (c) Operation within 300' of a residence, if the operator is test driving on the premises of one engaged in the business of buying or selling motor driven cycles, but only if the operator is a prospective buyer or seller of the motor driven cycle being operated.
- (4) MUFFLER REQUIRED. No person shall operate a motor driven cycle in the Village unless it is equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise or annoying smoke.
- (5) PENALTY. Any person who shall violate any of the provisions of this section shall upon conviction forfeit not more than \$1,000 nor less than \$25 and the costs of prosecution, or in default of payment of such forfeiture and costs shall be imprisoned in the county jail for a period not to exceed 60 days for each and every offense.

#### **7.10 DISORDERLY CONDUCT WITH A MOTOR VEHICLE.**

- (1) No vehicle shall be operated in such manner as to produce loud and unnecessary squealing of tires.
- (2) No vehicle shall sound its horn, bell or other signaling device except as a danger or cautionary warning. Such warning shall only be sounded for a reasonable and necessary period of time.
- (3) No person shall race the engine of a vehicle in such a manner as to produce unreasonably loud and unnecessary engine noises.
- (4) In addition to the above, all sections within this chapter will be applied to motor vehicles where applicable.

**7.11 OBSTRUCTION OF STREETS AND HIGHWAYS BY TRAINS.**

- (1) No person shall stop or leave any railroad train, locomotive or car upon or across any highway or street crossing in the Village for longer than 10 minutes.
- (2) No person shall operate or permit to be operated any railroad train, locomotive or car upon or across any highway or street crossing in the Village to the obstruction of public traffic thereon for a longer period of time than 10 minutes.
- (3) No person shall obstruct any highway or street crossing in the Village for a continuous period of time of more than 10 minutes by the operation of more than one train or locomotive over the same crossing.
- (4) Any conductor, engineer or brakeman so stopping, standing or operating any engine or train on any highway or street crossing in violation of this section shall be subject to a forfeiture for each violation of not less than \$25 nor more than \$1,000, and the person or corporation owning or operating any such railroad train, engine or car shall be subject to a forfeiture for each violation of not less than \$100 nor more than \$1,000.

**7.12 LEAVING KEYS IN PARKED MOTOR VEHICLES PROHIBITED.**

No person shall permit a motor vehicle in his custody to stand or remain unattended on any street, alley or in any other public place, except an attended parking area, unless either the starting lever, throttle, steering apparatus, gear shift or ignition of such vehicle is locked and the key for such lock is removed from the vehicle. The foregoing provisions shall not apply to motor vehicles operated by common carriers of passengers under Ch. 194, Wis. Stats.

**7.13 NEIGHBORHOOD ELECTRIC VEHICLES PERMITTED**

- (1) DEFINITIONS. “Neighborhood Electric Vehicle” or “NEV” shall have the meaning set forth in Wis. Stat. §340.01(36r), as that section may be amended from time to time.
- (2) OPERATORS. No one may operate an NEV on any street in the Village of Sturtevant unless the operator of the NEV possesses a valid driver’s license.
- (3) PERMITTED USE OF NEVs. Subject to the limitations set forth in this Section, NEVs may be operated on any street within the Village having a posted speed limit of 35 miles-per-hour or less. A NEV may not be used on any State or

County Highway except to cross over these highways while traveling on Village streets as stated above. A NEV may not cross over any State or County Highway that has a posted speed limit greater than 35 miles per hour.

- (4) OPERATION. The operation of an NEV, as otherwise permitted by this Section, shall in all respects be in compliance with Chapter 7 of the Village Code of Ordinances and with all applicable traffic laws of the State of Wisconsin.
- (5) REGISTRATION. No NEV may be operated on any street of the Village unless the NEV has a valid registration, as required by Wisconsin Statutes.
- (6) ENFORCEMENT. Unless otherwise provided by state law, the penalty for the unauthorized use of an NEV within the Village shall be \$65.00 per occurrence, plus applicable court costs and assessments.

#### **7.14 COMPRESSION BRAKES PROHIBITED.**

- (1) The purpose of this ordinance is to prohibit the excessive, loud, unusual or explosive use of engine and compressed air-braking devices within the Village of Sturtevant. For the purposes of this ordinance the following words and phrases are defined as follows: “Engine retarding brake” means a “Dynamic Brake,” “Jake Brake,” “Jacobs Brake,” “CBrake,” “Paccar Brake,” transmission brake or any other engine retarding brake system that alters the normal compression of the engine and subsequently releases that compression.
- (2) It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the Village of Sturtevant, between the hours of 10:00 PM and 7:00 AM, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle, unless such use is necessary to avoid imminent danger. Such prohibition shall be applicable to any public highway within the Village.
- (3) Any person violating the provisions of this ordinance shall have committed a traffic offense and a penalty shall be imposed as provided in Section 7.20 (2) of the ordinances of the Village of Sturtevant.
- (4) The Director of Public Works is authorized and directed to post appropriate signs consistent with the provisions of this ordinance.
- (5) All other terms and provisions of Chapter 7 shall remain in full force and effort unless specifically modified herein.



**7.15 PENALTY.** (Am. MSC ‘91)

The penalty for violation of any provisions of this chapter shall be a forfeiture and penalty assessment if required by §165.87, Wis. Stats., a jail assessment if required by §302.46(1), Wis. Stats., plus any applicable fees prescribed in Ch. 814, Wis. Stats.

- (1) **UNIFORM OFFENSES.** (Am. #095-9) Forfeitures for violation of any provisions of Chs. 341–348, Ch. 350, or §23.33, Wis. Stats., or Ch. Trans. 305, Wis. Adm. Code, adopted by reference in Section 7.01, except for violations of §§346.50 – 346.55, Wis. Stats., shall conform to forfeitures for violation of the comparable state offenses, including any variations or increases for second offenses.
- (2) **SPECIAL LOCAL REGULATIONS.** The forfeiture for violation of provisions of this chapter for which a penalty is not provided shall be not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the second or subsequent conviction within a year.
- (3) **MISCELLANEOUS.** The forfeiture for violation of any provision of Section 7.01(2) shall not be less than \$50 nor more than \$500.
- (4) **PARKING.** The forfeiture for violation of parking regulations in Section 7.04 and for violations of Sec. 346.50-346.55 Wis. Stats., adopted by reference in Section 7.01(1) of this chapter, shall be not more than \$150.
- (5) **BICYCLE REGULATIONS.** The forfeiture for violation of any provision of Section 7.07 shall be not less than \$1 nor more than \$25. Juvenile violators may be referred to Racine County Juvenile Court.
- (6) **SNOWMOBILE REGULATIONS.** The forfeiture for violation of any provision of Section 7.08 shall not be less than \$10 nor more than \$1,000.
- (7) **COMPULSORY SAFETY SCHOOL ATTENDANCE.** The provisions of §345.60, Wis. Stats., shall apply to adjudications of violations of any provision of this chapter.

**7.16 ENFORCEMENT.** (Am. MSC ‘91; #095-9)

This chapter shall be enforced in accordance with the provisions of §§345.20 – 345.53, Ch. 800, and §66.12, Wis. Stats., and Ch. Trans. 305, Wis. Adm. Code.

- (1) CITATIONS. The uniform traffic citation promulgated under §345.11, Wis. Stats., shall be used for all moving traffic violations under this chapter. Citations for all nonmoving traffic violations shall conform to §345.28, Wis. Stats., and shall permit direct mail payment of the applicable deposit to the Village Police Department within 10 days of the issuance of the citation in lieu of court appearance.
- (2) 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 §345.27(1) and (2), Wis. Stats., 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 §345.27(1) and (2), the court shall order the judgment reopened. The court order reopening the judgment automatically reinstates the revoked or suspended operating privilege.
- (3) DEPOSITS.
  - (a) Any person arrested for a violation of this chapter may make a deposit of money as directed by the arresting officer at the Village Police Department or 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:
    1. 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 a plea of no contest and submitted to a forfeiture and penalty assessment if required by §165.87, Wis. Stats., a jail assessment if required by §302.46(1), Wis. Stats., plus any applicable fees prescribed in Ch. 814, Wis. Stats., not to exceed the amount of the deposit that the court may accept as provided in §345.37, Wis. Stats.
    2. 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.
  - (b) 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 §165.87, Wis. Stats., a jail assessment if

required by §302.46(1), Wis. Stats., 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 Chief of Police, which shall include the penalty assessment established under §165.87, Wis. Stats. Deposits for nonmoving violations shall not include the penalty assessment.

- (4) **NOTICE OF DEMERIT POINTS AND RECEIPT.** Every person accepting a forfeited penalty or money deposit under this chapter shall receipt therefor as provided in §345.26(3)(b), Wis. Stats. Every officer accepting a stipulation under the provisions of this chapter shall comply with the provisions of §§343.28 and 345.26(1)(a), Wis. Stats., and shall require the alleged violator to sign a statement of notice in substantially the form contained on the traffic citation promulgated under §345.11, Wis. Stats.
- (5) **FORFEITURES IN TREASURY.** Any officer accepting deposits or forfeited penalties under this chapter shall deliver them to the Village Clerk/Treasurer within 7 days after receipt.

## CHAPTER 8

### PUBLIC WORKS

<b><i>Section Number</i></b>	<b><i>Title</i></b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
8.01	Standard Sidewalks	2007-04	05/01/07
8.02	Uniform Assessments for Street Improvements		
8.03	Street Grades		
8.04	Establishing the Cross Section of All Unpaved Streets		
8.05	Standard for Curbs and Gutters		
8.06	Curb Lines to be Fixed and Marked		
8.07	Driveway Approaches with Curbs and Gutters		
8.08	Culverts: Cost of Installation		
8.09	Opening of Village Highways		
8.10	Jurisdiction Over Street Signs		
8.11	Street Trees	2001-17 2005-11 2007-08	06/05/01 09/20/05 08/21/07
8.12	Removal of Snow and Ice from Sidewalks		
8.13	Obstructing, Littering and Damaging of Streets, Alleys and Public Grounds	2008-07 2008-23 2014-10	05/06/08 12/16/08 12/16/14
8.14	Storing of Materials and Machinery on Streets		
8.15	Uniform Numbering System	2007-15	11/20/07
8.16	Smoking		
8.17	Additional Special Assessment Procedures	2000-28	12/05/00
8.18	Mailbox Specifications and Placement	2001-39	11/20/01
8.20	Penalty		
8.21	Public Works	2009-10	11/03/09
8.22	Recycling	2009-10	11/03/09
8.23	Unlawful Removal of Items Deposited for Collection	2009-10	11/03/09

**8.01 STANDARD SIDEWALKS.**

- (1) **SPACE RESERVED.** The space reserved for the laying of sidewalks on the public streets of the Village shall be 5' on all streets in the Village.
- (2) **GRADING.** Grading to a depth of 2" below the bottom of the sidewalk and/or driveway and parallel to the finished sidewalk surface shall be included in the price bid per square foot of sidewalk, unless otherwise specified. After the sidewalk is built to the proper grade, the parkway between the lot line and the curb line shall be properly graded with earth even with the surface of the sidewalk, the cost of grading to be included in the price bid per square foot of sidewalk, unless a separate bid price for grading is requested.
- (3) **DRIVEWAYS.** Where driveways occur, the work shall consist of the necessary grading and the placing of 6" of concrete of the same mixture as sidewalks finished the same as sidewalks unless otherwise specified.
- (4) **PREPARATION OF SUBGRADE.** Unless otherwise stated in the contract, the sidewalks will be constructed 5' wide. On the surface of the subgrade shall be placed a layer of slag sand or small broken stone to a depth of 2" to properly level the subgrade, and when thoroughly compacted either by ramming or rolling, the surface of the subgrade will be uniformly 4" below the finished grade. Before placing the concrete, the subgrade is to be thoroughly dampened. Where the sidewalk is on fill, the fill shall extend at least one foot horizontally beyond the limits of the walk and shall then be sloped down to the ground line on a slope of 2 horizontally to one vertically.
- (5) **FORMS AND JOINTS.**
  - (a) Setting Forms. The forms shall be well staked and set to the established lines, their upper edges conforming to the grade of the finished work.
  - (b) Placing and Finishing. Concrete shall be placed in successive hatches for the entire width of the slab, then bull-floated until all voids are removed and free mortar appears on the surface, thoroughly spaded along the edges, and the final troweling shall be done with a steel trowel leaving a smooth, even surface. After the water sheen has disappeared, the surface shall be given a final finish by brushing at right angles to the edge of the walk with a broom or other approved means, by drawing the brush across the sidewalk. The strokes should be slightly overlapping, producing a uniform, slightly roughened surface with parallel brush marks. Dummy joints shall extend to  $\frac{1}{4}$  the depth of the sidewalk, shall not be less than  $\frac{1}{8}$ " and not more than  $\frac{1}{4}$ " in width.

- (c) Alternative Sections: When Required. Where the entire area between the lot line and curb is covered with a concrete sidewalk, the walk shall be laid in alternate slabs, extending from curb to lot line. The width of these slabs shall be as directed by the Village Engineer, not exceeding 10', and a mastic expansion joint shall be placed at approximately 30' intervals.
  - (d) Expansion Joints. Expansion joints ½" thick shall be placed between the sidewalk and all structures such as light standards, traffic light standards, traffic poles, etc., which extend through the sidewalk. Expansion joints ½" thick shall be placed at intervals of 30' in the sidewalk. Where sidewalk is constructed adjacent to pavement or curb having expansion joints, the expansion joints in the sidewalk shall be placed opposite the existing expansion joints as nearly as practicable. Expansion joints shall also be placed where the sidewalk abuts existing sidewalks, between driveway pavement and sidewalks, and between sidewalk and curbs where the sidewalk covers the entire parkway.
  - (e) Joints Around Hydrants. When a hydrant is located in the walk area, a ¼" expansion joint shall be placed snugly around the base of the hydrant.
- (6) **MATERIALS AND CONCRETE.** The concrete material shall be an air entrained 5½ and not to exceed 6¼ bag mix and specifications as may be designated from time to time by the Village Board. Calcium chloride in no case may exceed 1%. The concrete shall contain at least 1% and not more than 6% air content.
- (7) **FINISHING.**
- (a) Tamping and Floating. The concrete must be tamped until a sufficient amount of mortar is brought to the top to permit the proper floating of the surface, which, when finished, must show a mortar surface without the appearance of any stone in the coarse aggregate.
  - (b) Troweling. The surface shall be troweled smooth and finished. The application of neat cement to the surface to hasten hardening is prohibited.
  - (c) Slab Mark. After the wearing surface has been worked to an approximately true plane, the slab mark shall be made directly over the slab Joint. Such mark shall be made with a tool that will cut completely through and entirely separate adjacent slabs.
- (8) **PROTECTION.** When completed, the work shall be kept moist and protected from the elements and from traffic for at least 3 days. The contractor must provide and use all necessary planking, clamps, etc., required to properly shape and guide the

alignment and the grade. All refuse, surplus earth and waste materials shall be cleaned up and removed from the street immediately upon the completion of the walk. All materials used shall be of the best quality and subject to the approval of the Village Board.

- (9) **PERMIT TO LAY WALK.** Every person in the Village, before building any standard sidewalk or one as good as the standard in the Village, shall make written application to the Village Board for permission to construct such walk, containing a full statement of the materials to be used in the construction of such walk, the width thereof and shall also request that the line and grade for the construction of such walk be furnished by the Village Board.
- (10) **REPAIR OF SIDEWALKS.**
  - (a) The Public Works Supervisor or his designee is authorized to order the repair, rebuilding or replacement of defective sidewalks in accordance with the ordinances of the Village. Any person ordered by the Public Works Supervisor or his designee to repair, rebuild or replace a sidewalk located on his premises shall be required to perform such work or to have the same performed in accordance with the ordinances of the Village. The Village Board shall adopt policies and procedures for the implementation of the inspection and replacement of defective sidewalks.
  - (b) The landowner with defective sidewalks shall have 30 calendar days to repair, rebuild or replace said sidewalk. The landowner shall be required to get a permit from the Village to perform said work. The landowner shall use Village approved contractors to perform the work if the work is going to be contracted out. If over 200 square feet of sidewalk is to be replaced, the landowner must post a \$2,000 bond to insure proper replacement construction.
  - (c) If the landowner does not perform the work within 30 calendar days, the Village will replace said sidewalk through a third party contractor. If the Village performs the work the landowner will be charged 100% of the cost.
  - (d) If the Village performs the work, the landowner will get a bill from the Village. If the cost of the work is under \$300, the bill shall be paid upon invoicing and if not paid the lot will be specially assessed in a lump sum against the property bill with applicable interest. If the bill is over \$300, at the option of the landowner, the special assessment will be spread over three years. Failure of the landowner to pay upon billing will, in the absence of other instructions, be considered an election to pay on the basis of a three year special assessment.

- (11) **SIDEWALKS DAMAGED BY SEWER AND WATER LINE INSTALLATION.**  
Where the Village has installed sewer and water lines on private property and has crossed or tunneled under or cut through existing sidewalk, the Village shall pay the expense of installing new panel or panels.

(12) **TIME OF INSTALLATION OF NEW SIDEWALKS.**

- (a) Sidewalks in compliance with this section shall be installed before an occupancy permit may be issued for any new construction, except as provided by this section.
- (b) If for any reason conditions exist which preclude installation of a sidewalk prior to the time that new construction is otherwise ready for occupancy, an amount or bond equal to 100% of the current cost of installation, including all fees, shall be paid to the Village Clerk/Treasurer and an occupancy permit may be issued if all other requirements therefor are complied with. (Am. #097-23)
- (c) Upon a showing to the satisfaction of the Building Inspector that a sidewalk has been properly installed, the amount paid to the Village Clerk/Treasurer shall be refunded. However, at any time after 6 months after the date of deposit, if the sidewalk has not been properly installed, the Village Board may, upon 10 days' written notice to the owner, install such sidewalk and deduct the cost thereof from the amount deposited, whereupon the balance, if any, shall be returned to the depositor and any deficiency shall be assessed against the property improved on the tax rolls in the same manner as delinquent water bills.
- (d) The provisions of this section shall not apply to any property used or occupied as a dwelling or business on the effective date of this section until such time as sewer and water mains are installed on a street adjacent to such property.
- (e) The provisions of this section shall not apply to unplatted lands, nor to platted lands where the frontage occupied by residences, public buildings or warehouses does not exceed 30% of the frontage of the block. However, the Village Board may order installation of sidewalks at any location in the Village at any time in order to establish a safe and continuous negotiable way for pedestrian traffic.
- (f) Except as provided by pars. (d) and (e), within 3 years from July 13, 1964, sidewalks shall be installed along all streets in the Village, whether or not the property is occupied or used for residential or business purposes. If a sidewalk is not properly installed within such time, the Village Board may, without notice, install such sidewalk and submit to the owner a bill for installation. If such bill is not paid within 30 days, the amount due shall be assessed against



the property improved on the tax rolls in the same manner as delinquent water bills.

- (g) Every person failing or neglecting to comply with the provisions of this section, shall be guilty of an offense, and upon conviction, shall pay a forfeiture of not less than \$1 nor more than \$50, together with the costs of prosecution, and upon failure to pay such forfeiture and costs, be committed to the County Jail for a period not to exceed 10 days.
- (13) CORNER LOTS. The entire cost of construction of all sidewalks on a corner lot shall be borne by the owner.
- (14) SURVEYOR'S FEE. Prior to installing any sidewalk pursuant to sub. (12), the owner of the property shall agree to pay to the Village a surveyor's fee equal to the cost to the Village for establishing the line and grade necessary for the proper installation of the sidewalk. The owner shall pay a deposit of \$100 to be applied against such costs. In the case of a sidewalk to be installed pursuant to sub. (12)(a), the payment shall be made to the Building Inspector or such other person as the Village Board may designate, as a condition of obtaining a building permit. All other payments shall be made to the Village Clerk/Treasurer. After the sidewalk installation has been completed, the Village shall account to the owner for the cost of such surveyor's fee. The Village shall remit to the owner any excess deposit or shall submit a statement to the owner for any deficiency over and above the deposit. Any such deficiency shall be payable within 30 days. In the event of nonpayment, the same shall be carried on to the next tax roll as a tax against the property of the owner fronting on the installed sidewalk.

## **8.02 UNIFORM ASSESSMENTS FOR STREET IMPROVEMENTS.**

- (1) STANDARDS OF ASSESSMENTS. The following standards are adopted for the determination of special assessments against benefited properties for street improvements in the Village, including streets, curbs, gutters and driveway approaches:
  - (a) Basis of Assessment. Properties shall be assessed on the basis of an average footage cost of the improvements.
  - (b) Standard Lots. Properties will be assessed at 80% of the actual front foot cost of the project.
  - (c) Corner Lots. The first 60' on the long side of a corner lot shall be exempted. The remainder of the long side and the short side of a corner lot shall be assessed at 80% of the actual front foot cost of the project.

- (d) Driveway Approaches. Driveway approaches shall be assessed at 100% of the cost of such approaches to the property.
  - (e) Village Properties, Intersections and Alleys. All Village property frontage and all intersections and alleys shall be paid by the Village and shall not be assessed to other properties in the project.
  - (f) Installments. At the option of the property owner, assessments may be paid in 10 annual installments. Interest shall be charged at the same rate at which the Village borrows funds to finance the project. No carrying charges shall be charged to the property owners.
- (2) **SUBDIVISIONS**. The provisions herein shall not in any way reduce the obligations of subdividers to install public improvements in subdivisions as a part of plat approval as provided in Ch. 18 of this Municipal Code.

### **8.03 STREET GRADES**

The following street grades within the Village are hereby established (all grades are on USGS Datum):

(1) **87TH STREET**. (Am. #089-17)

	<u>Elevation</u>
At a point 385' north of the centerline of Durand Ave.	694.50
At a point 435' north of the centerline of Durand Ave.	693.82
At a point 485' north of the centerline of Durand Ave.	692.86
At a point 560' north of the centerline of Durand Ave.	691.42
At the centerline of Corliss Ave.	690.66
At a point 760' north of the centerline of Durand Ave.	689.54
At a point 960' north of the centerline of Durand Ave.	691.58
At a point 1,060' north of the centerline of Durand Ave.	693.58
At a point 1,160' north of the centerline of Durand Ave.	694.71
At a point 1,260' north of the centerline of Durand Ave.	694.10
At a point 1,485' north of the centerline of Durand Ave.	690.77
At a point 1,510' north of the centerline of Durand Ave.	690.64
At a point 1,535' north of the centerline of Durand Ave.	691.00
At the C.M. St. P. & P. RR south right-of-way	691.22

- (2) **90TH STREET**. Beginning at station 0-00, such station being described as the west ¼ corner of Section 27, T3N, R22E, Racine County, Wisconsin, with stationing to increase to the north, along the west lines of Section 27 and 22, T3N, R22E, and with intervals of 100' between stations.

<u>Station</u>	<u>Description</u>	<u>Elevation</u>
Sta. 0-00	Future centerline of Broadway Dr.	703.30
Sta. 0-45	North line of Broadway Dr.	703.28
Sta. 2-90.59	South line of Boys Dr.	699.80
Sta. 3-50.59	North line of Boys Dr.	699.80
Sta. 5-96.18	South line of Carol Ann Dr.	696.46
Sta. 6-56.18	North line of Carol Ann Dr.	696.46
Sta. 9-01.77	South line of Hulda Ave.	694.99
Sta. 9-61.77	North line of Hulda Ave.	694.99
Sta. 12-00		696.18
Sta. 12-91.87		697.60
Sta. 14-41.87	South line of Mount Pleasant Ave.	701.30
Sta. 15-01.87	North line of Mount Pleasant Ave.	701.30
Sta. 16-16.87		704.00
Sta. 17-91.87		706.70
Sta. 19-82.15	South line of Chandler Ave.	708.30
Sta. 20-42.15	North line of Chandler Ave.	708.30
Sta. 23-20.15		706.90
Sta. 24-98.65		703.30
Sta. 25-98.65	South line of Durand Ave.	702.50
Sta. 26-78.65	North line of Durand Ave.	702.00
Sta. 28-40.65		698.20
Sta. 32-18.65	South line of Corliss Ave.	693.36
Sta. 32-78.65	North line of Corliss Ave.	693.36
Sta. 34-00		693.97
Sta. 35-43.65		695.98
Sta. 37-43.65		699.18
Sta. 38-34.49	P.C.V.C.	701.16
Sta. 38-74.49	P.T.V.C.	701.70
Sta. 38-94.89	P.C.V.C.	701.80
Sta. 39-34.89	P.T.V.C.	702.31
Sta. 40-05.32	P.C.V.C.	703.76
Sta. 41-05.32	P.T.V.C.	704.90
Sta. 41-55.15		705.25
Sta. 41-60	P.C.V.C.	705.27
Sta. 43-60	P.T.V.C.	705.27
Sta. 47-37	P.C.V.C.	703.38
Sta. 49-37	P.T.V.C.	699.09

## (3) 91ST STREET. (Am. #088-12)

	<u>Elevation</u>
At a point 19' north of the north line of Durand Ave.	701.55
At a point 110' north of the north line of Durand Ave.	700.80
At a point 260' north of the north line of Durand Ave.	699.24
At the centerline of Corliss Ave.	697.51
At a point 90' north of the centerline of Corliss Ave.	699.00
At a point 240' north of the centerline of Corliss Ave.	701.83
At a point 390' north of the centerline of Corliss Ave.	702.96
At a point 490' north of the centerline of Corliss Ave.	704.20
At a centerline of Michigan Ave.	705.21
At the north right-of-way line of Hulda Ave.	696.52
At a point 250' north of the centerline of Hulda Ave.	699.21
At a point 300' north of the centerline of Hulda Ave.	700.21
At a point 400' north of the centerline of Hulda Ave.	702.81
At a point 500' north of the centerline of Hulda Ave.	705.24
At the north right-of-way line of Mt. Pleasant Ave.	705.65
At a point 360' north of the centerline of Mt. Pleasant Ave.	709.20
At a point 507' north of the centerline of Mt. Pleasant Ave.	709.98
At the north right-of-way of Chandler Ave.	709.93
At a point 187' north of the centerline of Chandler Ave.	711.50

## (4) 92ND STREET. (Am. #088-12)

	<u>Elevation</u>
At the centerline of Corliss Ave.	705.25
At a point 10' north of the north line of Corliss Ave.	706.45
At a point 60' north of the north line of Corliss Ave.	707.77
At a point 160' north of the north line of Corliss Ave.	711.50
At a point 310' north of the north line of Corliss Ave.	712.89
At a point 460' north of the north line of Corliss Ave.	713.67
At the south line of Corliss Ave.	705.74
At a point 18' south of the south line of Corliss Ave.	705.08
At a point 533' south of the south line of Corliss Ave.	703.96
At the centerline of Michigan Ave.	713.14
At the centerline of Chandler Ave.	706.13
At a point 50' north of the centerline of Chandler Ave.	706.23
At a point 170' north of the centerline of Chandler Ave.	705.75
At a point 270' north of the centerline of Chandler Ave.	705.11
At a point 345' north of the centerline of Chandler Ave.	704.82
At the centerline of Mt. Pleasant Ave.	710.09
At a point 211' north of the centerline of Mt. Pleasant Ave.	708.75

At a point 261' north of the centerline of Mt. Pleasant Ave.	708.27
At a point 361' north of the centerline of Mt. Pleasant Ave.	707.11
At a point 461' north of the centerline of Mt. Pleasant Ave.	706.51
At the centerline of Hulda Dr.	699.80
At a point 50' north of the centerline of Hulda Dr.	700.31
At a point 125' north of the centerline of Hulda Dr.	701.90
At a point 150' north of the centerline of Hulda Dr.	702.20
At a point 300' north of the centerline of Hulda Dr.	705.68
At a point 450' north of the centerline of Hulda Dr.	708.92
At the south line of Carol Ann Dr.	699.80
At the centerline of Boys Dr.	701.20

## (5) 93RD STREET. (Am. #088-12)

	<u>Elevation</u>
At the north right-of-way line of Broadway Dr.	704.14
At a point 200' north of the centerline of Broadway Dr.	703.50
At a point 400' north of the centerline of Broadway Dr.	702.50
At a point 563' north of the centerline of Broadway Dr.	701.40
At the centerline of Carol Ann Dr.	701.55
At the centerline of Hulda Dr.	702.90
At a point 50' north of the centerline of Hulda Dr.	703.38
At a point 300' north of the centerline of Hulda Dr.	708.38
At a point 350' north of the centerline of Hulda Dr.	709.44
At a point 400' north of the centerline of Hulda Dr.	710.20
At a point 450' north of the centerline of Hulda Dr.	711.24
At the centerline of Mr. Pleasant Ave.	712.18
At a point 15' north of the centerline of Mt. Pleasant Ave.	712.13
At a point 50' north of the centerline of Mt. Pleasant Ave.	712.70
At a point 160' north of the centerline of Mt. Pleasant Ave.	713.80
At a point 210' north of the centerline of Mt. Pleasant Ave.	714.10
At a point 260' north of the centerline of Mt. Pleasant Ave.	713.87
At a point 310' north of the centerline of Mt. Pleasant Ave.	712.58
At a point 360' north of the centerline of Mt. Pleasant Ave.	710.76
At a point 407' north of the centerline of Mt. Pleasant Ave.	708.65
At a point 457' north of the centerline of Mt. Pleasant Ave.	707.42
At the centerline of Chandler Ave.	706.80
At a point 95' north of the centerline of Chandler Ave.	707.08
At a point 270' north of the centerline of Chandler Ave.	705.85
At a point 320' north of the centerline of Chandler Ave.	705.38
At a point 430' north of the centerline of Chandler Ave.	704.98
At a point 510' north of the centerline of Chandler Ave.	706.70
At a point 520' north of the centerline of Chandler Ave.	707.16
At a point 570' north of the centerline of Chandler Ave.	708.79

At a point 65' north of the north line of Durand Ave.	711.64
At a point 165' north of the north line of Durand Ave.	713.64
At a point 265' north of the north line of Durand Ave.	715.30
At a point 525' north of the north line of Durand Ave.	716.41
At the centerline of Corliss Ave.	716.33
At a point 65' north of the north line of Corliss Ave.	717.12
At a point 165' north of the north line of Corliss Ave.	717.48
At a point 290' north of the north line of Corliss Ave.	716.93
At a point 415' north of the north line of Corliss Ave.	715.38
At the centerline of Michigan Ave.	715.05

## (6) 94TH STREET. (Am. #088-12)

	<u>Elevation</u>
At the centerline of Hulda Ave.	706.30
At the centerline of Mt. Pleasant Ave.	713.35
At a point 100' north of the centerline of Mt. Pleasant Ave.	713.05
At a point 150' north of the centerline of Mt. Pleasant Ave.	712.65
At a point 200' north of the centerline of Mt. Pleasant Ave.	712.05
At a point 300' north of the centerline of Mt. Pleasant Ave.	710.61
At a point 350' north of the centerline of Mt. Pleasant Ave.	710.17
At a point 400' north of the centerline of Mt. Pleasant Ave.	709.55
At a point 450' north of the centerline of Mt. Pleasant Ave.	709.01
At the centerline of Chandler Ave.	708.50
At a point 59' north of the centerline of Chandler Ave.	708.94
At a point 109' north of the centerline of Chandler Ave.	709.15
At a point 209' north of the centerline of Chandler Ave.	709.71
At a point 309' north of the centerline of Chandler Ave.	711.63
At a point 409' north of the centerline of Chandler Ave.	713.29
At a point 459' north of the centerline of Chandler Ave.	713.93
At a point 509' north of the centerline of Chandler Ave.	714.93
At a point 559' north of the centerline of Chandler Ave.	715.94
At a point 220' north of the north line of Durand Ave.	717.82
At a point 370' north of the north line of Durand Ave.	718.48
At a point 520' north of the north line of Durand Ave.	719.20
At the centerline of Corliss Ave.	718.80
At a point 15' north of the north line of Corliss Ave.	718.91
At a point 265' north of the north line of Corliss Ave.	716.91
At the centerline of Michigan Ave.	715.88

## (7) 95TH STREET. (Am. #088-12)

	<u>Elevation</u>
At the centerline of Hulda Ave.	707.78

At a point 150' north of the centerline of Hulda Ave.	708.62
At the centerline of Mt. Pleasant Ave.	710.96
At a point 35' north of the centerline of Mt. Pleasant Ave.	710.78
At a point 200' north of the centerline of Mt. Pleasant Ave.	711.37
At a point 225' north of the centerline of Mt. Pleasant Ave.	711.30
At a point 475' north of the centerline of Mt. Pleasant Ave.	712.05
At the centerline of Chandler Ave.	712.35
At a point 19' north of the centerline of Chandler Ave.	712.55
At a point 69' north of the centerline of Chandler Ave.	713.25
At a point 219' north of the centerline of Chandler Ave.	717.00
At a point 269' north of the centerline of Chandler Ave.	717.80
At a point 519' north of the centerline of Chandler Ave.	720.40
At the south right-of-way line of Durand Ave.	721.00
At a point 65' north of the north line of Durand Ave.	721.33
At a point 340' north of the north line of Durand Ave.	720.35
At a point 417' north of the north line of Durand Ave.	720.63
At the centerline of Corliss Ave.	720.00
At a point 260' north of the north line of Corliss Ave.	717.48
At the centerline of Michigan Ave.	716.76

## (8) 96TH STREET. (Am. #088-12)

	<u>Elevation</u>
At a point 360' north of the centerline of Hulda Dr.	712.22
At a point 303' north of the centerline of Hulda Dr.	711.44
At a point 100' north of the centerline of Hulda Dr.	709.98
At the centerline of Hulda Dr.	709.30
At a point 60' south of the south line of Hulda Dr.	709.60
At the centerline of Carol Ann Dr.	706.48
At a point 53.4' north of the centerline of Durand Ave.	724.02
At a point 457.4' north of the centerline of Durand Ave.	723.05
At the centerline of Corliss Ave.	721.65
At a point 100' north of the centerline of Corliss Ave.	720.95
At a point 200' north of the centerline of Corliss Ave.	720.15
At the centerline of Michigan St.	718.78

## (9) 97TH STREET.

	<u>Elevation</u>
At the south line of Chandler Subdivision	708.80
At the centerline of Mount Pleasant Ave.	712.80
At the centerline of Hulda Dr.	710.80
At the centerline of Chandler Ave.	713.80
At a point 190' north of the north line of Chandler Ave.	715.80
At the centerline of Valley St.	722.20

At a point 94' north of the north line of Durand Ave.	728.78
At a point 194' north of the north line of Durand Ave.	729.32
At the centerline of Corliss Ave.	725.80
At the centerline of Michigan Ave.	722.93

## (10) MICHIGAN AVENUE.

	<u>Elevation</u>
At the east right-of-way line of Wisconsin St.	726.30
At a point 150' east of the centerline of Wisconsin St.	725.40
At a point 300' east of the centerline of Wisconsin St.	723.45
At the centerline of 97th St.	722.93
At a point 29' east of the centerline of 97th St.	722.70
At a point 279' east of the centerline of 97th St.	719.20
At the centerline of 96th St.	718.78
At a point 243' east of the centerline of 96th St.	717.01
At the centerline of 95th St.	716.76
At a point 162' east of the centerline of 95th St.	716.30
At the centerline of 94th St.	715.88
At the centerline of 93rd St.	715.05
At a point 150' east of the centerline of 93rd St.	714.30
At a point 250' east of the centerline of 93rd St.	713.92
At the centerline of 92nd St.	713.14
At a point 116' east of the centerline of 92nd St.	710.56
At a point 216' east of the centerline of 92nd St.	707.58
At a point 316' east of the centerline of 92nd St.	705.42
At the centerline of 91st St.	705.21
At a point 134' east of the centerline of 91st St.	703.40
At the west right-of-way line of 90th St.	702.10

## (11) CORLISS AVENUE. (Am. #089-17)

	<u>Elevation</u>
At the east line of 90th St.	693.39
At a point 397' east of the centerline of 90th St.	691.96
At a point 442' east of the centerline of 90th St.	691.91
At a point 447' east of the centerline of 90th St.	691.96
At a point 547' east of the centerline of 90th St.	692.36
At a point 572' east of the centerline of 90th St.	692.41
At a point 597' east of the centerline of 90th St.	692.36
At a point 822' east of the centerline of 90th St.	691.46
At a point 847' east of the centerline of 90th St.	691.32
At a point 872' east of the centerline of 90th St.	691.10
At the west line of 87th St.	690.35
At the centerline of 87th St.	690.66



At the east line of 87th St.	690.35
At a point 1,072' east of the centerline of 90th St.	691.43
At a point 1,122' east of the centerline of 90th St.	691.67
At a point 1,172' east of the centerline of 90th St.	691.25
At a point 1,322' east of the centerline of 90th St.	689.03

## (12) CHANDLER AVENUE. (Am. #088-12)

	<u>Elevation</u>
At the centerline of 97th St.	713.80
At the centerline of 95th St.	712.35
At the east line of 95th St.	712.12
At a point 100' east of the centerline of 95th St.	711.10
At a point 300' east of the centerline of 95th St.	708.62
At the centerline of 94th St.	708.50
At a point 70' east of the centerline of 94th St.	708.02
At a point 300' east of the centerline of 94th St.	706.92
At the centerline of 93rd St.	706.80
At a point 33' east of the centerline of 93rd St.	706.75
At a point 315' east of the centerline of 93rd St.	705.86
At the centerline of 92nd St.	706.13
At a point 35' east of the centerline of 92nd St.	706.16
At a point 285' east of the centerline of 92nd St.	709.86
At the centerline of 91st St.	710.30
At a point 27' east of the centerline of 91st St.	710.08
At the west line of 90th St.	708.37
At the centerline of 90th St.	708.30

## (13) MT. PLEASANT AVENUE. (Am. #088-12)

	<u>Elevation</u>
At the centerline of Buckingham Rd.	695.94
At a point 35' east of the centerline of 90th St.	701.02
At a point 135' east of the centerline of 90th St.	699.52
At a point 200' east of the centerline of 90th St.	697.99
At a point 279' east of the centerline of 90th St.	696.40
At the centerline of 90th St.	701.30
At a point 250' west of the centerline of 90th St.	705.01
At the centerline of 91st St.	705.71
At a point 136' west of the centerline of 91st St.	707.78
At a point 261' west of the centerline of 91st St.	709.48
At the centerline of 92nd St.	710.09
At a point 20' west of the centerline of 92nd St.	710.04
At a point 80' west of the centerline of 92nd St.	710.38
At a point 180' west of the centerline of 92nd St.	710.98

At a point 280' west of the centerline of 92nd St.	712.02
At the centerline of 93rd St.	712.18
At a point 20' west of the centerline of 93rd St.	712.12
At a point 150' west of the centerline of 93rd St.	712.67
At a point 190' west of the centerline of 93rd St.	713.33
At a point 240' west of the centerline of 93rd St.	713.66
At a point 325' west of the centerline of 93rd St.	713.39
At the centerline of 94th St.	713.35
At a point 70' west of the centerline of 94th St.	712.73
At a point 120' west of the centerline of 94th St.	712.55
At a point 270' west of the centerline of 94th St.	711.41
At the centerline of 95th St.	710.80
At the centerline of 97th St.	712.80

(14) DURAND AVENUE. All grades shall be as established by the Wisconsin Department of Transportation.

(15) CAROL ANN DRIVE.

	<u>Elevation</u>
At the centerline of 90th St.	696.47
At the centerline of 92nd St.	699.85
At the centerline of 93rd St.	701.55

(16) BOYS DRIVE.

	<u>Elevation</u>
At the centerline of 90th St.	699.79
At the west right-of-way line of 90th St.	699.70
At a point 500' west of the centerline of 90th St.	702.00
At a point 683' west of the centerline of 90th St.	701.20
At the centerline of 92nd St.	701.20

(17) HULDA DRIVE. (Am. #088-12)

	<u>Elevation</u>
At the centerline of 90th St.	694.80
At the centerline of 91st St.	696.80
At the centerline of 92nd St.	699.80
At the centerline of 93rd St.	702.90
At the centerline of 94th St.	706.30
At the centerline of 95th St.	707.78
At the centerline of 96th St.	709.30
At the centerline of 97th St.	710.80

## (18) ALLEYS IN BLOCK 1, TOWNSITE OF CORLISS.

	<u>Elevation</u>
At the centerline of the east and west alley at the east line of Wisconsin St.	729.88
At the centerline of the intersection of north and south alley and the east and west alley	731.80
At the centerline of the east and west alley at the west line of 97th St.	729.08
At the centerline of the north and south alley 202' north of the north line of the east and west alley	730.00
At the centerline of the north and south alley 277' north of the north line of the east and west alley	729.43
At the centerline of the north and south alley 327' north of the north line of the east and west alley.	728.70
At the centerline of the north and south alley 352' north of the north line of the east and west alley	728.16

## (19) BROADWAY DRIVE.

	<u>Elevation</u>
At the centerline of Buckingham Rd.	697.42
At the west line of Buckingham Rd.	697.42
At the centerline of Kennsington Square Rd.	684.00
At the east line of Kennsington Square Rd.	684.00
At a point 130' east of the east line of Kennsington Square Rd.	683.35

## (20) BUCKINGHAM ROAD.

	<u>Elevation</u>
At the north right-of-way line of Broadway Dr.	697.27
At a point 722' north of the north right-of-way line of Broadway Dr.	694.10
At a point 872' north of the north right-of-way line of Broadway Dr.	693.11
At the centerline of East Coventry Dr.	692.98
At a point 22' north of the centerline of East Coventry Dr.	693.08
At a point 422' north of the centerline of East Coventry Dr.	695.44
At the centerline of Mount Pleasant Ave.	695.96
At a point 139' north of the centerline of Mount Pleasant Ave.	698.34
At a point 289' north of the centerline of Mount Pleasant Ave.	701.79
At the centerline of Buckingham Dr.	703.80

## (21) EAST COVENTRY DRIVE.

	<u>Elevation</u>
At the centerline of Buckingham Rd.	692.98
At a point 100' east of the centerline of Buckingham Rd.	691.48
At a point 150' east of the centerline of Buckingham Rd.	690.48
At a point 250' east of the centerline of Buckingham Rd.	688.68

## (22) SOUTH KENNEDY DRIVE.

	<u>Elevation</u>
At the north right-of-way line of Broadway Dr.	688.42
At a point 200' north of the centerline of Broadway Dr.	689.95
At a point 380' north of the centerline of Broadway Dr.	690.85
At the centerline of East Coventry Dr.	688.66
At the centerline of Westminster Dr.	687.73
At a point 60' north of the centerline of Westminster Dr.	688.37
At a point 240' north of the centerline of Westminster Dr.	692.21
At the centerline of Westbrook Dr.	692.86

## (23) KENNSINGTON DRIVE.

	<u>Elevation</u>
At the centerline of Westminster Dr.	686.50
At a point 300' south of the centerline of Westminster Dr.	685.30
At a point 600' south of the centerline of Westminster Dr.	683.80
At a point 960' south of the centerline of Westminster Dr.	685.38
At the centerline of Broadway Dr.	684.25

## (24) WESTMINSTER DRIVE. (Am. #091-10)

	<u>Elevation</u>
At the centerline of South Kennedy Dr.	687.73
At the centerline of Kennsington Dr.	686.50
At a point 50' east of the centerline of Kennsington Square Rd.	686.80
At a point 250' east of the centerline of Kennsington Square Rd.	690.20
At the centerline of 86th St.	690.08
At a point 134' east of the centerline of 86th St.	688.95
At a point 534' east of the centerline of 86th St.	686.95

## (25) 86TH STREET. (Am. #091-10)

	<u>Elevation</u>
At the centerline of Westminster Dr.	690.08
At a point 30' north of the centerline of Westminster Dr.	689.98
At the centerline of Westbrook Dr.	691.33
At the centerline of Buckingham Dr.	692.94

At a point 128' north of the centerline of Buckingham Dr.	693.58
At a point 529' north of the centerline of Buckingham Dr.	698.38
At a point 50' south of the centerline of STH 11	696.36

## (26) BUCKINGHAM DRIVE. (Am. #091-10)

	<u>Elevation</u>
At the centerline of Buckingham Rd.	703.80
At a point 72' east of the centerline of Buckingham Rd.	703.25
At a point 422' east of the centerline of Buckingham Rd.	701.29
At a point 522' east of the centerline of Buckingham Rd.	700.55
At a point 772' east of the centerline of Buckingham Rd.	697.13
At a point 872' east of the centerline of Buckingham Rd.	694.97
At the centerline of 86th St.	692.94
At the west right-of-way line of 86th St.	693.32

## (27) WESTBROOK DRIVE. (Am. #091-10)

	<u>Elevation</u>
At the centerline of South Kennedy Dr.	692.86
At a point 32' east of the centerline of South Kennedy Dr.	692.91
At a point 255' east of the centerline of South Kennedy Dr.	695.32
At a point 455' east of the centerline of South Kennedy Dr.	694.52
At the centerline of 86th St.	691.31

## (28) KENNSINGTON SQUARE ROAD.

	<u>Elevation</u>
At the centerline of Broadway	684.00
At the centerline of Westminster Dr.	686.50

**8.04 ESTABLISHING THE CROSS SECTION OF ALL UNPAVED STREETS.**

- (1) CENTERLINE. The centerline of all unpaved streets in the Village shall conform to the established grade.
- (2) TOP OF CURBS. The top of the curbs shall also conform to the established grade.
- (3) GUTTERS. The gutters shall not be more than 8" and not less than 6" below the centerline of the streets, to be fixed within those limits so as to provide for proper drainage.
- (4) CROSS SECTION. The cross section of all unpaved streets shall be of the form known as "quarter crown"; that is, at a point equally distant from the centerline and

the curb line, the fall from the centerline shall be equal to  $\frac{1}{4}$  of the total amount of the crown.

#### **8.05 STANDARDS FOR CURBS AND GUTTERS.**

- (1) ESTABLISHED. Unless otherwise specified or authorized in writing by the Village Board, curbs and gutters hereafter constructed within the Village shall be in conformity with the standards set forth in this section.
- (2) WORKMANSHIP.
  - (a) Combined curb and gutter shall be constructed on a solid foundation and shall be built of one course construction. When built as a part of a paving project, they shall be doweled to the pavement with  $\frac{1}{2}$ " deformed steel bars 2' long, spaced 30" on centers. The concrete shall be finished true to the line and grade established by the Village Engineer. All exposed surfaces shall be finished with a steel trowel followed by transverse brushing.
  - (b) Transverse contraction joints shall be formed by inserting steel plates in the forms and removing them during the finishing operation. Such joints shall be spaced 10' apart.
  - (c) Transverse expansion joints shall be located at the end of every radius and at intervals of not less than 200' nor more than 400' within the blocks, as directed by the plans or the Village Engineer. Such joints shall be  $\frac{3}{4}$ " thick.
  - (d) All transverse joints shall extend entirely through the curb and gutter so concrete cannot span the joint. Joints shall be perpendicular to the face of the curb and the grade of the gutter.
  - (e) One-half inch expansion joints shall be placed to the back of the curb at all places where sidewalks, approach aprons and similar structures abut the curb.
- (3) MATERIALS.
  - (a) All cement used for curb and gutter shall be air-entraining Portland cement which conforms to A.S.T.M. Specification C-176-56. Specification C-150-55 Type 1 may be used with an air-entraining agent added to provide 5% to 8% entrained air. Cement used for underground structures shall be standard Portland cement conforming to A.S.T.M. Specification C-150-55 Type 1.
  - (b) In addition to the air-entraining agent, other admixtures to provide better workability may be used and a reduction in cement content up to  $\frac{1}{2}$  bag per

cubic yard of concrete will be allowed, but only upon written request and where it can be definitely shown that such admixtures will maintain the strength of the concrete.

- (c) Sand shall be clean, washed and well graded from fine to coarse and shall be free from clay, silt, organic matter or other deleterious material. In size it shall range from that passing a 1/4" screen to that retained on a 100-mesh sieve.
  - (d) Coarse aggregate shall be crushed stone or crushed gravel which shall have been washed after crushing. It shall be free from crusher dust, clay balls, silt, organic matter or other deleterious material. Stones ranging in size from that passing a 3/4" screen to that retained on a 1/4" screen shall be used.
- (4) TESTING. Specimens for compression tests shall consist of 12" cylinders 6" in diameter. At least 2 specimens shall be taken from each daily pour of more than 25 yds. Additional specimens may be required by the plans or the Village Engineer. Contractor shall, at his own cost, provide all equipment necessary to obtain such specimens and shall ship the cylinders to the testing laboratory directed by the Village Engineer.

#### **8.06 CURB LINES TO BE FIXED AND MARKED.**

The curb line on all streets shall be established and located by the Village Engineer, and permanent marks or monuments placed in and upon such streets, and every person who shall erect, build or construct any sidewalk, curb or any other structure whatsoever, or cause to be erected, built or constructed any sidewalk, curb or any other structure, outside of such curb line as established and located by the Village Engineer shall be guilty of a violation of this code.

#### **8.07 DRIVEWAY APPROACHES WITH CURBS AND GUTTERS.**

All driveway approaches abutting permanent streets shall be poured concrete according to specifications contained in Section 8.05(3) of this chapter.

#### **8.08 CULVERTS: COST OF INSTALLATION.**

- (1) Whenever, in the opinion of the Village Engineer, it shall be necessary to install a new culvert underneath a private driveway entering onto a public street to facilitate or provide proper drainage, a culvert of such material, size and dimension as is prescribed by the Village Engineer shall be installed at the cost of the owner of the property served by such driveway. However, the cost to the property owner shall not exceed the price of the installed culvert, such price to be determined at the time of installation.

- (2) When the installation of a new culvert is necessary due to damage to an existing culvert by the Village, as a result of construction contracted for by the Village, or if the existing culvert has become unserviceable due to neglect on the part of the Village in maintaining proper flow through the culvert, the Village will assume the cost of the new culvert.
- (3) When the installation of a new culvert is necessary due to natural deterioration or disintegration, or due to damage by persons not under hire by or acting for the Village, or if the existing culvert was of such construction or material so as not to meet the requirements of the Public Works Committee, the cost for the new culvert shall be borne by the property owner.
- (4) When the installation of a new culvert is necessary to replace an existing culvert which is of insufficient cross section for proper drainage, the property owner shall pay the difference between the then current cost of the size culvert removed and the then current cost of the new culvert, provided that the existing culvert meets all the requirements of the Public Works Committee other than size. If the existing culvert is of 12” or larger size and meets all the requirements of the Public Works Committee other than size, there will be no charge to the property owner.

#### **8.09 OPENING OF VILLAGE HIGHWAYS.** (Rep. & recr. #98-07)

- (1) **PERMIT REQUIRED.** Any person, firm, corporation, utility, or other entity (“Permittee”) who wishes to excavate or place an obstruction within any Village highway shall first obtain a permit from the Director of Public Works or an authorized representative. For the purpose of this section, “highway” means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel.
- (2) **PERMIT REQUIREMENTS.** In order to obtain a permit, an application must be completed upon a form provided by the Village Clerk/Treasurer. In addition, a permit fee, in an amount established by resolution of the Village Board from time to time, must be paid to the Village Clerk/Treasurer. No permit fee shall be refunded. The issuance and acceptance of the permit shall obligate the Permittee to the following conditions:
  - (a) A cash bond or irrevocable letter of credit in the amount of \$1,250 shall be filed with the Village Clerk/Treasurer. Such cash bond or letter of credit shall be held by the Village to guarantee the conditions of the permit for a period of two (2) years from the date of the issuance of the permit.



- (b) The Permittee agrees to indemnify and hold harmless the Village, its employees and its agents, from any cost, claim, suit, liability and/or award which might come, be brought, or be assessed, because of the issuance or exercise of this permit, or because of any adverse effect upon any person or property which is attributed to the partially or entirety completed works of the Permittee.
- (c) The Village of Sturtevant, through its Director of Public Works or an authorized representative, shall have complete authority at all times over construction or repair operations which may have an influence on the highway.
- (d) The permitted facilities shall, if necessary, be altered at the expense of the Permittee to permit alteration, improvement, or maintenance of the highway as may hereafter be ordered. The entire cost of constructing and maintaining the permitted work shall be the obligation of the Permittee unless a contract for such costs has been executed.
- (e) This permit authorizes only the described works of and for the Permittee indicated on the face of the permit. It does not grant authority for the facilities of any other person or entity, either by present installation or future installation.
- (f) This permit does not transfer any land, or give, grant or convey any land right nor easement.
- (g) No part of the permitted work operations shall be commenced until warning signs, devices and methods to protect the public are established, in place and fully functional. Warning signs and devices shall conform to the appropriate sizes, design and arrangements specified within the most current “Wisconsin Department of Transportation’s Manual on Uniform Traffic Control Devices.” It shall be the responsibility of the Permittee to provide and maintain at least the quantity of signs and devices therein described, but to also supplement those with such additional signs, devices and flagmen as are necessary to functionally protect persons and property from injury or damage at all times and under all conditions, including changed or changing conditions. The Permittee shall assure that all traffic control facilities are well maintained and functional until all operations related to the permitted work are completed.
- (h) Issuance of this permit does not constitute authority for any interference with traffic. A minimum of one lane of traffic shall be open at all times. Whenever the contractor’s operations obstruct or endanger a traffic lane and no marked detour has been provided, the contractor shall furnish a flagman to direct traffic

through or around the congested area. The Village shall have the right to require additional flagmen as it shall deem necessary.

- (i) Vehicles, equipment, and materials shall not be stored on the live lanes of the highway at any time. No vehicles or supplies shall be stored on the shoulder areas directly opposite the area of current operation. The Permittee shall regulate equipment, material, and vehicles to assure consistently safe conditions. Any material or equipment left on the shoulder areas overnight shall be properly marked with standard flashers.
- (j) It shall be the responsibility of the Permittee to determine the location of and protect or cause to be protected from any damage, any facilities already in place in the area to be influenced by the permitted work. All notification of others is likewise the responsibility of the Permittee.
- (k) The Permittee shall be responsible for perpetuating all existing section corner markers which might be affected by the work authorized by this permit. The County Surveyor shall be notified prior to any section corner monument being disturbed or removed.
- (l) All disturbed areas shall be returned to their present condition or better, subject to the satisfaction of the Village Director of Public Works or an authorized representative. Access to all private drives and public street intersections shall be maintained, and all disturbed areas shall be repaired with like material prior to the work authorized by this permit.
- (m) When restoration is not accomplished voluntarily and without delay, the Village may issue a notice setting forth a final date by which restoration shall be completed. If the Permittee fails to satisfactorily complete all restoration within the time thus established, the Village may arrange directly for all needful restorations, and all costs associated with such restorations and the arrangements therefor shall be a cost obligation of the Permittee, and may be charged against the cash bond or letter of credit. In the event the cash bond or letter of credit is insufficient for such purposes, the Permittee shall be liable to the Village for the excess cost over the amount of the cash bond or letter of credit.
- (n) Any damage or maintenance due to settlement of any other causes occurring within the highway right-of-way, as a result of the issuing or exercising of this permit, must be corrected by the Permittee, or his agent, successors or assigns, in the time and manner designated by the Village Director of Public Works or an authorized representative, for a period of 2 years from the date of the issuance of this permit.

- (o) The Permittee shall provide the supervisor of the permitted work with a copy of this permit and is responsible to assure the latter's familiarity with all details and requirements thereof. A copy of this approval, along with any plans and special provisions, shall be available on the job site. The Permittee is the responsible party for all work permitted under this permit and any complaints or requirements for correction will be taken up with the Permittee directly. The Permittee shall be responsible to the Village for any failure to comply with any part of the permit.
  - (p) Upon completion of the work the Permittee shall file a written notice with the Village Director of Public Works.
- (3) **EXCEPTIONS.** The Village Sewer and Water Utilities are excepted from the provisions of this ordinance. In addition, those utilities and entities set forth in Section 66.045(6), Wis. Stats., and any amendments thereto, are excepted from those provisions pertaining to the filing and drawing upon of the cash bond or irrevocable letter of credit, but are required to secure a permit from the Village as otherwise set forth above.

#### **8.10 JURISDICTION OVER STREET SIGNS.**

Jurisdiction and control over all signs on Village streets shall be in the Public Works Committee of the Village Board. The Public Works Committee is authorized and empowered to erect, maintain, move and remove signs as may serve the best interests of the Village.

#### **8.11 STREET TREES**

Village residents are encouraged to plant and replace trees to increase and maintain property values, provide shade and to enhance the beauty of their property and the Village. The following regulations shall apply:

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

*Public rights-of-way* shall mean and include that part of every street and alley, and that area between the lot line or sidewalk and the curb (or proposed location of a curb) or roadway if a curb is not present. This property is owned by the village and to be maintained by the adjacent property owner.

*Parkway* shall mean the same as Public rights-of-way

*Street* shall mean every highway, as defined in sec 340.01(22) Wis. Stats., within the corporate limits of the Village including alleys, as defined in sec 340.01(2) Wis. Stats.

- (2) **POWERS.** The Village Board shall have full power and authority over all trees, plants and shrubs planted and to be planted in the public rights-of-way of the Village, including the right to plant new trees and care for the same. The Director of Public Works (DPW), village forester or any authorized village employee shall have jurisdiction and control over all trees and shrubs upon all streets, public parks and all other grounds in the Village, along with enforcing all ordinances pertaining to trees and shrubs.
- (3) **PLANTING OR REMOVAL OF TREES.** The Village Board shall have the authority to order any and all trees and stumps removed, to plant other trees and care for the same.

Any person desiring to plant or remove any tree upon any Village street shall get a written permit from the Village or appointed department and abide by all the rules and regulations concerning the planting or removing of the same.

**Recommended Trees.**

- (a) The size and species and cultivar/variety of trees to be planted in public rights-of-way or as a part of the village approved forestry program, and the manner of planting, shall be submitted to the DPW for approval before commencement of such work.
- (b) The Village shall allow only the following trees to be planted along with new and improved varieties approved by the University of Wisconsin Horticulture department.

Miyabe Maple	Honey Locust
Pacific Sunset Maple	Norway Sunset Maple
Maples (excluding Silver Maples)	Freeman Maple
Ginkgo	Glenleven Linden
Redmond Linden	Silver Linden
Sentry Linden	Regal' Elm
New Horizon' Elm	Morton' Elm
Frontier' Elm	American Smoketree
Autumn Blaze Callery Pear (non-fruit bearing)	Ivory Silk Japanese Tree Lilac
Bradford Pear (non-fruit bearing)	Skyline Locust

\*Silver Maples, fruit or nut bearing trees and evergreens will not be approved.

## (c) TREES UNDER UTILITY WIRES

Planting of tall growing tree species under utility wires is hereby prohibited. Tall growing trees are any tree that may grow larger than 25 feet in height. The following is a suggested list:

Hedge (Field) Maple	Speckled Alder
Serviceberry ( single stem only)	Japanese Lilac
Redbud	Thornless Hawthorn
Magnolia	

## (4) DENSITY AND PLACEMENT

- (a) No tree shall be planted under this section which is less than 1½ inches in diameter 6” above ground. Recommended tree spacing is approximately 35’ apart, 10 feet from any overhead streetlight, 7 feet from crossing underground utilities such as gas, electric, street lighting, sewer/water mains. No tree shall be planted within 35 feet of any street corner. No tree shall be planted if parkway is less than 5 feet across (wide). Tree must be centered in parkway as to have 2 ½ feet on each side of the tree. In sections without sidewalk, plant trees at least 4.5 feet from curb.
- (b) No more than one tree shall be planted in a public right-of-way abutting a lot having a frontage at the street of less than 75 feet. If this subsection conflicts with any deed restriction or subdivision rule that is more restrictive than this subsection, then the deed restriction or subdivision rule controls.

## (5) TRIMMING

- (a) Trees or shrubs planted within any parkway or public right-of-way shall be kept trimmed by the owner or occupant of the property. Any of the branches or foliage projecting over any public street which is the subject of vehicular traffic provides a clearance of not less than 14 feet from the pavement.
- (b) Trees or shrubs standing in or upon any public right-of-way adjacent to a public sidewalk shall be kept trimmed by the owner or occupant of the property. Any branches or foliage projecting over any sidewalk or right-of-way for pedestrian traffic must provide a clearance of not less than 8 feet from the pavement or ground.
- (c) The Village may waive the provisions of this section for newly planted trees if the engineer or DPW determines that they do not interfere with public traveling, obstruct any street light or sign or endanger public safety.

- (d) All trees upon private property or the public rights-of-way shall be so trimmed as to abide by the above rules. Bushes shall be so trimmed that no part of the same shall extend over the sidewalk. The Director of Public Works shall notify the owner of any such tree or shrub to remove any branches extending over the sidewalk, which he shall deem dangerous to vehicles or pedestrians. If any such owner shall fail to remove such branches or trim such trees or shrubs as stated above, the Village may do so and charge the expense of the same under sec. 66.60(16), Wis Stats., as a special charge against the property owner. Those doing such work will provide a strict account of the work preformed, showing all labor and materials furnished, and report to the Village each month.

#### (6) TREE REMOVAL

- (a) In cutting down trees, the tree must be removed with the root stump grubbed out or ground out, to a depth of at least nine inches below grade measured in a straight line from the normal grade of sidewalk to the top of curb. Surface roots beyond the main stump are to be removed to a depth of 5 inches below grade. All wood and debris must be removed from the street and sidewalk prior to the end of each working day and all holes shall be filled to normal grade level.
- (b) Dangerous, Obstructive and Infected Trees. Any tree or part thereof, whether alive or dead, which the Village shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the Village, or to be injurious to public sewers, sidewalks or other public improvements whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or part thereof is located. The Village shall give written notice to said owner to remedy the situation. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than fourteen (14) days as determined by the Village on the basis of seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limited, the Village shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the Village Clerk who shall thereupon enter such cost as a special charge against the property.

#### (7) REMOVAL OF DEAD WOOD FROM TREES

Each owner and person in possession of real estate in the Village of Sturtevant shall cause all dead wood to be removed from every tree on his property or parkway, and

dispose of properly. In the event that it appears to any agent or employee of said Village that there is dead wood in any tree on private property in the Village, the Village shall cause notice to be given to the owner at his last known address, and the person in possession of such property, to remove and dispose of such dead wood. If such dead wood has not been removed within 10 days after such notice is given, then the Village shall remove the same. Accurate record of the cost of removing dead wood shall be kept and a report made to the Village Clerk, and the amount thereof shall be entered as a special tax against such property.

## (8) PENALTIES

Penalties for violation of this ordinance subject to provisions in Chapter 25.04.

### **8.12 REMOVAL OF SNOW AND ICE FROM SIDEWALKS.**

- (1) The occupants of every building, tenement or premises fronting upon any street within this Village, and the owners of any unoccupied buildings or premises fronting on any streets shall keep the sidewalks adjacent to their premises reasonably free and clear of snow and ice, and shall within 24 hours after every snowfall clear the snow off such sidewalk.
- (2) The Village Board may remove the snow or ice where a person fails or neglects to comply with the provisions of this section, and charge the costs thereof to the owner of the property.

### **8.13 OBSTRUCTING, LITTERING AND DAMAGING OF STREETS, ALLEYS AND PUBLIC GROUNDS.**

- (1) OBSTRUCTING OR LITTERING STREETS, ALLEYS AND PUBLIC GROUNDS.
  - (a) Obstructions. No person shall place, deposit or cause to be placed upon any street, alley, gutter, sidewalk or public ground within the Village any timber, wood, lumber, rubbish, grass clippings, leaves, yard or garden debris, offal, vegetables, paper, shavings, garbage or earth, snow, or anything of substance whatever which may obstruct any street, alley, gutter, sidewalk or public ground, or impede, hinder or endanger travel thereon, or which shall or may injure or disfigure the same, or tend to the injury or disfigurement thereof, or tend to render the same unclean or a nuisance; nor shall any person cause or suffer any vehicle or any box, crate, bail, baggage, merchandise or other thing to stand or be in or upon any such street, alley, sidewalk or public ground.

- (b) **Duties of Officers to Cause Removal.** If any substance or material mentioned in par. (a) above is found remaining or lying upon any street, alley, sidewalk, public or private ground within the limits of the Village in violation of par. (a) above, the Village Police Chief or any Village employee may cause notice to be given to any person who may have placed, caused or permitted to be placed such substance or thing upon such street, alley, sidewalk, public or private ground, or who may be the owner or have control of such substance or thing or who may suffer the same to lay or remain upon such street, alley, sidewalk, public or private ground, to remove such thing or substance, or cause the same to be removed immediately. The Village Police Chief or designee may issue a citation and if it is on public grounds may cause it to be removed to some convenient and safe place at the expense of such person to be recovered in an action against such person prosecuted in the name of the Village.

(2) **DAMAGING STREETS WITH MACHINERY.**

- (a) **Damage to Streets.** No person shall operate any construction implement or machinery, road machinery or other machinery on or adjacent to any public street, highway, alley, curbing or sidewalk in the Village if the operation or manner of operation of such equipment will break up, damage or disfigure or tend to break up, damage or disfigure the pavement, surface or construction of such public street, highway, alley, curbing or sidewalk, unless a foundation composed of lumber, planks, boards or other suitable material sufficient to protect the pavement, surface and construction of such area from being broken up, damaged or disfigured is first provided by the owner or operator of such equipment.
- (b) **Duties of Village Board to Cause Repair.** If the operator of any construction implement, machinery, road machinery or other machinery on or adjacent to any public street, highway, alley, curbing or sidewalk in the Village causes damage or disfigurement to the pavement, surface or construction of any of such areas, whether or not a protective foundation has been provided, the Village Board shall notify and require by either written or verbal notice the person who has caused such damage or disfigurement to make or cause to be made all necessary repairs; and if such person refuses, neglects or fails to make or cause to be made such repairs within the time specified in the notice, the Village Board may cause such repairs to be made at the expense of such person, to be recovered in an action prosecuted against him in the name of the Village.



**8.14 STORING OF MATERIALS AND MACHINERY ON STREETS.**

- (1) **PERMIT REQUIRED.** Before placing any stone, brick, sand, dirt, gravel, cement, lumber, planks, boards or other building material or any hoisting machine or other machinery or barrels or mortar box upon any sidewalk, street or public grounds within the Village, any person desiring so to do shall first obtain a permit from the Building Inspector.
- (2) **FEES.** No fee shall be charged for such permit for the first 15 days immediately following the date of the permit, but after 15 days, the fee for such permit shall be \$5 per month for the next 2 months and \$10 per month thereafter; but no permit shall be issued for less than \$5 except for the first 15 days of the permit.
- (3) **LIMITATIONS ON USE.** Such permits shall not authorize the use of more than 1/3 of the highway between curb lines opposite the premises of the person for whom the proposed building permit is granted or opposite the premises for which the permit is requested, and shall not authorize the placing of any such material or machinery or other thing upon the street or public ground which will 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 or alley. No more than 1/3 of the highway between curb lines shall in any event be occupied for the placing or storing of any such material, machinery or other things, and no part of the sidewalk, parkway or curb between the building line and the street curb shall be utilized for the placing or storage of building materials.
- (4) **APPLICATION; BOND.** Application for a permit to place material, machinery or other things connected with building purposes in a street, alley or public grounds shall be in writing, describe the premises by lot, block, street and street number, if any, in front of which such materials, machinery or other things connected with building purposes is desired to be placed and specify the character of the material for which the permit is desired. Before a permit is granted the applicant shall execute to the Village and have on file with the Building Inspector a bond of undertaking in a sum approved by the Village President, conditioned to save and keep the Village harmless from all liability which may be incurred by the deposit or maintenance of such materials, machinery or other things connected with building purposes in the street, alley or public ground by the applicant or by his contractors, servants, agents or employees whether such material, machinery or other things shall be placed within or beyond the limits specified by this section.

**8.15 UNIFORM NUMBERING SYSTEM.**

- (1) **ESTABLISHED.** There is hereby established a uniform system of numbering houses and buildings fronting on all streets, avenues and public ways in the Village and all houses and buildings shall be numbered in accordance with the provisions of this section.
- (2) **BASE LINES.** The north Village limits on 90th St. shall constitute the base line for numbering along all streets running north and south and the east Village limits on Durand Ave. shall constitute the base line for numbering along all streets running east and west.
- (3) **SYSTEM.** Numbering for each street shall begin at the base line. Numbers within the first block running east to west shall be from 8600 to 8699 and numbers in each succeeding block shall increase from the base line in units of 100, i.e., the first block shall be 8600 to 8699, second block 8700 to 8799, third block 8800 to 8899, etc. Numbers within the first block running north to south shall be from 1900 to 1999 and the numbers in each succeeding block shall increase from the base line in units of 100, i.e., the first block shall be 1900 to 1999, second block 2000 to 2099, the third block 2100 to 2199, etc. There shall be assigned 100 numbers to each block, square or space that would be one block or square, if streets each way were so extended as to intersect each other and one number shall be assigned to each 20' of frontage. In blocks or equivalent space longer than 750' which is not intersected by a street, if extended, the total length of space divided by 37.5 shall be used to determine the feet of frontage assigned to each number.
- (4) **PROCEDURE.** All lots and houses on the north and west side of all streets shall be numbered with even numbers, each commencing with the hundred assigned to that block and shall increase from the base line, one number for each 20' of frontage or fraction thereof, except as provided in sub. (3). Where any building has more than one door serving separate occupants, a separate number shall be assigned to each door serving a separate occupant, providing that the building is 20' or more in width. If the building is not 20' or more in width and the entrances are not that far apart, the next consecutive number shall be marked fractional. Buildings fronting on 2 or more streets shall have a number assigned only to the main entrance, unless other entrances serve different occupants.
- (5) **STREETS NOT EXTENDED.** All streets not extending through to the base line shall be assigned the same relative numbers as if the street has extended to the base line.

## (6) SURVEY AND PLACEMENT OF NUMBERS.

- (a) The Village Board shall cause the necessary survey to be made and there shall be assigned to each house and building located on any street, avenue, alley or highway in the Village, its respective number under this section. When the survey has been completed and each house and building has been assigned its respective number or numbers, the owner, occupant or agent shall place or cause to be placed upon each house or building controlled by him the number or numbers assigned under this section.
- (b) Such number or numbers shall be placed within 20 days after the assigning of the proper number. The cost of the number shall be paid by the property owner and shall be procured from the Clerk/Treasurer or Director of Public Works at the unit price for the same, such price to be the cost of such units to the Village. Replacements of numbers shall be procured and paid for by the owner. The numbers used shall be not less than 2½" in height.
- (c) The numbers shall be conspicuously placed immediately above, on or at the side of the proper door of each building so that the number can be seen plainly from the street. Whenever any building is situated more than 50' from the street line, the number of such building shall be conspicuously displayed at the street line, near the walk, driveway or common entrance to such building and upon the gate post, fence, tree, post or other appropriate place so as to be easily discernible from the sidewalk.

- (7) MULTIPLE NUMBERS. Where only one number can be assigned to any building, the owner, occupant or agent of such building who shall desire distinctive numbers for any part of such building fronting any street, such owner or occupant or agent shall use a suite designation based on 100s. For instance Suite 100, Suite 200, etc.
- (8) MAP. For the purpose of facilitating a correct numbering, a map of all streets, avenues and public highways within the Village showing the proper numbers of all lots or houses fronting upon all streets, avenues or highways shall be kept on file in the office of the Clerk/Treasurer. This map shall be open to inspection of all persons during the office hours of the Clerk/Treasurer.
- (9) BUILDING INSPECTOR TO ASSIGN NUMBERS. The Building Inspector shall inform any party applying therefor of the number or numbers belonging or embraced within the limits of the lot or property as provided in this section. In case of doubt as to the proper number to be assigned to any lot or building, the Building Inspector shall determine the number of such lot or building.

- (10) **NUMBERS REQUIRED.** Whenever any house, building or structure shall be erected or located in the Village after a uniform system of numbering has been completed, the owner shall procure the correct number as designated from the Building Inspector for the property and immediately fasten the number so assigned upon the building as provided by this section. No building permit shall be issued for any house, building or structure until the owner has procured from the Building Inspector the official number of the premises.
- (11) **ENFORCEMENT.** All police officers of the Village shall report violation of any provision of this section.
- (12) **VIOLATIONS.** If the owner or occupant of any building required to be numbered by this section neglects for the period of 20 days to attach and maintain the proper number of such building, the Director of Public Works shall serve upon him a notice requiring the same, and if he neglects to do so for 10 days after service of such notice, he shall be deemed to have violated this section.

#### **8.16 SMOKING.** (Cr. #095-23)

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

*Smoking* shall mean possessing or carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

*Village buildings* shall mean all buildings owned by the Village and operated by its employees.

- (2) **ENFORCEMENT.** The provisions of this section shall be enforced by the Village Police Department. The use of citations as described in Section 25.04(4) of the Municipal Code is hereby authorized.
- (3) **PENALTIES.** Any person who violates sub. (4) shall be subject to a forfeiture of not less than one dollar nor more than \$10 together with assessments and costs of prosecution. In default of payment thereof, the violator shall be subject to further penalties, including imprisonment in the county jail, all in accordance with §800.095, Wis. Stats.
- (4) **PROHIBITION.** No person may smoke in the following places:
  - (a) Any enclosed, indoor area located within any building owned by the Village and operated by its employees. This includes, without limitation, all elevators,

public lobbies, corridors, waiting rooms, dining areas, rest rooms, stairwells, auditoriums, conference and/or training and testing rooms, offices, courtrooms and other associated hearing, counseling and waiting areas, garage and shop work areas, meeting rooms, data processing facilities, recreational facilities, those types of facilities designated in §101.123, Wis. Stats., including educational facilities, inpatient health care facilities, and all other enclosed, indoor area facilities contained within Village-owned buildings.

- (b) Any Village-owned motor vehicle and any means of public conveyance owned or leased by the Village and operated by its employees.

### **8.17 ADDITIONAL SPECIAL ASSESSMENT PROCEDURES.**

- (1) **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 Section.
- (2) **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 Section, it 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.
- (3) **APPLICATION OF STATE STATUTES.** The provisions of §66.60, Wis. Stats., shall apply to special assessments levied under this Section 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 §66.60(3), Wis. Stats., shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.
- (4) **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 §66.60(7) and (8)(d), Wis. Stats.
- (5) **LIEN AGAINST ASSESSED PROPERTY.** Any special assessment levied under this ordinance 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.

- (6) **APPEAL.** Any person against whose property a special assessment is levied under this ordinance may appeal therefrom in the manner prescribed by §66.60(12), Wis. Stats., within 40 days of the date of the final determination of the Village Board.

### **8.18 MAILBOX SPECIFICATIONS AND PLACEMENT.**

- (1) **PURPOSE.** The purpose of this Section is to recognize that mailboxes have been and are allowed on the street right-of-way as a matter of convenience to the property owners or occupants and not as a matter of right. Encroachments upon the street right-of-way are governed generally by Section 86.04 of the Wisconsin State Statutes. A mailbox and its supports can cause damage to a vehicle that strikes it and injure the vehicle's occupants and therefore may be a hazard. However, a mailbox with light-weight supports that cause minimum damage shall not constitute a hazard.
- (2) **SPECIFICATIONS AS TO SIZE AND PLACEMENT OF MAILBOXES.**
- (a) **Height.** The total height shall be within the range of 42 to 48 inches as measured from the top of curb. If no curb is present, then there shall be 6 inches added to the height so that the range is 48 to 54 inches as measured from the ground. Supports shall be buried no more than 24" into the ground.
  - (b) **Set Back.** The face of the mailbox shall be no more than 12 inches back from the face of the curb or future curb line, and the face of the mailbox must be behind the curb or future curb line.
  - (c) **Mailbox Materials and Post Dimensions.** The mailbox post shall not exceed the dimension of a 4 inch by 4 inch wood post and shall be able to break away upon impact. If the mailbox is constructed of these materials, the mailbox shall not constitute a hazard to the public use of the right-of-way. Steel, concrete piling, stone and posts larger than described above are hereby declared a hazard and are prohibited.
  - (d) **Address Required.** The address of the mailbox owner shall be required on each box.
  - (e) **Snow Removal.** The owner of each mailbox 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 shall remove the snow for a distance of two (2) feet to each side of said mailbox.
- (3) **VILLAGE IS NOT LIABLE FOR MAILBOXES.** If a mailbox is accidentally damaged in the process of removing snow, mowing the right of way, laying gravel

to the shoulder area or any other act of maintaining the right-of-way by the Village, the Village is not liable to the property owners or occupants for such damage. It is solely the property owner's or occupant's obligation to maintain, repair or replace the mailbox in compliance with this section. 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.

- (4) **ENFORCEMENT.** Whenever and wherever in the Village it is determined by any inspection by the Building Inspector or other designated person that there exists a violation of this Section, the Building Inspector or other designated person shall serve a notice in writing upon the property owner or other person violating this Section giving the owner or person reasonable time to remedy the violation.
- (5) **PENALTY.** If the violation is not remedied within the time allowed, the person found to be in violation of any provision of this Section, or any rule or order promulgated or issued hereunder shall be subject to a forfeiture as provided in Section 25.04 of this Municipal Code. The Village, at its option, may declare the violation a public nuisance if the person fails to remedy the violation within the time allowed.

## **8.20 PENALTY.**

Except as otherwise provided in this chapter, any person found to be in violation of any provision of this chapter or any rule or order promulgated hereunder shall be subject to a penalty as provided in Section 25.04 of this Municipal Code.

## **8.21 COLLECTION, REMOVAL AND DISPOSAL OF GARBAGE.**

- (1) The words “garbage” and “offal” as used in this section shall be held to include every refuse, accumulation of animal, fruit and vegetable matter that attends the preparation, use, cooking, dealing in or storage of meats, fish, fowl, fruits and vegetables.
- (2) The Building Inspector and Village Police Officers are hereby authorized and directed to conduct and control the collection, removal and disposal of garbage in the Village in conformity with the following regulations:
  - (a) Garbage shall be prepared for collection by draining, wrapping and placing in a garbage receptacle which shall be specified by the Director of Public Works.
  - (b) Receptacles shall be in an easily accessible place as the Village may direct, shall be promptly delivered to the collector without delay and shall be

promptly returned by the collector to the place; and no person excepting for the purpose authorized shall in any manner interfere with such receptacle or the contents thereof.

- (c) Garbage shall be collected by the collector from householders at such intervals and in such manner as specified in the contract. Garbage accumulated by restaurants, hotels or other public eating places, or by wholesale or retail purveyors of food, shall be collected at the expense of said business establishments.
- (d) All vehicles or conveyors, whether publicly or privately owned, used for the collection or transportation of garbage shall be covered and so constructed as not to leak or spill, shall be kept clean and as free from offensive odors as possible and shall not be kept in any street, alley or public place, nor upon any private premises within the Village limits longer than is reasonably necessary to collect the garbage, except by permission of the Village.
- (e) All garbage and offal following collection shall be disposed of in a licensed landfill or incinerator.
- (f) The collection, removal and disposal of garbage for a single and two family residential dwelling shall be provided by the Village. To carry out the terms of this section the Village Board is empowered to employ all necessary labor and to acquire and maintain the necessary equipment under terms approved by it or to enter into a private contract to handle the same.
- (g) The Village Board authorizes the Public Works Director to make and publicize such additional rules and regulations as may be found necessary for the proper collection, removal and disposal of garbage, offal, bulk items, white goods, yard waste and recyclables in the Village including, but not limited to, days of collection, manner of collection and proper receptacles for garbage, offal, yard waste and recyclables. Any fees for collection, removal and disposal of garbage, offal, bulk items, white goods, yard waste and recyclables shall be set by the Board of Trustees by resolution or through the budget.
- (h) No person, unless authorized to do so by the Village, shall gather, collect, transport or have in his possession in any public street, alley or public place within the Village any garbage or offal.
- (i) All garbage and offal will be placed at the proper point before 6 a.m. on the day of collection, but not before noon the day prior to collection. No garbage or offal shall remain at the collection point or at the curb of any street or in any alley after 24 hours after the scheduled day of collection and it shall be a



violation of this ordinance to allow said garbage and/or offal to so remain. In addition to citing said offender, the Building Inspector is authorized to arrange for the individual collection of said garbage and/or offal and to charge the cost of the special collection back to the property owner as a special charge pursuant to Section 66.0627 of the Wis. Stats. The Village Clerk shall invoice the property owner and if not paid within 14 days of the Clerk sending out the invoice, the charge shall be deemed delinquent and may be placed on the current or next tax roll for collection and settlement under Chapter 74 of the Wisconsin Statutes.

- (j) The use and placement of dumpsters and other cubic yard-type containers for garbage, offal, and debris, for businesses, institutions, condominium developments and apartment units is authorized pursuant to the following terms and conditions:
  1. The container must have self-closing doors or other mechanisms to insure that the lid remains closed except when items are in the process of being placed inside and all garbage, rubbish, debris and/ offal must be placed within the container and in such a manner that the container doors can be closed;
  2. The container shall be placed on asphalt or concrete;
  3. The container shall be emptied as necessary to prevent the overflow of garbage or to prevent odors or unhealthy condition due to the decay of garbage.
  4. In residential areas (as defined by the Village Zoning Code) the container shall be located behind the main building which is defined as behind a line formed by the farthest back wall (from the street on which the building fronts) of the building or located pursuant to a Village approved site plan or development agreement.
  5. If the location specified in # 4 above is not possible, the Building Inspector is authorized to issue a written exemption to said requirement provided that the location of the container is approved by the Building Inspector and that the container is screened on four sides as approved by the Building Inspector and all garbage, rubbish, offal and debris is kept within the confines of said screening.
  6. That failure to comply with any of the conditions of this section shall be a violation of this ordinance. In addition to citing said offender, if garbage, rubbish or offal is not confined to the dumpster or cubic yard-type

container or, if screened, not kept within the confines of the screening, the Building Inspector is authorized to arrange for the individual collection of said garbage, rubbish and/or offal and to charge the cost of the special collection back to the property owner as a special charge pursuant to Section 66.0627 of the Wis. Stats. The Village Clerk shall invoice the property owner and if not paid within 14 days of the Clerk sending out the invoice, the charge shall be deemed delinquent and may be placed on the current or next tax roll for collection and settlement under Chapter 74 of the Wisconsin Statutes.

(3) HANDLING AND DISPOSAL OF RECYCLABLES. (Cr. #092-7)

(a) Definitions.

**Recyclables.** All material having a present, economic, reusable value. Materials include glass containers, plastic containers, aluminum, tin, cardboard, newsprint and magazines.

**Solid Waste Generator.** Any person, organization or entity that generates solid waste within the Village.

(b) Separation Required. Every solid waste generator shall separate for disposal purposes garbage from recyclables as defined in par. (a). Disposal of such categories of solid waste shall be in accordance with this subsection.

(c) Drop-Off Center.

1. Solid waste generators may, upon showing proof of residency, dispose of recyclables at a drop-off center designated by the Village. Such disposal shall be during the hours and on the days determined by the Village.
2. Solid waste generators may drop off commingled recyclables at the designated site. Recyclables must be emptied from all containers and the containers, including bags, removed. Newsprint, cardboard and magazines to be separated. Nothing other than recyclables may be disposed of at the Village drop-off center.

(d) Recyclables Disposal; Preparation. Recyclables must be prepared for disposal as follows:

1. **Glass Containers.** Clear and colored; covers, metal and plastic bands removed; containers thoroughly rinsed. No plate glass, ceramics or clay items.

2. Plastic Containers. Plastic milk jugs and other containers with recyclable number codes 1, 2, 3 and 5, rinsed thoroughly. Discard covers, lids and rings. Remove any polystyrene or plastic label/wrap. No plastic bags or egg cartons.
  3. Aluminum. Rinse out thoroughly. Any articles, such as TV dinner trays, foil wrap, potpie pans and aluminum cans.
  4. Tin. Includes steel containers or combination steel and aluminum (bi-metal) containers. Thoroughly rinsed and crushed.
  5. Newsprint. Bundled or stacked in paper bags or tied securely in manageable bundles. Newsprint shall be kept separate from other recyclable materials.
  6. Magazines, Catalogs. Bundled or stacked in paper bags or tied securely in manageable bundles. Magazines and catalogs shall be kept separate from other recyclables.
  7. Corrugated cardboard. Large quantities shall be bundled or cut up and placed in a cardboard box. No chipboard, such as cereal, cake or detergent boxes or 12 pack cartons. Cardboard shall be kept separate from other recyclables.
  8. Waste Oil Disposal. Waste oil is banned from landfills and may not be placed in waste containers. Waste oil may be disposed of by dumping it into either of the tanks marked “Waste Oil” located behind the Village garage (Michigan Ave.). No containers may be left at site.
- (e) General Prohibition. No recyclables shall be disposed of at the Village drop-off center in any manner other than as prescribed in this subsection.

## **8.22 RECYCLING. (Cr. #094-38)**

- (1) TITLE. This section shall be referred to as the Village of Sturtevant Recycling Ordinance.
- (2) 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 §287.11, Wis. Stats., and Ch. NR 544, Wis. Adm. Code.

- (3) **STATUTORY AUTHORITY.** This section is adopted as authorized under §287.09(3)(b), Wis. Stats.
- (4) **ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this section 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 section imposes greater restrictions, the provisions of this section shall apply.
- (5) **INTERPRETATION.** In their interpretation and application, the provisions of this section 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 section may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this section is required by Wisconsin Statutes, or by a standard in Ch. NR 544, Wis. Adm. Code, and where the section provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Ch. NR 544, Wis. Adm. Code standards in effect on the date of the adoption of this section, or in effect on the date of the most recent text amendment to this section.
- (6) **SEVERABILITY.** Should any portion of this section be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected.
- (7) **APPLICABILITY.** The requirements of this section apply to all persons within the Village of Sturtevant, Racine County, Wisconsin.
- (8) **ADMINISTRATION.** The provisions of this section shall be administered by the Village Board and its duly designated agents.
- (9) **EFFECTIVE DATE.** The provisions of this section shall take effect as of January 1, 1995.
- (10) **DEFINITIONS.** For the purposes of this section:

*Bi-metal container* means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

*Container board* means corrugated paperboard used in the manufacture of shipping containers and related products.

*Foam polystyrene packaging* means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

- (a) Is designed for serving food or beverages.
- (b) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
- (c) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

*HDPE* means high density polyethylene, labeled by the SPI code #2.

*LDPE* means low density polyethylene, labeled by the SPI code #4.

*Magazines* means magazines and other materials printed on similar paper.

*Major appliance* means a residential or commercial air-conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator or stove.

*Multiple-family dwelling* means a property containing 5 or more residential units, including those which are occupied seasonally.

*Newspaper* means a newspaper and other materials printed on newsprint.

*Non-residential facilities and properties* means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple-family dwellings.

*Office paper* means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

*Other resins* or *multiple resins* means plastic resins labeled by the SPI code #7.

*Person* includes any individual, corporation, partnership, association, local governmental unit, as defined in §66.299(1)(a), Wis. Stats., state agency or authority or federal agency.

*PETE* means polyethylene terephthalate, labeled by the SPI code #1.

*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.

*Postconsumer waste* means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in §291.01(7), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in §289.01(17), Wis. Stats.

*PP* means polypropylene, labeled by the SPI code #5.

*PS* means polystyrene, labeled by the SPI code #6.

*PVC* means polyvinyl chloride, labeled by the SPI code #3.

*Recyclable materials* includes 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, PVC, LDPE, PP, PS, and other resins or multiple resins; steel containers; waste tires; and bi-metal containers.

*Solid waste* has the meaning specified in §144.01(15), Wis. Stats.

*Solid waste facility* has the meaning specified in §144.43(5), Wis. Stats.

*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.

*Suitable container* means clear plastic bag stamped with “Village of Sturtevant” on bag.

*Waste tire* means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

*Yard waste* means leaves, grass clippings, yard and garden debris and brush, including stumps, roots or shrubs with intact root balls.

- (11) SEPARATION OF 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, unless a variance is granted by the Wisconsin DNR, pursuant to Ch. NR 544, Wis. Adm. Code:

(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) Glass containers.
  - (i) Magazines.
  - (j) Newspaper.
  - (k) Office paper.
  - (l) Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins.
  - (m) Steel containers.
  - (n) Waste tires.
  - (o) Foam polystyrene packaging.
- (12) SEPARATION REQUIREMENTS EXEMPTED. The separation requirements of sub. (11) 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 State DNR that recovers the materials specified in sub. (11) from solid waste in as pure a form as is technically feasible.
  - (b) Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.

- (c) A recyclable material as herein specified for which a variance has been granted by the DNR under §287.11(2m), Wis. Stats., or Ch. NR 544.14, Wis. Adm. Code.
- (13) CARE OF SEPARATED RECYCLABLE MATERIALS. To the greatest extent practicable, the recyclable materials separated in accordance with sub. (11) 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 manner which protects them from wind, rain, and other inclement weather conditions.
- (14) 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 taken to an area retail business that sells vehicle batteries for return.
  - (b) Major appliances shall be periodically picked up by the Village's solid waste contractor for proper disposal, for single-family and 2- to 4-unit residents only.
  - (c) Waste oil shall be handled at the Village recycling center for waste oil and then removed by licensed vendor, or a resident may take waste oil to a licensed vendor of resident's choice.
  - (d) Yard waste shall be placed at the curb at specified times of the year, in disposable brown bags or taken to the Village's compost site.
  - (e) Branches shall be placed at the curb at specified times of the year, untied.
- (15) PREPARATION AND COLLECTION OF RECYCLABLE MATERIALS. Except as otherwise directed by the Village Board or its designated representative, 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 sub. (11)(e)–(o):
- (a) Aluminum containers shall be placed in suitable container at curbside after same have been cleaned.
  - (b) Bi-metal containers shall be placed in suitable container at curbside after same have been cleaned with ends cut.



- (c) Corrugated paper or other container board shall be placed at curbside and shall be free of debris, flattened, stacked and tied.
  - (d) Glass containers shall be placed in suitable container at curbside after same have been cleaned.
  - (e) Magazines shall be placed in suitable container at curbside.
  - (f) Newspaper shall be placed in suitable container at curbside in brown paper bags or tied in bundles of 8” or less.
  - (g) Office paper shall be placed in suitable container at curbside.
  - (h) Rigid plastic containers shall be placed in suitable container at curbside and prepared and collected as follows:
    - 1. Plastic containers made of PETE, shall be rinsed free of product residue and caps shall be removed and discarded.
    - 2. Plastic containers made of HDPE, including milk jugs and detergent bottles, shall be rinsed free of product residue and caps shall be removed and discarded.
    - 3. Plastic containers made of PVC, LDPE, PP, PS, or other resins or multiple resins, shall be rinsed free of product residue and caps shall be removed and discarded.
    - 4. Steel containers shall be rinsed free of product residue and placed in a suitable container at curbside.
    - 5. Waste tires shall be disposed of by residents at any approved facility.
  - (i) Foam polystyrene packaging shall be placed in a suitable container at curbside.
- (16) RESPONSIBILITIES OF OWNERS OR DESIGNATED AGENTS OF MULTIPLE-FAMILY DWELLINGS.
- (a) Owners or designated agents of multiple-family dwellings shall do all the following to recycle the materials specified in sub. (11)(e)–(o):
    - 1. Provide adequate, separate containers for the recyclable materials.

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 waste by tenants and the delivery of the materials to a recycling facility.
  4. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
- (b) The requirements specified in par. (a) 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 DNR that recovers for recycling the materials specified in sub. (11)(e)–(o) from solid waste in as pure a form as is technically feasible.
- (17) 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 sub. (11)(e)–(o):
1. Provide adequate, separate containers for the recyclable materials.
  2. Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.
  3. Provide for the collection of materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.
  4. Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
- (b) The requirements specified in par. (a) 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 DNR that recovers for recycling the materials specified in sub. (11)(e)–(o) from solid waste in as pure a form as is technically feasible.

(18) 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 sub. (11)(e)–(o) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

(19) ENFORCEMENT.

- (a) For the purpose of ascertaining compliance with the provisions of this section, any authorized officer, employee or representative of the Village solid waste contractor or the designated agent of the Village Board 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 solid waste collector or the designated agent of the Village Board who requests access for purpose 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 the section may be issued a citation by the Village Police Department 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 section may be assessed as follows:
  - 1. Any person who violates sub. (18) may be required to forfeit \$50 for a first violation, \$200 for a second violation, and not more than \$2,000 for a third or subsequent violation.
  - 2. Any person who violates a provision of this section, except sub. (18), may be required to forfeit not less than \$10 nor more than \$1,000 for each violation.

## **8.23 UNLAWFUL REMOVAL OF ITEMS DEPOSITED FOR COLLECTION.**

- (1) **DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of this section:

*Recyclable material(s)* shall mean (except materials subject to a Wisconsin Department of Natural Resources variance or exemption granted under NR 544.14, Wisconsin Administrative Code) major appliances, aluminum containers, corrugated paper or other container board, glass containers, magazines, newspaper, office paper, rigid plastic containers, including those made of PETE (#1), HDPE (#2), and other resins or multiple resins which have an SPI Code designation of 1 or 2, steel containers, bi-metal containers, foam polystyrene packaging and rigid plastic containers, including those made of PVC (#3), LDPE (#4), PP (#5), PS (#6), and other resins or multiple resins (#7), and empty aerosol containers.

*Solid waste* shall mean that type of solid waste material generated by the Village or its residents, such as household garbage and refuse.

*Garbage* shall mean discarded materials resulting from the handling, processing, storage and consumption of food.

*Refuse* shall mean all matters produced from industrial or community life, subject to decomposition, not defined as sewage.

*Large household items* shall mean household furniture and shall include, but not be limited to, davenports, recliners, overstuffed chairs, bookcases, dressers, tables, desks and similar items.

*White goods* shall mean household appliances, including but not limited to, microwaves, dehumidifiers, dishwashers, refrigerators, freezers, stoves, washing machines, clothes dryers, water heaters and air conditioners.

- (2) **PROHIBITION.** No person, firm, association or corporation, unless granted permission by the Village, shall scavenge, collect or remove recyclable materials, solid waste, white goods and other household or similar items that have been deposited or placed by any person adjoining such premises for collection and disposal.

- (3) **PENALTIES.**

- (a) First Offense. Any person who shall violate the provisions of sub. (1) shall, upon conviction thereof, forfeit not less than \$25 nor more than \$100, together with the costs of prosecution, and in default of payment of such forfeiture and

costs, shall be imprisoned in the County Jail in accordance with Section 800.095 of the Wisconsin Statutes.

- (b) Second Offense. Any person found guilty of violating sub. (1), who has previously been convicted of a violation of such ordinance within one year, shall, upon conviction thereof, forfeit not less than \$50 nor more than \$500 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 in accordance with Section 800.095 of the Wisconsin Statutes.
- (c) Third Offense. Any person found guilty of violating sub. (1), who has previously been convicted of a violation of such ordinance 2 times or more within one year, shall upon conviction thereof, forfeit not less than \$100 nor more than \$500 for such third offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail in accordance with Section 800.095 of the Wisconsin Statutes.

## CHAPTER 9

### PEACE AND ORDER (Recodify 2016-03; Adopted 04/06/16)

<b><i>Section Number</i></b>	<b><i><u>Title</u></i></b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
9.01	Loitering of Minors Prohibited		
9.02	Animals Running at Large		
9.03	Keeping Livestock Within the Village Limits		
9.04	Open Burning	2008-23 2011-06	12/16/08 11/01/11
9.05	Disorderly Conduct		
9.055	Radios and Other Electric Sound Devices	2010-03	03/16/10
9.06	Unlawful Assemblies and Their Suppression		
9.07	Weapons		
9.08	Retail Theft		
9.09	Trespass on Private or Public Property		
9.10	Criminal Damage to Property		
9.105	Graffiti	2006-13	07/05/06
9.11	Storage of Abandoned, Junked or Motor Vehicles		
9.115	Garbage, Ashes and Rubbish	2009-10	11/13/09
9.12	Possession of Marijuana		
9.125	Drug Paraphernalia		
9.13	Interference with Law Enforcement and Fire Fighting		
9.14	Theft		
9.15	Possession and Consumption of Intoxicants in or Upon Certain Public Places		
9.155	Offenses Involving Alcohol Beverages by Underage Person		
9.156	Purchase or Possession of Tobacco Products		
9.16	Deposit of Ashes		
9.17	False Fire or Rescue Alarm		
9.18	Village Parks	2007-13 2012-04 2019-02	10/02/07 05/01/12 06/04/10
9.185	Retention Pond Regulations	2008-17 2011-08	08/19/08 12/06/11
9.186	Village-Owned Building Regulations	2008-20 2010-07	11/18/08 07/20/10
9.19	Junkyards Prohibited		

9.20	Fair Housing		
9.21	Fireworks Prohibited	2008-23	12/16/08
9.22	Trailers, Tents, Garages, Motorized Vehicles and Boats as and for Dwellings		
		2009-10	11/03/09
9.23	Hazardous Wastes	2009-10	11/03/09
9.235	Storage of Hazardous Materials in Mini-Storage Units	2009-10	11/03/09
9.24	Improper Use of 911 Emergency Telephone System		
9.25	Penalty		
9.29.601	Offenses Against State Laws Subject to Forfeiture		
—			
9.961.41			

## **9.01 LOITERING OF MINORS PROHIBITED.**

### **(1) CURFEW.**

No person 15 years or under shall loiter, idle, wander, stroll, play or otherwise be present on foot or in a vehicle upon the highways, roads, sidewalks, parks, playgrounds, public grounds, vacant lots or other unsupervised places in the Village between 9 p.m. and 6 a.m. The provisions of this section shall not apply to a minor 15 years or under accompanied by his parent, guardian or adult person having legal custody or control of the minor, or where the minor is on an emergency errand or legitimate business directed by his parent, guardian or adult person having legal custody or control of the minor, attending an organized social function or pursuing the duties of his employment.

(a) No person 16 or 17 years of age shall loiter, wander, stroll, play or otherwise be present on foot or in a vehicle upon the highways, roads, sidewalks, parks, playgrounds, public grounds, vacant lots or other unsupervised places in the Village between 11 p.m. and 6 a.m. The provisions of this section shall not apply to a minor 16 or 17 years of age accompanied by his parent, guardian or adult person having legal custody or control of the minor, or where the minor is on an emergency errand or legitimate business directed by his parent, guardian or adult person having legal custody or control of the minor, attending an organized social function or pursuing the duties of his employment.

(2) RESPONSIBILITIES OF PARENTS, GUARDIANS, ETC. No parent, guardian or other adult person having legal custody and control of any person under the age of 18 years shall knowingly allow or permit such minor to violate any of the provisions of this section.

## **9.02 ANIMALS RUNNING AT LARGE.**

(1) Any owner or keeper of any horse, mule, cow, swine, goat, geese, sheep, poultry, rabbits or other animal shall not let the same run at large upon any public streets, alley or ground within the Village.

(2) The Village Police shall restrain and impound any such horse, cow, mule, swine, goat, geese, sheep, poultry, rabbits or other animal found so running at large, and hold and sell the same in the manner provided by Ch. 173, Wis. Stats.



**9.03 KEEPING LIVESTOCK WITHIN THE VILLAGE LIMITS.**

- (1) No person shall erect, place, maintain or continue any stable, pen, coop, yard or other building upon any lot or ground in the Village for the purpose of confining or housing any domestic animal, fur bearing animal or fowl unless the same shall be at least 25' distant from any dwelling, house, apartment, hotel, restaurant, food or drinking establishment or rooming house, school, church or any building wherein people are employed, and unless the floor of such building, stable or coop be constructed of such material and in such a manner that it can be kept clean and sanitary at all times, and unless the location of such shall be authorized by the Board of Health.
- (2) All stables and other buildings wherein livestock or fur bearing animals are kept shall be provided with fly-tight bins or other tightly closed receptacles for manure, which shall be removed sufficiently often and in such manner as to prevent its becoming a nuisance. No manure shall be allowed to accumulate on the floor or on adjacent ground.
- (3) Chicken hatcheries and nurseries shall be completely housed in buildings with adequate ventilating systems, the vent outlets of which shall be so located that no objectionable odors shall reach adjacent or surrounding premises or buildings.
- (4) All pens, coops, enclosures or yards where domestic animals, fur bearing animals or fowl are confined shall be kept in a clean and sanitary manner and free from objectionable odors at all times.
- (5) The Village Police Chief shall strictly enforce the provisions of this section and see that all violations thereof are promptly abated and the violators thereof prosecuted.

**9.04 OPEN BURNING.**

- (1) INTENT. It is the intent of this Section that all allowed Open Burning be conducted in a safe, pollution-free manner, when wind and weather conditions are such as to minimize adverse effects of the Open Burning and with conditions that protect life and property.
- (2) DEFINITIONS. The following definitions shall be applicable in this Section:
  - (a) "Clean Wood" shall mean 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.

- (b) “Garbage” shall mean waste refuse, including, but not limited to, tin, cans, used lumber, glass, metals, ashes, junk, crockery, and similar waste products, refuse, and debris.
  - (c) “Open Burning” shall mean kindling or maintaining any fire from which the products of combustion are emitted directly into the open air without passing through a chimney or stack of at least 15 feet above ground.
  - (d) “Cooking, Recreational or Ceremonial Fire” shall mean a small camp-type charcoal, propane or wood burning fire with the base of the fire being no more than three (3) feet in diameter and producing flame no more than five (5) feet in height, and confined by a control device or structure such as a barrel, fire ring or fire pit.
  - (e) “Yard Waste” shall mean natural refuse, such as leaves, weeds, brush, stumps, clean wood, trees and other vegetative debris.
  - (f) “Stove” means a furnace, stove or boiler that consists of a solid metal (usually cast iron or steel) closed fire chamber, a grate and an adjustable air control that is connected to a suitable chimney or flue, and located outdoors or within an accessory building that is not intended for habitation by humans or domestic animals, and is capable of burning alternative fuels such as, but not limited to, wood, wood pellets, corn, propane or fuel oil.
- (3) **AUTHORITY OF FIRE CHIEF.** This Chapter shall be interpreted, administered, and enforced by the South Shore Fire Chief, Village Police Chief or his or her designee.
- (4) **GENERAL PROHIBITIONS.**
- (a) **Nuisance Prohibited.** No person shall burn any material that creates dense, black or noxious smoke or causes a public nuisance.
  - (b) **Materials That May Not Be Burned.**
    - 1. 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.

2. 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.
  3. Asphalt and products containing asphalt.
  4. 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.
  5. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
  6. Rubber including tires and synthetic rubber-like products.
  7. Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the recycling ordinance.
- (c) Atmospheric Conditions. No Open Burning shall occur on days when atmospheric conditions are unacceptable for burning as determined by the Department of Natural Resources (“DNR”) or the South Shore Fire Chief; or when the DNR issues an air-pollution or ozone advisory; or when wind speeds exceed twenty (20) miles per hour; or when extremely dry conditions exist as determined by the South Shore Fire Chief.
- (d) Supervision. Open burning shall be constantly attended and supervised by a competent person of at least sixteen (16) years of age 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.
- (e) Restrictions on Open Burning. Open Burning is hereby prohibited in the Village of Sturtevant except for:
1. Outdoor fires for Cooking, Recreational or Ceremonial Fires.
  2. Back fires to control forest fires or fires set for forest and wildlife habitat management as prescribed by and carried out under the supervision of government agencies and where no reasonable alternative is available.

3. Fires set for the practice and instruction of firefighters or the testing of firefighting equipment.
4. Burning of brush or weeds on agricultural lands including fires for cropland management, insect and rodent control, provided dense smoke is not created and no nuisance occurs.
5. Burning of brush, grasses and weeds for the management of established prairies, prairies under restoration, detention ponds or residential green-spaces provided dense smoke is not created and no nuisance occurs.
6. Burning of Yard Waste on one (1) or two (2) family residential properties, conditioned upon compliance with the following conditions:
  - a. The fires must be at least ten (10) feet from the property line and not on any public right of way, including but not limited to easements, ditches, curbs or road shoulders.
  - b. The fire must be at least fifty (50) feet from any structure on or off of the property, unless the fire is contained in a metal, brick, stone or concrete container and then such fire shall be at least twenty (20) feet from any structure on or off of the property.
  - c. The base of the fire shall be no more than six (6) feet in diameter and the fire shall be no more than five (5) feet in height.
  - d. Fires must be kept manageable and under control at all times.
  - e. Fires must be immediately extinguishable upon request of the Fire Chief or his or her designee.
  - f. Fires must be attended at all times until it is extinguished or burns out.
  - g. The burning shall be conducted only on the property on which the Yard Waste was generated.
  - h. The burning of Yard Waste shall only be allowed during the following periods of the year: May 1<sup>st</sup> through June 15<sup>th</sup> and October 1<sup>st</sup> through November 15<sup>th</sup>.

(7) ADDITIONAL REGULATIONS.

- (a) Exceptions contained in Section (e)(1) have no time limit and do not require prior notification or the approval of the Fire Chief under subsection (g) below.
- (b) Exceptions contained in Subsection (e)(2) and (3) have no time limit, but do require prior notification and approval of the South Shore Fire Chief under subsection (g) below.
- (c) Exceptions contained in Subsection (e)(4) through (6) are permitted only between the hours of 8:00 a.m. and 5:00 p.m. prevailing time and require prior notification and approval of the Fire Chief under subsection (g) below.
- (d) Approval of the Fire Chief must be received prior to commencing with the Open Burning. The Fire Chief may require reasonable fire prevention measures and conditions in his discretion, including but not limited to having a water tanker on-site or stand-by. Any cost incurred by the Village in taking any fire prevention measures shall be paid by the person conducting the Open Burning prior to commencing said burn.
- (e) Upon written request, the South Shore Fire Chief may consider and grant other exceptions to the Open Burning regulations set forth in this Chapter if such exception would be consistent with the intent and purposes of this Chapter.

(8) NOTIFICATION AND APPROVAL.

- (a) Notification. When required, the Fire Chief shall be notified by telephone of any Open Burning and such notification must be prior to the time that the Open Burning is to commence. Notification by a person proposing an Open Burn does not waive any requirements of this ordinance and the Village reserves the right to impose a penalty for violations as provided in this Chapter.
- (b) Conditions. The Fire Chief may impose any conditions on an allowed Open Burning that are necessary for the protection of life or property.
- (c) Approval. If upon notification, the Fire Chief determines in his discretion that the proposed Open Burning is contrary to any provision of the Code of Ordinances, is a hazard for life or property, or constitutes a public nuisance, the Fire Chief shall immediately notify the person proposing the Open Burning and is authorized to take any action authorized by this Chapter or the Code of Ordinances.

- (9) STOVES. A Stove may be installed and used in the Village only in accordance with the following provisions:
- (a) The Stove shall not be used to burn any of the prohibited materials listed in Subsection (d) of this ordinance.
  - (b) The Stove shall have a chimney that extends at least 15 feet above the ground surface. The Fire Chief or designee, in his/her sole discretion, may require a greater height if conditions warrant, or 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. Before installation of a Stove, the Fire Chief or designee shall be consulted as to the chimney height that shall be required for the requested location. All Stoves must be inspected by the Fire Chief or designee before they become operational.
  - (c) All chimneys, smokestacks, or similar devices for conveying smoke or hot gases to the outer air and the stoves, furnaces, fire boxes, or boilers to which they are connected shall be constructed and maintained in such a manner as to not create a fire hazard.
  - (d) Any person with a Stove that is installed and operating prior to the adoption of this ordinance shall have 180 days from the publication of this ordinance to bring the Stove into compliance with this ordinance.
- (10) EMERGENCY SITUATIONS. In emergency situations, such as natural disasters, burning that would normally be prohibited is allowed if specifically approved by the Village President. The Village President shall subsequently seek ratification and approval of such emergency measures from the Village Board as soon as is practicable.
- (11) ENFORCEMENT AND PENALTIES. Unless otherwise provided, any person who shall violate any provision of this Chapter or provide false or misleading information for permits or applications, shall be subject to a penalty as provided in section 25.04.

#### **9.05 DISORDERLY CONDUCT.**

No person shall, in a public or private place, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance.

**9.055 RADIOS AND OTHER ELECTRIC SOUND AMPLIFICATION DEVICES.** (Cr. #099-3)

- (1) DEFINITION. Sound-amplifying device means any machine or device for the amplification of the human voice, music or any other sound, but shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.
- (2) PROHIBITION. No person may operate, park, stop or leave standing a motor vehicle while using a radio or other electric sound-amplifying device emitting sound from the vehicle that is clearly audible under normal conditions from a distance of 50 or more feet, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition. This subsection does not apply to any of the following:
  - (a) The operator of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm.
  - (b) The operator of a vehicle of a public utility, as defined in. §11.40(1)(a), Wis. Stats.
  - (c) The operator of a vehicle that is being used for advertising purposes.
  - (d) The operator of a vehicle that is being used in a community event or celebration, procession or assemblage.
  - (e) The activation of a theft alarm signal device.
  - (f) The operator of a motorcycle being operated outside of a business or residence district.
- (3) IMPOUNDMENT.
  - (a) In this subsection, “sound-producing device” does not include a piece of equipment or machinery that is designed for agricultural purposes and that is being used in the conduct of agricultural operations.
  - (b) A law enforcement officer, at the time of issuing a citation for a violation of Section 9.055(2) may impound any radio, electric sound amplification device or other sound-producing device used in the commission of a violation if the person charged with such violation is the owner of the radio, electric sound

amplification device or other sound-producing device and has two or more prior convictions for violating this section within a three (3) year period.

- (c) The vehicle in which the radio, electric sound amplification device or other sound-producing device is located may be impounded for not more than five (5) working days to permit the Village or its authorized agent to remove the radio, electric sound amplification device or other sound-producing device if the vehicle is owned by the person charged with the violation and the sound-producing device may not be easily removed from the vehicle. Upon removal of the sound-producing device, an impounded vehicle shall be returned to its rightful owner.
- (d) The Village may recover the cost of impounding the sound-producing device and, if a vehicle is impounded, the cost of impounding the vehicle and removing the sound-producing device. Upon disposition of the forfeiture action for the violation of this section and payment of any forfeiture imposed, the sound-producing device shall be returned to its rightful owner.
- (e) The Village may dispose of any impounded sound-producing device or, following the procedure for an abandoned vehicle under §342.40, Wis. Stats., dispose of any impounded vehicle which has remained unclaimed for a period of ninety (90) days after disposition of the forfeiture action.
- (f) This section does not apply to a radio, electric sound amplification device or other sound-producing device on a motorcycle.

(4) EXCESS NOISE GENERALLY

- (a) No one may use, operate or permit to be used or operated any sound production or sound amplification device in a loud manner or producing any other sound in a loud manner. A loud manner is defined as a sound plainly audible at the property line of the lot on which the device is located. Any person, group or property owner producing or permitting to be produced sound in a loud manner will be in violation of the ordinance.
- (b) Subsection (a) shall not apply to (1) village-sponsored events or to any events conducted pursuant to conditions set forth in a village-issued picnic license, (2) Between the hours of 7:00 a.m. and 11:00 p.m.
- (c) Certain sounds are generated which due to the nature of generation, such as random or unpredictable times of occurrence, are impractical for police officers to assess. Where such sounds occur and cause a serious disturbance



to a neighborhood, an alternative method of processing complains and relief shall apply. Upon written statement concerning such sound, signed by two or more affected adult persons from separate residences or occupancies, the Police Chief or his designee may commence prosecution on information and belief.

- (5) PENALTIES. Any person violating this section shall be subject to a forfeiture of not less than \$40.00 nor more than \$80.00 for the first violation and not less than \$100 nor more than \$200 for the second or subsequent violation within a year, in addition to costs of impoundment and prosecution.

#### **9.06 UNLAWFUL ASSEMBLIES AND THEIR SUPPRESSION.**

- (1) Police Officers have a duty to suppress unlawful assemblies within their jurisdiction. For that reason they may order all persons who are part of an assembly to disperse. An “unlawful assembly” is an assembly which consists of three or more persons and which causes such a disturbance of public order that it is reasonable to believe that the assembly will cause injury to persons or damage to property unless it is immediately dispersed.
- (2) An “unlawful assembly” includes persons who assemble for the purpose of blocking or obstructing the lawful use of any private or public thoroughfares, property or of any positions of access or exit to or from any private or public building, dwelling place or any portion thereof and which assembly does, in fact, so block or obstruct the lawful use by any other person of any such private and public thoroughfares, property or any position of access or exit to or from any private or public building, dwelling place or any portion thereof.
- (3) No person shall fail or refuse to withdraw from an unlawful assembly which the person knows has been ordered to disperse.

#### **9.07 WEAPONS.**

- (1) DEFINITIONS.

*Concealed* shall mean to wear or in any manner carry an object under one's clothes or conceal upon or about one's person.

*Dangerous Weapon* shall mean any object or instrument which, by its capabilities of use, is capable of producing death or great bodily harm or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or

likely to produce death or great bodily harm. The following are dangerous weapons per se: gun, pistol, rifle, airgun, blackjack, billy, sandclub, sandbag, bludgeon, sling shot, slung shot, pistol, revolver, or any instrument which impels a missile by compressed air, spring or other means in the form of a ball, bullet, slug, shot, arrow or BB pellet, whether the propelling force is gun powder, explosives, compressed air, mechanical action, or any other force. In addition, any weapon upon which loaded or blank cartridges are used, cross knuckles, knuckles of any metal, barbed or blade type, arrowhead, weapons known as Kung-Fu sticks or chuck sticks, which are basically 2 or more pieces of wood or other material connected by a piece of chain or other material. Instruments not herein specifically enumerated are nonetheless dangerous weapons when they fall within the terms of the above definition.

*Discharge* shall mean to shoot off, fire or release the trigger of any object or instrument that impels or releases a missile by compressed air, spring or other mean in the form of a ball, bullet, slug, shot, knife, arrow or BB pellet, whether the propelling force is gun powder, explosives, compressed air, mechanical action, or any other force.

*Firearm* shall mean any gun, pistol, rifle, air gun, bow and arrow, crossbow and/or shaft, or other device used to propel a missile in the form of a ball, bullet, slug, shot or BB pellet, whether the propelling force is gun powder, explosives, compressed air, mechanical action, or any other force.

*Law Enforcement Officer* shall mean any person specifically employed as defined by sec. 165.85(2)(c), Wis. Stats.

## (2) PROHIBITIONS.

(a) Concealed Dangerous Weapons. No person, except a bona fide Law Enforcement Officer, or persons with a valid Concealed Carry License, recognized by the State of Wisconsin, may go armed or carry a Concealed Dangerous Weapon. State Law Reference: Sec. 941.235, Wis. Stats.

(b) Discharge of Dangerous Weapons.

1. No person, except a bona fide Law Enforcement Officer, shall discharge any Dangerous Weapon or Firearm within the Village regardless of whether that person is on privately owned or public property, except as permitted in par. (2) below.
2. The Discharge of BB guns may be permitted for safety programs recognized and approved by the Village Board.

3. No person shall throw, toss or propel a Dangerous Weapon at or near another person whether either person is on privately owned or public property.

(3) PENALTY.

- (a) Any person violating this section of the Municipal Code of Ordinances shall be subject to the penalty provisions in Section 25.04 of this Code.
- (b) Any weapon involved in a violation of any subsection of this ordinance may be seized and held by the Village's Police Department until disposition of any citation or charge issued takes place. Upon conviction of a violation of any subsection, the weapon may be ordered destroyed by the court.

(4) EXCEPTIONS.

- (a) The provisions of this Section shall not prohibit the discharge of Firearms in the following cases:
  - (1) By a bona fide Law Enforcement Officer while 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 person or property.
  - (4) By a person at an approved target range or legal game preserve.
- (b) The Village is not required to negate any exception under par. (a). Any person that claims an exception under par. (a) has the burden of proving the exception by a preponderance of the evidence.
- (c) A person may have a defense of privilege of self-defense or defense of others in accordance with §939.48, Wis. Stats.

**9.08 RETAIL THEFT.**

- (1) No person shall intentionally alter indicia of price or value of merchandise or take and carry away, transfer, conceal or retain possession of merchandise held for

resale by a merchant without his consent and with intent to deprive the merchant permanently of possession or the full purchase price of such merchandise.

- (2) The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of such person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.
- (3) A merchant or merchant's adult employee or agent who has probable cause for believing that a person has violated this section in his presence may detain such person in a reasonable manner for a reasonable length of time to deliver him to a Law Enforcement Officer and/or to his parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he shall not be interrogated or searched against his will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the merchant, his or her employee or agent effecting the detention to the same defense in any action as is available to an officer making an arrest in the line of duty.

## **9.09 TRESPASS ON PRIVATE OR PUBLIC PROPERTY.**

- (1) No person shall:
  - (a) Enter any enclosed or cultivated land of another with intent to catch or kill any birds, animals or fish on the land or gather any products of the soil without the express or implied consent of the owner or occupant to engage in any of those activities.
  - (b) Enter or remain on any land of another after having been notified by the owner or occupant not to enter or remain on the premises.
  - (c) Hunt, shoot, fish or gather any product of the soil on the premises of another or enter such premises with intent to do any of the foregoing after having been notified by the owner or occupant not to do so.
  - (d) Enter any enclosed or cultivated land of another with a vehicle of any kind without the express or implied consent of the owner or occupant.

- (2) A person has received notice from the owner or occupant within the meaning of this section if he has been notified personally, either orally or in writing, or if the land is posted. For land to be posted, a sign at least 11" square must be placed in at least 2 conspicuous places for every 40 acres to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of legal title to the land and by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as herein provided were erected or in existence upon the premises to be protected within 6 months prior to the event complained of shall be prima facie proof that the premises to be protected were posted as herein provided.
- (3) Whoever erects on the land of another signs which are the same as or similar to those described in sub. (2) without obtaining the express consent of the lawful occupant of or holder of legal title to such land is in violation of this section.
- (4) Nothing in this section shall prohibit a representative of a labor union from conferring with any employee provided such conference is conducted in the living quarters of the employee and with the consent of the employee occupants.
- (5) Any authorized occupant of employer provided housing shall have the right to decide who may enter, confer and visit with him in the housing area he occupies.
- (6) Whoever intentionally enters the dwelling of another without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace, is in violation of this section.

## **9.10 CRIMINAL DAMAGE TO PROPERTY.**

No person shall intentionally cause damage to any physical property of another without the person's consent.

### **9.105 GRAFFITI.**

- (1) **DEFINITION.** For the purpose of this section, graffiti means any unauthorized inscription, word, painting or other defacement that is engraved on or otherwise affixed to any surface of public or private property by any implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advanced authorization is otherwise deemed a public nuisance by the Village of Sturtevant.

- (2) **PROHIBITED CONDUCT-** It shall be unlawful for any person to write, draw, inscribe, mark, scratch, paint spray or otherwise place graffiti of any kind on any public or private building, structure, or place or on any real or personal property. Graffiti is declared a public nuisance and is destructive to the rights and values of the property owners as well as the entire community.
- (3) **ALLOWING GRAFFITI-** No owner of real property within the Village shall allow any graffiti to remain upon any structure located on the owner's property when the graffiti is visible from the street or from other public or private property.
- (4) **NOTIFICATION OF VIOLATION-** Whenever the Village Police Chief or his designee determines that graffiti on any building or structure within the Village is visible from the street or from other public or private property, the Village Police Chief or his designee shall issue an order to the owner of the property to abate the graffiti in a timely manner.
- (5) **COMPLIANCE-** A property owner shall be deemed to have complied with an order to abate graffiti if it is obliterated by a primary paint and matching building paint or by such other means as shall obliterate the graffiti.
- (6) **FAILURE TO COMPLY-** If a property owner fails to comply with an order to abate issued pursuant to subsection (4) above, the Village Police Chief or his designee may cause the graffiti to be abated either by Village employees or by an independent contractor. The Village and/or the independent contractor are authorized to enter upon the property and abate the graffiti upon exterior walls, fences, billboards and other structures abutting public streets, property or right of way. The Village or private contractor will take all reasonable precautions to avoid causing damage to the property where the graffiti is abated. Any paint used to obliterate graffiti shall be as close as practical to the background color or colors in the area where the graffiti is abated. The cost of abating the graffiti shall, pursuant to section 66.0627 Wis. Stats., shall be imposed as a special charge against the real property for the cost of the service provided. If the special charge is not paid within 30 days, the special charge shall be deemed delinquent and shall be a lien against the property as of the date of delinquency. The delinquent special charge shall be included in the current or next tax roll for collection and settlement under Chapter 74, Wis. Stats.
- (7) **PENALTIES-** Any person who violates subsection (2) above shall be the subject to a forfeiture of not less than \$250 in addition to any applicable fees, assessments and the costs of prosecution and any person who previously has been convicted of a violation of this section shall be subject to a forfeiture of not less than \$500 in addition to any applicable fees, assessments and the costs of prosecution. In addition, 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 or parents of any unemancipated minor child who violates this section may also be held liable for the cost of replacing or repairing such damage or destroyed property.

## **9.11 STORAGE OF ABANDONED, JUNKED OR DISMANTLED MOTOR VEHICLES.**

- (1) **PURPOSE.** The purpose of this section is to preserve and promote the public health, safety and welfare, which is endangered by the presence, storage or keeping of abandoned, dismantled, inoperable, junked or wrecked motor vehicles or motor vehicle accessories or equipment on public or private property within the Village, which impedes traffic and road maintenance, reduces aesthetic values and tends to destroy the environment.
- (2) **DEFINITIONS.** For the purpose of this section, the following definitions shall apply:

Motor Vehicle. As defined in §340.01, Wis. Stats.

Motor Vehicle, Abandoned. A motor vehicle which has been left unattended on a public highway or on other property without the permission of the property owner for more than 3 consecutive days.

Motor Vehicle, Dismantled. A motor vehicle which has parts, accessories or equipment removed therefrom so that the same cannot be legally operated upon a public highway.

Motor Vehicle, Inoperable. 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.

Motor Vehicle, Junked. 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. 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.

(3) PROHIBITIONS.

- (a) No person shall abandon any motor vehicle within the Village and no person shall leave unattended any motor vehicle on any public highway or on any public or private property within the Village for such time and under such circumstances as to cause the motor vehicle to reasonably appear to be abandoned.
- (b) No person having the 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 and 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; provided, however, that the following shall not be prohibited if the motor vehicle has a currently paid registration with the Wisconsin Department of Transportation:
  - 1. Storage of motor vehicles within a garage complying with the ordinances of the Village.
  - 2. Temporary storage not to exceed 60 days of damaged motor vehicles by a sales or repair business located in a properly zoned area.

(4) REMOVAL OF MOTOR VEHICLES.

- (a) Abandoned motor vehicles shall be removed by the Village Police Department and shall be disposed of in accord with the provisions of §342.40, Wis. Stats., as amended. The Village Police Chief shall be the designated municipal representative to act on behalf of the Village under §342.40.
- (b) 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 hereunder.

**9.115 GARBAGE, ASHES AND RUBBISH.**

- (1) For the purpose of this section, waste materials are defined as follows:

Ashes. Waste products of coal and other fuels used for industrial purposes and in homes for cooking and heating.



Garbage. Organic waste resulting from the preparation, processing, handling and storage of food and all decayed or spoiled food from any source whatever.

Rubbish and Refuse. Paper, rags, metal, wood, glass, crockery, packing materials, used boxes, used barrels, tree branches, grass clippings, leaves, yard and garden debris, used furniture, used bedding, tin, cans, ashes, discarded articles and machines, and all other household and business wastes not classified as garbage or as construction wastes.

- (2) No person shall deposit or cause to be deposited in any street or public or private property any garbage, ashes, rubbish, cuspidor cleanings, offal, carcasses, manure or any animal or vegetable waste thereon, or by transferring any filth from his own lot to that of another.
- (3) No part of the contents or substance from any sink, privy, cesspool or any manure, ashes, garbage, rubbish or waste water shall be thrown upon any street or public place by any person or be allowed to run or drop upon or remain in any street or public place, nor shall the same be allowed to fall or run into any waters surrounding or flowing through the Village save through the public sewers, where available.
- (4) No person shall store or accumulate refuse on any vacant or occupied lot or premises in the Village except at licensed junkyards, Village dumps, and, with respect to grass clippings, leaves, and yard and garden debris, in a compost container for personal recycling.
- (5) Every owner, lessee, tenant, manager or occupant of any lot, building or premises, including place of business, hotel, restaurant, rooming house, apartment, tenement or other establishment shall keep the same at all times in a clean, inoffensive and orderly condition, permitting no deposit or accumulation of materials other than those ordinarily attendant upon the use for which the premises are regularly intended. Any accumulation of refuse is hereby declared to be a nuisance and to be dangerous to the public health and welfare.
- (6) No owner, lessee, tenant, occupant or manager of any building shall permit any infestation of vermin or rodents or the accumulation of any filth, garbage, ashes, rubbish, or offal in any hall, home, closet, cellar, attic, yard, shed, garage, outbuilding or on any other place or any such premises.
- (7) The occupant of every single or 2 family dwelling, or the operator of every boarding house, restaurant or place of business who does not otherwise provide for the disposal of garbage in a sanitary manner, shall provide proper and conveniently located receptacles sufficient to receive all garbage, ashes, rubbish and other wastes between the times of collection. Proper garbage receptacles shall be watertight,

provided with a tight fitting cover which shall not be removed except when necessary to place garbage in such cans or to empty or cleanse the same. All garbage accumulating between the times of collection shall be placed in such cans.

- (8) All the operators of every apartment or flat accommodating more than two families shall provide cubic yard containers or compactors for storage and disposal of garbage. Such containers or compactors shall be equipped with self-closing covers.
- (9) No occupant of any dwelling, house, building or structure, regardless of how such occupant came into occupancy of such premises, shall vacate any such premises without first removing or causing to be removed and properly disposing of all waste materials as defined in this section.

#### **9.12 POSSESSION OF MARIJUANA.**

- (1) No person shall have in their possession, use or keep any tetrahydrocannabinol, Cannabis Sativa L. or marijuana.
- (2) Any person who violates this section shall upon conviction thereof be subject to a forfeiture of not less than \$100 nor more than \$500 and in default of payment shall be imprisoned in the county jail not more than 30 days.

#### **9.125 DRUG PARAPHERNALIA. (Cr. #095-8)**

- (1) DEFINITIONS. As used in this section:

*Drug paraphernalia* means all equipment, products and materials of any kind which are used, designed for use or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, as defined in Ch. 161, Wis. Stats., in violation of this section. "Drug paraphernalia" includes, but is not limited to:

- (a) Kits used, designed for use or primarily intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

- (b) Kits used, designed for use or primarily intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
- (c) Isomerization devices used, designed for use or primarily intended for use in increasing the potency of any species of plant which is a controlled substance.
- (d) Testing equipment used, designed for use or primarily intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
- (e) Scales and balances used, designed for use or primarily intended for use in weighing or measuring controlled substances.
- (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, designed for use or primarily intended for use in cutting controlled substances.
- (g) Separation gins and sifters used, designed for use or primarily intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
- (h) Blenders, bowls, containers, spoons and mixing devices used, designed for use or primarily intended for use in compounding controlled substances.
- (i) Capsules, balloons, envelopes or other containers used, designed for use or primarily intended for use in packaging small quantities of controlled substances.
- (j) Containers and other objects used, designed for use or primarily intended for use in storing or concealing controlled substances.
- (k) Hypodermic syringes, needles and other objects used, designed for use or primarily intended for use in parenterally injecting controlled substances into the human body.
- (l) Objects used, designed for use or primarily intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, including but not limited to:

1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
2. Water pipes.
3. Carburetion tubes and devices
4. Smoking and carburetion masks.
5. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
6. Miniature cocaine spoons and cocaine vials.
7. Chamber pipes.
8. Carburetor pipes.
9. Electric pipes.
10. Air-driven pipes.
11. Chilams.
12. Bongs.
13. Ice pipes or chillers.

*Primarily* means chiefly or mainly.

(2) DETERMINATION OF DRUG PARAPHERNALIA.

- (a) In determining whether an object is drug paraphernalia, the following shall be considered, in addition to any other legally relevant factors:
1. Statements by an owner or by anyone in control of the object concerning its use.
  2. Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.
  3. The proximity of the object, in time and space, to a direct violation of this section.
  4. The proximity of the object to controlled substances.
  5. The existence of any residue of controlled substances on the object.
  6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner or of

anyone in control of the object as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

7. Oral or written instructions provided with the object concerning its use.
  8. Descriptive materials accompanying the object which explain or depict its use.
  9. National and local advertising concerning its use.
  10. The manner in which the object is displayed for sale.
  11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
  12. The existence and scope of legitimate uses for the object in the community.
  13. Expert testimony concerning its use.
- (b) In determining under this section whether an item is designed for a particular use, a court or other authority shall consider the objective physical characteristics and design features of the item.
- (c) In determining under this section whether an item is primarily intended for a particular use, a court or other authority shall consider the subjective intent of the defendant.

(3) PROHIBITED ACTIVITIES.

- (a) Possession of Drug Paraphernalia. No person may use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.
- (b) Manufacture, Sale or Delivery of Drug Paraphernalia. No person may sell, deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,

produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.

- (c) Delivery of Drug Paraphernalia to a Minor. Any person 18 years of age or over who violates sub. (3)(b) by delivering drug paraphernalia to a person under 18 years of age is guilty of a special offense.
- (d) Exemption. This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 961, Wis. Stats. This section does not prohibit the possession, manufacture, delivery or use of hypodermics, in accordance with Ch. 961, Wis. Stats.

(4) **PENALTIES.**

- (a) Any drug paraphernalia possessed in violation of this section shall be seized and forfeited to the Village.
- (b) Any person who violates sub. (3)(a) or (b) shall, upon conviction, be subject to a forfeiture of not more than \$250, 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 §800.095, Wis. Stats.
- (c) Any person who violates sub. (3)(c) shall, upon conviction, be subject to a forfeiture of not more than \$500, 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 §800.095, Wis. Stats.

**9.13 INTERFERENCE WITH LAW ENFORCEMENT AND FIRE FIGHTING.**

- (1) **INTERFERENCE WITH LAW ENFORCEMENT.** No person shall knowingly resist or obstruct an officer while such officer is doing any act in an official capacity and with lawful authority. In this section:

*Obstructs.* Includes without limitation knowingly giving false information to the officer with intent to mislead him in the performance of his duty

*Officer.* A peace officer or other public officer or public employee having the authority by virtue of his office or employment to take another into custody.

- (2) INTERFERENCE WITH FIREFIGHTING. No person shall intentionally interfere with the proper functioning of a fire alarm system or the lawful efforts of firefighters to extinguish a fire.
- (3) INTERFERENCE WITH FIRE FIGHTING EQUIPMENT. No person shall interfere with, tamper with or remove without authorization any fire extinguisher, fire hose or any other firefighting equipment.
- (4) INTERFERENCE WITH FIRE HYDRANTS. No person shall interfere with accessibility to a fire hydrant by piling or dumping material near it without first obtaining permission.

#### **9.14 THEFT.**

- (1) ACTS. No person shall:
  - (a) Intentionally take or carry away, use, transfer, conceal or retain possession of movable property of another without his consent and with the intent to deprive the owner permanently of possession of such property.
  - (b) By virtue of his office, business or employment, or as a trustee or bailee, having possession or custody of money or of a negotiable writing of another, intentionally use, transfer, conceal or retain possession of such money, security, instrument, paper or writing without the owner's consent, contrary to his authority, and with the intent to convert to his own use or to the use of any other person except the owner. A refusal to deliver any money, security, instrument, paper or other negotiable writing, which is in his possession or custody by virtue of his office, business or employment, or as a trustee or bailee, upon the demand of the person entitled to receive it, or as required by law, is prima facie evidence of an intent to convert to his own use within the meaning of this paragraph.
  - (c) Having a legal interest of movable property, intentionally and without consent, take such property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of such property.
  - (d) Obtains title to property of another by intentionally deceiving him with a false representation which is known to be false, made with the intent to defraud, and which does defraud the person to whom it is made. "False representation" includes a promise made with the intent not to perform it if it is a part of a false and fraudulent scheme.

- (e) Intentionally fail to return any personal property which is in his possession or under his control by virtue of a written lease or written rental agreement, within 10 days after the lease or rental agreement has expired.

(2) **DEFINITIONS.** In this section, the following definitions shall apply:

Property. All forms of tangible property, whether real or personal, without limitation, including electricity, gas and documents which represent or embody a chose in action or other intangible rights.

Property, Movable. Property whose physical location can be changed, without limitations, including electricity and gas, documents which represent or embody intangible rights and things growing on, affixed to or found in land.

Property of Another. Includes property in which the actor is a co-owner and the property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife.

Value. The market value at the time of the theft or the cost to the victim of replacing the property within a reasonable time after the theft, whichever is less, but if the property stolen is a document evidencing a chose in action or other intangible right, value means either the market value of the chose in action or other right or the intrinsic value of the document, whichever is greater. If the thief gave consideration for or had a legal interest in the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.

**9.15 POSSESSION AND CONSUMPTION OF INTOXICANTS IN OR UPON CERTAIN PUBLIC PLACES.**

- (1) No person shall sell, serve or give to another person, or offer to sell, serve or give to another person, any fermented malt beverage or intoxicating liquor while upon any public street, alley or sidewalk or within a parked motor vehicle located on any public street, alley or parking lot open to the public within the Village.
- (2) No person shall consume or possess an open container containing any fermented malt beverage or intoxicating liquor while upon any public street, alley or sidewalk, or within a parked vehicle located on any public street, alley or parking lot open to the public within the Village.
- (3) No person under the legal drinking age unaccompanied by a parent, guardian or spouse who has attained the legal drinking age shall possess, transport or have



under his control any alcohol beverage in any motor vehicle, unless such person is an adult employed by a liquor licensee and such possession is during regular working hours and in the course of his employment.

**9.155 OFFENSES INVOLVING ALCOHOL BEVERAGES BY UNDERAGE PERSONS.** (Cr. #92-20)

- (1) DEFINITIONS. The definitions set forth in §125.02, Wis. Stats., and any amendments thereto are incorporated by reference as though fully set forth herein.
- (2) PROHIBITIONS. No underage person shall do any of the following:
  - (a) Knowingly possess or consume alcohol beverages, unless accompanied by his parent, guardian or spouse who has attained the legal drinking age.
  - (b) Procure or attempt to procure alcohol beverages from a licensee or permittee.
  - (c) Unless accompanied by a parent, guardian or spouse who has attained the legal drinking age, possess or consume alcohol beverages on licensed premises. This paragraph shall not apply, however, to possession of an alcohol beverage during the course of employment as authorized in §125.07(4)(bm), Wis. Stats., which section and any amendments thereto are incorporated herein by reference as though fully set forth.
  - (d) Enter, knowingly attempt to enter or is on a licensed premises in violation of §125.07(3), Wis. Stats., which section and any amendments thereto are incorporated herein by reference as though fully set forth.
  - (e) Falsely represent his age for the purpose of receiving alcohol beverages from a licensee or permittee.
  - (f) Intentionally carry an official identification card not legally issued to him, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information.
  - (g) Make, alter or duplicate an official identification card purporting to show that he has attained the legal drinking age.
  - (h) Present false information to an issuing officer in applying for an official identification card.

- (i) Intentionally carry an official identification card or other documentation showing that the person has attained the legal drinking age with knowledge that the official identification card or documentation is false.
- (j) Provide to another underage person an official identification card or other documentation purporting to show that the other underage person has attained the legal drinking age with knowledge that the official identification card or documentation is false.

(3) PENALTIES.

- (a) Any person violating any of the prohibitions of sub. (2) is subject to a forfeiture as set forth in §125.07(4), Wis. Stats., suspension of the person's operating privilege in accordance with §343.30(6), Wis. Stats., participation in a supervised work program in accordance with §343.30(6)(cg), Wis. Stats., or any combination of these penalties.
- (b) The court may also impose the additional orders set forth below:
  - 1. In this paragraph “defendant” means a person found guilty of violating any of the prohibitions of sub. (2) who is 17, 18, 19 or 20 years of age.
  - 2. After ordering a penalty under par. (a), the court with the agreement of the defendant may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed. The order under this subparagraph shall require the defendant to submit to an alcohol abuse assessment, participate in an outpatient alcohol abuse treatment program, participate in a court approved alcohol abuse education program or any combination of the above. The types of alcohol abuse treatment programs to be utilized and the procedure to be followed by the court and defendant are set forth in §125.07(4) (e), Wis. Stats., which section and any amendments thereto are incorporated herein by reference as though fully set forth.

**9.156 PURCHASE OR POSSESSION OF TOBACCO PRODUCTS.**

(Cr. #093-18)

(1) DEFINITIONS.

- (a) “Cigarette” has the meaning given in §139.30(1), Wis. Stats.

- (b) “Law enforcement officer” has the meaning given in §30.50(4s), Wis. Stats.
  - (c) “Tobacco products” has the meaning given in §139.75(12), Wis. Stats.
- (2) PROHIBITIONS. No person under the age of 18 shall:
  - (a) Buy or attempt to buy any cigarette or tobacco product.
  - (b) Falsely represent his age for the purpose of receiving any cigarette or tobacco product.
  - (c) Possess any cigarette or tobacco product.
- (3) EXCEPTION. A child may purchase or possess cigarette or tobacco products for the sole purpose of resale in the course of employment during his working hours, if employed by a retailer licensed under §134.65, Wis. Stats.
- (4) SEIZURE. A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of sub. (2) committed in his presence.
- (5) PENALTIES. Any person violating this section shall be subject to the penalty provisions in Section 25.04 of this Municipal Code.

#### **9.16 DEPOSIT OF ASHES.**

No person shall deposit any ashes or residue from any fire anywhere within the Village within 24 hrs. after same have been taken from any stove, furnace, fireplace or other similar place, unless the deposit is made into some noncombustible receptacle, and upon deposit in such receptacle the same shall not be removed or redeposited elsewhere during the 24-hour period.

#### **9.17 FALSE FIRE OR RESCUE ALARM.**

No person by any means or in any manner shall give, make or cause anyone else to give or make any false, misleading or untruthful call or alarm which causes or which is given under such circumstances as to be likely to cause any fire department or rescue equipment to respond with men or equipment as if to attend an actual fire or rescue call.

**9.18 VILLAGE PARKS.**

- (1) Village parks shall be closed to all persons between 10 pm and 6 am on the following day, with the exception of supervised activities such as ball games or special events.
- (2) No person may destroy, molest, deface, remove or attempt to remove any natural growth or natural or archaeological feature from Village parks.
- (3) No person may deface or damage park equipment, facilities or buildings.
- (4) No person may dispose of any debris, waste or recyclable material except by placing the material in receptacles provided for those purposes.
- (5) No person may dispose of any waste or recyclable materials in any waste or recyclable receptacles or at any location if the waste or recyclable material is generated from a permanent or seasonal residence or a business or other commercial operation.
- (6) No person may destroy, molest, possess without permission, attempt to remove or remove the property of others.
- (7) No fireworks are allowed in any Village Park except as part of the official Village Independence Day Celebration (see also Sec. 9.21 Code of Ordinances).
- (8) No person shall have in his possession or consume intoxicating beverages while in any of the Village parks except as follows:
  - (a) That beer and wine may be sold and consumed at Village parks for approved Village sponsored events in designated areas under the following conditions:
    1. The event must be conducted by a not for profit organization;
    2. A picnic permit must be obtained from the Clerk/Treasurer indicating the area, time and date for the event after being approved by the Village Board
    3. A licensed bartender and appropriate security is on the premises at all times;
    4. The only alcoholic beverages allowed are beer and wine;
    5. Only beer and wine sold or served by the licensee shall be permitted.

- (b) That beer and wine may be consumed, but not sold, at Fireman's Park, North Park, South Park and East Park in designated areas under the following conditions:
  - 1. A picnic permit must be obtained from the Village Clerk indicating the area, time and date for the event;
  - 2. The only alcoholic beverages allowed are beer and wine;
  - 3. The permit shall be present at the site for law enforcement to monitor;
  - 4. All consumers of alcoholic beverages shall be of legal drinking age.
- (9) No dogs, cats or other pets are allowed in any Village park with the exception of those parks and park areas specifically designated or marked as dog walk areas. Service dogs are exempt from this rule:
  - a. No dog, cat or other pet is allowed in any park building;
  - b. No person may allow his or her dog, cat or other pet to interfere in any manner with the enjoyment of the area by others;
  - c. Persons bringing or allowing pets in designated use areas shall be responsible for proper removal and disposal in sanitary facilities of any waste produced by these animals.
- (10) No unauthorized motorized vehicles are allowed in any Village park.
- (11) No person may operate or park any vehicle as defined in s.340.01(74), Stats, which is required to be registered by law on park land except:
  - a. In posted parking areas;
  - b. As otherwise specifically authorized by law or Ordinance.
- (12) Bicycle riding is allowed only in designated areas or on designated paths.
- (13) No person may ride a bicycle in a careless, negligent or reckless manner so as to endanger the life, property or persons of others on any Village park land.
- (14) No horses are allowed in any Village park.
- (15) Skateboarding is allowed only in designated or marked areas on park land.

- (16) No person may start, tend or maintain any fire on the ground or to burn any refuse in any Village park.
- (17) No persons may engage in climbing activities, including the attachment of climbing anchors on buildings, towers and other similar structures in any Village park.
- (18) No person may construct, place, occupy or use structures or store personal property on Village park land.

### **9.185 VILLAGE RETENTION PONDS.**

Village retention pond areas are identified as the pond on West Road, the pond at corner of Washington Avenue and West Road, the pond at the corner of Science Drive and Enterprise Drive, the Parkersville Pond, the St. Bonaventure Pond, the Veterans Memorial Pond, the Volunteer Appreciation Pond, and the Hiawatha Crossing Retention Pond.

The following rules and regulations apply to retention pond areas:

- (1) Village retention pond areas shall be closed to all persons between 10 p.m. and 6 a.m. on the following day.
- (2) No person may destroy, molest, deface, remove or attempt to remove any natural growth or natural archaeological feature from Village retention pond areas.
- (3) No person may deface or damage retention pond area equipment, facilities or fixtures.
- (4) No person may dispose of any debris, waste or recyclable material in a Village retention pond area except by placing the material in receptacles provided for those purposes.
- (5) No person may dispose of any waste or recyclable materials in any waste or recyclable receptacles or at any location if the waste or recyclable material is generated from a permanent or seasonal residence or a business or other commercial operation.
- (6) No person may destroy, molest, possess without permission, attempt to remove or remove the property of others.

- (7) No fireworks are allowed in any Village retention pond areas (see also Sec. 9.21 Code of Ordinances).
- (8) No person shall have in his possession or consume intoxicating beverages while in any of the Village retention pond area.
- (9) Dogs, cats or other pets are allowed in any Village retention pond areas if on a leash and if owners pick up and properly discard of any animal waste.
- (10) No unauthorized motorized vehicles are allowed in any Village retention pond areas. Snowmobiles are allowed in the Hiawatha Crossing Retention Pond area but only on officially groomed and marked trails that have been authorized by a Village Board resolution.
- (11) No person may operate or park any vehicle as defined in s. 340.01(74), Wis. Stats, which is required to be registered by law on retention ponds land except:
  - a. In posted parking areas;
  - b. As otherwise specifically authorized by law or administrative rule.
- (12) Bicycle riding is allowed only in designated areas or on designated paths.
- (13) No person may ride a bicycle in a careless, negligent or reckless manner so as to endanger the life, property or persons of others on any Village retention pond areas.
- (14) No horses are allowed in any Village retention pond areas.
- (15) No skateboarding is allowed in retention pond areas.
- (16) No person may start, tend or maintain any fire on the ground or burn any refuse in any Village retention pond areas.
- (17) No person may construct, place, occupy or use structures or store personal property in Village retention pond areas.

**9.186 VILLAGE-OWNED BUILDING REGULATIONS.**

- (1) **DEFINITIONS.** For purposes of this Section, “Village-owned building” means, without limitation, the Village Hall/Municipal Building, located at 2801 89th Street, the Amtrak Depot, located at 9900 East Exploration Court, the Village Public Works Department garages and the Village Recycling Center building.

Unless otherwise specifically excluded, “Village-owned building” shall also include any parking lots and pedestrian sidewalks servicing the Village-owned building, and the parcel of land upon which a Village-owned building is located.

- (2) REGULATIONS. The following rules and regulations shall apply to all Village-owned buildings:
- (a) No person may undertake any activity in a Village-owned building that interferes with or tends to interfere with the provision of Village services at the Village-owned building, that obstructs or tends to obstruct the flow of traffic or the movement of people in or around a Village-owned building, that harms or threatens to harm anyone, or that in any other way interferes with or tends to interfere with the safe and efficient operation of a Village-owned building.
  - (b) No person may undertake any commercial activity in a Village-owned building, unless duly authorized by the Village Board. For purposes of this subsection, “commercial activity” includes (1) the advertising, display, sale, lease, offer for sale or lease, or distribution of food, goods, services or entertainment (including the free distribution of promotional goods or materials); and (2) the solicitation of money or payment for food, goods, services or entertainment.
  - (c) No person may panhandle, beg, or otherwise solicit money in a Village-owned building.
  - (d) No person may post, distribute, display or distribute any sign, poster, notice, advertisement, handbill, or other printed or written matter in a Village-owned building without the prior permission of the Village Board or their designee, except as otherwise provided by law.
  - (e) No person may litter or dump garbage, liquids or other matter, nor create any nuisance, hazardous or otherwise unsanitary condition (including, without limitation, by spitting or urinating other than in an appropriate facility) in any Village-owned building. No person may remove trash or any other waste material that has been deposited in any waste receptacle in a Village-owned building, except a person duly authorized by the Village.
  - (f) No person may bathe in any restroom or use any restroom in any Village-owned building for any purpose other than its intended purpose. For purposes of this sub-section, “bathe” shall mean any washing, cleaning, or other



personal hygiene activity involving the removal of any clothing that is typically not removed in public.

- (g) No person may carry any open flame, any lighted torch, or any other lighted material in a Village-owned building.
- (h) No person may sleep or doze in any Village-owned building, if such activity may be hazardous to such person or to others, if such activity unreasonably disturbs or inconveniences others, or if such activity interferes with or tends to interfere with the safe and efficient operation of the Village-owned building.
- (i) No person may create any sound at such a level as does or would tend to unreasonably disturb or disrupt others. No person may utilize any radio or other device that produces or reproduces music or other sustained sounds via speakers in a Village-owned building, provided, however, that the use of a radio or other device listened to solely by headphones or earphones and at such a volume level as is inaudible to others is permitted.
- (j) No person may throw, drop or cause to be propelled any stone, snowball, projectile or other article at, from, upon, in or on a Village-owned building.
- (k) Alcohol. The provisions of Sec. 9.15 are hereby made applicable to Village-owned buildings, except with respect to any duly licensed premises as may be located within a Village-owned building. No person may enter or remain in any Village-owned building while his or her ability to function safely is impaired by alcohol or by any other drug.
- (l) No person may enter or remain in any Village-owned building after closing hours. No person may enter or attempt to enter any area of a Village-owned building that is not intended for public access, including without limitation closed-off areas, mechanical or equipment rooms, concession stands, storage areas, interior rooms, offices, railroad track areas, garages, and any area marked with a sign restricting access or indicating a dangerous environment, except as specifically authorized by the Village.
- (m) No person may place his or her foot on any seat within a Village-owned building, or lie upon any floor, platform, stairway, or landing of a Village-owned building.
- (n) No person may ride or straddle a moving bicycle or scooter, or utilize roller skates, in-line skates, a skateboard, or any other self-propelled or motor-

propelled vehicle in a Village-owned building or, other than the use of such transport to and from a Village-owned building, on the premises of a Village-owned building provided that the riding of skate boards, roller skates, in-line skates, bicycles, scooters or any other self-propelled or motor propelled vehicle on the Sturtevant Depot train platforms or on the path/sidewalk leading from the east Sturtevant Depot platform to Wisconsin Avenue is prohibited. This subdivision does not apply to the proper use of self-propelled or motor propelled wheelchairs or similar devices by a non-ambulatory individual.

- (o) No person may possess any explosives, highly combustible materials, or radioactive materials in a Village-owned building, except as authorized by the Village.
  - (p) No person may bring any animal into a Village-owned building or allow any animal to utilize the grounds or premises of a Village-owned building. This provision does not apply to working dogs for law enforcement agencies, or to service animals accompanying persons with disabilities.
  - (q) No person may refuse to comply with a lawful order and directive of any police officer or Village employee acting within the scope of his or her employment, or refuse to obey any instructions on notices or signs duly posted in or on any Village owned building.
  - (r) Additional regulations. Any Village ordinance or state law of general application is applicable, on its own terms, to all Village-owned buildings.
- (3) VIOLATIONS. Any person who violates any provision of this Section, or who violates any rule promulgated under this Section shall, upon conviction, be subject to the penalty provisions of Section 9.25. Additionally, any person who violates any provision of this Section, or who violates any rule promulgated under this Section, may be subject to immediate ejection from a Village-owned building.

### **9.19 JUNKYARDS PROHIBITED.**

- (1) No person shall maintain or operate a junkyard within the Village.
- (2) For the purposes hereof, a junkyard is defined as a yard or place for the storage of rags, rope, paper, old metal, glass objects, broken or damaged automobiles or such other material commonly classified and identified as junk.

**9.20 FAIR HOUSING.** (Cr. #092-17)

- (1) **DECLARATION OF POLICY.** It is hereby declared to be the policy of the Village pursuant to the constitutions of the United States and the State and its power to protect the public health, safety and general welfare that all persons, regardless of sex, race, color, handicap, religion, national origin, sexual orientation, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry, are entitled to fair and equal access to housing.

- (2) **DEFINITIONS.** In this section, unless the context requires otherwise, the following definitions apply:

Discriminate and Discrimination. Segregate, separate, exclude or treat any person or class of persons unequally because of sex, race, color, handicap, religion, national origin, sexual orientation, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry.

Handicap. Any physical disability or development disability as defined in §51.01(5)(a), Wis. Stats.

Housing. Any improved property, including any mobile home as defined in §66.058, Wis. Stats., which is used or occupied or is arranged, intended or designed to be used or occupied as a home or residence.

Person. Any individual, partnership, labor or other association, corporation, legal representative, receiver, trustee manager, employee or any other agent of any such person.

Unimproved Residential Lot. Any residential lot upon which no permanent building or structure containing living quarters has been constructed.

- (3) **PROHIBITED ACTS.**

- (a) No person shall discriminate in the Village:

1. By refusing to sell, lease, finance or construct housing or by refusing to discuss the terms thereof.
2. By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease, financing or rental of housing.

3. By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.
  4. By publishing, circulating, issuing or displaying or causing to be published, circulated, issued or displayed any communication, notice, advertisement or sign in connection with the sale, financing, lease or rental of housing, which states or indicates any discrimination in housing.
  5. For a person in the business of insuring against hazards, by refusing to enter into or by exacting different terms, conditions or privileges with respect to a contract of insurance against hazards to a dwelling.
  6. By refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant.
- (b) No person shall induce or attempt to induce any other person to sell, rent or lease any dwelling in the Village by representations regarding the present or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin or economic status or by representations to the effect that such present or prospective entry will or may result in:
1. The lowering of real estate values in the area concerned;
  2. A deterioration in the character of the area concerned;
  3. An increase in criminal or antisocial behavior in the area concerned; or
  4. A decline in the quality of the schools or other public facilities serving the area.
- (c) No person in the Village may coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of any right granted or protected by this section or with any person who has aided or encouraged another person in the exercise or enjoyment of any right granted or protected by this section or with any person who has aided or encouraged another person in the exercise or enjoyment of any right granted or protected by this section.

(4) ACTS NOT PROHIBITED.

- (a) Nothing in this section shall prohibit discrimination on the basis of age in relation to housing designed to meet the needs of elderly individuals.
- (b) Nothing in this section shall prohibit a person from exacting different or more stringent terms or conditions for financing housing based on the age of the individual applicant for financing if the terms or conditions are reasonably related to the individual applicant.
- (c) Nothing in this section shall prohibit the development of housing designed specifically for persons with a handicap and discrimination on the basis of handicap in relation to such housing.
- (d) Nothing in this section shall be deemed to prohibit an owner or his agent from requiring that any person who seeks to buy, rent or lease housing supply information concerning his family, marital, financial and business status, but not concerning race, color or creed.

(5) PENALTIES.

- (a) Any person who willfully violates this section shall for the first such violation forfeit not less than \$100 nor more than \$1,000. In default of such payment, the violator shall be imprisoned in the county jail for not less than 5 days nor more than 30 days.
- (b) Any person adjudged to have violated this section within 5 years after having been adjudged to have violated this section shall, for every violation committed within the 5 years, forfeit not less than \$1,000 nor more than \$10,000. In default of such payment, the violator shall be imprisoned in the county jail for not less than 30 days nor more than one year.
- (c) Payment of any forfeiture under this section shall be stayed during pendency of any appeal.

**9.21 FIREWORKS PROHIBITED.** (Cr. #095-26)

No person shall sell, expose or offer for sale, use, keep, discharge or explode any fireworks within the Village.

- (1) FIREWORKS DEFINED. Any firecracker, blank, cartridge, toy pistol or cannon or cane in which explosives are used, contrivances using nonpaper caps or cartridges,

sparklers, display wheels, the type of balloon which requires fire underneath to propel the same, torpedo, sky rocket, Roman candle, aerial salute, American or Chinese bomb or other device of like construction and any similar device containing any explosive or flammable compound, nitrates, chlorates, exalates, sulphide of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorous or any compound of the same and commonly known as fireworks.

- (a) The above ban shall not apply to any of the following commonly found in permanent retail outlets such as department stores and supermarkets:
    - 1. Toy pistols, canes, guns or other devices using paper caps made in accordance with U.S. Interstate Commerce Commission regulations. Paper caps also are permitted.
    - 2. Gold Star producing sparklers on wires which contain no magnesium, chlorate or perchlorate.
    - 3. Toy snakes which contain no mercury.
    - 4. Smoke novelties and party novelties which contain less than 1/4 gram of explosive mixtures.
  - (b) The above mentioned list of fireworks excepted from the ban may only be used on private property and shall not be permitted on public property. Streets, alleys, parks and parkways are considered public property where fireworks are banned.
- (2) EXCEPTIONS. Nothing contained in this section shall prohibit fireworks in the following circumstances:
- (a) For use in pyrotechnic displays given by public authorities, fair associations, amusement parks, park boards, civic organizations or groups of individuals when a permit to do so has been issued by the Village Fire Chief, Village Police Chief or his designee. The Chief may issue such permits as he deems advisable under the circumstances of each case, but the issuance of any such permit shall not be deemed a guarantee by the Fire Department or the Village that the use of any fireworks shall be safe. In addition, the Chief or his designee may specify in such permit the days when valid and may further limit the times of the day when the pyrotechnic display may be held. If the Chief denies a request for a permit, the applicant may appeal to the Village Board to review the decision.

- (b) The use or sale of blank cartridges for circus or theatrical purposes, for signal purposes in athletic or sports events or for use by militia, police or military organizations, and the use or sale of colored flares or torpedoes for railway, aircraft or highway signal purposes.
- (c) The sale by a resident wholesaler, dealer or jobber at wholesale, but only when the same are shipped or delivered directly outside the State or to an organization or group permitted to use the same under the provisions of par. (a) above or the Wisconsin Statutes.

**9.22 TRAILERS, TENTS, GARAGES, MOTORIZED VEHICLES AND BOATS AS AND FOR DWELLINGS.** (Am. 97-16)

No person shall use and no owner shall allow the use of house trailers, tents, garages and other similar structures, nor any motorized vehicles including, but not limited to, motor homes and boats, as and for dwelling purposes within the boundaries of the Village unless:

- (1) Such structure or motorized vehicle is designed to be used as a temporary dwelling, is not used as a dwelling in excess of 72 hours within any 30-day period of time, and is located within 75' of water and toilet facilities available for use by such person; or
- (2) Such structure or motorized vehicle is specifically exempted by federal or state law.
- (3) Campgrounds are prohibited within the boundaries of the Village.

**9.23 HAZARDOUS WASTES.**

- (1) **PROHIBITED DISCHARGES.** No person shall discharge or cause to be discharged, leaked, leached or spilled upon any public street, alley or public property; 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, 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.

- (2) **CONTAINMENT, CLEANUP AND RESTORATION.** Any person in violation of the above section shall, upon direction of any Emergency Management officer, begin immediate actions to contain, clean up 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 section, the Office of Emergency Management 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.
- (3) **SITE ACCESS.** Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to Emergency Management officers and staff and to Village Police and Fire Department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.
- (4) **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 that the situation is so critical that immediate steps must be taken to protect life and limb, the Coordinator of Emergency Management, or in his absence the Deputy Coordinator, or the senior Village police or fire official 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 President of the Village or the Village Board can take appropriate action.
- (5) **VEHICLES TRANSPORTING OR STORING HAZARDOUS MATERIALS.**  
(Cr. #93-9)
  - (a) Prohibited From Parking and Being Left Unattended. No motor vehicle which is in the process of storing or transporting hazardous materials or hazardous substances shall be parked or left unattended within the Village, whether on public or private lands, within 300' of any single or multiple family residence, apartment building or school except for the following purposes:
    - 1. To deliver or pick up such materials or substances to or from customers.
    - 2. To clean up any hazardous materials or substances.
    - 3. To comply with applicable traffic regulations.



4. To effect repairs to the motor vehicle or trailer in emergency situations.
5. To engage directly in construction work within the area.

(b) Definitions.

1. *Hazardous material* shall have the meaning as set out in 49 C.F.R. 171.8 and 172.101.
2. *Hazardous substance* shall have the meaning as set out in §144.01(4m), Wis. Stats.
3. *Unattended* shall have the following meanings:
  - a. If the operator of the motor vehicle is asleep.
  - b. If the operator of the motor vehicle is not in view of the motor vehicle.
  - c. If the operator of the motor vehicle is more than 150' away from the subject vehicle, regardless of whether the operator is in view of the motor vehicle.

- (6) ENFORCEMENT. (Rn. #93-9) The Coordinator of Emergency Management and his deputies as Village police officers shall have authority to issue citations or complaints under this section.
- (7) CIVIL LIABILITY. (Rn. #93-9) Any person in violation of this section 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.
- (8) PENALTIES. (Rn. #93-9) Any person in violation of this section shall forfeit to the Village upon conviction thereof not less than \$50 nor more than \$3,000, plus the costs of prosecution. Each day a violation exists shall constitute a separate offense.

**9.235 STORAGE OF HAZARDOUS MATERIALS IN MINI-STORAGE UNITS.**

- (1) PURPOSE. This Section is enacted to regulate the storage of hazardous materials in Mini-Storage Units for either short-term or long-term storage.

## (2) DEFINITIONS.

**Mini-Storage Unit.** An individual unit in an unoccupied compartmentalized building used for storage, regardless of whether units are rented to persons for either short-term or long-term storage.

**Low Hazard Materials.** Noncombustible or low hazard materials, that do not ordinarily burn rapidly, including but not limited to: asbestos, chalk, non-alcoholic beverages, brick and masonry, ceramic products, gypsum, glass and metals, beer or wine in metal or glass containers, electrical motors and coils, and fertilizers.

**Moderate Hazard Materials.** Materials which are likely to burn with moderate rapidity, but that do not produce either poisonous gases, fumes or explosives, including but not limited to: cloth, burlap, and paper bags, bamboo and rattan, canvas and leather belting, baskets, books and paper in rolls or packs, boots and shoes, cardboard and cardboard boxes, clothing, cordage, furniture, furs, glue, mucilage, paste and sizing, linoleum, silk, soap, sugar, tobacco products, wax candles, athletic equipment, musical instruments, beverages containing more than 12% alcohol, furniture other than metal business machines, electronics, and plastic products not classified as High Hazard.

**High Hazard Materials.** Highly combustible or explosive products or materials, which are likely to burn with extreme rapidity or which may produce poisonous fumes or explosions, highly corrosive, toxic or noxious alkalies, acids or other liquids or chemicals producing flame, fumes, poisonous irritant or corrosive gases, materials producing explosive mixtures or dusts that result in the division of matter into fine particles subject to spontaneous ignition.

## (3) USAGE OF MINI-STORAGE UNITS. Mini-Storage Units may be utilized for:

- (a) Storage of non-hazardous materials and Low Hazard Materials to Moderate Hazard Materials; and
- (b) Storage of motor vehicles only if the fuel tank has been purged and the battery has been disconnected.

## (4) PROHIBITION. No person shall store High Hazard Materials in a Mini-Storage Unit and no owner of a Mini-Storage Unit shall allow such materials to be stored. Uses other than for storage are prohibited except for the provision of a rental or manager's office in a Mini-Storage Unit may be provided, subject to the provisions of Wis. Admin. Code Chapter Comm 54.

- (5) **UNIT ADDRESS REQUIRED.** All Mini-Storage Units in the Village shall have an address and individual numbers placed on each individual unit.
- (6) **OCCUPANCY NOTICE REQUIRED.** Owners of Mini-Storage Units are to submit the following information to the Village Fire Chief:
  - (a) The name, address, and telephone number of the person renting a Mini-Storage Unit.
  - (b) A list of items to be stored in the unit, i.e., materials, hazards, etc.
- (7) **ENFORCEMENT.**
  - (a) A violation of this Section of the Code of Ordinances shall constitute a fire hazard.
  - (b) Whenever and wherever in the Village it is determined by any inspection by the Village Fire Chief or other designated person that there exists a violation of this Section, it shall be declared a fire hazard.
  - (c) When a fire hazard exists, the Village Fire Chief or other designated person shall serve a notice in writing upon the property owner or other person violating this Section giving the owner reasonable time in which to remove the hazard.

**9.24 IMPROPER USE OF 911 EMERGENCY TELEPHONE SYSTEM.**  
(Cr. #098-08)

- (1) **DEFINITION.** “911 Emergency Telephone System” shall mean an emergency telecommunications system as defined in §146.70(1)(i), Wis. Stats.
- (2) **PROHIBITIONS.**
  - (a) No person shall use the 911 emergency telephone system for regular business or non-emergency calls.
  - (b) No person shall use the 911 emergency telephone system to report an emergency, knowing that the fact situation which he or she reports does not exist.

**(3) PENALTIES.**

- (a) First Offense. Any person who violates subsection (2)(a) or (2)(b) shall, upon conviction thereof, be subject to a forfeiture of not more than \$300.00, together with the costs of prosecution.
- (b) Second Offense. Any person found guilty of violating subsection (2)(a) or (2)(b) who has previously been convicted of a violation of the same ordinance within 4 years shall, upon conviction thereof, be subject to a forfeiture of not more than \$500.00 for each such offense, together with the costs of prosecution.

**9.25 PENALTY.**

Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Section 25.04 of this Municipal Code. In addition to any penalty imposed for violation of Section 9.943.01(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 Section 9.943.01(1) may also be held liable for the cost of repairing such damaged or destroyed property in accordance with §895.035, Wis. Stats.

**9.29.601 - 9.961.41 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE. (Am. #091-13; #095-27)**

The following statutes following the prefix “9” defining offenses against the peace and good order of the State of Wisconsin, as set forth in the Wisconsin Statutes, as amended from time to time, 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 25.04 of this Municipal Code:

9.29.601(3)(a)	Throwing Refuse in Waters
9.101.123	Smoking or Allowing Smoking Where Prohibited
9.134.66	Sale or Gift of Cigarettes or Tobacco Products to a Child
9.146.70	Statewide Emergency Services Number
9.175.25	Illegal Storage of Junked Vehicles
9.254.76	Causing Fires by Tobacco Smoking
9.285.30(6)	Tampering with Pollution Control System or Mechanism
9.939.05	Parties to Crime

9.939.22	Words and Phrases Defined
9.939.32	Attempt
9.940.19(1)	Battery
9.940.34	Duty to Report Crime
9.941.10	Negligent Handling of Burning Materials
9.941.12(2),(3)	Interfering With or Failing to Assist in Fire Fighting
9.941.13	False Alarms and Interference with Fire Fighting
9.941.20(1)	Reckless Use of Weapon
9.941.23	Carrying Concealed Weapon
9.941.237 (2)	Carrying Handgun Where Alcohol Sold or Consumed (while
9.941.265	Restrictions on Use of Facsimile Firearms
9.941.299	Laser Pointers
9.941.315	Nitrous Oxide
9.941.316	Abuse of Hazardous Substances
9.941.36	Utility Theft
9.941.37	Obstructing Emergency or Rescue Personnel
9.942.08	Invasion of Privacy
9.942.10	Use of Drone
9.943.01(1)	Criminal Damage to Property (Less than \$2,500)
9.943.07	Criminal Damage to Railroad
9.943.11	Entry Into Locked Vehicle
9.943.125	Entry Into Locked Coin Box
9.943.13	Trespass to Land
9.943.14	Criminal Trespass to Dwellings
9.943.15	Entry onto Construction Site, Locked Building, Dwelling or Room
9.943.20	Theft (Less than \$2500)
9.943.21	Fraud on Hotel or Restaurant Keeper or Taxicab Operator (\$2500 or less)
9.943.215	Absconding Without Paying Rent
9.943.22	Use of Cheating Tokens
9.943.225	Refusal to Pay for Motor Bus Ride
9.943.23	Operate Auto or Intentional Passenger Without Owner's Consent
9.943.24	Issue of Worthless Checks
9.943.34	Receiving Stolen Property
9.943.37	Alteration of Property Identification Marks
9.943.45	Telecommunications Theft
9.943.49	Motion Picture Piracy
9.943.50	Retail Theft
9.943.55	Removal of Shopping Cart

9.944.15	Public Fornication
9.944.17	Sexual Gratification
9.944.20	Lewd and Lascivious Behavior
9.944.23	Making Lewd, Obscene or Indecent Drawings
9.944.30	Prostitution
9.944.31	Patronizing Prostitutes
9.944.34	Keeping Place of Prostitution
9.945.02	Gambling
9.945.03	Commercial Gambling
9.945.04	Permitting Premises to Be Used for Commercial Gambling
9.946.40	Refusing to Aid Officer
9.946.41	Resisting or Obstructing Officer
9.946.42(1)	Escape
9.946.44	Assisting or Permitting Escape
9.946.66	False Complaints of Police Misconduct
9.946.69	Falsely Assuming to Act as a Public Officer or Employee
9.946.70	Impersonating Peace Officers, Firefighters or EMS
9.946.72	Tampering with Public Records and Notices
9.947.01	Disorderly Conduct
9.947.011	Disrupting a Funeral or Memorial Service
9.947.012	Unlawful Use of Telephone
9.947.0125	Unlawful Use of Computerized Communication Systems
9.947.013	Harassment
9.947.04	Drinking in Common Carriers
9.947.047	Metal or Glass Debris in or on the Shore of Any Body of Water
9.947.06	Unlawful Assemblies and Their Suppression
9.948.40	Contributing to the Delinquency of a Child
9.948.45	Contributing to Truancy
9.951.01-	Crimes Against Animals
9.961.41(1)	Unlawful Manufacture, Distribution or Delivery of Controlled Substance
9.961.41(3g)	Possession of Controlled Substance

## CHAPTER 10

### PUBLIC NUISANCES

<b><i>Section Number</i></b>	<b><i>Title</i></b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
10.01	Public Nuisances Prohibited		
10.02	Public Nuisance Defined		
10.03	Public Nuisances Affecting Health	2007-16	12/04/07
10.04	Public Nuisances Offending Morals and Decency		
10.05	Public Nuisances Affecting Peace and Safety		
10.055	Sex Offender Residency Restrictions	2013-05 2017-05	06/18/13 11/07/17
10.056	Prohibited Conduct of Designated Sex Offender	2013-05 2017-05	06/18/13 11/07/17
10.06	Dutch Elm Disease		
10.07	Emission of Dense Smoke		
10.08	Cleanup of Animal Waste Products	2000-26	11/21/00
10.10	Abatement of Public Nuisances	2008-23	12/16/08
10.11	Cost of Abatement		
10.12	Penalty		
10.13	Noxious Weeds	2007-16	12/04/07
10.14	Regulation of Stagnant Pools	2009-10	11/03/09

### **10.01 PUBLIC NUISANCES PROHIBITED.**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village.

### **10.02 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 annoy, injure or endanger the comfort, health, repose or safety of the public.
- (2) In any way render the public insecure in life or in the use of property.
- (3) Greatly offend 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.

### **10.03 PUBLIC NUISANCES AFFECTING 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 of Section 10.02:

- (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 hrs. 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 flytight.
- (6) **NOXIOUS WEEDS.** All noxious weeds, as defined in Section 10.13.
- (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, 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 stench 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.

#### **10.04 PUBLIC NUISANCES 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 of Section 10.02:

- (1) **DISORDERLY HOUSES.** All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (2) **GAMBLING DEVICES.** (Rep. & recr. #095-28) All gambling devices, slot machines and punch boards. Gambling devices include, but are not limited to, video games that simulate one or more games commonly referred to as poker, blackjack, craps, hi-lo, roulette or other common gambling forms, though not offering the player the opportunity to obtain something of value. The term also includes any

video game that awards game credits or replays and contains a meter or device which records unplayed credits or replays,

- (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.

#### **10.05 PUBLIC NUISANCES 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 of Section 10.02:

- (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 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-RANGING TREE LIMBS.** See Section 8.11(3) of this Municipal Code.
- (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, insanitary 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' 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; EXCAVATIONS.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, 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.** Premises existing within the Village which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management or the accumulation thereon of junk 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. Elimination 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 chapter. It is essential to the public interest that this chapter be liberally construed to accomplish the purposes of this subsection.

## 10.055 SEX OFFENDER RESIDENCY RESTRICTIONS.

### (1) Recitals, Findings and Intent.

#### (a) Recitals.

1. Whereas, after reviewing and discussing examples of sex offender residency restriction ordinances from several other Cities, 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, after several public meetings, the Village Board adopted the first version of this ordinance on June 18, 2013.
2. Whereas the United States District Court for the Eastern District of Wisconsin issued an Order on April 17, 2017, in the case titled *Hoffman v. Village of Pleasant Prairie*, which contained holdings that directly impact the terms of the Village's Municipal Code Section 11-2-16 and make it necessary to amend the terms of this Section to comply with the District Court's holdings.
3. Whereas, on September 12, 2017 and October 10, 2017 the Village's Public Safety & Health/Property & Grounds Committee held public meetings on proposed revisions to the Village's sex offender ordinance. At these meetings, the Committee reviewed and discussed the existing ordinance, proposed revisions to the existing ordinance, revisions to similar ordinances being made by other municipalities, and discussed the following written materials:
4. Order of the Honorable J.P. Stadtmueller of the United States District Court, Eastern District of Wisconsin, *Hoffman et al. v. Village of Pleasant Prairie*, Case No. 16-CF-697-JPS.
5. Whereas, the Village Board held a public meeting on October 17, 2017 on this ordinance. At this meeting the Village Board reviewed the existing ordinance, proposed revisions to the existing ordinance and discussed the same materials as the Committee as set forth under subsection (4) above.

- (b) Findings. This ordinance 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 and as such it is better for sex offenders to reside in their home community where their support systems exist rather than in a community where the sex offender may not have a support network. The Village Board finds the risk of recidivism increases if the sex offender recently offended and if the sex offender does not have a strong social network, including community and familial ties. The Village Board is aware of many studies and reports concerning recidivism of sex offenders and the effectiveness of sex offender residency restrictions. The Village Board acknowledges that literature on the subject includes some studies that support the practice of sex offender residency restrictions and others that are critical of the practice. The Village Board is also aware that absent a domicile clause, the Village would have open doors for non-resident sex offender residency when other communities have closed doors, inviting a substantial increase in child sex offender placements, with the related adverse impacts on the health, safety and welfare of the Village and its residents. 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.

- (c) **Intent.** It is expressly not the intent of this Ordinance to impose additional punishment on sex offenders, but rather to serve the Village of Sturtevant'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 sex offenders and sex predators are prohibited from establishing residency. The Village establishes these regulations in order to provide protection to children in the Village by minimizing immediate access and proximity to children and thereby reducing opportunity and temptation for recidivism. 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.

- (2) **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:
- (a) “Child” or “Children” means person(s) under the age of eighteen (18) years for purposes of this Ordinance.
  - (b) “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 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.
  - (c) “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.
  - (d) “Juvenile” means a person under the age of eighteen (18) years.
  - (e) “Residence” means a place where the Designated Offender resides or dwells or is used by a Designated Offender as the primary location for basic

life functions such as sleeping or eating, whether short or long-term but for an aggregate of 14 or more days in any one-year period.

- (f) “Protected Location” means any School Property, Day Care Center, Library, Park, Recreational Trail, Playground, Athletic Fields used by children Place of Worship, Swimming Pool, or any other place designated in the Map adopted by the Village under Sec. 10.055(3)(c) below as a place where children are known to congregate. The defined terms included in the definition of Protected Location are:
- (1) "School Property" means any public school as defined by Wis. Stat. § 115.01(1); a private school as defined by Wis. Stat. § 115.001(3); 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.
  - (2) "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).
  - (3) “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.
  - (4) "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.
  - (5) "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, seesaws.
  - (6) "Place of Worship" means a church, synagogue, mosque, temple or any other building where congregations gather for prayer.
  - (7) "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.

- (8) “Recreational Trail” means a trail where children walk, ride bicycles, or ride horses, whether publicly or privately owned.

(3) **Sex Offender and Sex Predator Residence; Prohibitions, Zones and Exceptions.**

- (a) Child Safety Zones. The following distance restriction provides areas within which Designated Offenders are not allowed to reside based upon specific criteria. These areas are referred to in this Ordinance as "Child Safety Zone(s)":

It is unlawful for any Designated Offender to establish a Residence within seven hundred fifty (750) feet of a Protected Location.

- (b) Determination of Minimum Distance Separation. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight and shortest line from the outer property boundary line of the Residence of a Designated Offender to the nearest outer property boundary line of a Protected Location.
- (c) 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.
- (d) Original Domicile Restriction. In addition to and notwithstanding the foregoing prohibitions, but subject to section 10.055(3)(6) exceptions below, Designated Offenders shall comply with the following unless granted an exemption by the Residency Board under Sec. 10.055(7). No Designated Offender shall be permitted to reside in the Village of Sturtevant, unless such person was Legally Domiciled in the Village of Sturtevant at the time of the offense resulting in the person’s most recent conviction or delinquency adjudication for an offense under the definition of a Designated Offender.



- (e) Notification. A Designated Offender must notify the Police Department a minimum of twenty-eight (28) days prior to establishing a Residence within the Village of Sturtevant.
- (f) Exceptions. A Designated Offender shall not be in violation of this Ordinance if any of the following apply:
  - 1. The Designated Offender established the Residence and reported and registered the residence pursuant to Section 301.45, Wisconsin Statutes, before the original effective date of this Ordinance of June 25, 2013.
  - 2. The Designated Offender is a Juvenile placed with a guardian.
  - 3. The Protected Location situated within seven hundred fifty (750) feet of the Designated Offender's Residence was opened or established after the Designated Offender established the Residence and reported and registered the Residence pursuant to Section 301.45, Wisconsin Statutes.
  - 4. The residence is also the primary residence of the Designated Offender's parents, spouse or adult children, provided that such parent, spouse or adult children established the residence at least two (2) years before the Designated Offender established residence at the location.
  - 5. 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 Wisconsin Statutes Chapter 980.
  - 6. The Designated Offender had not attained the age of 19 at the time of the offense, was determined by the Circuit 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.
  - 7. The Designated Offender is a ward under guardianship, is placed in accordance with the guardianship orders, and is living with the appointed guardian;

8. In such cases involving a ward or Juvenile placed in accordance with an exception, when the ward or Juvenile turns 18 years of age, the ward or Juvenile would be allowed to continue to reside at the already established residence.
- (4) **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 Residence by any Designated Offender prohibited from establishing a 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.
- (5) **Public Nuisance.** Any violation of this Chapter shall be deemed a public nuisance affecting peace and safety and the Village may proceed under Section 10.10 of the Code of Ordinances and/or Chapter 823 of the Wisconsin Statutes to abate the nuisance.
- (6) **Injunction for Violation of Residency Restrictions.** If an offender establishes a Residence in violation of subsection (3) above, the Chief of Police may refer the matter to the Village Attorney. The referral shall include a written determination by the Chief of Police 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.
- (7) **Appeal for an exemption.**
  - (a) A Designated Offender may seek an exemption from this Sec. 10.055 by appealing to the sex offender residency board (the “Residency Board”).
  - (b) The Residency Board shall consist of three citizens and one alternate, who are residents of the Village, who shall serve without compensation. For the initial appointments to the Residency 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 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, commencing on May 1st. At the first meeting held of the Residency Board after the first Monday of May of each year, the members of the Residency

Board shall vote by majority vote to select a chair for its meetings and Residency that come before it.

- (c) The Residency Board shall approve of an official appeal form, establish filing procedures, a hearing schedule and deadlines for filing an appeal. An offender shall complete this official form and submit it to the Village Clerk, who shall forward it to the Residency Board. The filing fee for the appeal shall be set by resolution of the Village Board from time-to-time. Notice in the form of an agenda shall be posted and/or published as required by law and provided to the Residency Board, the property owner if not the applicant, and published on the Village's website at least seven days prior to the hearing date.
- (d) The Village elects not to be bound by Wis. Stat. Ch. 68 with respect to administrative procedure in the Residency process. The Residency Board shall hold a hearing on each appeal to conduct an individual risk assessment in each case, during which the Residency Board may review any pertinent information and may accept oral and written statements from any person. The Designated Offender that filed the appeal shall appear at any hearing held, unless otherwise approved by the Residency Board. The Residency 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 Residency Board shall also consider any oral, emailed, and written statements from any person at the hearing or received in advance of the hearing. The Residency 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 Residency Board shall consider factors which may include, but are not limited to, the following:
  - 1. Circumstances surrounding the offense.
  - 2. Relationship of offender and victim.
  - 3. Presence or use of force.
  - 4. Presence of enticement.
  - 5. Need to protect victim or similarly situated individuals.
  - 6. Current dangerousness of the offender.
  - 7. Proximity in time from original offense.
  - 8. Any criminal offenses, ordinance or rule violations committed since original offense including failures to register or comply with restrictions set by bond, parole or probation.
  - 9. Time out of incarceration.
  - 10. Current supervision status by the Department of Corrections.
  - 11. Counseling and treatment history.

12. Credibility of offender.
  13. Remorse.
  14. Proximity of proposed residence to a child safety zone.
  15. Support network of offender near proposed residence.
  16. Alternative options for housing.
- (d) The Residency 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 Residency Board shall provide a written copy of the decision containing the reasons therein for its decision to the Village Clerk, the Police Chief and to the applicant. The decision of the Residency Board may be appealed to the Racine County Circuit Court by any aggrieved party within 30 days of filing of the final decision in the Village's Clerk's office, a copy of which shall be mailed to the Designated Offender who appealed. 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.
- (8) **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.
- (9) **Penalties.** Any person who violates any provision of this Section shall, upon conviction thereof, be subject to a forfeiture not to exceed Five Hundred (\$500.00) Dollars, together with the costs of prosecution, and in default of payment thereof, shall be committed to the County Jail for a period not to exceed ninety (90) days. Each violation and each day such violation continues shall be considered a separate offense. Neither the issuance of a citation nor the imposition of forfeiture hereunder shall preclude the Village from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this Chapter.

## **10.056 PROHIBITED CONDUCT OF DESIGNATED SEX OFFENDER**

### **(1) Findings and Intent**

- (a) Findings. Repeat sex offenders, sex offenders who use physical violence, and sex offenders who prey on children are sex predators who present an extreme threat to the public safety. Sex offenders are extremely likely to use physical violence and to repeat their offenses; and, most sex offenders commit many offenses, have many more victims that are never reported, and are prosecuted for only a fraction of their

crimes. This makes the cost of sex offender victimization to society at large, while incalculable, clearly exorbitant.

- (b) **Intent.** It is the intent of this Ordinance not to impose a criminal penalty, but rather to service the Village of Sturtevant'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 sex offenders and sex predators are prohibited from establishing temporary or permanent residency.
- (2) **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:
  - (a) "Designated Offender" shall have the same meaning as specified in Sec. 10.055(b)(2) of this Code of Ordinances.
- (3) **Prohibited Activity.** It is unlawful for any Designated Offender to participate in a holiday event involving children under eighteen (18) years of age. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this Section. Participation is defined as actively taking part in the event and shall include, but is not limited to, distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, or wearing an Easter Bunny costume on or preceding Easter.
- (4) **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.
- (5) **Penalties.** Any person who violates any provision of this Section shall, upon conviction thereof, be subject to a forfeiture not to exceed Five Hundred (\$500.00) Dollars, together with the costs of prosecution, and in default of payment thereof, shall be committed to the County Jail for a period not to exceed ninety (90) days. Each violation and each day such violation continues shall be considered a separate offense.

## **10.06 DUTCH ELM DISEASE.**

- (1) **DEFINITIONS.** Whenever used in this section, unless a different meaning is apparent from the context, the following terms shall have the meanings indicated:

**Disease.** The Dutch elm disease, a fatal disease of elms caused by the fungus *Ceratostomella ulmi* Buisman, as well as the casual fungus.

Forester. The Village Board or their appointed representative.

Owner. The owner of real estate or the person in possession of real estate and shall include any person, firm or corporation.

Tree Material. Any elm firewood, stump, log, branch or other bark bearing part of an elm tree.

Vector. The native elm bark beetle Hylurgopinus refipes (Eichh.) and the small European elm bark beetle Scolytus multistriatus (Marsh) which transmit the fungus to elm trees and elm material.

- (2) PERMISSION TO VILLAGE EMPLOYEES. Every owner in the Village shall permit employees of the Village to enter upon such real estate for the purpose of examining trees. If it shall appear to any Village employee that an elm tree may be diseased, such employee shall be permitted to take the necessary sample of wood from the tree for diagnosis.
- (3) NOTICE TO OWNER. If an examination made as above provided or made at the instance of the owner discloses that the tree has the disease, the Forester shall give notice to the owner at his last known address to have such diseased tree cut down and the same destroyed by burning within 5 days of giving such notice. If the owner does not so cut down the diseased tree and destroy the same by burning within 5 days after such notice is given, such tree shall be cut down and destroyed by burning by Village employees on order of the Forester. Accurate record of the expenses of such cutting and burning shall be made and a report thereof given to the Clerk/Treasurer, who shall enter the amount against the respective real estate in the next and subsequent tax roll as a special tax against such real estate, and the same shall be collected in all respects like other Village taxes upon real estate.
- (4) INFECTED ELM SHALL NOT BE KEPT, STORED, SOLD OR TRANSFERRED.
  - (a) No owner shall keep, store, sell, offer for sale, give away or transfer any elm tree material which is infected with the fungus or infested with the vector or transport the same into or within the Village except for the purpose of immediately destroying the same by burning; or, if not so infected or infested without removing and burning the bark, or treating such elm material with a complete covering of an approved vector destroying chemical.
  - (b) Every owner in the Village shall permit Village employees to enter upon their real estate and every garage or other structure thereof for the purpose of

determining whether any elm material infected with the fungus or infested with the vector is located on such real estate. Each owner shall permit such employee to take a sample of any elm material for the purpose of determining whether it is infected with the fungus or infested with the vector and if the examination of such sample discloses that any such material is so infected or infested, the Forester shall notify the owner to destroy by burning all of such elm material located on such real estate or any structure thereon.

- (c) If the examination of the elm sample obtained as above described discloses that the elm material is not infected with the fungus or infested with the vector, the Forester shall notify the owner that the elm material is not infected or infested, but that the owner shall remove and burn the bark or treat such elm material with a complete covering of an approved vector destroying chemical. The owner shall notify the Forester in writing of his compliance.
  - (d) If the owner does not comply with any notice given as provided in this section within 10 days after the same is given, then, on order of the Village Board, Village employees will remove all such infected and infested elm material and all such elm material not infected and infested and burn the same. Accurate account of the expense of removal and burning shall be kept and report made to the Clerk/Treasurer who shall enter the amount thereof on the tax roll as provided in the preceding section.
- (5) **SPRAYING ELM TREES ON PRIVATE PROPERTY.** When it has been determined that the disease is present in the Village, either in elm trees or in elm material, a spray program to protect all living elms of the Village shall be initiated which shall be in accord with the currently approved recommendations of the State of Wisconsin Dutch Elm Disease Committee; provided that, at the discretion of the Forester, this spray program shall commence with the confirmation of the disease in areas adjacent to the Village. Notice of the necessity of spraying elm trees on private property shall be given by the Forester to the owner and unless such owner shall have had such elm trees sprayed within 10 days of the time of giving such notice and have provided satisfactory evidence to the Forester that any private spraying was done in accordance with prescribed procedure, Village employees shall spray such trees. Accurate record shall be kept of the cost of such spraying and report made to the Clerk/Treasurer, who shall enter the amount thereof on the tax roll as provided for in the preceding sections.
- (6) **DEAD OR DYING WOOD TO BE REMOVED FROM EVERY ELM TREE.** Each owner of real estate in the Village shall cause all dead or dying wood to be removed from every elm tree on his real estate and to be burned. In the event that it appears to any Village employee that there is dead wood in any elm tree on private property in the Village, the Village Board shall cause notice to be given, then

Village employees shall remove the same and burn it. Accurate record of the cost of removing and burning such dead wood shall be kept and report made to the Clerk/Treasurer, and the amount thereof shall be entered on the next and subsequent tax roll and collected as a special tax against such real estate as provided in the preceding sections.

#### **10.07 EMISSION OF DENSE SMOKE.**

To emit or cause or permit to be emitted into the open air within the corporate limits of the Village any dense smoke is hereby declared to be a nuisance, and the same is hereby prohibited. The owner of any stationary locomotive engine, portable boiler or furnace or tar kettle, and any officer, manager or agent of any corporation owning a stationary or locomotive engine, portable boiler or furnace or tar kettle, and the owner, lessee or occupant of any building, and any officer, manager or agent of any corporation or company owning, leasing or occupying any building from which dense smoke is permitted or allowed to issue or to be emitted within the corporate limits of the Village, shall be guilty of an offense.

#### **10.08 CLEANUP OF ANIMAL WASTE PRODUCTS.**

- (1) **ANIMAL WASTE NUISANCE.** It shall be unlawful for any person in immediate control of any dog or cat to permit fecal matter, which is deposited by such animal while off of its own premises, to remain on any public property or private property, which is not owned or occupied by such person. It shall be solely the responsibility of the person in control of said dog or cat to immediately, after deposit, remove all fecal matter and dispose of the same. A proper disposal of the fecal matter shall be to place it in a proper receptacle, bury it or flush it in a toilet on property owned or occupied by such person.
- (2) **REMOVAL DEVICE OR OBJECT.** Any person causing or permitting a dog or cat to be on any property, public or private, not owned or occupied by such person, shall have in his or her immediate possession a device or object suitable for removal of excrement and subsequent disposal on the property owned or occupied by such person pursuant to Subsection (1).
- (3) **EXCEPTIONS.** This Section shall not apply to a person, who is visually disabled, and in control of a service dog.



#### **10.10 ABATEMENT OF PUBLIC NUISANCES.**

- (1) **ENFORCEMENT.** The Village Police Chief and Village Administrator shall enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make inspections periodically and upon complaint to insure 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.
- (2) **SUMMARY ABATEMENT.** If the inspecting officer determines that a public nuisance exists within the Village, and there is great and immediate danger to public health, safety, peace, morals or decency, the President may direct the proper officer to cause the same to be abated and charge the cost to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- (3) **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 public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within 10 days. If the nuisance is not removed within 10 days, the proper officer shall cause the nuisance to be removed as provided in sub. (2).
- (4) **OTHER METHODS NOT EXCLUDED.** Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the State.
- (5) **COURT ORDER.** Except when necessary under sub. (2), an officer hereunder 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.

#### **10.11 COST OF ABATEMENT.**

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance; and, if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

**10.12 PENALTY.**

Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter, or any regulation, rule or order made hereunder, or permit or cause a public nuisance shall be subject to a penalty as provided in Section 25.04 of this Municipal Code.

**10.13 NOXIOUS WEEDS.**

- (1) **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:

*Noxious weeds* means and includes those weeds defined in Wis. Stats. § 66.0407 as noxious weeds and, in addition thereto excepting on village-owned property, shall include any other weeds, grass, hay, brambles, brush, reeds, rushes, cattails, or any combination thereof, which have grown to a height of nine inches or more. Cultivated cropland is exempt from said height restriction.

- (2) **STATUTORY PROVISIONS ADOPTED.** The provisions of Wis. Stats. §§66.0407 and 66.0517, so far as applicable, are hereby adopted by reference and made a part of this Code as fully as if set forth in this article.
- (3) **UNLAWFUL TO PERMIT GROWTH.** It shall be unlawful for any owner, occupant or person in control of any premises in the village to allow or maintain the growth of noxious weeds on such premises or upon any sidewalk or parkway abutting such premises.
- (4) **NOTICE TO ABATE.** The weed commissioner is hereby authorized and empowered to notify in writing the owner, occupant or person in control of any premises in the village who shall allow or maintain any growth of noxious weeds on such premises to cut, destroy and/or remove such weeds. Such notice shall be sent by mail addressed to the owner or person in control of such premises appearing on the records of the city assessor at the last known address appearing on such records.
- (5) **ABATEMENT BY WEED COMMISSIONER.** Upon the failure, neglect or refusal of any owner, occupant or person in control of any premises in the city who is so notified to cut, destroy and/or remove the noxious weeds on such premises and/or abutting sidewalk or parkway within five days after the mailing of such notice, the weed commissioner shall cut, destroy and/or remove such noxious weeds; and at the completion of such work, shall charge an assessed cost thereof in the manner provided by Wis. Stats. § 66.0517.

(6) **ISSUANCE OF CITATION.** In all cases where the owner, occupant or person in control of any premises in the village has failed, neglected or refused to destroy and/or remove the noxious weeds on such premises and/or abutting sidewalk or parkway, the weed commissioner or his designee may issue a citation to the person notified under subsection(5) . The citation may be served simultaneously with the weed order.

(7) **PAYMENT OF FORFEITURE IN LIEU OF COURT APPEARANCE.**

(a) Any person charged with a violation of the offenses listed under subsection (b) of this section may pay the amount enumerated therein at the police department in lieu of a court appearance. Persons wishing to contest charges contained in subsection (b) of this section may contact the police department to arrange a court appearance date.

(b) The following forfeiture may be paid at the police department:

TABLE INSET:

Section number	Violation	Forfeiture
10.13	Failure to cut/remove noxious weeds	\$30.00

#### **10.14 REGULATION OF STAGNANT POOLS.**

(1) **PURPOSE.** This section is enacted to promote the public health, safety and welfare. Because of the growing urban concentration within the Village, with the attendant increase in population and, in particular, the increase in the number of young children, the presence, of stagnant pools of water within the Village are declared to be a nuisance in that they attract young children, are often dumping grounds for junk and refuse, are a breeding ground for mosquitoes, flies and insects and serve as habitat for rodents and other unwholesome animals.

(2) **DEFINITION.** As used herein “stagnant pools of water” refers to waters which are standing in pools without any outlets for at least one-month. A pool shall not cease to be such because it may overflow during periods of rainstorms or melting snows if such outlet does not provide for full drainage of such pool.

(3) **PROHIBITION.** No person shall permit stagnant pools of water to remain or exist upon any real property under his control within the Village.

- (4) DUTIES OF OWNERS. Every owner or manager of real property within the Village shall drain or fill or cause to be drained or filled any stagnant pools of water on such real property within the Village. Such pools shall be filled with clean fill which does not contain any decomposable, toxic or combustible materials or any rubbish, trash or waste materials.

## CHAPTER 11

### Health Department

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
11.01	Local Board Of Health, Local Health Department And Local Health Officer.		
11.02	Health Standards for Property Maintenance.		
11.03	Lodging, Recreation and Food Protection.		
11.04	Rabies Control.		

#### **SEC. 11.01 LOCAL BOARD OF HEALTH, LOCAL HEALTH DEPARTMENT AND LOCAL HEALTH OFFICER.**

- (a) **Intermunicipal Agreement Providing for Joint Local Board of Health, Joint Local Health Department and Joint Local Health Officer.** By intermunicipal agreement the Villages of Caledonia, Mt. Pleasant, Sturtevant and North Bay have created a Joint Local Board of Health, established a Joint Local Health Department and appointed a Joint Local Health Officer to serve the above Villages, as well as other municipalities that are added as members to the intermunicipal agreement ("Member Municipalities"), or otherwise contract for the provision of public health services ("Contract Municipalities"). This Agreement is entered into pursuant to the authority set forth in Wis. Stat. Sections 66.0301, 251.09 and 251.02(3r).
- (b) **Designation of Local Board of Health, Local Health Department and Local Health Officer.** The Joint Local Board of Health created by the intermunicipal agreement is hereby designated the "Central Racine County Board of Health" and is established as the joint local board of health of the Member Municipalities and Contract Municipalities pursuant to Section 251.02(3r), Wisconsin Statutes. The Central Racine County Health Department established pursuant to the intermunicipal agreement is hereby designated and established as the local health department of the Member Municipalities and Contract Municipalities pursuant to Section 251.02(3r), Wisconsin Statutes. The local health officer, designated as the Health Officer/Director of Public Health, and provided for in the intermunicipal agreement is hereby designated as the local health officer for the Member Municipalities and Contract Municipalities.
- (c) **Local Board of Health.** The local Board of Health shall be designated as the Central Racine County Board of Health and pursuant to Wis. Stat. Section 251.03(4r), the parties determine that the membership of the Board of Health shall be comprised as set forth in the intergovernmental agreement.
- (d) **Powers and Duties of Local Board of Health.** The Central Racine County Board of Health shall constitute the policy-making body for the Central Racine County Health

Department, and shall exercise authority over financial and personnel matters, as set forth in the intermunicipal agreement. The Board of Health shall be responsible for operating and maintaining at least a Level II Health Department to jointly serve the Member Municipalities and Contract Municipalities. The Board of Health shall have the powers and perform such duties as are prescribed in Wis. Stat. Sections 251.04 and 251.05, except as otherwise specifically provided in the intermunicipal agreement or in joint ordinances adopted by Member Municipalities and Contract Municipalities.

- (e) **Effect of Intermunicipal Agreement.** In all other respects such intermunicipal agreement executed by the Member Municipalities shall govern the administration of the Central Racine County Board of Health, Health Department and Joint Local Health Officer.
- (f) **Repeal of Inconsistent Ordinances.** This section shall supercede any inconsistent provisions of this Code of Ordinances, which inconsistent provisions shall be, and hereby are, repealed as of the effective date of this ordinance.

## **SEC. 11.02    HEALTH STANDARDS FOR PROPERTY MAINTENANCE.**

- (a) **Purpose and General Provisions.**
  - (1) This Section is adopted for the purpose of preserving and promoting the public health of residents and preventing the continuance of Human Health Hazards.
  - (2) No Person shall erect, construe, cause, continue, maintain or permit any Human Health Hazards. Any Person who shall cause, create or maintain a Human Health Hazard or who shall in any way aid or contribute to the creation or maintenance thereof shall be guilty of a violation of this Section, and shall be liable for all costs and expenses attendant upon the abatement or removal of such hazards and subject to penalties provided in this Section.
  - (3) It shall be the joint responsibility of the Owner and Occupant of a Dwelling or Dwelling Unit to maintain their property in a manner which complies with this Code and any applicable state and federal laws.
  - (4) This Section does not prohibit the following activities so long as they are conducted in accordance with the applicable ordinance or State Statute: the sanitary operation of licensed junkyards; or the storage and accumulation of ashes and effuse by industrial establishments which maintain adequate and sanitary facilities and the space for the accumulation and storage of such materials.
- (b) **Authority.** This Section is adopted pursuant to the authority granted by Chapters 251 and 254, Wis. Stats., as amended from time-to-time, which regulations are hereby adopted, and incorporated by reference as though fully set forth herein. The Health Officer or Code Official shall have the power to abate human health hazards in accordance with this Section and Wis. Stat. Section 66.1337(7)(b), which statute is adopted by reference and made part of this Section as if fully set forth in this Section.
- (c) **Definitions.** The following definitions shall apply in the interpretation and enforcement of this Chapter, unless a different meaning is plainly intended:
  - (1) **Basement.** A portion of a building located partly or wholly underground, but having less than half its clear height below the average grade of the adjoining ground.

- (2) **Building Inspector.** The Building Inspector of the Village/Town or his or her authorized representative.
- (3) **Carbon Monoxide Detector.** A device that detects the presence of carbon monoxide gas.
- (4) **Cellar.** A portion of a building located partly or wholly underground, but having ½ or more of its clear floor to ceiling heights below the average grade of the adjoining ground.
- (5) **Chief of Police.** The Village/Town Chief of Police or their authorized representative or authorized representative from the Sheriff's Department.
- (6) **Code Official.** Building Inspector, Chief of Police, and/or the Health Officer, or their respective authorized representatives.
- (7) **Dwelling.** Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.
- (8) **Dwelling Unit.** Any room or group of rooms located within a Dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating by one family.
- (9) **Exterior Premises.** The open space on the premises or the portion of the premises upon which there is not a structure including the abutting right-of-ways, lawn park areas, curbs, gutters and all alleys and vacated alleys abutting private property between the center of the alley and the lot line.
- (10) **Extermination.** The control or elimination of insects, rodents or other Vermin by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by blocking their access to a Dwelling, by poisoning, spraying, fumigating or trapping, or by any other legal pest elimination method approved by the Code Official.
- (11) **Health Officer.** The Health Officer of the Central Racine County Health Department or his/her authorized representative.
- (12) **Human Health Hazard.** A substance, activity or condition that is known to have the potential to cause acute or chronic illness or death if exposure to the substance activity or condition is not abated.
- (13) **Immediate Human Health Hazard.** A condition which exists or has the potential to exist which should, in the opinion of the Health Officer, be abated or corrected immediately, or at least within a 24-hour period, to prevent imminent and severe damage to human health.
- (14) **Occupant.** Any Person living, sleeping or eating or having actual possession of a Dwelling Unit.
- (15) **Owner.** Any Person who, alone or jointly or severally with others shall be the record holder of the title of any Dwelling or Dwelling Unit, with or without actual possession thereof, or who has charge, care or control of any Dwelling as agent of the owner or as executor, administrator, trustee or Guardian of the estate of the owner.
- (16) **Person.** Includes Owners, Occupants, their agents, tenants and any individual, firm, corporation, partnership or association.
- (17) **Smoke Detector.** A device that detects the visible or invisible particles of combustion.
- (18) **Vermin.** Rats, mice, cockroaches or similar animals or insects that are or tend to be injurious to health.

- (19) **Workmanlike.** Work of such character so as to meet manufacturer's specifications, accepted national standards or recognized trade practices, and to provide a durable result as intended to ensure public safety, health and welfare insofar as they are affected by building construction, use and occupancy.
- (d) **Health Standards for Basic Facilities and Maintenance of Habitable Living Quarters.** No Person shall occupy or allow another Person to occupy any Dwelling or Dwelling Unit for the purpose of living or sleeping therein, which does not comply with the following requirements:
- (1) **Toilet and Lavatory.** Every Dwelling Unit shall contain a water flush toilet within a room which affords privacy to a Person in such room. Every Dwelling Unit shall contain a lavatory basin, preferably but not exclusively in the same room as the toilet. Such toilet and lavatory basins shall be connected and maintained in compliance with the Village plumbing code.
  - (2) **Bathing Facilities.** Every Dwelling Unit shall contain, within a room which affords privacy to a Person in such room, a bathtub or shower connected and maintained in compliance with the Village plumbing code.
  - (3) **Water Heating Facilities.** Every Dwelling Unit shall have water heating facilities supplied, which are properly installed, maintained in a safe and good working condition and are capable of heating water to a temperature so as to permit an adequate amount of water to be drawn at every required lavatory basin, bathtub, shower or sink at a temperature of not less than 110 degrees Fahrenheit.
  - (4) **Egress.** Every Dwelling Unit shall have access to at least two accessible, unobstructed means of egress leading to a safe and open public street, alley or court.
  - (5) **Heating Facilities.** Every Dwelling or Dwelling Unit shall be equipped with heating facilities which are properly installed, and maintained in a safe and good working condition and are capable of maintaining minimum temperatures of 68 degrees Fahrenheit in all rooms with an outside temperature of -10 degrees Fahrenheit.
  - (6) **Electric Service.** Every outlet and fixture shall be properly installed and shall be maintained in a good and safe working condition, and shall be connected and maintained in compliance with the Village Electric Code.
  - (7) **Smoke Detectors.** Smoke Detectors shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each additional story of the Dwelling Unit, including Basements and Cellars excluding crawl spaces and unfinished attics.
  - (8) **Carbon Monoxide Detectors.** Carbon Monoxide detectors shall be installed on each story of the Dwelling Unit, including Basements and Cellars excluding crawl spaces and unfinished attics.
  - (9) **Extermination of Vermin.** Every Occupant of a Dwelling containing a single Dwelling Unit shall be responsible for the Extermination of any Vermin in or on the premises; and every Occupant of a Dwelling Unit in a Dwelling containing more than one Dwelling Unit shall be responsible for such Extermination within the unit occupied by them whenever their Dwelling Unit is the only one infested. Notwithstanding such provisions, whenever an infestation is caused by the failure of the Owner to maintain a Dwelling in a reasonably rodent-proof or insect-proof condition, Extermination shall be the responsibility of the Owner. Extermination



of any infestation in an unoccupied Dwelling Unit shall be the responsibility of the Owner even though the condition may have been caused by a previous Occupant. All Extermination services shall be performed by a licensed exterminator. Effective Extermination shall continue until all Vermin are eliminated. The responsible person shall submit completed Extermination reports from the licensed exterminator to the appropriate Code Official upon request.

- (10) **Hazardous Conditions.** Every Dwelling Unit shall be structurally sound and shall be free of conditions that constitute a Human Health Hazard, an Immediate Human Health Hazard to the health and safety of the Occupant(s) or which create an unreasonable risk of personal injury resulting from any reasonably foreseeable use of the Dwelling.
- (11) **Discontinuance of Service.** No Owner or Occupant shall cause any service, facility, equipment or utility which is required under this Section to be removed or shut off from, or discontinued for, any occupied Dwelling which is let or occupied by such Person, except for such temporary interruption as may be necessary while actual repairs or alterations are in progress, or during a temporary emergency when discontinuance of service is approved by a Code Official.
- (e) **Enforcement.** Upon request of an Owner or Occupant, or upon receipt of a credible complaint, a Code Official shall inspect or cause to be inspected the Dwelling, Dwelling Unit or Exterior Premises which is the subject of the complaint or upon which there exists evidence of a violation of this Section. Such inspection shall be for the purpose of determining whether or not the condition of the Dwelling or Dwelling Unit complies with the standards set forth in this Section.
- (f) **Access to Property.** After presenting proper identification a Code Official shall be permitted to enter upon any property at any reasonable time for the purpose of making inspections to determine compliance with this Section and related ordinances. If denied access, the Code Official may acquire a special inspection warrant for such access, pursuant to Sec. 66.0119, Wis. Stats., as amended from time-to-time.
- (g) **Declaration of Dwelling as Human Health Hazard.** Notwithstanding any other provisions of this Section, if a Code Official determines that any Dwelling or Dwelling Unit is a Human Health Hazard or Immediate Human Health Hazard, the Code Official shall placard such Dwelling and within 24 hours thereafter serve notice, by registered mail, return receipt requested, in addition to such other notice as may be appropriate, to the Occupant and Owner that the Dwelling is unfit for human habitation and that it shall be vacated within a reasonable time as ordered by the Code Official. A Dwelling may be declared a Human Health Hazard or Immediate Human Health Hazard for any of, but not limited to, the following reasons:
  - (1) A Dwelling is so damaged, decayed, dilapidated, dangerous, unsanitary, unsafe or Vermin-infested that it creates a hazard to the health or safety of the Occupants or the public.
  - (2) A Dwelling lacks a potable water supply, a properly functioning public or private sanitary sewer system, or a functioning heating system adequate to protect the health and safety of the Occupants.
  - (3) A Dwelling, because of its condition, has been implicated as the potential source of a severe poisoning by a toxic substance including but not limited to lead-bearing paint.

- (h) **Workmanship.** All repairs, maintenance work, alterations or installations which are required directly or indirectly by the enforcement of this Section shall be executed and installed in a Workmanlike manner.
- (i) **Notice of Violation and Orders for Corrective Actions.** Whenever a Code Official determines that there has been a violation of this Section, notice shall be given to the property Owner, and Occupant as appropriate. Such notice shall:
  - (1) Be in writing.
  - (2) Include a statement of the violation with reference to the applicable provision(s) of this Section.
  - (3) Include the correction(s) necessary to bring about compliance.
  - (4) Contain an order to correct said violation by a date certain.
- (j) **Service of Notice.** Each notice or order, other than as provided in Subsection (h), provided under this Section shall be deemed to be properly served if a copy thereof is:
  - (1) Personally served in the manner provided for in the State Statutes for service of process or,
  - (2) Sent by U.S. first class mail, postage prepaid, addressed to the last known address or,
  - (3) Posted in a conspicuous place on or about the main entrance to the structure located at the last known address, where there is a structure.
- (k) **Appeal.** Any Person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this Section may request in writing a review by the Health Officer or other Code Official issuing such notice or order. Such request shall be submitted before the date for the violation is to be corrected. Subsequent appeal shall be pursuant to the Administrative Review section of this Code or Chapter 68 of the Wisconsin Statutes.
- (l) **Noncompliance with Order.**
  - (1) **Citation.** A citation for any violation of this Section may be issued by the Police, Sheriff's Department or by an appropriate Code Official.
  - (2) **Abatement of Human Health Hazards/Emergency Action.** In extreme cases where a violation poses an Immediate Human Health Hazard as determined by the Health Officer or other implicated Code Official, or in the case of a second violation of the same section by the same Person within one year of a previous violation, the Health Officer or Code Official may immediately commence the actions authorized by this Chapter, or any other statutory or ordinance authority, to abate or removed the hazard.
- (m) **Reinspection Fees.** To compensate for inspection and administrative costs related to the enforcement of this Section, an escalating fee established by the Board of Health may be charged for any reinspection following the initial inspection which resulted in an order for corrective action. There shall be no reinspection fee for a final inspection indicating compliance or for a reinspection occurring during the period of an approved time extension granted for good cause and involving a good faith effort on the part of the property Owner to comply with the order. In accordance with Section 66.0627, Wis. Stats., reinspection fees that are not paid by or on behalf of the property Owner within thirty (30) days of mailing of an invoice to the property Owner of record shall be charged and collected via the property tax bill as a special charge against the property upon which the reinspections were made. If collection via the tax bill is necessitated, there shall also

be a One Hundred (\$100.00) Dollar administrative charge added to the fee and special charge to cover the administrative costs incurred by the Village.

- (n) **Fees.** All fees associated with any provision of this Section shall be established as part of the annual budget process or by resolution of the Village/Town Board from time-to-time. A current fee schedule itemizing all fees required by this Section shall be maintained at the Central Racine County Health Department during normal business hours.
- (o) **Penalties.** Any Person who violates any provision of this Section shall upon conviction be subjected to a forfeiture of not less than \$300.00 or more than \$1000.00 for each violation, and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.

### **SEC. 11.03 LODGING, RECREATION AND FOOD PROTECTION.**

- (a) **Purpose and General Provisions.** The purpose of this Section is to preserve and promote the public health of the Village/Town residents. The Health Department is granted agent status under Sections 254.69 and 97.41, Wis. Stats., and accordingly provides all licenses and inspections for retail food establishments, restaurants, public swimming pools, and water attractions, tattoo and body piercing establishments, recreational and educational camps, campgrounds, hotels, motels, tourist rooming houses, bed and breakfast establishments and food vending operations in accordance with the applicable Wisconsin Statutes and/or Administrative Code Chapter.
- (b) **Authority.** This Section is adopted pursuant to the authority granted by Chapters 251, 252, 254, and Section 97.41 of the Wisconsin Statutes, as amended from time-to-time, which regulations are hereby adopted, and incorporated by reference as though fully set forth herein. The Health Officer, or his or her designee, shall have the power to enforce the regulations of this Section, including by the issuance of citations.
- (c) **Adoption of State Code; Applications, Permits, and Licenses Required.** Except as otherwise provided in this Section and pursuant to the authority granted by Wisconsin Statutes Chapters 251, 252, 254 and Sections 66.0417 and 97.41, the Village adopts Wisconsin Administrative Code Chapters ATP 75, COMM 90, DHS 172, DHS 173, DHS 175, DHS 178, DHS192, DHS 195, DHS 196, DHS 197 and DHS 198, as amended from time-to-time, which are incorporated by reference as though fully set forth herein. All applications, permits and licenses required by such regulations are required by the Village/Town and shall be processed in accordance with the applicable Statute or Code Section.
- (d) **Definitions.** The following definitions shall apply in the interpretation and enforcement of this Section, unless a different meaning is plainly intended:
  - (1) **Body Piercer.** Means a person who performs body piercing on another person at that person's request.
  - (2) **Food Establishment.** An operation that stores, prepares, serves, vends, sells or otherwise provides food for human consumption. The term "Food Establishment" includes a "restaurant" as defined in Section 254.61(5), Wis. Stats.; a "retail food establishment" as defined in Section 97.30, Wis. Stats.; and a "temporary restaurant" as defined in Section 254.61(5m), Wis. Stats. In addition, the term "Food Establishment" shall also include taverns, soda fountains and non-alcoholic bars where beverages are dispensed into re-usable or other containers.
  - (3) **Tattooist.** Means a person who tattoos another person at that person's request.

- (4) **Temporary Food Establishment.** A food establishment that operates at a fixed location for a period of no more than 14 consecutive or 20 non-consecutive days in conjunction with a single event or celebration such as a fair, carnival, circus, public exhibition, anniversary sale or occasional sales promotion.
- (5) **Youth Sports Concession Stand.** A concession stand at a locally-sponsored sporting event, such as a little league game. In this paragraph, “concession stand” means a food stand that serves food and is operated exclusively for the benefit of a participating youth sports team or program or the governing youth sports organization, and “locally sponsored sporting event” means a competitive game, taking place inside or outside, specifically for youth, that is organized or sponsored by one or more local business, governmental or other civic organization, or by parents of the youth, including a school sponsored interscholastic sports competition.
- (e) **Sanitation Permit.** Any permanent Food Establishment located within the jurisdiction of the Village/Town which does not require a permit under Wisconsin Administrative Code Chapter DHS 196 or ATCP 75 shall be required to obtain a sanitation permit from the Health Department and comply with the provisions of Wisconsin Administrative Code Chapters DHS 196 and ATCP 75 as they relate to the safe handling of food.
- (f) **Youth Sports Concession Stand.** All Youth Sports Concession Stands serving food for eleven (11) or more days per year shall be required to obtain a permit from the Health Department and comply with the provisions of Wisconsin Administrative Code Chapters DHS 196 and ATCP 75 as they relate to the safe handling of food. Youth Sports Concession Stands only serving commercially packaged non-perishable food and/or beverages shall not be required to obtain a permit.
- (g) **Temporary Food Establishments.** All individuals or organizations wishing to operate a Temporary Restaurant or Temporary Retail Food Establishment within the jurisdiction of the Village/Town shall obtain a permit from the Health Department. No individuals or organizations are exempt from this requirement. However, any religious, charitable or non-profit organization operating a Temporary Food Establishment for less than four (4) days per year will not be required to pay a fee for the permit.
- (h) **Mobile Food Establishments.** A valid Food Establishment permit issued by the State of Wisconsin or any other competent Health Department for any mobile restaurant or mobile retail Food Establishment which chooses to operate within the jurisdiction of the Village/Town will be honored by the Village/Town. The mobile Food Establishment will be required to be inspected by the health department and to satisfy the relevant provisions of Wisconsin Administrative Code Chapter DHS 196 and ATCP 75. In addition, the mobile food establishment shall pay an inspection fee for this inspection.
- (i) **Body Piercers and Tattooists.** All body piercers and tattooists shall annually complete a bloodborne pathogen training course that is approved by the Health Department. Any tattoo or body piercing establishment allowing a tattooist or body piercer to practice in the establishment without proof of bloodborne pathogen training will be assessed a fee. This fee shall be established by Board of Health as part of the annual budget process.
- (j) **Application; Permit.** Any license or permit required under this Section shall make application on a form provided by the Health Department. The Health Department shall determine the contents of the application and may use a form provided by the State. Applications for permits shall be submitted to the Health Department along with the appropriate fee. Applications will be reviewed for compliance with this Section. Permits

and licenses issued hereunder shall be conspicuously displayed on the premises of the establishment.

- (k) **Inspection by Department.** Authorized employees of the Department, upon presenting proper identification, shall have the authority to perform inspections prior to issuance of any permit or license and from time-to-time of any establishment for compliance with this Code, including the state laws incorporated in this Code by reference.
- (l) **Fees.** All fees associated with the operation of any establishment governed by this Section shall be established as part of the annual budget process or by resolution from time-to-time. A current fee schedule itemizing all fees required by this Section shall be maintained at the Health Department for inspection during normal business hours.
- (m) **Penalties.** Any Person who violates any provision of this Section shall upon conviction be subjected to a forfeiture of not less than \$300.00 or more than \$1000.00 for each violation, and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.
- (n) **Appeal.** Any person aggrieved by any temporary order issued by the Health Officer pursuant to Sec. 66.0417(2)(a), Wis. Stats., shall be granted a hearing before the Village/Town Board in accordance with the provisions of such Section. Appeal from any order, notice or determination made by the Health Officer other than one controlled by Sec. 66.0417 shall be to the Village/Town Board pursuant to the applicable ordinance or Chapter 68 of the Wisconsin Statutes in the absence of an administrative review ordinance. The Village/Town Board may affirm, set aside, or modify the subject order by majority vote. The Village/Town Board's decision shall be final but may be appealed to the Racine County Circuit Court.

#### **SEC. 11.04 RABIES CONTROL.**

- (a) **Purpose and General Provisions.** The purpose of this Section is to preserve and promote the public health of Village/Town residents. Pursuant to Section 254.51, Wis. Stats., the Health Department shall establish measures for the prevention, surveillance and control of human disease that is associated with animal-borne disease transmission.
- (b) **Authority.** This Section is adopted pursuant to the authority granted by Chapters 250, 251, and 254 of the Wisconsin Statutes. The Village/Town Chief of Police or representative of the Sheriff's Department, Humane Officer, Health Officer or their designees shall have the power to enforce the regulations of this Section, including by the issuance of one or more citations, as warranted.
- (c) **Adoption of Wisconsin State Statute.** In addition to the provisions of this Section and pursuant to the authority granted by Chapters 250, 251 and 254 of the Wisconsin Statutes, the Village/Town adopts Section 95.21, Wis. Stats., which is incorporated by reference as though set forth herein. To the extent any provision conflicts with another provision in this Section, the more restrictive provision applies.
- (d) **Definitions.** The following definitions shall apply in the interpretation and enforcement of this Section, unless a different meaning is plainly intended:
  - (1) **Bite.** To seize with teeth or jaws, so as to enter, wound, or pierce the skin.
  - (2) **Cat.** Any member of the species felis catus (the domestic cat).
  - (3) **Code Officer.** The Village/Town Chief of Police or representative of the Sheriff's Department, Humane Officer, Health Officer or their designees.

- (4) **Dog.** Any member of the species *canis familiaris* (the domestic dog).
- (5) **Ferret.** Any member of the species *mustela putorius* (the domestic ferret).
- (e) **Rabies Vaccination Required for Dogs, Cats and Ferrets.** The owner of a Dog, Cat or Ferret shall have the animal vaccinated against rabies. Cats and Ferrets shall meet the requirements for Dogs in Sections 95.21(2) and 95.21(3), Wis. Stats. An owner who fails to obtain a rabies vaccination for a Dog, Cat or Ferret shall be subject to a forfeiture of not less than \$50 and not more than \$100, plus the costs of prosecution.
- (f) **Duty to Report Bite.** Any person having knowledge or reason to believe that any Dog, Cat or Ferret has bitten a person, shall immediately report, 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 Village/Town Police Department or Sheriff's Department.
- (g) **Quarantine.** Any Dog, Cat or Ferret within the Village/Town which is believed to have bitten a person, to have been infected with rabies, or to have been in contact with a rabid animal shall be subject to the quarantine requirements and procedures set forth in Sec. 95.21, Wis. Stats. If the Code Official, Chief of Police, the Health Officer, or the Humane Officer determines that a Dog, Cat, Ferret or other domestically-owned animal found in the Village has rabies, the Village President or Town Chairman may order a district quarantine, as provided by § 95.21(3).
- (h) **Noncompliance with Quarantine Order.** If after a Dog, Cat or Ferret Bites a person, the animal's owner fails to quarantine the animal and/or fails to have the animal examined by a licensed veterinarian, the animal may be seized by the Code Official, Health Officer, Police Officer, Deputy Sheriff, Humane Officer or their designees and held at a designated facility until the quarantine time expires. The owner or custodian of the animal shall pay all applicable fees associated with the quarantine, veterinarian's examinations, vaccination and license prior to releasing the animal from the quarantine facility.
- (i) **Appeal.** Any person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this Section may request in writing a review by the Health Officer or other Code Official issuing such notice or order. Such request shall be submitted before the date for the violation is to be corrected. Subsequent appeal shall be to the Village/Town Board pursuant to the applicable ordinance or Chapter 68 of the Wisconsin Statutes in the absence of an administrative review ordinance.
- (j) **Penalties.** Except as otherwise provided herein, any person who violates any provision of this Section shall upon conviction be subjected to a forfeiture of not less than \$100.00 or more than \$1000.00 for each violation, and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.

## CHAPTER 12

### LICENSES AND PERMITS

<i><b>Section Number</b></i>	<i><b>Title</b></i>	<i><b>Ordinance Number</b></i>	<i><b>Date of Ordinance</b></i>
12.01	Licenses Required	2005-04	04/05/05
12.02	General Provisions		
12.03	Intoxicating Liquor and Fermented Malt Beverages	2005-04 2012-03	04/05/05 04/17/12
12.04	Nonintoxicating Beverages		
12.05	Licensing and Regulation	2005-04 2005-15 2007-11 2008-23 2009-10 2015-07 2018-06 2019-03	04/05/05 01/03/06 09/04/07 12/16/08 11/03/09 08/18/15 09/04/18 08/06/19
12.06	Amusement Devices	2005-04	04/05/05
12.07	Regulation and License of Jukeboxes		
12.08	Massage Establishments and Massage Technicians	2008-23	12/16/08
12.09	Adult Bookstores and Motion Picture Theaters		
12.10	Regulating Direct Sellers	2008-05 2008-23	03/18/08 12/16/08
12.11	Auction Sales		
12.12	Parades		
12.13	Carnivals		
12.14	Public Dances and Dance Halls		
12.15	Pool and Billiards		
12.16	Pot-Bellied Pig Licensing and Regulation		
12.17	Cigarette and Tobacco Products	2009-03	04/08/09
12.18	Tents		
12.20	Penalty		
12.25	Backyard Chickens Licensing and Regulations	2018-05 2019-04	06/19/18 08/06/19*

\*Adoption date is incorrect on the ordinance.

**12.01 LICENSES REQUIRED.**

A license shall be required for each of the following businesses or activities at the indicated license fee, which shall be for one year unless otherwise indicated. (Am. #89-27)

	<i>Category</i>	<i>Amount</i>
(1)	FERMENTED MALT BEVERAGES. (Am. #95-1)	
	(a) Class "A" Retailer's License	\$100
	(b) Class "B" Retailer's License	\$100
	(c) Part-time License	Prorated by the month
	(d) Club License	\$10
	(e) Operator's License (Biennial)	\$50
	(f) Video Gambling Machines (up to 5 machines on a Class "B" licensed premises only)	\$100 per machine
(2)	INTOXICATING LIQUOR. (Am. MSC '91)	
	(a) Retail "Class A"	\$100
	(b) Retail "Class B"	\$500
	(c) Reserve "Class B" (initial issuance)	\$10,000
	(d) Video Gambling Machines (up to 5 machines on a "Class B" licensed premises only)	\$100 per machine
(3)	NONINTOXICATING AND SODA WATER BEVERAGES	\$5
(4)	AMUSEMENT DEVICES	
	(a) Amusement Centers	\$40
	(b) Coin-operated Amusement Devices	\$20
	(c) Coin-operated Pool Tables	\$15 per table
(5)	JUKEBOXES	\$15 per machine
(6)	MASSAGE ESTABLISHMENTS	
	(a) Establishments	\$100
	(b) Massage Technicians	\$50
(7)	ADULT BOOKSTORES AND THEATERS	\$100
(8)	AUCTIONEERS	\$50
(9)	CARNIVALS	\$50
(10)	PUBLIC DANCES	\$40



(11)	DIRECT SELLERS	\$10 investigation \$50 license
(12)	POT-BELLIED PIGS (Cr. #092-5)	
	(a) License (\$5 if pot-bellied pig becomes 5 months of age after July 1)	\$10
	(b) Impoundment Fee	\$25
(13)	Dog Licenses (2004-09)	
	(a) Altered	\$10
	(b) Unaltered	\$20
	(c) Penalty for licenses issued after March 31 <sup>st</sup>	\$10
(14)	TENTS	\$25 per tent

## **12.02 GENERAL PROVISIONS.**

Unless otherwise specifically provided by state laws or ordinances of the Village, the following provisions shall apply to the issuance, transfer and revocation of all licenses and permits issued under the provisions of this chapter:

- (1) **CLERK/TREASURER TO FURNISH FORMS.** All applications for licenses or permits shall be made upon forms approved by the Village Board and furnished by the Clerk/Treasurer to the applicant.
- (2) **FEES TO BE PAID IN ADVANCE.** The license or permit fee shall be first paid to the Village Clerk/Treasurer and his receipt therefor shall be attached to the application.
- (3) **APPLICATION TO BE SIGNED; WHEN NOTARIZED.** The application shall be signed by the applicant and, where required, sworn to before a notary public or public officer authorized to administer oaths and filed with the Clerk/Treasurer.
- (4) **CONSIDERATION AND HEARING.** The Clerk/Treasurer shall present the application to the Board at its next meeting, except when some Village officer, board or commission is first required to examine or report upon the application, in which case the Clerk/Treasurer shall refer the application to such officer, board or commission and present the application and report to the Village Board as soon as reasonably possible thereafter. Opportunity shall be given by the Village Board to any person to be heard for or against the granting of any license or permit.

- (5) **ISSUANCE.** The Clerk/Treasurer shall issue such license or permit upon authorization by the Village Board or proper officer, unless otherwise directed by the Board.
- (6) **ISSUANCE BY ADMINISTRATIVE AUTHORITIES.** When administrative authority to issue any license or permit is delegated to any Village officer, board or commission under this chapter, such officer, board or commission shall grant such license or permit when proper application has been made in accordance with this chapter, unless the granting of the same appears to be contrary to the health, safety, morals or general welfare of the public, in which case the reasons for denial shall be put in writing and delivered or mailed to the applicant. The applicant may, at any time within 30 days thereafter, request the Village Board to review such determination or any failure to make the same, which action shall be taken by the Village Board within 30 days after written request has been filed with the Village Clerk/Treasurer.
- (7) **CONDITIONS OF ISSUANCE.** Before any license or permit shall be issued under the provisions of this chapter, the Village Clerk/Treasurer shall check all Village records to determine whether or not any applicant is in arrears for taxes or any other obligation to any department of the Village. If the Clerk finds any applicant to be in arrears for taxes or any other obligation, the issuing officer or department shall withhold any and all licenses and permits for which application has been made until such taxes or obligations have been paid in full.
- (8) **TRANSFER OF LICENSE OR PERMIT.** Licenses or permits shall not be transferable from one person to another, but may be transferred from one location to another by approval of the Village Board, and the full license or permit fee shall be charged for one year or any portion of a year. A fee of \$10 shall be charged for any such transfer.
- (9) **REPLACEMENT OF LOST OR DESTROYED LICENSE OR PERMIT.** Whenever any license or permit shall be lost or destroyed, a duplicate may be issued by the Clerk/Treasurer for \$2.
- (10) **REVOCATION OF LICENSES OR PERMITS.** Unless otherwise provided by this chapter or statute, any license or permit issued by the Village Board or any officer or department of the Village may be revoked by the Village Board at any regular or special meeting by a majority vote in favor of such revocation, provided that no license or permit shall be revoked until the holder thereof has been given an opportunity to be heard by the Village Board. Notice of such hearing shall be given to the permit or license holder either personally or by registered mail by the Clerk/Treasurer at least 5 days prior to such hearing. Any license or permit issued by the Village Board, any Village Officer or department shall remain the property

of the Village and upon revocation thereof, the same shall be returned to the Clerk's office, and if not so returned after demand, the Village reserves the right to institute suit against the holder or anyone having possession of such license or permit for the return of the same. Any person failing to return any such license or permit after revocation thereof and demand having been made as herein provided, shall be deemed to have violated the provisions of this chapter and shall be subject to a penalty as provided in Section 25.04 of this Municipal Code. Whenever any license or permit shall be revoked, no refund of any portion of the fee paid shall be made.

### **12.03 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES.**

- (1) STATE STATUTES ADOPTED. The provisions of Ch. 125, Wis. Stats., defining and regulating the sale, procurement, dispensing and transfer of alcohol beverages, including provisions relating to underage persons, are adopted and made a part of this section by reference. A violation of any of such provisions shall constitute a violation of this section.
- (2) LICENSES, PERMITS, AUTHORIZATION REQUIRED.
  - (a) When Required. Except as provided by §125.06, Wis. Stats., no person shall, within the Village, serve, sell, manufacture, rectify, brew or engage in any other activity for which this chapter or Ch. 125, Wis. Stats., requires a license, permit or other authorization without holding the appropriate license, permit or other authorization as provided in this chapter. See §125.04(1), Wis. Stats.
  - (b) Separate License Required for Each Place of Sale. Except for licensed public warehouses, a license shall be required for each location or premises where alcohol beverages are stored, sold or offered for sale. See §125.04(9), Wis. Stats.
- (3) CLASSES OF LICENSES AND FEES. (Am. MSC '91) There shall be the following classes and denominations of licenses which, when issued by the Clerk/Treasurer under the authority of the Village Board after payment of the fee in Section 12.01, shall permit the holders to sell, deal or traffic in intoxicating liquor or fermented malt beverages as provided in the referenced State Statute. Except as otherwise provided in Section 12.01, the full license fee shall be charged for the whole or fraction of any year.
  - (a) Class "A" Fermented Malt Beverage Retailer's License. See §125.25, Wis. Stats.

- (b) Class “B” Fermented Malt Beverage Retailer’s License. See §125.26, Wis. Stats.
  - (c) “Class C” Wine License. (Cr. MSC ‘92) A “Class C” license authorizes the retail sale of wine by the glass or in opened original container for consumption on the premises where sold.
  - (d) Retail “Class A” Liquor License. See §125.51(2), Wis. Stats.
  - (e) Retail “Class B” Liquor License. See §125.51(3), Wis. Stats.
  - (f) Special Event (Picnic) License. See §125.26(6), Wis. Stats.
  - (g) Operator’s. See §125.17, Wis. Stats.
  - (h) Club’s. See §125.27(1), Wis. Stats.
  - (i) Reserve “Class B” Liquor License. See § 125.51(4)(br), Wis. Stats.”
- (4) LICENSE APPLICATION.
- (a) Form. Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on forms prescribed by the State Department of Revenue and filed with the Clerk/Treasurer. The premises shall be physically described, including every room and storage space to be covered by the license and all rooms joined by connecting entrances or not separated by a solid wall.
  - (b) Application to be Notarized. Applications shall be signed and sworn to by the applicant as provided by §887.01 Wis. Stats.
  - (c) List of Licensees. (Am. MSC ‘91) By July 15 of each year the Clerk shall forward to the State Department of Revenue a list containing the name, address and trade name of each person holding a license issued under this section, except a picnic, manager’s or operator’s license.
- (5) LICENSE RESTRICTIONS.
- (a) Statutory Requirements. Class A and B licenses shall be issued only to persons eligible therefor under Ch. 125, Wis. Stats.
  - (b) Location.

1. No retail Class A or B intoxicating liquor license shall be issued for premises the main entrance of which is less than 300' from the main entrance of any established public or parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises.
  2. This paragraph shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300' thereof by any school, hospital or church building.
- (c) Violators of Liquor or Beer Laws or Ordinances. No retail Class A or B license shall be issued to any person who has been convicted of a violation of any federal or state liquor or fermented malt beverage law, the provisions of this section or whose license has been revoked under §125.12, Wis. Stats., during one year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for one year.
- (d) Health and Sanitation Requirements. No retail Class B intoxicating liquor license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the State Department of Commerce pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health and Family Services applicable to restaurants, and to all such ordinances and regulations adopted by the Village.
- (e) License Quota. The number of persons and places that may be granted a retail Class B intoxicating liquor license under this section is limited as provided in §125.51(4), Wis. Stats.
- (f) Corporations. (Am. MSC '87) No corporation organized under the laws of this state or of any other state or foreign country may be issued any alcohol beverage license or permit unless such corporation meets the requirements of §125.04(6), Wis. Stats.
- (g) Age Requirement. (Am. MSC '89) No license hereunder, except an operator's license, shall be granted to any person who has not attained the legal drinking age. Operator's licenses may be issued only to applicants who have attained the age of 18.

- (h) Effect of Revocation of License. Whenever any license has been revoked, at least 12 months shall elapse before another license shall be granted to the person whose license was revoked.
  - (i) Delinquent Taxes, Assessments and Claims.
    - 1. Premises. No initial or renewal intoxicating liquor or fermented malt beverage license shall be granted for any premises for which taxes, assessments or other claims of the Village are delinquent and unpaid.
    - 2. Persons. No initial or renewal intoxicating liquor or fermented malt beverage license shall be granted to any person delinquent in payment of:
      - a. Any taxes, assessments or other claims owed to the Village.
      - b. A forfeiture resulting from a violation of any ordinance of the Village.
    - 3. Hearing. Prior to denying any license application hereunder, an aggrieved party shall be entitled to notice and a hearing before the Village Board.
  - (j) Issuance for Sales in Dwellings Prohibited. 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.
- (6) FORM AND EXPIRATION OF LICENSES. All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, fee paid and the name of the licensee and, unless sooner revoked, shall expire on June 30 thereafter except as otherwise provided. Operator's licenses shall be issued for a period of two years and shall expire on June 30 of the second year following the date of issuance.
- (7) TRANSFER OF LICENSES.
- (a) As to Person. No license shall be transferable by licensee except as provided by §125.04(12), Wis. Stats.
  - (b) As to Place. Licenses issued pursuant to this section may be transferred to another premises once during any license year as provided in §125.04(12),

Wis. Stats. Application for such transfer shall be made on blanks furnished by the State Department of Revenue. Proceedings for transfer shall be had in the same manner and form as the original application.

- (8) **POSTING AND CARE OF LICENSES.** Every license or permit required under this section shall be framed and posted and at all times displayed as provided in §125.04(10), Wis. Stats. No person shall post such license or permit any other person to post it upon premises other than those mentioned in the application, or knowingly deface or destroy such license.
- (9) **REGULATION OF LICENSED PREMISES AND LICENSEES.**
  - (a) Gambling and Disorderly Conduct Prohibited. (Am. MSC '92) Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct or gambling (except as provided by state law) shall be allowed at any time on any licensed premises, excepting video gambling devices, as defined in Chap. 945, Wis. Stats., on Class "B" or "Class B" licensed premises.
  - (b) Employment of Underage Persons. (Am. MSC '87) No licensee shall employ any underage person who does not have a valid operator's license to serve, sell, dispense or give away any alcohol beverage.
  - (c) Sales by Clubs. No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.
  - (d) Safety and Sanitation Requirements. Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.
- (10) **CERTAIN ENTERTAINMENT AND OTHER PRACTICES PROHIBITED UPON LICENSED PREMISES.**
  - (a) The provisions of this chapter do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, and dinner theaters 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 to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

- (b) No licensee, either personally or through his agent or employee, shall furnish entertainment by or permit the performance of any act, stunt or dance by dancers, performers or entertainers, whether such dancers, performers or entertainers are paid or not, unless such dancers, performers or entertainers shall meet the following wearing apparel standards when performing:
1. That portion of every costume to be worn by female dancers, performers or entertainers by the provisions of this subsection and which relates to the breast or chest area and to the area of the sex organs and buttocks shall be of nontransparent material.
  2. As a minimum, the top portion of the costume worn by a female dancer, performer or entertainer or a female impersonator shall encircle the body at the breast or chest area. Across the breast or chest area such portion of the costume shall consist of a band of material at least 2" in width and shall be so conformed, fabricated and affixed to the body so as to keep the areola of the breast (or its counterpart of a female impersonator) completely covered at all times.
  3. As a minimum the lower portion of the costume worn by a female impersonator shall encircle the body at the area of the sex organs and the buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the sex organs and the mons pubis (or its counterpart of a female impersonator) and the cleavage of the buttocks at all times. Under no circumstances shall any animal fur piece or other device simulating the hair surrounding the mons pubis area that is worn in the area of the genitals or mons pubis constitute compliance with the costume requirements of this subsection.
  4. As a minimum, the lower portion of the costume worn by a male dancer, performer or entertainer shall encircle the area of the sex organs and the buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the sex organ and the cleavage of the buttocks at all times.
- (b) No licensee, either personally or through his agent or employee, shall permit any person upon the licensed premises to perform acts of or acts which simulate:



1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
  2. The touching, caressing or fondling of the breast, buttocks, anus or genitals;
  3. The displaying of pubic hair, anus, vulva or genitals; or
  4. The displaying of the covered male genitals in a discernibly turgid state.
- (c) No licensee, either personally or through his agent or employee, shall furnish entertainment by or permit the performance of any act, stunt or dance unless such act, stunt or dance shall be performed on a stage area designated for such purpose. The use of the surface of the bar proper as a stage area is prohibited. When the stage area is located behind the bar, the nearest point of any such stage area shall be not less than 6' from the outer limits of patrons' side of the bar. When the stage area is located outside of the bar, that is, on the patrons' side of the bar, such area shall be raised from the floor level and shall be separated by a railing or other device so as to provide a distance of at least 6' between the patrons and the performers, so as to deter patrons from participating in any act, stunt or dance.
- (d) No licensee, either personally or through his agent or employee, shall permit any patron to participate in any act, stunt or dance with performers who are under the auspices of the management.
- (e) No licensee, either personally or through his agent or employee, shall permit the solicitation by any entertainer of a drink of intoxicating liquor, fermented malt beverage or other drink from any customer or patron or other person on the premises; and no entertainer or employee shall solicit any such drink from any customer, patron or other person on the premises.
- (f) No licensee, either personally or through his agent or employee, shall permit any entertainer to sit at any table or in any booth or elsewhere on the licensed premises with any customer or patron, provided, however, that this subsection shall not apply to a member of the immediate family of the licensee or to any person claiming under him who lives in the same household as the licensee and is over 18 years of age.
- (11) CLOSING HOURS. The provisions of Section 125.32, Wis. Stats., regulating hours of operation for persons selling intoxicating liquor and fermented malt

beverages are adopted and made a part of this section by reference. A violation of any of such provisions shall constitute a violation of this section.

(12) **REVOCATION AND SUSPENSION OF LICENSES.**

- (a) Procedure. Whenever the holder of any license under this section violates any portion of this section, proceedings for the revocation or suspension of such license may be instituted in the manner and under the procedure established by §125.12, Wis. Stats., and the provisions therein relating to granting a new license shall likewise be applicable.
- (b) Effect of Revocation. See sub. (5)(h) of this section.
- (c) Suspensions and revocations based upon accumulation of point values for alcohol beverage violations. (Cr. #096-18) In addition to suspensions or revocations issued pursuant to par. (a), the Village shall initiate proceedings for the revocation or suspension of any license under this section for accumulation of 100 or more points in a 12-month period. Points are accumulated upon conviction of an alcohol beverage violation according to the chart set forth below. In determining the number of points accumulated against a licensee within a 12-month period, the Village shall use the date each violation was committed as basis for that determination. A violation of a particular section by an agent or employee of a licensee shall constitute a violation by the licensee. Proceedings for revocation or suspension of a license under this section shall be conducted in accordance with §125.12, Wis. Stats.

**Violations of Village Ordinances**

<b><u>Section No.</u></b>	<b><u>Type of Violation</u></b>	<b><u>Point Value</u></b>
12.03(2)	Licenses, Permits, Authorization Required	100
12.03(4)	False Statement on Application	100
12.03(8)	Posting and Care of Licenses	25
12.03(9)(a)	Gambling and Disorderly Conduct Prohibited	25
12.03(9)(b)	Employment of Underage Persons	100
12.03(9)(c)	Sales by Clubs	25
12.03(9)(d)	Safety and Sanitation Requirements	25
12.03(10)	Certain Entertainment and Other Practices Prohibited	100
12.03(11)	Closing Hours	50

Any other Village ordinance under Section 12.03 20

**Violation of State Statutes, as Incorporated  
Into the Municipal Code Via Section 12.03(1)**

<b><u>Section No.</u></b>	<b><u>Type of Violation</u></b>	<b><u>Point Value</u></b>
125.07(1)	Alcohol Beverages; Restrictions Relating to Underage Persons	50
125.07(2)	Sales of Alcohol Beverages to Intoxicated Persons	50
125.07(3)	Presence of Minor in Place of Sale	25
125.07(7)	Failure to Keep Proper Books	25
Any other provisions of Chapter 125, Wis. Stats.		20

(13) NONRENEWAL OF LICENSES. Before renewal of any license issued under this section is refused, the licensee shall be given written notice of any charges or violations against him or the reasons proposed for nonrenewal and a copy of any proposed motion for nonrenewal and shall have an opportunity to be heard before the Village Board.

(14) VIOLATIONS BY AGENTS AND EMPLOYEES. A violation of this section by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

(15) REVOCATION FOR NONUSE.

(a) Within 90 days from the issuance of a Class A retail liquor license, a Class B intoxicating liquor license or a Class B fermented malt beverage license, the licensee shall be open for business with adequate stock and equipment. If the licensee fails to do business within such time, such licensee shall be subject to revocation by the Village Board after a public hearing. The Board may, for good cause shown, extend such 90-day period.

(b) If a licensee shall suspend or cease doing business for a period of 6 consecutive months, that Class A retail liquor license or that Class B fermented malt beverage license shall be subject to revocation by the Village Board after public hearing.

## **12.04 NONINTOXICATING BEVERAGES.**

(1) **DEFINITIONS.**

(a) Nonintoxicating Beverage. A nonintoxicating beverage is a beverage which contains less than one-half of one-percent alcohol by volume.

(b) Soda Water Beverage. See §97.34, Wis. Stats.

(2) **LICENSE REQUIRED.** No person shall maintain, operate or conduct the business of selling nonintoxicating liquors or soda water beverages, either at retail or wholesale, within the Village without first obtaining a license as provided in this section.

(3) **QUALIFICATIONS FOR LICENSE.** No license shall be granted to any person, unless to a domestic corporation, not a resident of this State and of the Village or, subject to §§111.321, 111.322 and 111.335, Wis. Stats., to any person who has been convicted of a felony, unless the person has been restored to civil rights.

(4) **APPLICATION.** Application for a license under this section shall be made to the Clerk/Treasurer on forms provided by him and shall contain the following information:

(a) Location of the intended business.

(b) Where the applicant has engaged in the business of selling nonintoxicating or soda water beverages in this State and where such business was conducted, if applicable.

(c) Whether applicant has been convicted of a felony or of violating any law or ordinance regulating the conduct of such a business.

(d) Whether the applicant meets the residency requirements of sub. (3) of this section.

(5) **LIMITATIONS.** No more than one license shall be granted to the same applicant during any one year unless the same becomes necessary by reason of conditions over which the applicant has no control and any change in the conditions of the licensed premises or nature of the business carried on without the consent of the License Committee of the Village Board shall be cause for revocation of the license.

(6) **FEE.** The fee required in Section 12.01 shall accompany the application.

## 12.05 LICENSING AND REGULATIONS

### ARTICLE I. IN GENERAL

#### (1) DEFINITIONS

The following words, terms and phrases, when used in this chapter, shall have the meanings given, except where the context clearly indicates otherwise.

- (a) *Bite* means to seize with teeth or jaws, so as to enter, wound, or pierce the skin.
- (b) *Cat* means any member of the species *Felis catus* (the domestic cat), but not its wild progenitors.
- (c) *Dog* means any member of the species *Canis familiaris* (the domestic dog), but not its wild progenitors.
- (d) *Ferret* means any member of the species *Mustela putorius* (the domestic ferret), but not its wild progenitors.
- (e) *Isolation facility* means a humane society shelter, veterinary hospital, or other place specified by the health department that is equipped with a pen or cage, which isolates the animal from contact with other animals.
- (f) *Licensable* means a dog, cat, ferret or pot-bellied pig as defined in this section.
- (g) *Livestock* means horses, donkeys, mules, cattle, swine (except pot-bellied pigs as defined in this section), bison, alpacas, llamas, goats, sheep, chickens (except as licensed under this Section), ducks, turkey, peacocks, ratites, or geese.
- (h) *Neutered* means a licensable animal that has been spayed or castrated by surgical means.
- (i) *Owner* means any person who keeps, harbors, controls or knowingly permits a licensable animal to remain on or about any premises occupied by that person.

- (j) *Potbellied pig* means any member of the dwarf breed of pig known as Vietnamese potbellied pigs, but not members of any other breed of pig (*Sus scrofa*), nor their wild progenitors.
- (k) *Restricted animal* means any member of the order Carnivora other than the dog, cat or ferret as defined above; any member of the order Artiodactyla (even toed hoofed mammals) other than the potbellied pig as defined above; any member of the order Perissodactyla (odd toed hoofed mammals); any member of the order Proboscidea (elephants); any member of the order Crocodilia; any nonhuman member of the order Primates; any venomous species of the class Reptilia; snakes over ten feet in total length; and any hybrid with a composition of 50 percent or greater of one or more such animals.
- (l) *Snake* means any of a large variety of limbless reptiles having a scaly body, no eyelids, and a specialized swallowing apparatus.
- (m) *Veterinarian* means a practitioner of veterinary medicine who is duly licensed by a state veterinary examining board.
- (n) *Farm or farmstead* means a parcel that is used primarily for the raising of crops and/or livestock and which exceeds four (4) acres in size.

(2) ENFORCEMENT OF THIS CHAPTER

The humane officer or designee or any police officer is authorized to enforce this section and under the direction of the Village Police Chief may issue a citation for any violation, or an order prohibiting the keeping of any animal, fowl or bird which is deemed to be a safety/health hazard to the general public or prohibited under this section.

(3) PENALTY FOR VIOLATION OF THIS ORDINANCE

Any person violating any provision of this section shall, upon conviction, forfeit not less than \$10.00 or more than \$400.00 per violation, plus applicable court costs and assessments.

(4) PAYMENTS OF FORFEITURE IN LIEU OF COURT APPEARANCE

- (a) Any person charged with violating any provision of this section may pay the amount enumerated in subsections (b) and (c), plus applicable court costs and assessments as indicated on the citation, at the police department in lieu of a court appearance. Persons wishing to contest the violation(s) should follow the instructions on the citation.

- (b) The following violations may be paid for at the police department:

<b>VIOLATION</b>	<b>BASE FORFEITURE</b>
Livestock and restricted animals prohibited	\$100.00
Failure to vaccinate	\$100.00
Failure to provide rabies certificate to clerk/deputy treasurer (veterinarians)	\$100.00
Tags required	\$30.00
Failure to report biting incident	\$100.00
Failure to quarantine	\$200.00
Cruelty to animals	\$400.00
Food, shelter and water	\$200.00
Abandonment	\$200.00
Promoting animal fights, per animal present	\$400.00
Animal fight spectator	\$400.00
Fighting paraphernalia	\$200.00

- (c) Violations of any subsections other than those enumerated in (b) are subject to the following forfeitures, which may be paid, plus applicable court costs and assessments as indicated on the citation, at the police department:

First offense . . . \$ 50.00

Second offense within 12 months . . . \$100.00

Third offense within 12 months of second offense . . . \$400.00

#### (5) IMPOUNDMENT FOR VIOLATIONS

- (a) Any humane officer, police officer or designee of the Village of Sturtevant may impound or seize any dog, cat, ferret or potbellied pig which does not have a valid license as evidenced by a valid certificate as provided by Article II of this section.
- (b) The release of any dog, cat, ferret or potbellied pig so impounded or seized may be obtained by payment of applicable fees. Such dog, cat, ferret or

potbellied pig shall not be released until the owner presents proof that the dog, cat, ferret or potbellied pig is currently licensed, and presents evidence that the dog, cat or ferret is vaccinated against rabies in accordance with the requirements of this section.

## **ARTICLE II. LICENSES AND PERMITS**

### **(1) LICENSING OF DOGS, CATS, AND FERRETS**

- (a) The owner of any dog, cat or ferret more than 5 months of age on January 1 of any year shall annually, at the time and in the manner provided by law for the payment of personal property taxes, pay his animal license tax and obtain a license therefore. Proof of rabies inoculation shall be given before a license will be issued.
- (b) Upon receipt of the license fee, the Clerk/Deputy Treasurer shall deliver to such person a tag for each such license tax paid, which tag shall be furnished to the Clerk/Deputy Treasurer by the County Clerk. A person owning, keeping or harboring any dog, cat or ferret shall affix and keep securely fastened to the collar of such dog, cat or ferret, the tag for which such license shall have been paid. Such license shall be in force for one calendar year (January through December) following the payment thereof and shall bear the year in which the license shall expire.
- (c) The dog, cat license fee shall be \$25.00 for each animal, except that upon presentation of evidence showing that the animal is neutered, then the license fee for such animal shall be \$15.00. The license fee for ferrets is \$25.00 per animal. License fees are waived for service animals and animals owned by law enforcement agencies.
- (d) No dog, cat or ferret license shall be issued unless the applicant presents a valid certificate of vaccination against rabies as described in Sec. 95.21, Wis. Stats.

### **(2) LICENSING OF POT BELLIED PIGS**

- (a) Any person who owns a potbellied pig which is or will become five months of age or older during any license year shall obtain a license for each such potbellied pig every license year by making application to the Village Clerk/Deputy Treasurer under the terms and conditions in this section.
- (b) The potbellied pig license fee shall be \$10.00 for each potbellied pig.



- (c) No potbellied pig license shall be issued unless the applicant presents certification that the potbellied pig is neutered.
- (d) No potbellied pig license shall be issued unless the applicant presents certification or evidence that the potbellied pig is not in excess of 22 inches in height and is not in excess of 100 pounds in weight.

(3) LICENSING OF CHICKENS

Licensing of chickens is required in the Village of Sturtevant. Regulations and requirements are set forth in Section 9.03 of the Municipal Code.

(4) LICENSING EXPIRATION

The license year under this article commences on January 1 and expires on December 31 of the year for which it was issued.

(5) LATE FEES

The Village Clerk/Deputy Treasurer or other designated agency shall, in addition to the license fee provided for in this article, assess and collect a late fee of \$10.00 for every application for a license for a dog, cat, ferret or potbellied pig more than five months of age, unless such application is made prior to February 1 of any calendar year or unless such application is made within 30 days of acquiring ownership of a licensable dog, cat, ferret or potbellied pig, whichever is later.

(6) NUMBER OF LICENSABLE ANIMALS LIMITED

- (a) The keeping of an unlimited number of licensable animals in the Village for a considerable period of time detracts from and, in many instances, is detrimental to the healthful and comfortable life for which such areas were created. The keeping of an unlimited number of licensable animals is, therefore, declared to be a public nuisance.
- (b) It shall be unlawful to keep more than three licensable animals in a single-family dwelling unit, except that each dwelling unit in a multiple-family unit shall only be allowed two such animals per dwelling unit. Said limits do not apply to owners/ occupants of parcels exceeding four (4) acres in size.
- (c) Notwithstanding the provisions of subsection (b), a litter of pups or kittens may be kept for a period of time not to exceed five months from birth.

- (d) The provisions of this section shall not apply to any, pet shop, animal shelter, recognized rescue group, or veterinary clinic.
- (e) Notwithstanding the provisions of subsection (b), it shall be unlawful to keep more than one potbellied pig for each dwelling unit.

(7) LIVESTOCK AND RESTRICTED ANIMALS PROHIBITED

- (a) No person shall keep or permit to be kept on his premises any livestock or restricted animals.
- (b) This section shall not apply to zoological parks, farms or farmsteads, educational institutions, performing animal exhibitions, circuses, or rehabilitation programs permitted or licensed by the Wisconsin Department of Natural Resources.

(8) SPECIAL PERMIT FOR KEEPING OF CERTAIN ANIMALS

The keeping of animals otherwise prohibited by this section may be permitted by applying for a special permit from the Village Clerk/Deputy Treasurer. Two types of such permits are available.

- (a) *Exhibition, entertainment or demonstration permits.*

Such permits may be issued to permit circus performances, living nativity, pony rides, parades or other exhibitions or entertainment events. A fee of \$5.00 per animal, up to a maximum of \$50.00, shall be paid to the Village for the issuance of such permit.

- (b) *Individual ownership permit.*

1. Individual ownership permits may be issued to applicants who are in compliance with all animal-related provisions of this Code, including the provisions of Chapter 9.
2. Individual ownership permits may be issued at the discretion of the humane officer or designee. Individual ownership permits shall not be issued for venomous reptiles. Individual ownership permits are issued subject to an inspection by the humane officer or designee or a veterinarian for the purpose of determining the premises and caging/enclosure for such animal are safe and secure for the animal as well as for the general public.

3. Applicants for individual ownership permits shall provide the Village with copies of any required applicable state or federal permits.
4. A \$25.00 nonrefundable inspection fee must accompany all applications. The individual ownership permits fee is \$25.00 per animal.
5. Individual ownership permits and inspection fees are valid from the date of issuance and expire on December 31 of the same year.
6. Individual ownership permits are only valid for the animal specifically listed on the application and are not transferable to another animal or another person.
7. All applicants for individual ownership permits must be at least 18 years of age.
8. Applications may be denied because of, but not limited to, the following.
  - a. Providing false information on the application.
  - b. The enclosure for the animal is found to be unsafe for the animal and/or people.
  - c. The applicant has previously been found in violation of other provisions of this chapter.
  - d. The applicant does not comply with Chapter 9.03.
9. The owner or custodian of any animal subject to or requiring an individual ownership permit shall pay all expenses incurred in case of escape of the animal.
10. In the event a property has a minimum of 6 complaints from surrounding property owners within 100 feet of said property within a 12-month period, the permit for said animals will not be renewed and the owner will be required to remove the animals from the property by the end of the permit year.

(9) **DOGS, CATS, FERRETS TO WEAR LICENSE AND RABIES TAGS**

It shall be unlawful to own, harbor or keep any dog, cat or ferret which does not wear tags required by subsection (1) unless the dog, cat or ferret is securely confined on private premises or is participating in a sanctioned competition.

(10) **PROOF OF VACCINATION AND LICENSING FOR DOGS, CATS AND FERRETS**

Owners of dogs, cats or ferrets must provide required rabies vaccination and licensing certificates upon request by personnel authorized to do so by the Village.

**ARTICLE III. RABIES CONTROL – SEE SECTION 11.03**

**ARTICLE IV. CARE AND CONTROL**

(1) **KILLING AND INJURING BIRDS**

No person shall kill or injure any bird within the Village or throw stones, shoot at or use any implements with the intention of killing or injuring any bird within the Village.

(2) **ANIMALS RUNNING AT LARGE; PENALTY**

(a) Prohibited. No person who owns or is in possession of an animal shall permit such animal to run at large. “Run at large,” means the presence of the animal at any place except upon the property of the owner unless the animal:

(1) Is on a leash held by a person physically able to control the animal;  
or

(2) Is controlled and contained by a person physically able to control the animal; or

(3) Is on private property with permission of the owner of the property.

(b) Police officers or other persons designated by the Village may impound any animal found running at large. If an impounded animal bears identification, such as a microchip or tag, the owner shall be notified. Any impounded animal without a known owner shall be held for no less than seven days during which time the owner may reclaim or surrender the animal. Any

animal that has been held for seven days shall become the property of the impoundment facility at the starting time of the eighth day.

- (c) Any impounded animal may be euthanized upon determination that:
  - (1) The animal is hopelessly injured beyond any reasonable chance of recovery; or
  - (2) The animal poses an imminent threat to the public health or safety; or
  - (3) The animal poses an imminent threat to the health or safety of itself or its custodian.
- (d) Any impounded animal to be euthanized shall be humanely destroyed.
- (e) Any owner reclaiming an animal shall pay the normal and customary fees.
- (f) Any owner reclaiming a dog, cat, or ferret must show proof of, or pre-pay for, a rabies vaccination and a Village license prior to release from the impoundment facility.
- (g) Any dog or cat found to be running at large for the first time shall be implanted with a microchip at the owner's expense.
- (h) Any dog or cat found to be running at large for the second time shall be neutered or spayed at the owner's expense within 30 days of the second incident.

### (3) BARKING DOG OR CRYING CAT COMPLAINTS

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood, or in such manner as to disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Any such dog or cat is hereby declared to be a public nuisance.

### (4) ANIMAL HOUSING

All animal pens, structures or confinement areas shall be structurally sound, maintained in good repair, and kept clean and reasonably dry without standing water, mud, feces or debris.

(5) ANIMAL CRUELTY, SAFETY AND ABANDONMENT

- (a) No person shall willfully or maliciously inflict torture, beat, strike or abuse any animal, or by any act, omission or neglect, cause or inflict any unnecessary pain, suffering, injury or death to any animal, whether such animal belongs to such person or to another. Reasonable force may be employed to drive away vicious or trespassing animals.
- (b) No person in charge of any animal shall fail, refuse or neglect to provide such animal with food, potable water, shade or shelter, or to cruelly or unnecessarily expose any such animal to hot, stormy, cold or inclement weather. Shade means protection from the direct rays of the sun. Shelter, as it applies to dogs, means a moisture proof structure of suitable size to accommodate the dog, made of durable material with a solid floor raised at least two inches from the ground and with the entrance covered by a flexible, windproof material. Such structure shall be provided with a sufficient quantity of suitable bedding to provide insulation and protection against cold and dampness.
- (c) No person shall leave any animal in or upon any vehicle unless the animal is tethered or otherwise restrained from protruding its head outside the interior or bed of the vehicle.
- (d) No person shall transport any animal in or upon any moving vehicle unless the animal is tethered or otherwise restrained from protruding more than its head outside the interior or bed of the vehicle.
- (e) No person may abandon any animal. Unwanted animals shall be surrendered to Countryside Humane Society.

(6) INJURY TO PROPERTY BY ANIMALS

It shall be unlawful for any person owning or possessing an animal to permit such animal to go upon any public or private lands or premises and break, bruise, tear up, crush or injure any property in any manner whatsoever without the permission of the owner of such premises.

(7) ANIMAL FECES

- (a) It shall be unlawful to leave animal feces on public or private property except as provided in subsection (c).

- (b) It shall be unlawful for any person to cause or permit a dog or cat to be on property, public or private, not owned or possessed by such person unless such person has in his immediate possession an appropriate device for scooping feces and an appropriate depository for the transmission of feces to a receptacle located upon property owned or possessed by such person. This section shall not apply to a person who is visually or physically handicapped.
- (c) Animal feces accumulations may remain on the owner's property for 24 hours, after which they must be collected, properly stored and disposed of as solid waste provided that this provision does not apply to farms or farmsteads. Any accumulations of animal feces in excess of 24 hours shall constitute a human health hazard. The Village health officer or designee shall take such steps to remediate any accumulation of feces in violation of this subsection as he or she deems necessary and appropriate, including, without limitation, the issuance of citations to the individual maintaining the condition. Every day such condition remains shall constitute a separate offense.

(8) FEEDING ANIMALS

- (a) It shall be unlawful for any person to feed any stray licensable animal.
- (b) "Feed," as used in this subsection, means the offering, throwing, spreading and/or leaving of any food item that may be eaten by animals.

(9) CHAINING DOGS

It shall be unlawful to keep a dog chained for longer than 12 hours in any 24-hour period. A dog chain shall be no less than ten feet in length, shall be affixed to the dog's collar or harness, and shall be attached in such a manner as not to allow the dog to trespass on public or private property. In this subsection, the terms "chain" and "chaining" include any manner of restraint such as ropes, cables, or leashes.

(10) ANIMAL FIGHTING

- (a) No person may intentionally instigate, promote, aid or abet, as a principal, agent or employee, a fight between the same or different kinds of animals, or intentionally maintain or allow any place to be used for fighting between the same or different kinds of animals. Each animal present at such a fight or place constitutes a separate violation of this section.

- (b) No person may own, possess, keep or train any animal with the intent that the animal be engaged in an exhibition of fights. Each animal owned, possessed, kept or trained constitutes a separate violation of this section.
- (c) No person may intentionally be a spectator at a fight between the same or different kinds of animals.
- (d) No person may possess or use any apparatus, paraphernalia, pit supplies, implements, programs, drugs, equipment or other animals used to train or condition animals to be aggressive.

#### (11) DANGEROUS ANIMALS

- (a) **DEFINITIONS.** In this subsection, unless the context or subject matter requires otherwise, the following definitions shall be applicable:
  - (1) *Animal* means any live, vertebrate creature, domestic or wild, or any reptile.
  - (2) *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.
  - (3) *Caretaker* means any person who, in the absence of the owner, temporarily harbors, shelters, keeps, walks or is in charge of a dog, cat or any other domesticated bird or animal.
  - (4) *Domestic animal* means any animal, not regulated or prohibited as such by the Wisconsin Department of Natural Resources, which normally can be considered tame and converted to a pet.
  - (5) *Owner* means any person who keeps, harbors, controls or knowingly permits a licensable animal to remain on or about any premises occupied by that person.
  - (6) *Dangerous animal* means any of the following:
    - a. Any animal that, while off the owner or caretaker's property, has killed a domesticated animal without provocation.



- b. Any animal that, without provocation, inflicts death or serious bodily harm on a person on public or private property.
  - c. Any animal brought from another state, 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 §174.02(3), Wis. Stats.
  - e. Any animal trained, owned, or harbored for the purpose of animal fighting.
  - f. Any animal that, one more than one occasion without provocation, causes bodily harm to any domestic animal or to any person.
- (7) *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.
- (8) *Enforcement officer* includes any Village police officer, humane officer or any other person(s) designated by the Village Board.
- (9) *Potentially dangerous animal* means an animal so designated under the procedures of this subsection.
- (b) POTENTIALLY DANGEROUS ANIMAL CLASSIFICATIONS.
- (1) Classifications of potentially dangerous animals shall be based upon specific behaviors exhibited by the animal. For purposes of this subchapter, behaviors establishing various levels of potentially dangerous animals are the following:
  - (2) The investigation shall include a police report and the animal's history.
  - (3) Level 1 behavior is established if an animal at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person.

- (4) Level 2 behavior is established if an animal, while at large, causes physical injury to any domestic animal.
- (5) Level 3 behavior is established if an animal, while confined so as not to be at large, aggressively bites any person.
- (6) Level 4 behavior is established if:
  - (1) An animal: (a) aggressively bites any person; or (b) Kills or causes the death of any person, domestic animal or livestock; or (c) an animal classified as a Level 3 potentially dangerous animal that repeats the behavior in division of this section after the owner or caretaker receives notice of the Level 3 classification. An animal proven to have exhibited Level 4 behavior is a dangerous animal.
- (7) Notwithstanding divisions (3) through (6) of this section, the enforcement officer shall have discretionary authority to refrain from classifying an animal as potentially dangerous, even if the animal has engaged in the behaviors specified in divisions (3) through (6) of this section, if the officer determines that the behavior was the result of the victim abusing or tormenting the animal or was directed towards a trespasser or other similar mitigating or extenuating circumstances.

(c) **POTENTIALLY DANGEROUS ANIMAL DETERMINATION PROCEDURE.**

- (1) Classification of an animal as a dangerous animal or as a potentially dangerous animal shall be based upon the animal engaging in any of the following behaviors:
  - a. An animal, whether or not confined, causes the serious bodily harm or death of any person or other domestic animal; or
  - b. An animal is used as a weapon in the commission of a crime or ordinance violation.
- (2) Notwithstanding division (A) of this section, the enforcement officer or the Public Safety Committee shall have discretionary authority to refrain from classifying an animal as a dangerous animal or as a potentially dangerous animal, even if the animal has engaged in the behaviors specified in division (A) of this section, if the enforcement officer or the Public Safety Committee determines

that the behavior was the result of the victim abusing or tormenting the animal or was directed towards a trespasser or other extenuating circumstances that establishes that the animal does not constitute an unreasonable risk to human life or property.

- (3) The enforcement officer shall give the animal's owner or caretaker written notice by mail or personal service of the animal's specified behavior, of the animal's provisional classification as a dangerous animal or as a potentially dangerous animal, and of the restrictions applicable to that animal by reason of its classification. If the owner or caretaker denies that the behavior in question occurred, the owner or caretaker may appeal the officer's decision to the Public Safety Committee by filing a written request for a hearing with the Village Clerk. If the animal's owner fails to appeal the animal's provisional classification within the time allowed, or if the animal's categorization as a potentially dangerous animal or a dangerous animal is affirmed following the exhaustion of allowable appeals, written notice of the animal's designation, along with the restrictions applicable to such animal, shall be given to the animal's owner.
- (4) Upon receipt of notice of the animal's classification as a Level 1, 2, 3, or 4 potentially dangerous animal or as a dangerous animal, the owner or caretaker shall comply with the restrictions specified in the notice during any appeal and unless the reversed on appeal. Failure to comply with the specified restrictions shall be a violation of this chapter for which a fine can be imposed. Additionally, the enforcement officer shall have authority to impound the animal pending completion of all appeals at the owner's or caretaker's expense.
- (5) If the enforcement officer's decision or the Public Safety Committee's decision finds that an animal has engaged in dangerous animal behavior, the animal shall be impounded pending the completion of any appeals at the owner's or caretaker's expense.
- (6) Any animal classified as a Level 4 potentially dangerous animal that is found to have repeated Level 4 behavior as defined under this ordinance, shall be impounded pursuant to ordinance 12.05, if not already impounded (at the animal owner's or caretaker's expense.) The animal shall not be released to the owner or be made available for adoption until either potential recipient of the animal has established arrangements for accommodating the animal consistent

with all the security and safety requirements ordered by the enforcement officer or the Public Safety Committee.

(d) **POTENTIALLY DANGEROUS ANIMAL AND DANGEROUS ANIMAL DESIGNATION APPEAL PROCEDURE.**

- (1) Whenever an owner or caretaker wishes to contest an order, he or she shall, within 72 hours after receipt of the order, deliver to the Village Clerk a written objection to the order stating specific reasons for contesting the order. Upon receipt of the written objection, the matter shall be placed on the agenda for a meeting of the Public Safety Committee. The Public Safety Committee shall act as a quasi-judicial body allowing the animal's owner or caretaker an opportunity to present evidence as to why the animal should not be declared dangerous.
- (2) After the meeting, the owner or caretaker shall be notified in writing of the Public Safety Committee's determination. If the Public Safety Committee upholds the determination that the animal is a potentially dangerous animal or a dangerous animal, the owner or caretaker shall comply with the requirements of subsection (11) (c) (1). If the owner or caretaker further contests the determination, he or she may, within 5 days of receiving the Public Safety Committee's decision, seek review of the decision by the entire Village Board.

(e) **REGULATION OF DANGEROUS ANIMALS AND POTENTIALLY DANGEROUS ANIMALS.**

In addition to the other requirements of this chapter, the owner or caretaker of a dangerous animal or a potentially dangerous animal shall comply with the following conditions:

- (1) No person may harbor or keep a dangerous animal within the Village. If the owner or caretaker of an animal that has been determined to be a dangerous animal is unwilling or unable to permanently remove the animal from the Village, he/she or the Village designated enforcement officer shall 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.

- (2) Animals classified as Level 1 animals shall be restrained, so as not to be at large, by a physical device or structure, in a manner that prevents the animal from reaching any public sidewalk, or adjoining property and must be located so as not to interfere with the public's legal access to the owner's or caretaker's premises, whenever that animal is outside.
- (3) Animals classified as Level 2 animals shall be confined within a secure enclosure whenever the animal is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's or caretaker's premises. In addition, the officer may require the owner or caretaker to obtain and maintain proof of public liability insurance. In addition, the owner or caretaker may be required to complete a responsible pet ownership program as prescribed by the officer or the Public Safety Committee.
- (4) Animals classified as Level 3 animals shall be confined within a secure enclosure whenever the animal is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's or caretaker's premises, and the owner or caretaker shall post warning signs, on the premises where the animal is kept. In addition, the officer may require the owner or caretaker to obtain and maintain proof of public liability insurance. The owner or caretaker shall not permit the animal to be off the owner's or caretaker's premises unless the animal is muzzled and restrained by an adequate leash and under the control of a capable person. In addition, the officer may require the owner or caretaker to satisfactorily complete a pet ownership program.
- (5) Animals classified as a dangerous animal shall be euthanized or removed from the Village of Sturtevant. In addition, the officer or Public Safety Committee may suspend, for a period of time specified by the officer or Public Safety Committee, that animal owner's or caretaker's right to be the owner or caretaker of any animal in the village, which may include animals currently owned by that person.
- (6) All animals classified as dangerous animals, and determined by the officer or Public Safety Committee to be euthanized, shall be euthanized at any time not less than 20 days after the date of classification. Notification to the officer of any appeal to the Public Safety Committee, shall delay destruction of the animal until a date

not less than 15 days after a final decision by the Public Safety Committee or final judgment by the circuit court.

- (7) To insure correct identification, all animals that have been classified as potentially dangerous or dangerous animals may be marked with a permanent identifying mark, micro-chipped, photographed, and/or may be fitted with a special tag or collar determined by the officer at the owner's expense. The officer shall adopt rules specifying the type of required identification.
  - (8) In addition to the normal licensing fees established by ordinance 12.05, there shall be an annual fee in an amount set by Village Board by resolution for animals at each classification level. This additional fee shall be imposed at the time of classification of the potentially dangerous animal and shall be payable within 30 days of notification by the officer. Annual payment of this additional fee shall be due and payable upon the anniversary date of the classification.
  - (9) The owner or caretaker of a potentially dangerous animal or animals impounded as dangerous animals shall not permit any warning sign to be removed from the secure enclosure, and shall not permit any special tag or collar to be removed from the classified animal. The owner or caretaker of a potentially dangerous animal or animals impounded as dangerous animals shall not permit the animal to be moved to a new address or change owners or caretakers without providing the officer with ten days' prior written notification and approval
- (f) CERTAIN ANIMALS NOT TO BE DECLARED DANGEROUS. Notwithstanding the definition of a prohibited dangerous animal above:
- (1) 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.
  - (2) No animal may be declared dangerous if death, injury or damage was sustained by a domestic animal which, at the time such was

sustained, was teasing, tormenting, abusing or assaulting the animal.

- (3) 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.
- (4) 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 or direction of a law enforcement officer.

(g) PENALTY.

- (1) Any person not complying with any part of subsection (11), above, shall be subject to a forfeiture of \$400.00 plus applicable court costs and fees.
- (2) Whenever the Village commences and pursues an action for involuntary euthanasia under the state statutes or any other authority, the Village Attorney may seek and request all applicable statutory court costs, the costs and expenses of euthanasia, 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.
- (3) The enforcement officer or Public Safety Committee shall have authority to determine whether any infraction of this chapter warrants other restrictions and conditions be imposed on the party, in addition to the forfeiture. This determination may be based upon an investigation that includes observation of and testimony about the circumstances and the nature of the infraction, including the animal's behavior, the owner's control of the animal, the care and treatment of the animal, and other relevant evidence as determined by the enforcement officer. These observations and testimony can be provided by the county animal control officers or by other witnesses who personally observed the circumstances. They shall sign a written statement attesting to the observed circumstances and agree to provide testimony, if necessary. The animal owner shall have the right to examine such witnesses and,

if so desired, to be represented by counsel of the animal owner's choosing and at the animal owner's expense.

## **12.06 AMUSEMENT DEVICES.**

(1) **PURPOSE.** The Village Board hereby finds:

- (a) That the operation of coin operated amusement centers has caused a high concentration of persons in and around amusement centers resulting in a requirement for additional law enforcement attention.
- (b) That the operation of coin operated amusement centers has resulted in a high concentration of youthful persons in a situation which is conducive to the presence and growth of unlawful activities such as gambling.

\*Section adopted as (c) but is (b).

- (c) That strict regulation and supervision of coin operated amusement centers is necessary to protect the health, welfare and safety of the public in the conduct of their affairs in and around such amusement centers.

(2) **DEFINITIONS.** The following terms shall have the meanings indicated:

*Amusement centers.* Any business which has on its premises 4 or more coin operated amusement devices available for use by the public and which is not licensed by the Village with a Class B fermented malt beverage or intoxicating liquor license or both.

*Coin operated amusement devices.* Any machine which, upon the insertion of a coin, slug, token, plate, disc or similar item, may be operated as a game, entertainment, contest of skill or amusement, whether or not registering a score. It shall include, but not be limited to, such devices as electronic or mechanical game machines, pinball machines, coin operated pool tables, bowling machines and any other mechanical or electronic games or operations similar thereto, except shall not include coin operated phonographs, jukeboxes and merchandise vending machines.

*Gambling devices.* Gambling devices include, but are not limited to, video games that simulate one or more games commonly referred to as poker, blackjack, craps, hi-lo, roulette or other common gambling forms, though not offering the player the opportunity to obtain something of value. The term also includes any video game that awards game credits or replays and contains a meter or device which records unplayed credits or replays. (Cr. #095-28)



*Operator.* Any owner, lessee, manager or employee who manages or operates an amusement center or business at which one or more coin operated amusement devices are operable.

*Owner.* The person who owns an amusement center or a business at which one or more coin operated amusement devices are operable.

- (3) **LICENSE REQUIRED.** No owner or operator shall operate or cause to be operated an amusement center or a coin operated amusement device without first obtaining a license as required by this chapter.
- (4) **APPLICATION.** An application for amusement center licenses and coin operated amusement device license shall be made at the office of the Clerk/Treasurer and shall contain the following information:
  - (a) Name of applicant; if a partnership, names of all partners; if a corporation, club or association, names of all officers.
  - (b) Residence of applicant.
  - (c) Age of applicant; if a corporation, club or association, state of incorporation.
  - (d) Type of business or activity.
  - (e) Place where machine or devices are to be displayed or operated.
  - (f) Description of types of machines to be displayed or operated.
- (5) **INSTALLATION OF COIN OPERATED AMUSEMENT DEVICES.** No owner or operator shall install or allow to be installed in any place of business a coin operated amusement device for which a license has not been issued.
- (6) **DISPLAY OF LICENSES.** The amusement center license and coin operated amusement device licenses required hereunder shall be displayed in a conspicuous place open to public view in the premises for which the licenses were granted.
- (7) **SUPERVISION.**
  - (a) An adult employee responsible for management or operation of the amusement center shall be present on the premises of every business holding an amusement center license at all times during which such premises is open for business.

- (b) An adult employee responsible for the management or operation of a business at which one to 3 amusement devices are located shall be present on the premises at all times during which such business is open for business.
- (8) **TRANSFER OF LICENSES.** No amusement center license granted under this section shall be transferred or assigned from one owner or operator to another or from one premises to another. Coin operated amusement device license may be transferred from one amusement device to another within the premises for which such license was issued, upon notice to the Clerk/Treasurer.
- (9) **FEE.** Upon application for any license issued hereunder, the applicant shall pay to the Village the fee required in Section 12.01 of this chapter.
- (10) **TERM.** Any license granted hereunder shall expire on June 30 following issuance thereof.
- (11) **PLACES NOT LICENSED.** No amusement center license or coin operated amusement device license shall be granted for any place of business located within 300' of any church building, school building, hospital building or nursing home building unless a license granted hereunder was in effect prior to the occupation of real property within 300' thereof by such institution or facility or if the premises for which a license is requested was licensed with a Class B fermented malt beverage or intoxicating liquor license on June 30, 1947. Such distance shall be measured along the shortest route by sidewalk or street from the main entrance of the proposed licensed premises to the main entrance of any such institution or facility.
- (12) **REGULATIONS.**
  - (a) No owner, operator or person in charge of an amusement center shall permit any person under the age of 18 years to play or use a coin operated amusement device during the normal academic school year for Racine Unified School District between the hours of 7 a.m. and 2:30 p.m. on any day in which regular classes are in session, except if such minor is present with his parent, guardian or adult spouse.
  - (b) No owner, operator or person in charge of an amusement center or a business holding one or more coin operated amusement device licenses shall permit any person under the age of 18 years to play or use any coin operated amusement device between the hours of 11 p.m. and 6 a.m. unless such minor is accompanied by his parent, guardian or other adult person having legal custody or control of the minor.

- (c) The entrance to any amusement center licensed hereunder shall not be locked during any time that the amusement center is open for business. Each licensee of an amusement center hereby agrees that Village officers and employees charged with law enforcement or inspection functions may enter the licensed premises at any time during normal business hours for the purpose of inspecting such premises and enforcing the laws and ordinances relating to the operation thereof.
- (d) At all times that an amusement center licensed hereunder is open for business, lighting shall be provided throughout the amusement center.
- (13) **EXCESSIVE NOISE PROHIBITED.** No operator or owner of an amusement center or business to which one or more coin operated amusement device licenses are in effect shall permit the level of sound resulting from operation of the center or coin operated amusement devices to exceed reasonable limitations.
- (14) **HOURS OF OPERATION.** No operator or owner shall permit an amusement center licensed under this section to be open between the hours of midnight and 6 a.m. of any day except upon application to and consent of the Village Board.
- (15) **PROHIBITED USE.** No owner or operator shall permit any person to use an amusement device licensed hereunder for gambling or for playing thereon a game of chance.
- (16) **DENIAL, REVOCATION.**
  - (a) The License and Fees Committee may grant licenses applied for hereunder. If the Committee recommends denial of a license, the matter shall be referred to the Village Board for final action.
  - (b) The Village Board may revoke or refuse to renew any license issued hereunder when the operator or owner licensed hereunder has been convicted of a violation of this section or any other section of this Municipal Code, the Wisconsin Statutes or Administrative Code with regard to the premises licensed hereunder or with regard to offenses relating to the licensed premises and involving controlled substances, alcohol or any offense substantially relating to the conduct of the business licensed hereunder. The Printing and License Committee shall hold a hearing on such revocation of or refusal to renew the license. The licensee shall have the right to appear at the hearing in person or by counsel and shall have the right to examine and cross-examine witnesses and call witnesses. All testimony at such hearing shall be taken under oath. The Committee shall

forward to the Village Board its recommendation to grant, deny or revoke such license, together with the grounds therefor.

- (17) **GAMBLING DEVICES.** Gambling devices are prohibited from operation under this section and will not be licensed for use. (Cr. #095-28)

## **12.07 REGULATION AND LICENSE OF JUKEBOXES.**

- (1) **DEFINITIONS.** As used in this section, unless the context otherwise indicates:
- (a) **Jukebox.** Any music or movie vending machine, contrivance or device which, upon the insertion of a coin, slug, token, plate, disc or key into any slot, crevice or other opening or by the payment of any price, operates or may be operated for the emission of songs, music, movies or similar amusement.
  - (b) **Game.** Any equipment, device, contrivance or other thing, whether mechanically operated or not, which is permitted to function or to be used by the payment of a coin, slug, token, plate or disc to the owner or of any business or place and which is operated for amusement only and does not dispense any form of payoff, prize or reward.
  - (c) **Person.** Any natural person, firm, corporation or association which owns any such machine; the person, firm, corporation or association in whose place of business any such machine is placed for use by the public; and the person, firm, corporation or association having control over such machine; provided, however, that the payment of such fee by any person, firm, corporation or association enumerated herein shall be deemed compliance with this section.
- (2) **GAMBLING DEVICES NOT PERMITTED.** Nothing in this section shall in any way be construed to authorize, license or permit any gambling devices whatsoever or any mechanism that has been judicially determined to be a gambling device or in any way contrary to law or that may be contrary to any future laws of the State.
- (3) **LICENSE REQUIRED.** Any person displaying for public patronage or keeping for operation any jukebox as defined in sub. (1) shall be required to obtain a license from the Village upon payment of a license fee. Application for such license shall be made to the Clerk/Treasurer upon a form to be supplied by the Clerk/Treasurer for that purpose.

- (4) **APPLICATION.** The application for such license shall contain the following information:
  - (a) Name and address of the applicant, age, date and place of birth.
  - (b) Prior convictions of applicant, if any.
  - (c) Place where machine or device is to be displayed or operated and the business conducted at that place.
- (5) **INSPECTION; RENEWALS.** After an application has been made for a license, the application shall be referred to the License Committee and the Committee shall pass upon the question of whether such license shall be granted. The Committee shall recommend to the Village Board the approval or disapproval of the granting of the license.
- (6) **EXPIRATION DATE.** Any license issued under this section shall expire on the 30th day of June of each year. A license may be pro-rated according to the number of months remaining in the license year. However, if the license is surrendered voluntarily or is revoked by the proper revoking authority, no part of the license fee shall be refunded to the licensee.
- (7) **TRANSFER OF LICENSE.** A license shall not be transferable from person to person or place to place, but shall be transferable from jukebox to jukebox.
- (8) **FEES.** See Section 12.01 of this chapter.

#### **12.08 MASSAGE ESTABLISHMENTS AND MASSAGE TECHNICIANS.**

- (1) **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 section be regulated so as to further the public interest, safety and welfare by providing minimum building, sanitation and health standards for establishments and providing minimum qualifications for massage technicians.
- (2) **DEFINITIONS.** For the purpose of this section the following words and phrases shall mean or include:
  - (a) Massage. Any method of rubbing, pressing, stroking, kneading, tapping, pounding, vibrating or stimulating the superficial parts of the body with the hands or any instrument or by the application of air, liquid or vapor baths of any kind whatsoever.
  - (b) Massage Establishments. Any establishment wherein massages are given.

- (c) Massage Technician. Any person who engages in the practice of massage as herein defined, for any form of consideration. The use of the masculine gender shall include in all cases the feminine gender as well.
  - (d) Recognized School. Any school or institution of learning which teaches the theory, method, profession or work of massage and requires a resident course of study of not less than 50 hrs. before the student shall be furnished with a diploma or certificate of graduation from such school following the successful completion of such courses of study or learning.
- (3) **MESSAGE ESTABLISHMENT PERMIT REQUIRED.** No person shall engage in or carry on the business of massage unless he has a valid massage establishment permit issued by the Village pursuant to this section for each and every separate office or place of business conducted by such person.
- (4) **PERMIT APPLICATION.** Any person desiring a massage establishment permit shall file a written application with the Village Board. The application shall be accompanied by the correct permit fee as provided in Section 12.01 of this chapter. Such application shall furnish the following:
- (a) Type of ownership of the business, i.e., whether individual, partnership, corporation or otherwise.
  - (b) Business address and all telephone numbers where the business is to be conducted.
  - (c) Complete list of the names and resident addresses of all massage technicians and other employees in the business.
  - (d) The following personal information concerning the manager or other person principally in charge of the operation of the business and concerning the applicant, if an individual; or each stockholder holding more than 10% of the stock of the corporation, each officer and director, if a corporation; or the partners, including limited partners, if a partnership:
    - 1. Name, complete resident address and telephone number.
    - 2. The 2 previous addresses immediately prior to the present address of the applicant.
    - 3. Written proof of age.
    - 4. Height, weight, color of hair and eyes, and sex.

5. Two portrait photographs at least 2" x 2".
  6. A massage or similar business history and experience, including but not limited to whether or not such person previously operating in this or another municipality or state under license or permit has had such license or permit denied, revoked or suspended and the reason therefor and the business activities or occupations subsequent to each action of denial, suspension or revocation.
  7. All criminal convictions other than misdemeanor traffic violations and the reasons therefor.
  8. Such other identification and information necessary to discover the truth of the matters required to be provided in the application.
  9. Nothing contained in this section shall be construed to deny the investigation official the right to take fingerprints and additional photographs of the applicant.
  10. Authorization for the Village, its agents and employees to seek information and conduct an investigation into the truth of the statements contained in the application and the qualifications of the applicant for the permit.
- (5) **MESSAGE TECHNICIAN PERMIT REQUIRED.** No person shall practice massage as a principal, employee or otherwise within the Village unless such person is issued a massage technician's permit and such permit remains in effect in conformity with the provisions of this section.
- (6) **APPLICATION FOR MESSAGE TECHNICIAN'S PERMIT.** Any person desiring a massage technician's permit shall file a written application with the Village Board. The application shall be accompanied by the correct permit fee as provided in Section 12.01 of this chapter. Such application shall furnish the following:
- (a) Applicant's full name, residential address and telephone number.
  - (b) Name and address of the massage establishment where the applicant is to be employed and the name of the owner of the same.
  - (c) Names and addresses of any and all previous establishments where applicant has been employed as a massage technician.

- (d) Criminal record, if any, other than misdemeanor traffic violations, of the applicant.
  - (e) Whether any permit to engage in the practice of massage as a massage technician or otherwise has previously been denied applicant or revoked and, if so, the circumstances of such denial or revocation.
  - (f) A portrait photograph at least 2" x 2" together with a complete set of such person's fingerprints which shall be taken by the Village Police Chief or his agent.
  - (g) Written proof that the applicant is over 18 years of age.
  - (h) A certificate from a medical doctor stating that the applicant has, within 30 days immediately prior to filing his application, been examined and found to be free from any contagious and communicable or venereal disease.
- (7) PERMIT FEE. All applications for a permit under this section shall be accompanied by the fee in Section 12.01 of this chapter, no part of which shall be refundable.
- (8) ISSUANCE OR DENIAL OF PERMIT. The Village Board shall issue such permit within 45 days of receipt of the application if upon investigation it is found that:
- (a) The operation as proposed by the applicant, would comply with all applicable laws, including but not limited to the Village building, plumbing, electrical, zoning and health regulations and the provisions of this section.
  - (b) No person who is required to report under sub. (4) or (6) has been convicted of any crime involving dishonesty, fraud, lewd conduct or an offense involving the use of force or violence upon the person of another, unless such conviction occurred at least 5 years prior to the date of the application.
  - (c) The applicant has not knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the Village in conjunction therewith.
  - (d) The correct permit fee has been tendered to the Village and, in the case of a check or bank draft, honored with payment upon presentation.



- (e) All the provisions of this section have been complied with.
- (9) **DISPLAY OF PERMITS.** The massage establishment permit and each and every massage technician permit shall be displayed in an open and conspicuous place on the premises of the massage business.
- (10) **KEEPING OF RECORDS.** Every person who operates a massage business or practices or provides a massage shall at all times keep an appointment book in which the name of each and every patron shall be entered, together with the time, date and place of service and the service provided. Such appointment book shall be available at all times for inspection.
- (11) **TRANSFER PROHIBITED.** No massage establishment permit nor massage technician permit is transferable, separate or divisible and such authority as a permit confers shall be conferred only on the permittee named therein.
- (12) **SANITATION REQUIREMENTS.**
  - (a) All premises used by the permittees hereunder shall be subject to periodic inspection by authorized representatives of the Village Board for safety of the structure and the propriety of plumbing, electrical wiring, ventilation of the heating and sanitation. The walls shall be clean and painted with an approved washable mold resistant paint in all rooms where water or steam baths are given. The 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.
  - (b) Towels, sheets and linens of all types and items for personal use of operators and patrons shall be cleaned and freshly laundered. Towels, clothes and sheets shall not be used for more than one patron. Heavy white paper may be substituted for sheets provided that such paper is used once for each patron and then discarded into a sanitary receptacle.
  - (c) Rooms in which a massage is to be practiced or administered shall have at least 50 sq. ft. of clear floor area and shall maintain a light level of no less than 40 foot candles as measured at 3' above the floor. Such rooms shall be equipped with cabinets for the storage of clean linen and chemicals and approved receptacles for the storage of soiled linen. Such rooms shall contain a door incapable of being locked from the exterior or interior. Such door shall contain a transparent windowpane no less than 12" wide and 12" long, such that an unobstructed view of the room is provided from a hallway or other common access area which is immediately adjacent to the room.

- (d) Every massage establishment shall have separate toilet rooms and shower facilities for men and women. Such establishments shall contain locker facilities for patrons' property.
  - (e) Nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises nor to preclude authorized inspection thereof.
- (13) **HOURS OF OPERATION.** A massage establishment shall commence operations no earlier than 9 a.m. and the hours of operation shall extend no later than 9 p.m. Massage technicians shall not practice or administer massages at massage establishments at any time outside of the hours of operation. The entrances and exits of massage establishments, which are used by patrons shall be locked during the hours which the massage establishments are closed.
- (14) **SEXUAL MESSAGES PROHIBITED.** 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.
- (15) **REVOCATION OR SUSPENSION OF A PERMIT.** Any massage establishment permit or massage technician permit shall be subject to suspension or revocation by the Village Board for violation of any provision of this section or any grounds that would warrant the denial of such permit in the first place. The Village Board, upon revocation or suspension, shall state the reasons in writing, specifying the particular grounds for such revocation or suspension.

#### **12.09 ADULT BOOKSTORES AND MOTION PICTURE THEATERS.**

- (1) **LICENSES REQUIRED.** No person shall conduct or operate an adult motion picture theater, adult mini-motion picture theater or adult bookstore in any building or on any land area, nor give or conduct any show or performance therein, within the limits of the Village without first having obtained a license therefor as provided by this section.
- (2) **DEFINITIONS.** For the purpose of this section, the following words and phrases shall mean or include:
- (a) Adult Bookstore. An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified

anatomical areas” (as defined below) or an establishment with a segment or section devoted to the sale or display of such material.

- (b) Adult Motion Picture Theater. An enclosed building with the capacity of 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.
- (c) Adult Mini-Motion Picture Theater. An enclosed building with a capacity for less than 50 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.
- (d) Specified Sexual Activities.
  - 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.
- (e) Specified Anatomical Areas.
  - 1. Less than completely and opaquely covered human genitals, pubic region, buttocks, female breast below a point immediately above the top of the areola; and
  - 2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (3) **LOCATION OF ESTABLISHMENT.** Any adult bookstore, adult motion picture theater or adult mini-motion picture theater as defined in this section may be licensed to operate only within the areas zoned Business District B as that zoned area is defined in the Village Zoning Code, Ch. 17 of this Municipal Code.
- (4) **LICENSE APPLICATION.** Any person desiring a license for an adult bookstore, adult motion picture theater or adult mini-motion picture theater, shall file a written application with the Village Board. The application shall be accompanied by the correct permit fee as provided in Section 12.01 of this chapter. Such application shall furnish the following:

- (a) The type of ownership of the business, whether individual, partnership, corporation or otherwise.
- (b) The business address and all telephone numbers where the business is to be conducted.
- (c) A complete list of the names and resident addresses of all employees of the business.
- (d) The following personal information concerning the manager or other person principally in charge of the operation of the business and the applicant, if an individual; each stockholder holding more than 10% of the stock of the corporation, each officer and each director, if the type of ownership is a corporation; or the partners, including limited partners, if the type of ownership is a partnership:
  - 1. Name, complete resident address and telephone number.
  - 2. The 2 previous addresses immediately prior to the present address of the applicant.
  - 3. Written proof of age.
  - 4. Height, weight, sex, color of hair and eyes.
  - 5. Two portrait photographs at least 2" x 2".
  - 6. A business history regarding experience in any similar establishments as covered in this section, including but not limited to, whether or not such person previously operating in this or another municipality or state under license or permit has had such license or permit denied, revoked or suspended and the reason therefor, and the business activities or occupation subsequent to each action of denial, suspension or revocation.
  - 7. All criminal convictions other than misdemeanor traffic violations and the reasons therefor.
  - 8. Such other identification and information necessary to discover the truth of the matters required to be contained in the application.
  - 9. Fingerprints and additional photographs, if deemed necessary by the investigating official.

10. Authorization for the Village, its agents and employees to seek information and conduct an investigation into the truth of the statements contained in the application and the qualifications of the applicant for the permit.
- (5) LICENSE FEE. All applications for an adult bookstore permit, adult motion picture theater permit or adult mini-motion picture theater permit shall be accompanied by the permit fee in Section 12.01 of this chapter, no part of which shall be refundable.
- (6) ISSUANCE OR DENIAL OF LICENSE. The Village Board shall issue such license within 45 days of receipt of the application if upon investigation it is found that:
  - (a) The operation, as proposed by the applicant, would comply with all applicable laws, including but not limited to, the Village building, plumbing, electrical, zoning and health regulations and the provisions of this section.
  - (b) No person who is required to report under sub. (4) has been convicted of any crime involving dishonesty, fraud, lewd conduct or an offense involving the use of force or violence upon the person of another, unless such conviction was at least 5 years prior to the date of the application.
  - (c) The applicant has not knowingly made any false, misleading or fraudulent statement of fact in the license application or in any document required by the Village in conjunction therewith.
  - (d) The correct license fee has been tendered to the Village and, in the case of a check or bank draft, honored with payment upon presentation.
  - (e) All of the provisions of this section have been complied with.
- (7) HEARINGS. The Village Board shall hold a public hearing to consider approval or suspension or revocation of a license as provided for in this chapter. The applicant or licensee may be represented by an attorney and shall have an opportunity to be heard.
- (8) DISPLAY OF LICENSE. The license for the establishment shall be displayed in an open and conspicuous place on the premises of the business.

- (9) **TRANSFER PROHIBITED.** No license as provided for in this section is transferable, separate or divisible and such authority as a license confers shall be conferred only on the licensee named therein.

#### **12.10 REGULATING DIRECT SELLERS.**

- (1) **REGISTRATION REQUIRED.** No direct seller shall engage in direct sales within the Village without being registered for that purpose as provided herein.
- (2) **DEFINITIONS.**

Charitable Organization. Shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.

Clerk. The Clerk/Treasurer or any authorized deputy of such Clerk/Treasurer.

Direct Seller. Any individual who, for himself or for a partnership, association or corporation, sells goods or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of such individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

Goods. Shall include personal property of any kind and shall include goods provided incidental to services offered or sold.

Permanent Merchant. A direct seller who, for at least one year prior to the consideration of the application of this provision to such merchant has continuously:

1. Operated an established place of business in the Village.
  2. Resided in the Village and now does business from his residence.
- (3) **EXEMPTIONS.** The following shall be exempt from all provisions of this chapter:
- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
  - (b) Any person selling goods at wholesale to dealers in such goods.

- (c) Any person selling agricultural products which such person has grown.
  - (d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this Village and who delivers such goods in their regular course of business.
  - (e) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, such person.
  - (f) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.
  - (g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.
  - (h) Any person holding a sale required by statute or order of any court and any person conducting a bona fide auction sale pursuant to law.
  - (i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of such organization, provided that there is submitted to the Clerk proof that such charitable organization is registered under §440.41(6)(a), Wis. Stats. Any charitable organization not registered under §440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this chapter.
  - (j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Clerk that such person is a transient merchant; provided that there is submitted to the Clerk proof that such person has leased, for at least one year, or purchased the premises from which he is conducting business, or proof that such person has conducted such business in this Village for at least one year prior to the date complaint was made.
- (4) REGISTRATION.
- (a) Applicants for registration shall complete and return to the Clerk a registration form, furnished by the Clerk which shall require the following information:

1. Name, permanent address and telephone number, and temporary address, if any.
2. Age, height, weight, color of hair and eyes.
3. Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold.
4. Temporary address and telephone number from which business will be conducted, if any.
5. Nature of business to be conducted and a brief description of the goods and any services offered.
6. Proposed method of delivery of goods, if applicable.
7. Name, model and license number of any vehicle to be used by applicant in the conduct of his business.
8. Last cities, villages, towns, not to exceed 3, where applicant conducted similar business.
9. Place where applicant can be contacted for at least 7 days after leaving this Village.
10. Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last 5 yrs., the nature of the offense, and the place of conviction.

(b) Applicants shall present to the Clerk for examination:

1. A driver's license or some other proof of identity as may be reasonably required.
2. A State certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by State authorities.
3. A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is



apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.

- (c) At the time the registration is returned, the fee prescribed in Section 12.01 of this chapter shall be paid to the Clerk to cover the cost of processing such registration. Such fee may be waived by the Clerk and the Village Police Chief where they deem no investigation is necessary.

- 1. Upon payment of such fee and the signing of such statement, the Clerk shall register the applicant as a direct seller and date the entry. Such registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided in sub. (5)(b).

(5) INVESTIGATION.

- (a) Upon receipt of each application, the Clerk shall refer it immediately to the Village Police Chief who shall make and complete an investigation of the statements made in such registration within 72 hrs.
- (b) The Clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding 3, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last 5 yrs., the nature of which is directly related to the applicant's fitness to engage in direct selling, or the applicant failed to comply with any applicable provision of sub. (4)(b).

- (6) APPEAL. Any person denied registration may appeal to the Village Board by filing a written statement therewith within 14 days after the date registration was refused setting forth the grounds for appeal. The Village Board shall notify the applicant, at least 48 hrs. prior to the hearing date of the time and place set for the hearing, such notice to be sent to the address given by the appellant in his statement of appeal or served personally on appellant.

(7) REGULATION OF DIRECT SELLERS.

- (a) Prohibited Practices.

- 1. A direct seller shall be prohibited from calling at any dwelling or other place between the hours of 5 p.m. and 9 a.m. except by

appointment; calling on Sundays and legal holidays; calling at any dwelling or other place where a sign is displayed bearing the words “No Peddlers,” “No Solicitors,” or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

2. A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization, direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Such portion shall be expressed as a percentage of the sale price of the goods.
3. No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed. No direct seller shall make any sales within the Village on July 3rd of any year unless issued a special Independence Day Seller's Permit by the Village.
4. No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100' radius of the source.
5. No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(b) Disclosure Requirements.

1. After the initial greeting, and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of goods or services he offers to sell.
2. If any sale of goods is made by a direct seller, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel such transaction if it involves the extension of credit or is a cash transaction of more than \$25, in accordance with the procedure as set forth in §423.203, Wis. Stats.

3. If the direct seller takes a sales order for the later delivery of goods, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.
- (8) **RECORDS.** The Village Police Chief shall report to the Clerk all convictions for violation of this provision and the Clerk shall note any such violation on the record of the registrant convicted.
- (9) **REVOCATION OF REGISTRATION.**
  - (a) Registration may be revoked by the Village Board after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this section or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
  - (b) Written notice of the hearing shall be served personally on the registrant at least 72 hrs. prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the facts upon which the hearing will be based.

#### **12.11 AUCTION SALES.**

- (1) No person shall conduct an auction sale within the Village for the purpose of carrying on the sale of personal or real property of all kinds and description unless a license shall have been obtained as provided in this section.
- (2) **APPLICATION AND FEE.** Every person desiring to conduct an auction sale shall first make written application therefor to the Village Board for a license. Ample off street parking shall be provided at the place where the auction is to be held. Application for such license shall be made to the Village Board and after the same has been granted, payment shall be made to the Clerk/Treasurer of the license fee in Section 12.01 of this chapter. The applicant shall deliver the receipt therefor to the Clerk who shall issue the license. Such license shall be valid for the specific auction and the date thereof, and each subsequent auction shall require an additional license and fee in accordance with this section.

- (3) **EXCEPTIONS.** This section shall not apply to a resident of the Village who desires to conduct an auction to sell used personal property from his own residence.

## **12.12 PARADES.**

- (1) **DEFINITIONS.** The following terms shall have the meanings indicated:
- (a) Parade. Any march or procession, whether composed of one or more units or organized or unorganized, consisting of persons on foot or in vehicles acting in concert.
  - (b) Parade Permit. A permit as required by this section.
  - (c) Proposed Parade. A parade for which an application for a permit is made under this section.
  - (d) Public Way. A public street or right-of-way in the Village.
  - (e) Residential Area. Any area zoned residential under the Village Zoning Code.
- (2) **PERMIT REQUIRED.** No person shall form, start, organize, conduct or participate in any parade in or upon the public ways of the Village unless a parade permit has been obtained from the Village Board and the parade is conducted according to the conditions of the permit. This section shall not apply to:
- (a) Funeral processions.
  - (b) Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities.
  - (c) A governmental agency acting within the scope of its functions.
  - (d) Persons engaging in lawful conduct in labor disputes as provided in the Wisconsin Statutes and other related State and federal acts
- (3) **APPLICATION.** A person seeking issuance of a parade permit shall file an application with the Clerk/Treasurer on forms provided by such officer.

- (a) Filing Period. An application for a parade permit shall be filed with the Clerk/Treasurer not less than 30 days nor more than 60 days before the date on which it is proposed to conduct the parade.
- (b) Contents. The application for a parade permit shall set forth the following information:
  - 1. The name, address and telephone number of the person seeking to conduct the parade.
  - 2. If the parade is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and the authorized and responsible head of such organization.
  - 3. The name, address and telephone number of parade chairman or other person who will accompany the parade and be responsible for its conduct.
  - 4. The date when the parade is to be conducted.
  - 5. The route to be traveled, the starting point and the termination point.
  - 6. The approximate number of persons, animals and vehicles which will constitute such parade and a description of the animals and vehicles.
  - 7. The hours at which such parade will start and terminate.
  - 8. A statement as to whether the parade will occupy all or only a portion of the width of the public way proposed to be traveled.
  - 9. The location by streets of any assembly areas for such parade.
  - 10. The time at which the units of the parade will begin to assemble at any such assembly area.
  - 11. The purpose for which the parade will be conducted.
  - 12. Any additional information which the Village Board shall find reasonably necessary to a fair determination as to whether a permit shall issue.

- (c) Late Applications. The Village Board, where good cause is shown therefor, shall have the authority to consider any application hereunder which is filed less than 30 days before the date the parade is proposed to be conducted.
  - (d) Fee. There shall be paid at the time of filing the application for a parade permit the fee required in Section 12.01 of this chapter.
- (4) ISSUANCE OF PERMIT.
- (a) Parade Permit Shall Not Issue. Notwithstanding any other provision of this section, the Village Board shall not issue a parade permit when, upon consideration of the application, it finds:
    - 1. The route of the proposed parade is, in whole or in part, upon a public way within or abutting a residential area and any of the following to be the case:
      - a. The proposed parade will be conducted in whole or in part between 8 p.m. and 9 a.m.
      - b. The maximum number of persons who will constitute such proposed parade will exceed 25 in number.
      - c. The proposed parade will be conducted on a portion of the public way other than the public sidewalk.
    - 2. A permit has already issued for a parade to be held on the same date as the proposed parade which will follow, in whole or in part, the same route as the proposed parade.
    - 3. A permit has already issued to the applicant or another person on whose behalf the application has been made for a parade to be held on the same date as the proposed parade.
  - (b) Parade Permit Shall Issue. The Village Board shall issue a permit as provided for hereunder when, from consideration of the application and from such other information as may be otherwise obtained, it finds that:
    - 1. The conduct of the proposed parade shall not disrupt the safe and orderly movement of other traffic contiguous to its route.
    - 2. The conduct of the proposed parade will not require the diversion of so great a number of police personnel of the Village for such a

period of time to properly police the line of movement of the proposed parade and areas contiguous thereto as to prevent the level of law enforcement in other areas of the Village necessary to adequately protect persons and property in those areas of the Village.

3. The conduct of the proposed parade will not interfere with the movement of fire fighting equipment.
  4. The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays enroute.
- (5) NOTICE OF REJECTION. The Village Board shall act upon the application for a parade permit within 15 days after filing thereof. The Clerk/Treasurer shall notify the applicant by mail of the action of the Village Board. If the permit is denied, the Village Board shall specify the reasons therefor. If the Village Board issues an alternative permit, it shall specify the conditions thereof.
- (6) ALTERNATIVE PERMIT. The Village Board in denying an application for a parade permit may authorize the conduct of the proposed parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternative permit shall within 5 days after the mailing of the notice of the action of the Village Board by the Clerk/Treasurer file a notice of acceptance with the Clerk/Treasurer. Upon receipt of such notice the Clerk/Treasurer shall deliver an alternative permit to the applicant.
- (7) CONTENTS OF PERMIT. Each parade permit shall have attached thereto a copy of the application pursuant to which it had been granted and shall contain a statement that the permit is granted on the condition that the conduct of the parade conform to the information stated in the application. In addition to the above, each alternative permit shall contain a statement of modification as to time, date or route made by the Village Board and shall have attached thereto a copy of the applicant's notice of acceptance of such modification.
- (8) DUTIES OF PERMITTEE. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.
- (9) POSSESSION OF PERMIT. The parade chairman or other person heading or leading the parade shall carry the parade permit upon his person during the conduct of the parade.

### **12.13 CARNIVALS.**

- (1) No person shall, within the Village, exhibit any carnival, menagerie, museum, collection of curiosities or show of any kind to which admission is gained by the payment of money without first having obtained a license therefor as provided in this section.
- (2) **LICENSES FEE.** Such license may be obtained by paying to the Clerk/Treasurer the license fee required by Section 12.01 of this chapter for each day the same is operated and not held within a hall, opera house or church.

### **12.14 PUBLIC DANCES AND DANCE HALLS.**

- (1) **DEFINITIONS.**
  - (a) Public Dance. Includes any dance or ball to which the public generally may gain admission with or without the payment of a fee, whether such dance or ball constitutes all or part of the program or entertainment.
  - (b) Public Dance Hall. Includes any room, place or space in which a public dance may be held or any ballroom or academy in which classes in dancing are held or instruction in dancing given for hire.
- (2) **LICENSE REQUIRED.** No person shall hold any public dance or classes in dancing or give instructions in dancing for hire in any public dance hall within the Village limits until the public dance hall in which the same may be given or held shall first have been licensed for such purposes. No person shall permit any room or building owned or controlled by him to be used for the purpose of a public dance hall unless the same shall be licensed as herein provided.
- (3) **APPLICATION FOR LICENSE.**
  - (a) Any person desiring to procure a license as provided in this section shall file a written application with the Village Board. Such application shall contain the names, residences and ages of the applicant, if an individual, firm or partnership or the names of the principal officers, their residences and ages, if the applicant is an association or corporation. It shall also contain the name of one or more persons whom such firm, partnership, corporation or association shall designate a manager or person in charge and address of the same. The application shall further state the following:



1. Length of time the applicant has resided in the Village, previous places of employment, whether he has been convicted of violating any law or ordinance regulating the conduct of public dance halls or public dances and, if so, when and in what court.
  2. Premises where such public dance hall is to be located or conducted, street and number of all entrances, location of any room to be occupied and total amount of floor space to be used for dancing purposes.
  3. Whether the applicant or manager had, either alone or with someone else, previously engaged as owner or employee in conducting a public dance hall, when, where and for how long.
  4. The name and address of the person owning the premises for which a license is sought.
  5. Whether a hotel, rooming house or lodging house is conducted in any part of the premises for which a license is sought.
  6. Such other information as the Village Board may from time to time require.
- (b) The Village Board shall refer such application to the Community Programs & Health Committee which shall investigate or cause an investigation to be made to determine whether the public dance hall sought to be licensed complies with the regulations, ordinances and laws applicable thereto and to determine whether the applicant is a suitable person to have such license and whether the manager or person in charge named in the application is a suitable person for such position. The Committee shall report its findings and recommendation to the Village Board.
- (4) LICENSE.
- (a) Upon the filing of the application and the report as provided in the previous subsection, the Village Board may, upon its approval of such application and the payment to the Village of the license fee in Section 12.01 authorize the Clerk/Treasurer to issue to the applicant a license to conduct and maintain a public dance hall as provided in sub. (2). No license shall be refused except for a specific reason and for the protection of the public safety, health, morals or general welfare.

- (b) All licenses shall be numbered in the order in which they are issued and shall state clearly the location of the public dance hall, dates of issuance and expiration of the license, fee paid and the name of the licensee. No applicant to whom a license has been refused shall make further application until at least 6 months have elapsed since the last rejection, unless he can show that the reason for such objection no longer exists. No license shall be granted to a person under 18 years of age or renewed without a reinspection of the premises.
- (5) **REFUSAL OF LICENSE.** No license shall be granted any dance hall unless adequate modern toilet facilities are provided with the building and an adequate supply of drinking water is available. The room shall be properly lighted and ventilated and all parts of the premises shall be safe and sanitary. A license or permit shall be refused by the Village Board to any applicant who has been convicted within 5 yrs., of the date of application of a second offense of any of the provisions of this section or an ordinance of similar purpose in this or any other community or to any association or corporation of which a member or shall have been so convicted.
- (6) **TRANSFER OF LICENSE.** No license or permit shall be transferred as to location or license.
- (7) **SANITARY AND LIGHTING REQUIREMENTS.** All public dance halls and facilities appertaining thereto shall be kept at all times in a clean, healthful and sanitary condition and all stairways and other passages and all rooms connected with a public dance hall shall be kept open and well lighted during the public use. Proper ventilation shall be maintained at all times.
- (8) **POWER TO CLOSE.** The Village Board shall have the power to cause the place, hall or room where any public dance is held or given to be vacated whenever any rules or regulation or any provision of any law or ordinance with regard to public dance halls or public dances is being violated.
- (9) **HOURS.** All public dances and dance halls shall be closed on each day at or before 2 a.m.; except that upon proper application, the Community Programs & Health Committee may grant a permit to continue a dance beyond that time where the circumstances justify such permission. Such application shall be made at least 5 days before the date on which the dance will be held. No public dance shall be held between 2 a.m. and 8 a.m., except as otherwise provided in this section.
- (10) **RESTRICTIONS.** No person conducting a public dance or public dance hall or any manager or other agent of such person shall:

- (a) Sell or accept or cause to be sold or accepted any ticket or token for admission after midnight.
  - (b) Permit gambling in any form on the premises.
  - (c) Discriminate between sexes by offering free admission to either sex as an inducement to stimulate attendance.
  - (d) Permit endurance dancing contests, commonly known as marathon dances.
  - (e) Permit persons in bathing suits or otherwise improperly dressed to dance or enter the dance floor.
- (11) SUPERVISION. The members of the Village Board and its authorized agents and employees shall have access at all times to all public dance halls and public dances to investigate all complaints, inspect and supervise such public dance halls and dances.

#### **12.15 POOL AND BILLIARDS.**

- (1) LICENSE REQUIRED. No person shall maintain or carry on any public pool room or billiard hall or other place of any name whatever in which billiard or pool tables shall be kept for public use within the Village unless such person shall have obtained a license therefor as provided in this section.
- (2) FEE FOR EACH TABLE. Every person keeping and maintaining billiard halls or pool rooms in the Village shall make written application for a license therefor and pay to the Clerk/Treasurer the license fee required in Section 12.01 for each table.
- (3) APPLICATION. Application shall be made on forms provided by the Clerk/Treasurer and shall be first submitted to the Community Programs & Health Committee. A license may be granted for any portion of the license year, which shall be July 1 to June 30, by payment of the prorated amount of the annual license fee.
- (4) SUSPENSION OR REVOCATION. Any license under this section may be revoked or suspended as provided in Section 12.02 of this chapter for any disorderly conduct or breach of the laws of the state or ordinances of the Village.

## **12.16 POT-BELLIED PIG LICENSING AND REGULATION.**

- (1) **DEFINITION.** Pot-bellied pig shall mean any of the species sus scrofa, more commonly known as Vietnamese pot-bellied pig.
- (2) **STANDARDS.** The Village adopts the following NAPPA standards for American pot-bellied pigs:
  - (a) Appearance. The general appearance of a pot-bellied pig is a structurally symmetrical animal, free of obvious defect, short of leg, with smooth flowing lines, pronounced pot belly, swayed back, erect ears and a straight tail. All measurements are based on pigs one year of age.
  - (b) Height. The height shall be measured at the withers, high point of the shoulders, with legs straight underneath. The maximum acceptable height is 18" with the ideal height being less than 14".
  - (c) Length. In acceptable proportion to height.
  - (d) Weight. The maximum acceptable weight is 95 lbs. with the ideal weight being less than 50 lbs.
  - (e) Head. Ears shall be small and erect, somewhat flat. The nose shall be short to medium length in proportion to the head, allowing for free passage of air when breathing normally. The eyes shall be deep and wide set, clear, of varying color, except when evidence of albinism. The jowl shall be obvious and in proportion to head. The bite shall be even and correct, should not be over shot or under shot.
  - (f) Body. The back should be swayed through the saddle. The shoulders shall be sloping evenly from side to side. The neck should be short. The rump should flow gently to the base of the tail. The tail should be straight, of medium length with a switch on the end. The belly viewed from the side should be obviously rounded, but not exaggerated or touching the ground. Viewed from the top the belly should not round from the backbone and have only slight lateral protuberance. There shall be at least 5 pairs of teats, evenly spaced.
  - (g) Feet and Legs. The legs should be wide set standing well on the pasterns. The feet shall stand squarely with 2 toes of equal length on each pointing forward.

- (h) Skin. Wrinkles may or may not be present. Hair will lay evenly over the back with seasonal variation. The color shall be black or black and white.
  - (i) Disposition. All pot-bellied pigs should be tractable and nonaggressive.
- (3) LICENSE REQUIRED. No pot-bellied pig shall be allowed in the Village unless licensed in compliance with the following license requirements:
- (a) Pot-bellied pigs are to be inoculated for erysipelas, pneumonia, rhinitis, rabies (once every 3 years).
  - (b) Pot-bellied pigs are to be spayed or neutered. Breeding of pot-bellied pigs is prohibited in the Village.
  - (c) Pot-bellied pigs shall ideally weigh no more than 50 lbs. at one year and are not to exceed 95 lbs. at any time. Proof of weight shall be required.
  - (d) The number of pot-bellied pigs per household is limited to one.
  - (e) Pot-bellied pigs shall be licensed upon verification of weight, spay or neuter and current shot records as defined herein by a licensed veterinarian. The Clerk shall collect the license fee as provided in Section 12.01 and issue the license tag. No license shall be issued unless applicant presents certification or other evidence of weight and current shot records. After issuance of license, the pot-bellied pig shall bear an ID tag with the owner's name, address and telephone number.
  - (f) No owner or keeper of any pot-bellied pig shall permit the same to run at large in the Village.
  - (g) A pot-bellied pig shall be deemed to be at large unless under the control of a person by means of a chain, rope, cord or cable of sufficient strength to control the action of the pot-bellied pig or such other personal presence and attention as will positively control the conduct of the pot-bellied pig.
  - (h) Whenever any officer or constable shall find any pot-bellied pig running at large as herein defined, he shall, if possible, pick up and impound the animal in such a place as the Village Board may direct. Whenever any impounded pot-bellied pig shall bear an identification mark, such as a collar or license tag, the owner shall be notified. Upon notification, the owner shall claim the pig and pay the impoundment fee in Section 12.01.

**12.17 CIGARETTE AND TOBACCO PRODUCTS.** (Cr. #098-31)

- (1) **LICENSE REQUIRED.** No person, firm or corporation shall in any manner, or upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes or tobacco products without securing a license from the Village Clerk as provided in §134.65, Wis. Stats.
- (2) **APPLICATION AND FEE.** Each application for a license shall be accompanied by a \$100 fee. The application and issued license shall specify the name of the licensee and the place where authorized to conduct the licensed business. All licenses issued pursuant to this section shall expire on the 30th day of June, next succeeding the date of issue, unless sooner revoked. Such license shall not be transferable from one person to another nor from one premise to another.
- (3) **DISPLAY.** All persons granted licenses under this section shall cause their licenses to be prominently displayed in their places of business.
- (4) **REQUIRED RECORDS.** Every licensed retailer shall keep complete and accurate records of all purchases and receipts of cigarettes and tobacco products. Such records shall be preserved on the licensed premises for two years in such manner as to ensure permanency and accessibility for inspection and shall be subject to inspection at all reasonable hours by authorized law enforcement officials.
- (5) **PENALTY.** Any person, firm or corporation violating this section shall forfeit not more than \$100 nor less than \$25 for the first offense and not more than \$200 nor less than \$25 for the second or subsequent offense. If upon such second or subsequent violation, the person so violating this section was personally guilty of a failure to exercise due care to prevent violation thereof, the person shall forfeit not more than \$300 nor less than \$25. Conviction shall immediately terminate the license of the person convicted of being personally guilty of such failure to exercise due care and the person shall not be entitled to another license hereunder for a period of five years thereafter, nor shall the person in that period act as the servant or agent of a person licensed hereunder for the performance of the acts authorized by such license. The Village Board of Trustees may revoke any license issued pursuant to this section, pursuant to Section 12.02 (10) of this Municipal Code, if the license holders or their agents or employees are found to have violated Section 9.134.66 of this Municipal Code.

### **12.18 TENTS.**

- (1) **DEFINITION.** As used in this section “tent” shall mean a portable, temporary shelter or structure, the covering of which is a pliable material greater than 12 feet by 12 feet, with or without sides.
- (2) **PERMIT REQUIRED.** No person shall place or set up and no owner or lessor shall allow to be placed or set up any tent intended to be used for business or commercial purposes or for public assembly unless a tent permit is obtained from the Building Inspector and the appropriate permit fee is paid before the tent is erected.
- (3) **INSPECTION.** Every tent erected in the Village must comply with the Wisconsin Administrative Code and be approved by the Fire Inspector before the tent may be occupied or used. Seating arrangements and displays in tents shall also be subject to approval by the Fire Inspector and shall allow convenient and rapid exit from the tent.
- (4) **PROHIBITIONS.**
  - (a) No person shall smoke, or use or allow to be used any open flame, unguarded light, grill, deep fryer, charcoal grill or similar device in a tent.
  - (b) No tent shall be set up, whether partially or completely, for more than 30 days.

### **12.20 PENALTY.**

Except as otherwise provided in this chapter, in addition to the suspension, revocation or non-renewal of any license under this chapter, any person found to be in violation of any provision of this chapter shall be subject to a penalty as provided in Section 25.04 of this Municipal Code.

### **12.25. BACKYARD CHICKENS LICENSING AND REGULATIONS.**

- (1) **LICENSE REQUIRED.** Notwithstanding any provision of this Code to the contrary, chickens may be kept in the Village subject to the limitations and restrictions set forth in this section. No person may keep chickens in the Village without obtaining a valid permit issued by the Clerk. The permit process requires a completed application, including a site plan and accompanied by the application fee set by the Village Board and shown in the fee schedule. The application fee

shall not be refundable in the event that the license is denied. The applicant must check all rules and regulations of their homeowners association and any the deed restrictions or restrictive covenants of their neighborhood, if any, prior to making the application, as the Village is not responsible for issuing a permit that violates any such rules, regulations, or restrictions. Any applicant desiring to keep chickens in the yard of a rented single-family residential dwelling must provide, at the time of application, proof of consent from the owner to raise chickens on the property. Permits shall be annual and must be renewed prior to January 1 of each year. Permits shall run from January 1st to December 31st. The fee for annual permit is \$20.00 and \$40.00 for eligible residents with twelve chickens.

(2) STANDARDS.

(a) Limitations.

1. The maximum number of chickens that may be kept on any residential property under four (4) acres is 6.
2. The maximum number of chickens that may be kept on any residential property over four (4) acres is 12.
3. No person shall keep a rooster.
4. No person may keep a chick over 8 weeks of age in a residence.

(b) Use. The raising of backyard chickens is for personal use only. No commercial applications will be allowed, including the sale or barter of any eggs. The slaughtering of chickens is prohibited. Chickens may only be kept single-family residences.

(c) Hen House/Pen Standards. A well-maintained hen house shall be provided and must be designed to provide safe and healthy living conditions for the chickens while minimizing adverse impacts to other residents in the neighborhood. All enclosures for the keeping of chickens shall be so constructed and maintained as to prevent rodents and animals from entering the pen and hen house. The hen house shall be enclosed on all sides and have a roof and doors. Access doors must be able to be shut and secured at night. Opening windows and vents must be covered with predator and bird proof wire of no more than one inch openings. All hen houses must provide adequate ventilation and sun protection and must be sanitary, insulated weatherproof, and impermeable to rodents, wild birds, and predators, including dogs and cats. Hen houses must also be structurally sound, moisture proof, and maintained in good repair with sufficient space



for freedom of movement. The nesting boxes must be elevated off of the ground. An enclosed chicken pen must also be provided, consisting of sturdy wire fencing of less than one inch openings. The pen must be covered with wire, aviary netting, or solid roofing, and must be large enough to enable running and spreading of wings. The minimum size requirement for a hen house is three square feet per chicken, and the minimum pen size shall be seven square feet per bird. One nest box is required per every two chickens.

- (d) Hen House/Pen Location. The hen house and pen must be at least 25 feet from a neighboring residence, at least 3 feet from any property line, and at least 5 feet away from the residence (to have access to all sides). Hen houses and chicken pens shall not be located closer than 75 feet from the ordinary high water mark of any lake, river, or stream. Hen houses and pens may be located in backyards only.
- (e) Feed. Chickens must be provided with access to feed and clean water at all times. All chicken feed shall be protected so as to prevent rodents from accessing the feed.
- (f) Supervision. No person responsible for the chickens shall permit any chicken to be left unattended within 5 feet of a public right of way, which includes but is not limited to sidewalks, streets, alleys and parking lots, and also from abutting property lines. Chickens must be secured within the hen house during non-daylight hours.
- (g) Sanitation Standards. Enclosures must be clean, dry, and kept in a neat and sanitary conditions at all times, and must be kept in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor, or other adverse impact. Manure, feathers and other material shall be disposed of off-site. may not be spread as fertilizer or composted on the property. The hen house, chicken pen, and surrounding area must be kept free from feathers, trash, and accumulated droppings.
- (h) Enforcement. The Village Humane Officer, a Village Police Officer, or any other designated Village employee may inspect the premises where chickens are to be kept prior to any permit being issued, renewed, or pursuant to any report of any violation of this section. If a permittee has 3 or more complaints from surrounding property owners within 100 feet of said property within a 12 month period, and is found in violation of any requirement of this section within a 12 month period, the permit for said permittee shall not be renewed and the permittee must remove the animals from the property by the end of the permit year. Any permittee whose

permit is non-renewed as provided herein may not re-apply for another permit under this section for a period of 5 years. Violations of this section shall be subject to the following forfeitures: 1st violation - \$90.00, plus court costs; 2nd violation - \$150.00, plus court costs. An inspection is required by an animal control officer in response to any complaints.

- (i) State Registration. Owners of chickens must register with the Wisconsin Dept. of Agriculture, Trade, and Consumer Protection. This must be renewed every 3 years, or as required by state law.

## CHAPTER 13

### MUNICIPAL UTILITIES

<i><b>Section Number</b></i>	<i><b>Title</b></i>	<i><b>Ordinance Number</b></i>	<i><b>Date of Ordinance</b></i>
I. RACINE WATER UTILITY			
13.01	Retail Water Service Provided by City of Racine		
13.02	Abandonment of Wells	2008-04	03/04/08
		2009-11	11/03/09
13.03	Cross Connections with Public Water System		
II. SEWER UTILITY			
13.04	Sewer Utility Committee		
III. SEWER USE AND WASTEWATER RATE			
13.05	Definitions		
13.06	Rules and Regulations		
13.07	Use of the Public Sewers		
13.08	Control of Industrial Wastes Directed to Public Sewers		
13.09	Basis for Sewer Service Charges		
13.10	Amount of Sewer Service Charges	2008-19	09/16/08
		2009-05	05/19/09
		2012-07	06/19/12
		2014-07	09/02/14
		2016-08	07/19/16
		2017-04	10/17/17
13.11	Billing Practice		
13.12	Right of Entry, Safety and Identification		
13.13	Sewer Construction and Connections	2011-07	12/06/11
13.14	Violations and Penalties		
13.15	Appeals		
13.16	Audit		

## **I. RACINE WATER UTILITY**

### **13.01 RETAIL WATER SERVICE PROVIDED BY CITY OF RACINE**

**(1) Definitions.**

For purposes of this section, the following words and phrases have the meaning specified.

- (a) "City" means the City of Racine, Wisconsin.
- (b) "Developer" means any person other than the Village causing work to be done that requires installation of, construction of or changes to the Local Water Facilities.
- (c) "Local Water Facilities" means water mains that are designed to provide for local water distribution and all related appurtenances and equipment, including, without limitation, fire hydrants, valves, pump stations and water services in the Village service area which facilities are owned, operated and maintained by the Racine Utility.
- (d) "Racine Utility" means the Water Utility owned by and a department of the City.
- (e) "Racine Water System" means the water system facilities owned and operated by the Racine Utility.
- (f) "Village Service Area" means the geographical area within the municipal borders of the Village of Sturtevant.

**(2) Applicability.**

Section 13.01 shall only apply to the Village of Sturtevant service area as defined in 13.01 (1)(f)

**(3) Requirements; Prohibitions.**

- (a) No person shall make a new service connection to the Racine Water System or expand a building or change the use of a building or real property in the Racine Water System's retail service area to the Village without first filing with the Village an application for the necessary permits and approvals and submitting the information required to determine the applicability and amount of the connection charge that the Village is required by agreement to pay to the City of Racine. Such information shall be submitted to the

Village on forms provided by the Village and shall include, without limitation, the number of bedrooms for each multi-family residential unit and, for all non-residential uses, the SIC codes for all uses and the maximum potential employee hours for a peak day of operations.

- (b) No person shall make a service connection to the Racine Water System in such retail service area without first receiving from the Village a written permit or written approval therefor.
- (c) No person shall be authorized by the Village to make a retail water service connection to the Racine Water System for any person or property outside of the Village Service Area, except as otherwise provided for by agreement between the Village and the City\Racine Utility.
- (d) No person shall make a service connection to the Racine Water System for any person or for any property outside the Village Retail Service Area, except as otherwise provided by agreement between the Village and the City\Racine Utility.
- (e) No single water user shall use water from the Racine Water System to the extent that the user's average daily water use exceeds 9,000 gallons per day per acre of the user's contiguous land that is served by the Racine Water System without first having made and duly satisfied any special arrangements or complied with any special requirements specified by the Racine Utility after review of the situation by the Racine Utility.
- (f) No person shall construct or install in the Racine Water System's retail service area to the Village a water main that is less than 12 inches in diameter that is intended to serve multi-family residential, commercial, industrial, institutional or other non-residential or non-rural land uses; or a water main that is less than eight inches in diameter that is intended to serve single-family or duplex residential or rural land uses that are not multi-family residential, commercial, industrial or institutional in nature, or a new water main that is less than eight inches in diameter that will be part of the Local Water Facilities.
- (g) No person shall commence construction or installation of Local Water Facilities in the Racine Water System retail service area of the Village without first having received from the Racine Utility written approval of the size and location of all Local Water Facilities, and written approval of all plans and specifications for such facilities. The Racine Utility shall complete its review of plans and specifications for Local Water Facilities within 45 days after receiving them.

- (h) All Local Water Facilities in the Racine Water System retail service area to the Village shall be constructed and installed in accordance with plans and specifications prepared and sealed by a Wisconsin registered professional engineer and shall satisfy all applicable standards of the City and/or Racine Utility for water mains and other water facilities to be constructed or installed in the City, and in compliance with all of the rules and regulations imposed by the City and/or Racine Utility with respect to installation and construction standards of water mains and related equipment and appurtenances.
- (i) No person retained by the Village or by a Developer shall perform work on Local Water Facilities in the Racine Water System retail service area to the Village without having made, in advance, arrangements with the Racine Utility for construction review of the construction or installation of all Local Water Facilities. The Village or the Developer, whichever is having the work performed, shall, within 30 days after receipt of an invoice from the Racine Utility, reimburse the Racine Utility for the cost of construction review of the construction or installation of the Local Water Facilities, for which purpose the Racine Utility may retain construction review personnel.
- (j) No person that has not been pre-approved to construct and install water facilities in the City shall construct or install Local Water Facilities in the Racine Water System retail service area to the Village. The Village or the Developer shall submit to the Racine Utility the names and addresses of all contractors and subcontractors that will be used in connection with a Local Water Facilities project in such area, including a description of their respective roles in such project, and shall not commence construction or installation on any such project until the Racine Utility approves the project in writing.
- (k) The Village or the Developer, whichever is having the work performed, shall be responsible for paying all costs and fees incurred in connection with the provision of Local Water Facilities, including, without limitation, site or easement acquisition, project review, construction review, engineering, construction, legal services and permitting.
- (l) The Village or the Developer, whichever is having the work performed in the Racine Water System retail service area to the Village, shall obtain all authorizations, permits or approvals required for the construction or installation of any Local Water Facilities and all easements or other interests in real property required to construct, install, maintain, repair and replace any such facilities, and shall be responsible for paying all related costs. All such easements, authorizations, permits and approvals shall be

subject to review and approval as to form and content by the Racine Utility in conjunction with the Racine Utility's review of plans and specifications for any Local Water Facilities project.

- (m) After completion and testing of each Local Water Facilities project in the Racine Water System retail service area to the Village, and review and approval by the Racine Utility (including preparation and approval of as-built plans for the project), the Village or the Developer, whichever is having the work performed, shall give, grant, dedicate and transfer ownership of the Local Water Facilities to the Racine Utility and shall assign to the Racine Utility any related authorizations, permits and approvals, all free of cost to the Racine Utility or the City and free and clear of any liens or encumbrances that are not accepted in writing by the Racine Utility, and shall assign to the City any related easements or other interests in real property that are required to operate, maintain, repair or replace such facilities, all free of cost to the City and the Racine Utility and free and clear of any encumbrances that are not accepted in writing by the Racine Utility. Upon written notice from the Racine Utility to the Village of its acceptance of such Local Water Facilities, the Racine Utility shall own and be responsible for the repair and maintenance of such Local Water Facilities, except when repair or maintenance is required because of acts, omissions or failures to act of the Village, the Developer or its or their employees, agents or contractors, or their subcontractors.
- (n) All local Water Facilities dedicated and transferred to the Racine Utility shall be warranted by the Village and the Village's contractor or by the Developer and the Developer's contractor, whichever is having the work performed and whichever performed the work, to be free of defects or insufficiencies in design, construction or materials for a period of one year from and after the Racine Utility's acceptance in writing of the dedication and transfer of such facilities. The Developer shall provide to the Racine Utility a letter of credit or other form of security satisfactory to the Racine Utility, in an amount of ten percent (10%) of the total project cost, the form of which is approved by the Racine Utility, to secure such warranty.
- (o) No connection to Local Water Facilities project in the Racine Water System retail service area to the Village shall be permitted by the Village until after the dedication and transfer of the Local Water Facilities to the Racine Utility has been accepted in writing by the Racine Utility, with a copy provided to the Village, such facilities have become part of the Racine Water System, and a water meter has been installed by the Racine Utility for each such connection.

- (p) No work on any Local Water Facilities project in the Racine Water System retail service area to the Village shall commence until there has been full compliance with all of the requirements of this section.
- (q) The requirements of this section shall be provided for in a written Agreement binding upon the Village and the Village's contractor, or upon the Developer and the Developer's contractor, whichever is having the work performed as between the Village and the Developer, which Agreement shall be enforceable by the City or the Racine Utility and which must be approved by the Racine Utility prior to commencement of construction or installation.
- (r) Penalty. Upon conviction, any person found to be in violation of this section shall forfeit an amount of not less than \$50 nor more than \$500. Each day that a violation continues shall be considered a separate offense.

(4) **Water Meters.**

(a) **Disconnecting or removing water meters.**

No person shall disconnect or remove any water meter from the place where such meter is connected to the Racine Water System without first obtaining written consent from the Racine Water Utility ("Racine Utility").

(b) **Industrial buildings--Remote metering.**

1. No retail water service to an industrial building in the Racine Water System retail service area to the Village first being served on or after January 1, 2007 or to any such building that is remodeled or rehabilitated so as to require changes to the water service on or after January 1, 2007 shall be initiated or maintained without installation, operation and maintenance of authorized automatic meter reading (AMR) equipment and a telephone line for the purpose of monitoring all water metering equipment for the building.
2. The Racine Utility shall not install a water meter for an industrial building covered by this section until the owner or other responsible party ("owner") complies with this section. If the owner fails to maintain the monitoring system, the Utility may take appropriate action to terminate the water service.



(5) **Water Conservation**(a) **Declaration of emergency.**

The Racine mayor and, in his/her absence, the president of the Racine Waterworks Commission, is authorized, empowered and directed to declare the existence of an emergency relating to the Racine Water System's available water supply and to impose restrictions on the use of water during the emergency, following consultation with the Village President.

(b) **Imposition and notice of restrictions during emergency.**

Whenever the Racine mayor or, in his/her absence, the president of the Racine Waterworks Commission or designee, has declared the existence of an emergency and imposed reasonable restrictions on the use of water and reasonable notice of such emergency and restrictions has been to the general public, such restrictions shall be in full force and effect in the Village. The violation or failure to observe any restriction so imposed shall constitute a violation of this section 13.01.

(c) **Penalty for violation.**

Upon conviction, any person violating any restriction on the use of water imposed pursuant to section 13.01 shall be subject to a forfeiture of not less than \$50 nor more than \$500. Each day of violation constitutes a separate offense.

(6) **Penalties for nonpayment of invoice; notice.**

(a) Delinquent charges. All general service-urban, general service-suburban and private fire protection service customers shall pay invoices of the Racine Utility for such services within 15 days from the date of such invoices; all such customers who fail to pay such invoices within such 15-day period shall pay a penalty as authorized in the latest Wisconsin Public Service Commission ("PSC") rate case. The Racine Utility is authorized to shut off water service upon three days' written notice to the water customer for failure to pay the water invoice within 20 days from the date of the invoicing; the Racine Utility is further authorized to charge a service fee as authorized in the latest PSC rate case for turning on water; all as authorized by the orders of the PSC.

(b) Notice of delinquency. The Racine Utility will give notice not later than October 15 of each year to the owner or occupant of each lot or parcel of

real estate in the Village to which the Racine Utility has furnished retail water service prior to October 1 of that year for which payment is owing and in arrears at the time of giving the notice. The notice shall state the amount in arrears, including any penalty assessed pursuant to the rules of the Racine Utility; and that unless the amount is paid by November 1 a penalty of 10% of such amount will be added; and that unless the amount in arrears and any added penalty are paid by November 15, the amount in arrears and any added penalty will be levied as a tax against the lot or parcel of real estate to which retail water service was furnished and for which payment is delinquent.

- (c) Certificate of delinquency. On November 16, or as soon thereafter as is practicable, the Racine Utility shall certify and file with the Village Clerk a list of all lots or parcels of real estate (giving the Property Identification Number (PIN) of each) for which notice of arrears and any added penalty was given and with respect to which an amount in arrears and/or any added penalty remain unpaid, stating the amount of arrears and added penalty. The Village Clerk shall insert the total delinquent amount including any added penalty as a tax against the lot or parcel of real estate. The Village shall thereafter take reasonable actions to collect the delinquent amounts, including penalties. Upon collection of any delinquent amounts, including penalties, the Village shall promptly pay such amounts to the Racine Utility. The Village hereby adopts as a part of this section, Wis. Stat. §66.0809(3), as though the Racine Utility were a utility operated by the Village, for the purpose of carrying out the provisions of this section, and the Utility is hereby authorized to give the notice of delinquency.

**(7) Access to Property.**

The Village authorizes City of Racine agents, contractors and employees to enter upon private property for the purpose of installing water meters, reading and maintaining water meters, inspecting water meters, inspecting water connections and any other purposes that are associated with the City's discharge of its responsibilities in providing water service to the Village, to the fullest extent authorized by law. The Village shall fully cooperate, to the extent legally possible, with the City and/or Racine Utility in obtaining any necessary special inspection warrants under Wis. Stat. §66.0119.

**(8) Fire Hydrants.**

- (a) No person shall tamper with, damage or destroy a fire hydrant within the Village or use a fire hydrant within the Village except governmental officials or employees in the course of their official duties.

- (b) No person, except governmental officials or governmental employees in the course of their official duties or other persons with prior written authorization from the Village or from the Racine Water Utility, shall intentionally release water from or take water from fire hydrants in the Village.

**(9) Water Connection Charge**

- (a) **Definitions.** For purposes of this division, the following phrases have the meaning stated:

“Connection Charge” means a charge paid for each new service connection made to the Racine water system and for each building expansion or change of use resulting in additional water demand at an existing connection, to the extent of such additional demand, when such connections or changes occur within the Village.

“Residential Equivalent Connection (REC)” means the measure of annual water usage expressed in terms of the amount of water used by a typical single-family residence, which shall initially be deemed to be 72,000 gallons per year. The REC may be adjusted as appropriate in light of ongoing experience, but only in connection with an adjustment in the amount of the connection charge per REC.

- (b) **Purpose.** The purpose of the connection charge is to allow the Racine Utility to recover future growth cost of regional water facilities, including the difference between the future growth cost of future growth mains and the contract front-foot charges paid with respect to such mains.
- (c) **Residential equivalent connection tables.**

The following tables shall be used to determine the RECs to be used from the Racine Water System:

- (1) **Residential Users.**

Users	REC
Condominium	1.00
Single – family home	1.00
Duplex	1.5/unit
Multiple-family	0.75/unit

## (2) Non-residential users.

SIC Code	Description	Gallons per Employee Hour
0742	Veterinary services for animal specialties	20.0
0752	Animal specialty services	16.0
0782	Lawn and garden services	10.0
1446	Industrial sand	5.0
1521	General contractors - Residential	2.3
1541	General contractors - Industrial buildings and warehouses	2.3
1611	General contractors - Public works	2.3
1711	Plumbing, heating and air conditioning	2.3
1731	Electrical work	2.3
1761	Roofing and sheet metal work	2.3
1799	Special trade contractors, N.E.C.	2.3
2013	Sausage and other prepared meats	110.0
2065	Candy and other confectionery products	50.0
2087	Flavoring extracts and syrups, N.E.C.	75.0
2394	Canvas and related products	2.3
2431	Millwork	5.0
2434	Wood kitchen cabinets	5.0
2522	Metal office furniture	2.3
2721	Periodicals: Publishing and printing	10.0
2731	Books: Publishing and printing	10.0
2751	Commercial printing, letterpress and screen	10.0
2789	Book binding and related work	10.0
2795	Lithographic platemaking and related services	25.0
2819	Industrial inorganic chemicals, N.E.C.	10.0
2834	Pharmaceutical preparation	10.0
2841	Soap and other detergents	15.0
2893	Manufacturing of printing ink	30.0
2899	Chemicals and chemical preparations, N.E.C.	10.0
3079	Miscellaneous plastic products	85.0
3111	Leather tanning and finishing	345.0
3272	Concrete products, except block and brick	25.0
3442	Metal doors, sash, frames, molding and trim	2.3
3444	Sheet metal work	40.0
3451	Screw machine products	10.0

3462	Iron and steel forging	5.0
3469	Metal stampings, N.E.C.	5.0
3471	Electroplating, plating, polishing, anodizing, etc.	50.0
3479	Coating, engraving and allied services, N.E.C.	100.0
3495	Wire springs	2.3
3498	Fabricated pipe and fittings	2.3
3499	Fabricated metal products, N.E.C.	25.0
3531	Construction machinery and equipment	5.0
3544	Spec. dies and tools, die sets, jigs and fixtures, molds	10.0
3562	Ball and roller bearings	5.0
3565	Industrial patterns	5.0
3569	General industrial machinery and equipment, N.E.C.	4.0
3576	Scales and balances, except laboratory	2.3
3599	Machinery, except electrical, N.E.C.	10.0
3613	Switchgear and switchboard apparatus	5.0
3632	Household refrigerators and home and farm freezers	2.3
3694	Electrical equipment for internal combustion engines	2.3
3714	Motor vehicle parts and accessories	75.0
3999	Manufacturing industries, N.E.C.	2.3
4141	Local passenger transportation charter service	2.3
4151	School buses	2.3
4212	Local trucking without storage	10.0
4213	Trucking, except local	2.3
4225	General warehousing and storage	2.3
4311	U.S. Postal Service	2.3
4722	Travel agency	2.3
4811	Telephone communication	2.3
4832	Radio broadcasting	2.3
5042	Toys and hobby goods and supplies	2.3
5063	Electrical apparatus and equipment	2.3
5054	Electrical appliances	2.3
5072	Hardware - Wholesale distribution	2.3
5082	Construction and mining machinery and equipment	2.3
5084	Industrial machinery and equipment	2.3
5142	Frozen foods	10.0
5149	Wholesale groceries and related products, N.E.C.	10.0
5199	Wholesale nondurable goods, N.E.C.	10.0

5211	Lumber and other building materials dealers	2.3
5231	Paint, glass, wallpaper	2.3
5251	Hardware - Retail sales	2.3
5261	Retail nurseries, lawn and garden supply stores	10.0
5271	Mobile home dealers	2.3
5311	Department stores	2.3
5331	Variety stores	2.3
5411	Grocery stores with meat and produce departments	16.0
5412	Grocery stores without meat and produce departments	6.0
5441	Candy, nut and confectionery stores	10.0
5462	Retail bakeries - Baking and selling	10.0
5499	Miscellaneous food stores	2.3
5511	Motor vehicle dealers	5.0
5531	Auto and home supply stores	2.3
5541	Gasoline service stations	15.0
5551	Boat dealers	5.0
5611	Clothing stores	2.3
5651	Shoe stores	2.3
5681	Furriers and fur shops	5.0
5711	Furniture, floor coverings, appliances	2.3
5812	Eating places (restaurants)	20.0
5813	Drinking places (taverns)	45.0
5912	Drugstores and proprietary stores	2.3
5921	Liquor stores	2.3
5931	Used merchandise stores	2.3
5941	Sporting goods stores and bicycle shops	2.3
5942-9	Miscellaneous stores	2.3
5992	Florists	10.0
5999	All other retail stores	2.3
6022-59	Banks	2.3
6122-63	Savings and loans	2.3
6311	Insurance companies	2.3
6411	Insurance agents	2.3
6512	Operators of nonresidential buildings	2.3
6515	Operators of residential mobile home sites	2.3
6531	Real estate agents and managers	2.3
6553	Cemetery subdividers and developers	2.3
6722	Management investment offices	2.3
7011	Hotels, motels, tourist courts	0.5
		REC/Unit

7211	Power laundries, family and commercial	105.0
7212	Cleaning and laundry pickup stations	2.3
7215	Fac. coin-op laundries and dry cleaning	910.0
7221	Photographic studios	2.3
7231	Beauty shops	16.0
7241	Barber shops	10.0
7261	Funeral service and crematories	15.0
7299	Miscellaneous services, N.E.C.	2.3
7311	Advertising agencies, employment services	2.3
7332	Blueprinting and photocopying services	2.3
7351	Employment agencies	2.3
7391	Research and development laboratories	10.0
7395	Photo finishing labs	10.0
7512	Passenger car rental and leasing, w/o drivers	10.0
7531	Top and body repair shop	5.0
7534	Tire retreading and repair shops	20.0
7538	General automotive repair shops	5.0
7542	Car washes	115.0
7622	Radio and television repair	2.3
7699	Repair shops and related services, N.E.C.	2.3
7832	Motion picture theaters, not drive-ins	20.0
7911	Dance halls, studios and schools	20.0
7922	Theatrical producers	20.0
7933	Bowling alleys	50.0
7992	Public golf courses	45.0
7997	Membership sports and recreation clubs	75.0
7999	Roller rinks, gymnasiums, museums	20.0
8011	Offices of physicians	10.0
8021	Offices of dentists	10.0
8031	Offices of osteopaths	10.0
8041	Offices of chiropractors	10.0
8051	Skilled nursing care facilities	20.0
8091	Health and allied services, N.E.C.	10.0
8111	Attorneys	2.3
8211	Elementary and secondary schools	20.0
8221	Colleges, universities and professional schools	25.0
8231	Libraries and information centers	20.0
8249	Vocational schools, N.E.C.	20.0
8421	Arboreta, botanical and zoological gardens	45.0
8621	Professional membership organizations	2.3
8641	Civic, social and fraternal associations	15.0

8661	Religious organizations (hours occupied only)	20.0
8699	Membership organizations, N.E.C.	2.3
38911	Engineering, architectural and surveying services	2.3
8931	Accountants	2.3
9199	General government, N.E.C.	2.3
38911	Engineering, architectural and surveying services	2.3
8931	Accountants	2.3
9199	General government, N.E.C.	2.3
9221	Police protection	2.3
9224	Fire protection	2.3
9451	Administration of veteran's affairs	2.3
9999	All offices, N.E.C.	2.3

The minimum number of RECs for any account, residential or non-residential, shall not be less than 1.00 REC. Upon completion of the REC computations, the number of RECs for each account will be rounded up to the nearest whole number of RECs.

**(10) Connection charges.**

- (a) Established. Except as otherwise provided, a connection charge is hereby established for each new service connection to the Racine Water System and for each change of use or for the addition of a new use or for a new or expanded building on a lot or parcel already connected to the Racine Water System at the time of application. The connection charge shall be based upon the user's potential required use of the water supply system.
- (b) Amount. As of February 2007, the connection charge for each REC shall be \$3,143. The amount of the connection charge shall be adjusted annually as of February 1 of each year by the percentage change in the annual average (20-city prices) Construction Cost Index (as published by the Engineering News Record). The city/Racine Utility shall also adjust the connection charge, as needed, using a rolling 10-year capital improvement plan and a rolling recovery period that extends 10 years beyond the 10-year capital improvement plan, and shall also adjust the connection charge pursuant to contract provisions. The charge shall be implemented as follows:
  1. The municipality shall obtain and, if extraterritorial, provide to the city/Racine Utility reliable information from each applicant for a connection to the Racine Water System, before approving the connection, relating to the specific proposed use(s) of the property,



in terms of the SIC Codes, if applicable, and the maximum employee hours for a peak day of operations.

2. Based on the information provided, the city/Racine Utility shall calculate the number of residential equivalent connections for that property/development using the method set forth in §13.01(9) and shall calculate and impose a connection charge in accordance with §13.01(10). All REC calculations for an account shall be rounded up to the nearest whole REC. A minimum fee based upon 1 REC shall apply to all nonresidential connections.
3. **Connected Properties.** A connection charge for a change of use or the addition of a new use or for a new or expanded building or other facility, after an initial connection charge has been paid by a contracted municipality with respect to the lot or parcel on which such use or facility is located, shall be based on the difference between the projected water usage of the total new or expanded use or facility determined pursuant to this chapter and the actual annual average water usage of the use or facility for which the initial connection charge was paid, if available, or if not, the projected water usage of such prior use or facility determined pursuant to this chapter.
4. A connection charge for a change of use or the addition of a new use or for a new or expanded building or other facility, when no connection charge has previously been paid by the contract municipality with respect to the lot or parcel on which such use or facility is located, shall be based on the difference between the projected water usage of the total new or expanded use or facility determined pursuant to this chapter and the actual annual average water usage of the most recent prior use or facility, if available, and if not, the projected water usage of such prior use or facility determined pursuant to this chapter.
5. Based upon the information obtained under subparagraph 3. the city/Racine Utility shall recalculate the number of Residential Equivalent Connections, and may recalculate the charge pursuant to this section and §13.01(9)(c) above. If the recalculated charge exceeds that of the original charge, the difference between the recalculated charge and the amount paid for the original charge shall become due and payable at the time the adjustment is made. There will be no refund notwithstanding the result of the recalculation.

6. Since the charge determined under subparagraphs 1. and 2. above is based upon estimated intended usage, the city shall have the right to recalculate the connection charge at any time between the first and third anniversary dates of any connection charge due date, based upon the highest actual recorded usage during any twelve month period since such event.
- (c) Collection of connection charges. Connection charges for properties located in the Village, calculated and due pursuant to this section, shall be paid at the time a plumbing or building permit is issued.
- (d) That in addition to the connection charges set forth herein, the following additional water connection surcharge is hereby imposed and shall be collected at the same time as the connection charge and shall be retained by the Village to cover administrative costs associated with the collection of the connection charges.

Diameter (inches)	Amount
3/4 - 1	\$450.00
1 1/2	\$600.00
2	\$800.00
4	\$1,600.00
6	\$2,400.00
8	\$3,000.00

**(11) Recovery For Recalculated Connection Charges.**

The Racine Utility and the Village of Sturtevant have entered into an area-wide agreement whereby the Village of Sturtevant has been allocated a certain capacity within the Racine Water System. The agreement allows the Racine Utility the discretion to recalculate connection charges based upon the highest actual recorded usage during any 12-month period. In the event any recalculated charge exceeds the original connection charge paid by the Village, the Racine Utility may provide written notice to the Village and charge the Village for the difference (between the original charge and the recalculated connection charge). In the event the Racine Utility charges the Village for any recalculated connection charges, such costs constitute an additional connection charge pursuant to Section 13.01(10)(a), and commercial and/or industrial users shall reimburse the Village upon demand for said charge.

**(12) Payment & Penalty for Recalculated Connection Charges.**

A bill for recalculated connection charges shall become due and payable upon receipt. Such recalculated connection charges levied by the Village against the property owner/occupant in accordance with this chapter shall be a debt due to the Village and shall be a lien upon the property. If not paid within 60 days after it shall be due, it shall be deemed delinquent and may be placed on the current or next tax roll for collection and settlement under Chapter 74 of the Wisconsin Statutes. Any such sewer charge placed onto the tax roll shall be assessed an additional 10% penalty. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.

**13.02 ABANDONMENT OF WELLS**

- (1) **PURPOSE.** To protect public health, safety and welfare, and to prevent contamination of groundwater by assuring that unused, unsafe or noncomplying wells, or wells which may act as conduits for contamination of groundwater, or wells which may be illegally cross-connected to the municipal water system, are properly abandoned.
- (2) **APPLICABILITY.** This ordinance applies to all wells located on premises located within the municipal boundaries of the Village of Sturtevant and served by the City of Racine municipal water system.
- (3) **DEFINITIONS.**
  - (a) “Municipal water system” means a community water system owned by a city, village, county, town, town sanitary district, utility district or a federal, state, county, or municipal owned institution for congregate care or correction, or a privately owned water utility serving the foregoing.
  - (b) “Noncomplying” means a well or pump installation which does not comply with §NR 812.42, Wisconsin Administrative Code, Standards for Existing Installation, and which has not been granted a variance pursuant to §NR 812.43, Wisconsin Administrative Code.
  - (c) “Pump installation” means the pump and related equipment used for withdrawing water from a well including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.
  - (d) “Unsafe” well or pump installation means one which produces water which is bacteriologically contaminated or exceeds the drinking water standards of

§NR 140 or 809, Wisconsin Administrative Code, or for which a Health Advisory has been issued by the Department of Natural Resources.

- (e) “Unused” well or pump installation means one which is not used or does not have a functional pumping system.
  - (f) “Well” means a drill hole or other excavation or opening deeper than it is wide that extends more than 10 feet below the ground surface constructed for the purpose of obtaining groundwater.
  - (g) “Well abandonment” means the filling and sealing of a well according to the provisions of §NR 812.26, Wisconsin Administrative Code.
- (4) **ABANDONMENT REQUIRED.** Except as otherwise provided herein, all wells on premises served by the municipal water system shall be abandoned in accordance with the terms of the ordinance and Chapter NR 812, Wisconsin Administrative Code, by April 1, 1999 or no later than one year from the date of the mandatory connection to the municipal water system pursuant to Section 13.06 of this Code, whichever date occurs last. A well on property connected to the municipal water system may be maintained for non-household uses only, provided a well operation permit has been obtained by the well owner from the Village of Sturtevant.
- (5) **WELL OPERATION PERMIT.** The Village of Sturtevant Building Inspector shall grant a permit to a well owner to operate a well for a period not to exceed 5 years providing the conditions of this section are met. An owner may renew a well operation permit by submitting information verifying that the conditions of this section are met. The Village Building Inspector or its agent, may conduct inspections or have water quality tests conducted at the applicant’s expense to obtain or verify information necessary for consideration of a permit application or renewal. Well operation permit applications and renewals shall be made on forms provided by the Building Inspector. The owner shall secure a plumbing permit from the building inspector and pay the appropriate fee. The following conditions must be met for issuance or renewal of a well operation permit:
- (a) The well and pump installation shall meet the Standards for Existing Installations described in §NR 812.42, Wisconsin Administrative Code.
  - (b) The well construction and pump installation shall have a history of producing safe water evidenced by at least 1 coliform bacteria sample. The owner shall provide proof that the well produces safe water, as verified by one (1) certified laboratory test taken within six months of the application for issuance or re-issuance of a permit. In areas where the Department of

Natural Resources has determined that groundwater aquifers are contaminated with substances other than bacteria, additional chemical tests may be required to document the safety of the water.

- (c) There shall be no cross-connections between the well's pump installation or distribution piping and the municipal water system.
- (d) The water from the private well shall not discharge into a drain leading directly to a public sewer utility unless properly metered and authorized by the Sturtevant sewer utility.
- (e) The private well shall have a functional pumping system.
- (f) The proposed use of the private well shall be justified as reasonable in addition to water provided by the municipal water system.

(6) ABANDONMENT PROCEDURES.

- (a) All wells abandoned under the jurisdiction of this ordinance shall be done according to the procedures and methods of §NR 812.26, Wisconsin Administrative Code. All debris, pumps, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment. Each well abandonment shall require a plumbing permit from the Village building inspector.
- (b) The owner of the well, or the owner's agent, shall notify the Village building inspector at least 48 hours in advance of commencement of any well abandonment activities. The abandonment of the well may be observed or verified by a representative from the Village Utility or its agent.
- (c) An abandonment report form, supplied by the Department of Natural Resources, shall be submitted by the well owner to the Plumbing Inspector and the Department of Natural Resources within 30 days of the completion of the well abandonment.

(7) PENALTIES. Any well owner violating any provision of this ordinance shall upon conviction be punished by forfeiture of not less than \$150.00 nor more than \$500.00 and the cost of prosecution. Each day of violation is a separate offense. If any person fails to comply with this ordinance for more than 30 days after receiving written notice of the violation, the municipality may impose a penalty and may cause the well abandonment to be performed and the expense to be assessed as a special tax against the property.

### **13.03 CROSS CONNECTIONS WITH PUBLIC WATER SYSTEM.**

- (1) **DEFINITION.** A cross connection is defined as any physical connection or arrangement between 2 otherwise separate systems, one of which contains potable water from the municipal water system and the other water from a private source, water of unknown or questionable safety or steam, gases or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the 2 systems.
- (2) **CROSS CONNECTIONS PROHIBITED.** No person shall establish or maintain or permit to be established or maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water supply of the City of Racine may enter the supply or distribution system of the municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the City of Racine Water Works Commission and by the Wisconsin Department of Natural Resources in accordance with NR 811.09, Wis. Adm. Code.
- (3) **INSPECTIONS.** The Racine Utility shall cause inspections to be made of all properties served by the public water system where cross connections with the public water system is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the City of Racine Water Works Commission and as approved by the Wisconsin Department of Natural Resources, but in no event shall the frequency of inspection be less than once every ten (10) years. Upon presentation of credentials, Racine Utility employees shall have the right to request entry at any reasonable time to examine any property served by the connection to the public water system of the Racine Utility for cross connections. If entry is refused, such inspector shall obtain a special inspection warrant under §66.0119, Wis. Stats. On request the owner, lessee or occupant of any property served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.
- (4) **DISCONTINUANCE OF WATER SERVICE.** The Racine Utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this ordinance exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice. Water services to such property shall not be restored until the cross-connection(s) has been eliminated in compliance with the provisions of this ordinance.

- (5) **EMERGENCY DISCONTINUANCE.** If it is determined by the Racine Utility that a cross-connection or an emergency endangers public health, safety or welfare and requires immediate action, and a written finding to that effect is filed with the Village Clerk and delivered to the customer's premises, services may be immediately discontinued.
- (6) **ADOPTION OF PLUMBING CODE.** The Village adopts by reference the State Plumbing Code of Wisconsin being COMM 82, Wisconsin Administrative Code, and any amendments thereto.

## **II. SEWER UTILITY**

### **13.04 SEWER UTILITY COMMITTEE.**

- (1) **CREATED.** There is hereby created a Sewer Utility Committee consisting of 3 members of the Village Board to be appointed by the Village President.
- (2) **POWERS.** The committee shall generally have jurisdiction as to all matters relating to the sewer utility of the Village. The Committee shall supervise the operation of the sewer utility. Subject to the approval of the Village Board, the Committee shall appoint a manager or superintendent and such other employees as may be necessary. The compensation, salaries, wages or benefits of all such employees shall be as established by the Village Board. The Committee shall see that all reports or other documents and papers required to be filed with government agencies, including, but not limited to, the Department of Natural Resources, are prepared and filed as required.
- (3) **ORGANIZATION.** The members of the Committee shall meet and they shall make and adopt rules of procedure and cause books and records of account of the sewer utility to be kept in the manner and form prescribed by the Village's accountants and as required by law. Said books and records shall be open at all times for the inspection of the public during normal working hours.
- (4) **SEPARATE FUND.** The Village Treasurer, under the direction of the Committee, shall keep a separate account of all moneys or income received from all sewer utility rates or charges collected relating to the sewer system, and the fund thereby created shall be devoted to the expense of maintaining and operating such system. Expenditures from such fund are to be made only upon orders approved by the Village Board. Checks issued against the account of the sewer utility shall be signed by the Clerk and President. A monthly financial report shall be made to the Village Board by the Village Treasurer.

- (5) **BUDGETS.** Annually, on or before November 15 of each year, the Committee shall prepare and submit to the Village Board a proposed budget for the operation of the sewer utility for the ensuing year. Upon approval of the Village Board, the budget shall constitute the budget for the sewer utility for such year. This budget will also be submitted to the residents of the Village at a public hearing.
- (6) **ACCOUNTABILITY.** Annually, the Committee shall cause an audit to be made of the utility and shall submit a report thereof to the Village Board.
- (7) **EXTENSIONS AND EMERGENCY EXPENDITURES.** All extensions to the sewer system shall be made by and under the direction of the Village Board. The Committee shall have the power to authorize emergency repairs subject to ratification by the Village Board. All extensions must be reviewed and approved by the Racine Wastewater Utility and Department of Natural Resources.
- (8) **MAPS.** The Committee shall prepare and keep on file maps showing the location, size and type of all mains of the sanitary sewers, and shall from time to time make such additions or alterations on such maps corresponding to the additions or alterations in the system. One map shall be kept in the office of the Village Clerk.

### **III. SEWER USE AND WASTEWATER RATE**

#### **13.05 DEFINITIONS.**

**APPROVING AUTHORITY.** The Storm & Wastewater Committee of the Village or its authorized deputy, agent or representative.

**BOD** (denoting Biochemical Oxygen Demand). The quantity of oxygen utilized in the biochemical oxidation of organic matter in 5 days at 20°C, expressed as milligrams per liter (mg/l). Quantitative determination of BOD shall be made in accordance with procedures set forth in “Standard Methods.”

**BUILDING DRAIN.** 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 5’ (1.5 meters) outside the inner face of the building wall.

**BUILDING SEWER.** The extension from the building drain to the public sewer or other place of disposal, also called house connection or house lateral.



**CATEGORY A.** Those sanitary sewer users who discharge normal domestic strength wastewater with concentrations of BOD no greater than 200 mg/1, suspended solids no greater than 250 mg/1 and phosphorus no greater than 6 mg/1.

**CATEGORY B.** Those sanitary sewer users who discharge wastewater with concentrations in excess of 200 mg/1 of BOD, 250 mg/1 of suspended solids and 6 mg/1 of phosphorus. Users whose wastewater exceeds the concentration for any one of these parameter shall be in Category B.

**CHLORINE REQUIREMENT.** The amount of chlorine in mg/1 which must be added to sewage to produce a residual chlorine as specified in the Wisconsin Pollutant Discharge Elimination System (WPDES) permit.

**CITY.** The City of Racine, Racine County, Wisconsin.

**COMBINED SEWER.** A sewer intended to receive both wastewater and storm or surface water.

**COMPATIBLE POLLUTANTS.** 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.

**EASEMENT.** An acquired legal right for the specified use of land owned by others for wastewater conveyance or treatment.

**FLOATABLE OIL.** Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment 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.** The residue from the preparation, cooking and dispensing of food, and from the handling, storage and sale of food products and produce.

**GRANTEE.** The Village for those projects in which the Village receives federal funding.

**GROUND GARBAGE.** 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 ½" in any dimension.

**INCOMPATIBLE POLLUTANTS.** Wastewater with pollutants that will adversely affect or disrupt the quality of wastewater treatment if discharged to a wastewater treatment facility.

**INDUSTRIAL USER.**

- (a) Any nongovernmental, nonresidential user of publicly owned treatment works which discharges more than the equivalent of 25,000 gals. per day (gpd) of sanitary wastes and which is identified in the Standard Industrial Classification Manual, latest edition, Office of Management and Budget, as amended and supplemented under one of the following divisions:

Division A - Agriculture, Forestry, Fishing

Division B - Mining

Division D - Manufacturing

Division E - Transportation, Communications, Electric, Gas and Sanitary Services

Division I - Services

1. Grantee may exclude domestic waste or discharges from sanitary conveniences in determining the amount of a user's discharge for purposes of industrial cost recovery.
  2. After applying the sanitary waste exclusion (if the grantee chooses to do so), dischargers in the above division that have a volume exceeding 25,000 gpd or the weight of BOD, suspended solids or phosphorus equivalent to that weight found in 25,000 gpd of sanitary waste are considered industrial users. Sanitary wastes are the wastes discharged from residential users.
- (b) Any nongovernmental user which discharges any wastewater containing toxic pollutants or which has any other adverse effect on the treatment works or receiving waters.
- (c) A commercial user of an EPA funded individual system.

**INDUSTRIAL WASTE.** The wastewater from industrial process, trade or business as distinct from sanitary sewage.

**MAJOR CONTRIBUTING INDUSTRY.** An industry that:

- (a) Has a flow of 50,000 gals. or more per average workday.

- (b) Has a flow greater than 5% of the flow carried by the wastewater collection and treatment facilities receiving the waste.
- (c) Has a material in its discharge included on a list of toxic pollutants issued pursuant to state statutes.
- (d) Has a significant impact, either singularly or in combination with other contributing industries, on the wastewater treatment facility or the quality of its effluent.

MUNICIPALITY. The Village of Sturtevant

NATURAL OUTLET. 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. Wastewater with concentrations of BOD no greater than 200 mg/l, suspended solids no greater than 250 mg/l and phosphorus no greater than 6 mg/l.

OPERATION AND MAINTENANCE COSTS. 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. 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. Any and all persons, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

pH. The logarithm of the reciprocal of the hydrogenion 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  $10^{-7}$ .

PHOSPHORUS. Total phosphorus and is expressed in mg/l of P (phosphorus).

PUBLIC SEWER. Any publicly owned sewer, storm drain, sanitary sewer or combined sewer.

REPLACEMENT COSTS. 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.** A combination of liquid and water carried wastes discharged from toilets and/or sanitary plumbing facilities.

**SANITARY SEWER.** 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.** The spent water of a community. The preferred term is “wastewater.”

**SEWER.** A pipe or conduit that carries wastewater or drainage water.

**SEWERAGE.** The facilities used for collection, treatment and disposal of wastewater.

**SEWER SERVICE CHARGE.** 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 such facilities. The user charge which covers operation and maintenance and replacement expenses is a part of the sewer service charge.

**SHALL.** Is mandatory; “MAY” is permissible.

**SLUG.** Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than 5 times the average 24 hr. concentration of flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

**STANDARD METHODS.** 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.

**SUSPENDED SOLIDS.** 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 non-filterable residue.

**UNPOLLUTED WATER.** 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.** A charge levied on users of the wastewater collection and treatment facilities for payment of operation and maintenance costs of such facilities.

**VILLAGE.** The Village of Sturtevant, Racine County, Wisconsin.

**WASTEWATER.** The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.

**WASTEWATER COLLECTION FACILITIES (or wastewater collection system).** The structures and equipment required to collect and carry away domestic and industrial wastewater.

**WASTEWATER TREATMENT FACILITY.** The city's arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with wastewater treatment plant.

**WATERCOURSE.** A natural or artificial channel for the passage of water, either continuously or intermittently.

**WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM (WPDES) PERMIT.** A document issued by the Wisconsin State Department of Natural Resources which establishes effluent limitations and monitoring requirements for the regional wastewater treatment facility. WPDES permit and modifications thereof pertain to the City of Racine wastewater treatment facility.

### **13.06 RULES AND REGULATIONS.**

The following rules and regulations in relation to the operation of the Village Sewer System are hereby adopted and shall be considered a part of the contract with every person who shall make a sewerage connection with such system:

- (1) Pursuant to the "Racine Area Intergovernmental Sanitary Sewer Service, Revenue Sharing, Cooperation and Settlement Agreement of April 25, 2002," the following provisions of the Racine Sewer Ordinance, as amended, supplemented or recreated from time-to-time, are incorporated herein by reference:

Sections 98-3 through 98-4  
Sections 98-114 through 98-115  
Sections 98-124 through 98-137

Subsections 98-143(4) and (5)  
Sections 98-150 through 152

References in such provisions to the “wastewater utility” or the “utility”, or to the “general manager” or the “manager” or to the “board of standards” or to the “board”, or to the “wastewater commission” or the “commission”, or to the “common council” or to the “council,” or to the “city” are references, respectively, to the Racine Wastewater Utility, or to its General Manager, or to the Racine Board of Standards, or to the Wastewater Commission, or to the Racine Common Council or to Racine, to the extent permitted under applicable laws. The requirements, restrictions or prohibitions imposed thereby are enforceable to the Wastewater Commission as well as the Village and the rights created thereby are exercisable by the Wastewater Commission as well as by the Village. The Village shall also comply with any and all provisions of the Racine Area Intergovernmental Sanitary Sewer Agreement.

Where any provision of the Village’s Ordinances imposes restrictions different from those imposed by the Racine Sewer Ordinances, or any other ordinance, rule, regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

- (2) **CONNECTION AT OWNER’S EXPENSE.** The owner of every property who makes a sanitary sewer connection with the sanitary sewer shall make such a connection at his own expense. If under Section 11.06 it is necessary to make such connection and in the case of neglect or refusal of the owner or agent to do so, the Storm & Wastewater Committee may install such connection and charge the expense thereof against the premises supplied, to be collected with the next water rates due against the premises.
- (3) **MAINTENANCE OF SEWER SERVICES.** All public sewer services within the Village extending from the street main, including all controls, shall be maintained and repaired at the expense of the property owner. All sewer service laterals shall be maintained in a proper condition, free of any defects, by and at the expense of the owner or occupant of the property. Any damage or defect found in the sewer service lateral shall be the responsibility of the owner or occupant of the property to have the defect repaired within 10 working days after notice has been delivered to the owner, or occupant, or posted on the property. If not repaired within said 10 days, the Village is authorized to make said repairs and charge any costs to the property owner. Notwithstanding any other provision of this section, each property owner shall be responsible for the repair, maintenance and replacement of any laterals extending from the property owner's improvement to the main sewer and the Sewer Utility shall be responsible for the main sewer only.

**13.07 USE OF THE PUBLIC SEWERS.**

- (1) **SANITARY SEWERS.** No person shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage or cooling water into any sanitary sewer. Storm water runoff from limited areas, which may be polluted at times, may be discharged to the sanitary sewers by permission of the Approving Authority.
- (2) **PROHIBITIONS AND LIMITATIONS.** Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:
  - (a) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
  - (b) Any waters or wastes containing toxic or poisonous solids, liquids or gases 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.
  - (c) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater collection and treatment facilities.
  - (d) Any waters or wastes having a pH in excess of 9.0.
  - (e) 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.
  - (f) The following described substances, materials, waters or waste shall be limited in discharges to municipal 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 Approving Authority may set limitations lower than the limitations established in this subchapter if, in its

opinion, more severe limitations are necessary to meet the above objectives. In forming its opinion as to the acceptability, the Approving Authority 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 Approving Authority are as follows:

1. Wastewater having a temperature higher than 150°F (65°C).
2. Wastewater containing more than 25 mg/l of petroleum oil, non-biodegradable cutting oils or products of mineral oil origin.
3. Wastewater from industrial plants containing floatable oils, fat or grease.
4. 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.
5. Any waters or wastes containing iron, chromium, copper, zinc and other toxic and non-conventional 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.
6. Any waters or wastes containing odor producing substances exceeding limits which may be established by the Approving Authority.
7. 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.
8. 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 to the receiving waters.

9. 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.
10. Materials which exert or cause:
  - a. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment facility.
  - b. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.
  - c. 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.
  - d. Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solutions.
  - e. Incompatible pollutants in excess of the allowed limits as determined by city, State and federal rules and regulations in reference to pretreatment standards developed by the Environmental Protection Agency, 40 CFR 403.
- (g) The Village shall comply with all the requirements of the City of Racine WPDES Permit and of all modifications thereof. No discharge shall be allowed into the sanitary sewers that is in violation of the requirements of the WPDES Permit and the modifications thereof.
- (h) All waters or wastes entering the system shall be subject to all of the provisions of the Wastewater Control Ordinance of the City of Racine.
- (2) SPECIAL ARRANGEMENTS. No statement contained in this section shall be construed as prohibiting any special agreement between the Approving Authority and any person whereby an industrial waste of unusual strength or character may be admitted to the wastewater collection and treatment facilities, either before or after pretreatment, provided that there is no impairment of the functioning of the

wastewater collection and treatment facilities by reason of the admission of such wastes and no extra costs are incurred by the Village without recompense by the person, provided that all rates and provisions set forth in this subchapter are recognized and adhered to.

- (3) **NEW CONNECTIONS.** New connections to the Village’s sanitary sewer system will be allowed only if there is available capacity in all of the downstream wastewater collection and treatment facilities.

### **13.08 CONTROL OF INDUSTRIAL WASTES DIRECTED TO PUBLIC SEWERS.**

- (1) **SUBMISSION OF BASIC DATA.**

- (a) Each person who discharges industrial wastes to a public sewer shall prepare and file with the Approving Authority a report that shall include pertinent data relating to the quantity and characteristics of the wastes, discharged to the wastewater collection and treatment facilities. This data shall be provided annually, unless a different time is specified by the Approving Authority. The following forms or the information needed to complete them will be accepted:

- 1. Annual NR 101 “Effluent Reporting Form”.
- 2. Form 3400-28 “Industrial Waste Contribution to Municipal System”.

- (b) Similarly, each person desiring to make a new connection to a public sewer for the purpose of discharging industrial wastes shall prepare and file with the Approving Authority a report that shall include actual or predicted data relating to the quantity and characteristics of the waste to be discharged.

- (c) The above is required to comply with the City of Racine WPDES Permit.

- (2) **EXTENSION OF TIME.** When it can be demonstrated that circumstances exist which would create an unreasonable burden on the person to comply with the time schedule imposed by sub. (1), a request for extension of time may be presented to the Approving Authority for consideration.

- (3) **INDUSTRIAL DISCHARGES.** If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters or wastes contain substances or possess the characteristics enumerated above and which in the judgment of the Approving Authority have a deleterious effect upon the sewerage

works, processes, equipment or receiving waters or which otherwise create a hazard to life, health or constitute a public nuisance, the Approving Authority may:

- (a) Reject the wastes;
  - (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
  - (c) Require control over the quantities and rates of discharge; and/or
  - (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.
- (4) **CONTROL MANHOLES.** Each person discharging industrial wastes into a public sewer shall, at the discretion of the Approving Authority, construct and maintain one or more control manholes or access points to facilitate observation, measurement and sampling of his wastes, including domestic sewage.
- (5) **PRETREATMENT OF WASTEWATER.**
- (a) Ordinance Provisions Adopted. The provisions of sec. 98-147 through 98-156 of the Code of Ordinances of the City of Racine relating to pretreatment of wastewater, are hereby adopted by reference, the same as if fully set forth herein.
  - (b) Penalties and Costs.
    - 1. **Civil Penalties.** Any industrial user who is found to have violated an order of the Board of Standards or who willfully or negligently failed to comply with any provisions of this section or any orders, rules, regulations and permits issued hereunder, shall forfeit not more than \$1,000 for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the forfeitures provided herein, the Village may recover reasonable attorneys' fees, court costs, court reporters' fees and other costs and expenses of litigation.
    - 2. **Costs of Damages.** Any industrial user violating any of the provisions of this section which causes a deposit, obstruction, damage or other impairment to the Racine POTW (Point of Treated Waste) shall become liable to the Village and/or the utility for any expenses, losses or damages caused by such violation. The Village

and the Racine Wastewater Utility may add to the industrial user's charges and fees the costs assessed for any cleaning, repair or replacement work caused by the violation. Any refusal to pay the assessed costs shall constitute a violation of this section.

3. Falsifying Information. Any person who knowingly makes any false statements, representation or certification on any application, record, report, plan or other document filed or required to be maintained pursuant to this section or the wastewater discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this section shall, upon conviction, be subject to a forfeiture of not more than \$1,000.
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- (6) GREASE, OIL AND SAND INTERCEPTORS. Grease, oil and sand interceptors shall be provided when, in the opinion of the Approving Authority, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified above or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Approving Authority and shall be located as to be readily and easily accessible for cleaning and inspection. In maintaining these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Approving Authority. Disposal of the collected materials performed by owner's personnel or currently licensed waste disposal firms must be in accordance with currently acceptable Department of Natural Resources (DNR) practice.
  - (7) ANALYSES. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this section shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and with the Federal Regulations 40 CFR 136, "Guidelines Establishing Test Procedures for Analysis of Pollutants." Sampling methods, location, time, durations and frequencies are to be determined on an individual basis subject to approval by the Approving Authority. Determination of the character and concentration of the industrial wastes shall be made by the person discharging them or his agent, as designated and required by the Approving Authority. The Approving Authority may also make its own analyses on the wastes and these determinations shall be binding as a basis for sewer service charges.

- (8) **SUBMISSION OF INFORMATION.** Plans, specifications and any other pertinent information relating to proposed flow equalization, pretreatment or processing facilities shall be submitted for review of the Approving Authority prior to the start of their construction if the effluent from such facilities is to be discharged into the public sewers.

### **13.09 BASIS FOR SEWER SERVICE CHARGES.**

- (1) **SEWER USERS.** There is hereby levied and assed upon each lot, parcel of land, building or premises having a connection with the wastewater collection system a wastewater treatment service charge as provided below.
- (2) **UNIT ASSESSMENTS.** Users of the sewerage system within the village and additions thereto shall be assessed upon the basis of the following units (and shall hereinafter be referred to as “unmetered Customers”):

Type of User		Charge Units
Single Family Dwelling		1
Two-Family Dwelling		2
House Trailer		1
Multiple-Family dwellings (three families or more):		
A.	One-bedroom units, each	80% of 1
B.	Two-bedroom units each	85% of 1
C.	Three-bedroom units each	95% of 1

- (3) **METERED WATER CONSUMPTION.** For the users not falling within any of the categories set forth in subsection (2) of this section, charges will be made according to metered water consumption, where applicable (hereinafter referred to as “metered customers”).
- (4) **DEDUCT (CREDIT) METERS.** If a user feels that a significant amount of metered water does not reach the sanitary sewer, he can, submit a request in writing for a deduct (credit) meter per the Village of Sturtevant Deduct (Credit) Meter Policy. The Approving Authority will review all requests. Any water that goes through the Deduct (Credit) Meter, shall not be discharged into the Sanitary Sewer System. If any water, that has been metered for credit, has been found to have been discharged into the sanitary sewer, all water that has been credited to that specific meter will now be charged to the owner/occupant where the meter is installed. The owner/occupant will also be assessed a 10% penalty on all water charged and the deduct (credit) meter shall be removed at the owners expense.

**13.10 AMOUNT OF SEWER SERVICE CHARGES.**

- (1) **METHOD OF DETERMINATION.** Customers in the village shall be billed quarterly, in an amount sufficient to pay the local sewer operating and maintenance costs, including debt service, if any, and the wastewater treatment charges from the city wastewater treatment plant. In addition, the quarterly billings shall generate sufficient revenue for an equipment replacement fund for the wastewater collection facilities as required under subsection (3)(b) of this section. Unmetered customers shall be billed at a flat rate based on the user classification set forth below, along with a flat rate customer service charge. Metered customers shall be billed a flat rate customer service charge and 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 billed to the village from the city wastewater treatment plant 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 and phosphorus no greater than six mg/l. The sewer service charge for category A wastewater is as follows:

(1)	Customer Type	Charge Unit Customer	Metered Customers*
	Total Customer Service Charge	\$40.00	\$40.00
(2)	Total Volume Charge	\$108.00 per Charge Unit	\$6.15/1,000 gallons or \$4.61/100 cubic feet
	Total User Charge	\$148.00/quarter Per Charge Unit.	\$40.00 Plus Volume Charge/quarter

Minimum charge shall be two times the total residential user charge or \$296.00

- (b) **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 or six mg/l of phosphorus. 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 is as follows:

- (1) Customer service charge: \$40.00 per quarter
- (2) Volume Charge:

Customers	Metered
Total Volume Charge	\$6.15/1,000 gallons or \$4.61/100 cubic feet

Minimum charge shall be two times the total residential user charge or \$296.00

- (3) Surcharges imposed by the Racine Wastewater Utility; hereafter, such surcharges will be identical to the surcharges established from time to time by the Racine Wastewater Utility.
- (2) REASSIGNMENT OF SEWER USERS. The Approving Authority will reassign sewer users into appropriate sewer service charge categories if wastewater sampling programs, and other related information, indicates a change of categories is necessary.
- (3) REPLACEMENT FUND ACCOUNT. The annual replacement revenues shall be maintained in a separate account by the Village to be used solely for the replacement of parts and/or equipment related to the wastewater treatment works. Funds may be withdrawn from this account for authorized uses only with the approval of the Approving Authority.
- (4) SURCHARGE FOR HOUSEHOLD HAZARDOUS WASTE COLLECTION. The Approving Authority may, by resolution, add a surcharge to the quarterly billings of unmetered customers for costs related to participation in a household hazardous waste collection program.

### **13.11 BILLING PRACTICE.**

- (1) CALCULATION OF SEWER SERVICE CHARGES. Sewer service charges that shall be assessed to Village sewer users shall be computed by the village according to the rates and formulas presented in Section 13.10 of this chapter.
- (2) SEWER SERVICE CHARGE BILLING PERIOD. Sewer service charges shall be billed by the Village to the sewer users on a quarterly basis.
- (3) PAYMENT OF SEWER SERVICE CHARGES. Bills for sewer service charges become due and payable on the 20<sup>th</sup> of the month following the quarter for which services is rendered. After the due date, a 1% per month penalty will be added to all unpaid charges.
- (4) PENALTIES. Such sewer service charges levied by the Village against the sewer user in accordance with this chapter shall be a debt due to the Village and shall be

a lien upon the property. If not paid within 20 days after it shall be due, it shall be deemed delinquent and may be placed on the current or next tax roll for collection and settlement under Chapter 74 of the Wisconsin Statutes. Any such sewer charge placed onto the tax roll shall be assessed an additional 10% penalty. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.

### **13.12 RIGHT OF ENTRY, SAFETY AND IDENTIFICATION.**

- (1) **RIGHT OF ENTRY.** The Approving Authority or other authorized employees of the Village, bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observation or testing, all in accordance with the provisions of this chapter and §66.0119, Wis. Stats.
- (2) **IDENTIFICATION, RIGHT TO ENTER EASEMENTS.** The Approving Authority or other authorized employees of the Village, bearing proper credentials and identification, shall be permitted to enter all private properties through which the Village holds a negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within such easement, all subject to the terms, if any, of this negotiated easement.

### **13.13 SEWER CONSTRUCTION AND CONNECTIONS.**

- (1) **WORK AUTHORIZED.** No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb the sanitary sewer or appurtenance thereof without first obtaining written approval from the Approving Authority. A street opening permit is required for any excavation in Village Streets. A permit must be obtained from the Village Building Inspector.
- (2) **SEWER CONNECTION CHARGE.**
  - (a) Prior to the issuance of a permit allowing connection to the sanitary sewer system of the Village of Sturtevant, the Clerk/Treasurer shall collect the connection charge set forth below for each applicable lot, parcel of land or premises:
    1. Single-Family Residential - \$3,850.00
    2. Multi-Unit Residential



Charge for 1 <sup>st</sup> Unit	Charge for 2 <sup>nd</sup> Unit	Charge for Each Additional Unit
\$3,850.00	\$2,400.00	\$1,800.00

3. All Commercial, Industrial, Private and Public Institutions shall be charged on a reasonable basis as determined by the Village based on such factors as flow and nature of the sewer or waste, with a charge in an amount as set forth below or \$400.00 per fixture, whichever amount is greater:

5/8"	3/4"	1"	1-1/2"	2"	3"	4"	6"	8"
4,200.00	4,350.00	4,555.00	5,150.00	6,000.00	7,900.00	11,900.00	12,900.00	32,000.00

Charges for meter sizes in excess of 8" will be determined on a case-by-case basis by the Storm & Wastewater Committee after consultation with its engineer.

- (b) No unit connection charge shall be collected by the Village if the property to be serviced has been previously assessed for such connection charge.
- (c) The property owner shall be connected by the Village at his/her own expense, which shall not be deducted from the connection fee under any circumstances.
- (d) Additional connection charge:
  - 1. In each and every case where a lot or parcel of land is connected to a sewer installed without levy of a special assessment against a lot or parcel, there shall be an additional connection charge for each front foot of land abutting or fronting a road. The additional charge shall be equal to the cost per assessable foot of the lot abutting or fronting upon the road, based upon the actual cost of installation of the sewer line, with interest at the rate of 5 percent per annum from the time of installation to the time of connection, including the cost of the size of the sewer main and its installation at the depth necessary to furnish sewer service to the lot or parcel of land. Where actual cost figures are not available, the Village Engineer shall estimate the cost utilizing available historical data. Such

additional charge shall be collected simultaneously with the regular connection charge.

- (3) **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 Approving Authority to meet all requirements for this subchapter.
- (4) **MATERIALS AND METHODS OF CONSTRUCTION.** The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules, regulations, and standard as adopted by the approving authority.
- (5) **BUILDING SEWER GRADE.** Whenever practical, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (6) **STORM AND GROUNDWATER DRAINS.** No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which is connected directly or indirectly to a sanitary sewer. All existing downspouts or groundwater drains, etc., connected directly or indirectly to a sanitary sewer must be disconnected within 60 days of the date of an official written notice from the Approving Authority.
- (7) **CONFORMANCE TO PLUMBING CODES.** The connection of the building sewer into the sanitary sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Village. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Approving Authority before installation.
- (8) **INSPECTION OF CONNECTION.** The applicant for the building sewer permit shall notify the Approving Authority when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Approving Authority.
- (9) **BARRICADES; RESTORATION.** All excavations for the building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public

property disturbed in the course of the work shall be restored in a manner satisfactory to the Approving Authority.

#### **13.14 VIOLATIONS AND PENALTIES.**

- (1) **WRITTEN NOTICE OF VIOLATION.** Any person found to be violating any provision of this chapter, except this section, shall be served by the Village with a written notice stating the nature of the violation and providing a reasonable time for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- (2) **ACCIDENTAL DISCHARGE.** Any person found to be responsible for accidentally allowing a deleterious discharge into the sewer system which causes damage to the treatment facility and/or receiving body of water shall, in addition to forfeiture, pay an amount to cover damage, both values to be established by the Approving Authority.
- (3) **CONTINUED VIOLATIONS.** Any person who shall continue any violation beyond the notice time limit provided shall, upon conviction thereof, forfeit not more than \$500 together with the cost of prosecution. Each day in which any violation is continued beyond the notice time limit shall be deemed a separate offense.
- (4) **LIABILITY TO VILLAGE FOR LOSSES.** Any person violating any provision of this chapter shall become liable to the Village for any expense, loss or damage occasioned by reason of such violation which the Village may suffer as a result thereof. The Approving Authority must be notified immediately by any person becoming aware of any violations that occur.

#### **13.15 APPEALS.**

- (1) Any user, permit applicant or holder affected by any decision, action or determination, including cease and desist orders, made by the Approving Authority interpreting or implementing the provisions of this chapter or in any permit issued herein, may file with the Approving Authority a written request for reconsideration within 10 days of the date of such decision, action or determination, setting forth in detail the facts supporting the user's request for reconsideration. The Approving Authority shall render a decision on the request for reconsideration to the user; permit applicant or holder in writing within 15 days of receipt of request. If the ruling on the request for reconsideration made by the Approving Authority is unsatisfactory, the person requesting reconsideration

may, within 10 days after notification of the action, file a written appeal with the Village Board.

- (2) A fee of \$25 shall accompany any appeal to the Village Board for their ruling. This fee may be refunded if the appeal is sustained in favor of the appellant. The written appeal shall be heard by the Village Board within 45 days from the date of filing. The Village Board shall make a final ruling on the appeal within 60 days from the date of filing.

### **13.16 AUDIT.**

The Village shall conduct an annual audit to maintain the proper proportion between users and user classes of the sewer service charge system, and to ensure that adequate revenues are available to meet operation and maintenance expenses, replacement and debt service costs.

## CHAPTER 14

### **STURTEVANT UNIFORM BUILDING CODE**

(Rep. & recr. #099-08)

#### GENERAL

- 14.00 Scope
- 14.01 Title
- 14.02 Application of “Wisconsin Administrative Code”
- 14.025 Application of “Wisconsin Uniform Dwelling Code”
- 14.03 Application of “Wisconsin Uniform Building Code”

#### BUILDING INSPECTOR AND PERMITS

- 14.04 Department of Buildings
- 14.05 Permits
- 14.06 Approved Plans
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- 14.08 Razing of Buildings
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- 14.20 General Requirements

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#### FOUNDATION REPAIR & DAMPPROOFING

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## **STURTEVANT UNIFORM BUILDING CODE**

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### **STURTEVANT UNIFORM BUILDING CODE APPENDIX**

- 14.86 Table-1 Building Code Permit Fees
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<b><i>Section Number</i></b>	<b><i>Title</i></b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
14.00	Scope		
14.01	Title		
14.02	Application of “Wisconsin Administrative Code”		
14.025	Application of “Wisconsin Uniform Dwelling Code”	2006-07	05/02/06
14.03	Application of “Wisconsin Uniform Building Code”		
14.04	Department of Buildings	2005-03	04/05/05
14.05	Permits		
14.06	Approved Plans		
14.07	Regulations for Moving Buildings		
14.08	Razing of Buildings		
14.09	Inspections		
14.10	Stop-Work Order		
14.11	Certificate of Occupancy		
14.12	Property Maintenance Code	2009-10 2015-05	11/03/09 06/02/15
14.20	Garages and Accessory Buildings—General Requirements		
14.30	Decks—General Requirements	2009-12	11/17/09
14.40	Swimming Pools—General Requirements		
14.50	Foundation Repair & Damp proofing		
14.60	Fire Limits, Inflammable Oils and Explosives		
14.61	Automatic Fire Sprinklers	2012-11	09/04/12
14.62	Smoke and Fire Detection and Warning Systems in Public Residential Buildings		
14.70	New Materials & Methods		
14.71	Tests		
14.72	Identification of Products		
14.73	Validity of Past		
14.74	Violations		
14.75	Failure to Obtain Permit		
14.76	<u>Disposal of Human Excreta and Liquid Waste</u>	2009-10	11/03/09
14.80	Impact Fees	2005-06 2005-14 2006-15	05/17/05 01/03/06 06/06/06
14.81	Penalties		

14.86	Table-1 Building Code Permit Fees	2003-33	10/21/03
		2006-01	02/21/06
		2006-06	05/02/06
		2006-17	12/19/06
		2007-17	12/04/07
		2008-24	01/06/09
14.87	Electrical Permit Fees	2003-33	10/21/03
		2006-01	02/21/06
		2006-17	12/19/06
		2007-17	12/04/07
14.88	Plumbing Fees	2003-33	10/21/03
		2006-01	02/21/06
		2006-17	12/19/06
		2007-17	12/04/07
14.89	Fire Inspection Permit Fees	2003-33	10/21/03
		2006-01	02/21/06
		2007-02	03/20/07
		2007-17	12/04/07
		2008-10	06/03/08
		2008-24	01/06/09
14.90	Fees Generally	2006-17	12/19/06



## GENERAL

**14.00 SCOPE.**

The provisions of the Sturtevant Uniform Building Code (this Code) shall govern the design, construction, alteration, demolition and moving of all buildings and structures.

**14.01 TITLE.**

These regulations shall be known and cited as “Sturtevant Uniform Building Code” and shall be construed to secure their expressed intent and to ensure public safety, health and welfare insofar as they are dependent upon building construction.

**14.02 APPLICATION OF “WISCONSIN ADMINISTRATIVE BUILDING AND HEATING, VENTILATING AND AIR CONDITIONING CODE”.**

The Wisconsin Administrative Building and Heating, Ventilating and Air Conditioning Code, Chapters Comm 50 through 64, Wis Admin. Code, both inclusive and all amendments thereto, are hereby made a part of this Code by reference with respect to those classes of buildings to which such provisions apply. A copy of said code is on file in the office of the Village Clerk.

**14.025 APPLICATION OF “WISCONSIN UNIFORM DWELLING CODE”, WISCONSIN EXISTING BUILDING CODE”, WISCONSIN HISTORIC BUILDING CODE”, WISCONSIN COMMERCIAL BUILDING CODE”, AND WISCONSIN DIVISION OF SAFETY AND BUILDINGS ADMINISTRATIVE CODES”.**

The Wisconsin Uniform Dwelling Code, Chapters Comm 20 through 25, Wis. Admin. Code, inclusive and all amendments thereto, are hereby made a part of this Code by reference and shall apply to all one and two family dwellings and alterations and additions thereto. This Code shall also apply to alterations and additions to all one and two family dwellings constructed prior to the effective date of the Wisconsin Uniform Dwelling Code. The “Wisconsin Commercial Building Code, Chapters Comm 61 through 65, both inclusive and all amendments thereto, are hereby made a part of this Code by reference with respect to those classes of buildings to which such provisions apply. The Wisconsin Existing Building Code, Chapters Comm 75 through 79, both inclusive and all amendments thereto, are hereby made a part of this Code by reference with respect to those classes of buildings to which such provisions apply. The Wisconsin Historic Building Code, Chapter Comm 70, both inclusive and all amendment thereto, are hereby made a part of this Code by reference with respect to those classes of buildings to which such provisions apply. A copy of said codes are on file in the office of the Village Clerk. A copy of said code is on file in the office of the Village Clerk.

**14.03 APPLICATION OF “STURTEVANT UNIFORM BUILDING CODE”.**

All buildings and structures hereafter erected, altered, repaired, moved or demolished that are used or designed to be used for the purpose herein defined shall comply in full with the requirements of this Code.

- (1) **ZONING LAWS.** No provision of this Code shall be construed to repeal, modify or constitute an alternative to any lawful zoning regulations.
- (2) **NEW BUILDINGS.** The construction requirements of the Sturtevant Uniform Building Code shall apply to all buildings not covered under Section 14.02.
- (3) **EXISTING BUILDINGS.** This Code shall also apply to buildings and conditions described in this section.
  - (a) An existing building to be occupied as a one or two family dwelling which building was not previously so occupied.
  - (b) An existing structure that is altered or repaired, when the cost of such alterations or repair during the life of the structure exceeds fifty (50) percent of the equalized value of the structure, said value to be determined by the assessor of the Village.
  - (c) Additions and alterations, regardless of cost, made to an existing building shall comply with the requirements of this Code. The provisions of sub. (4) of this section shall also apply.
  - (d) Roof Coverings. Whenever more than twenty-five (25) percent of the roof covering of a building is replaced in any twelve-month period, all roof covering shall be in conformity with applicable sections of this Code.
  - (e) Additions and Alterations. Any addition or alteration, regardless of cost, made to a building shall be made in conformity with applicable sections of this Code.
- (4) **ALTERATIONS AND REPAIRS.** The following provisions shall apply to buildings altered or repaired.
  - (a) Alterations. When not in conflict with any regulations, alterations to any existing building or structure, accommodating a legal occupancy and use but of non-conforming type of construction which involves either the structural members of floors or roofs, beams, girders, columns, bearing or other walls, room heating and air conditioning systems, arrangement, light and ventilation, changes in location of exit stairways or exits or any of the above, then such existing construction shall be made to conform to the minimum requirements

of this Code applicable to such occupancy and use and given type of construction.

- (b) Repairs. Repairs for purposes of maintenance or replacements in any existing building or structure which do not involve the structural portions of the building or structure or which do not effect room arrangement, light and ventilation, access to or efficiency of any exit stairways or exits, fire protection or exterior aesthetic appearance and which do not increase a given occupancy and use, shall be deemed minor repairs.
- (c) Alterations When Not Permitted. When an existing building or structure, which for any reason whatsoever does not conform to the regulations of this Code, has deteriorated from any cause whatsoever to an extent greater than fifty (50) percent of the equalized value of the building or structure, no alterations or moving of such building or structure shall be permitted. Any such building or structure shall be considered a menace to public safety and welfare and shall be ordered vacated and thereafter demolished and debris removed from the premises.
- (d) Alterations and Repairs Required. When any of the structural members of any building or structure have deteriorated from any cause whatsoever to less than their required strength, the owner of such a building or structure shall cause such structural members to be restored to their required strength; failing in which the building or structure shall be considered a menace to public safety and shall be vacated and thereafter no further occupancy or use of the same shall be permitted until the regulations of this Code are complied with.
- (e) Extent of Deterioration. The amount and extent of deterioration of any existing building or structure shall be determined by the Building Inspector.
- (f) Use of Unsanitary Building. It shall be unlawful to occupy or use or permit the occupancy or use of any building or structure that is unsanitary or dilapidated, or deteriorated, or out of repair, thereby being unfit for human habitation, occupancy or use until the regulations of this Code have been complied with.

## BUILDING INSPECTOR AND PERMITS

### **14.04 DEPARTMENT OF BUILDINGS.**

- (1) **COMPOSITION.** There is hereby established a department which shall be known as the Department of Buildings and which shall include a Building Inspector, Electrical Inspector, Plumbing Inspector and Heating, Ventilating and Air

Conditioning (HVAC) Inspector. All four offices may be held by the same person or firm and shall be collectively referred to in this Code as Building Inspector.

- (2) **BUILDING INSPECTOR.** The Building Inspector shall be appointed by the Village Board and there shall be a salary for such office as set by the Village Board.
- (3) **QUALIFICATIONS; DUTIES AND POWERS.** The Building Inspector shall have the ability to supervise the general construction of buildings and other permanent equipment of buildings. He shall pass upon the plans and specifications of each building to be erected and not be interested, directly or indirectly, in the construction of buildings or in the preparation of plans and specifications therefor, or of any permanent building equipment, except as may be authorized by the Village Board. The Building Inspector shall be certified for inspection purposes in accordance with the Wisconsin Administrative Code and shall administer and enforce all provisions of this Code. The Building Inspector is authorized to issue citations with respect to all Village ordinances that are directly related to his official responsibilities.
- (4) **RECORDS TO BE KEPT.** The Building Inspector shall perform all administrative tasks required by Wisconsin law. The Building Inspector shall keep a record of all applications for permits and shall number each permit in the order of its issuance. The Building Inspector shall also keep a record of all fees collected, showing date of receipt and delivery to the Village Clerk/Treasurer. The Building Inspector shall make a monthly report and an annual report to the Village Board of the above matters.
- (5) **INSPECTIONS.** The Building Inspector shall have 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, plumbing or HVAC work or the required licenses therefor. No persons shall interfere with the Building Inspector while in the performance of the duties described in this chapter. In the event the Building Inspector is refused access to any premises, the Building Inspector may apply for a special inspection warrant pursuant to §66.122, Wis. Stats.
- (6) **NO ASSUMPTION OF LIABILITY.** This chapter shall not be construed as assuming any liability on the part of the Village or the Building Inspector for damages to anyone injured or any property destroyed by any defect in any building or equipment or any electric wiring or equipment.

#### **14.05 PERMITS.**

- (1) **PERMITS REQUIRED.** No building or structure, or any part thereof, shall hereafter be built, enlarged, altered or demolished within the Village or moved into,

within or out of the Village except as hereinafter provided, unless a permit therefore shall first be obtained by the owner or his agent from the Building Inspector.

Permits required are as follows:

- (a) Building
- (b) Air conditioning
- (c) Wrecking or razing
- (d) Heating
- (e) Moving of buildings
- (f) Occupancy
- (g) Reroofing and residing
- (h) Fire Inspection
- (i) Other permits as required by the Village and/or as listed in the Table No. 1 permit fee schedule.

- (2) **APPLICATION FOR PERMITS.** Application for a building permit shall be made in writing upon a blank form to be furnished by the Building Inspector and shall state the name and address of the owner of the building and the owner of the land on which it is to be erected, the name and address of the designer and shall set forth legal description of the land on which the building is to be located, the location of the building, the house number thereof and such other information as the Building Inspector may require. With such application, there shall be submitted, to the Building Inspector, three (3) complete sets of plans, specifications and three (3) copies of a survey.

- (a) Survey. The survey shall be prepared and certified by a surveyor or registered by the State of Wisconsin; shall be made, in no case, prior to one (1) year prior to the issuance of a building permit; and shall bear the date of the survey. The certified survey shall also show the following:

- 1. Location and dimensions of all buildings on the lot, both existing and proposed.
- 2. Dimensions of the lot.
- 3. Dimensions showing all setbacks to all buildings on the lot.
- 4. Proposed grade of proposed structure, to village datum.
- 5. Grade of lot and of road opposite lot.
- 6. Grade and setback of adjacent buildings. If adjacent lot is vacant, submit elevation of nearest buildings on same side of the road.
- 7. Type of monuments at each corner of lot.
- 8. Watercourses or existing drainage ditches.
- 9. Seal and signature of surveyor.

- (b) Plans and Specifications. All plans shall be drawn to a scale not less than one-fourth (1/4) inch per foot, on paper or cloth in ink, or by some other process that

will not fade or obliterate, and shall disclose the existing and proposed provisions for water supply, sanitary sewer connections and surface water drainage. All dimensions shall be accurately figured. Drawings that do not show all necessary detail shall be rejected. A complete set of plans for residential construction shall consist of:

1. All elevations.
2. All floor plans.
3. Complete construction details.
4. Fireplace details ( $\frac{3}{4}$  inch per foot) showing cross section of fireplace and flues.
5. Plans of garage when garage is to be built immediately or location of garage when it is to be built at a later date.
6. Grading plan which shall show the present and proposed grades of the lot on which it is proposed to erect the building for which a building permit is sought and of the immediately adjoining property in sufficient detail to indicate the surface water drainage before and after the completion of the grading.
7. Any other information as the Building Inspector may require.

All plans shall remain on file in the office of the Building Inspector until at least one (1) year after the completion of the building, after which time the Building Inspector may return the same to the owner, may keep them for public record or may destroy them.

(3) **WAIVER OF SOME REQUIREMENTS.** At the option of the Building Inspector, plans, data, specifications and survey need not be submitted with an application for permit to execute minor alterations and repairs to any building, structure or equipment, provided the proposed construction is sufficiently described in the application for permit.

(4) **ISSUANCE OF PERMIT; WHEN.**

- (a) If the Building Inspector finds that the proposed building will comply in every respect with the provisions of this Code and all the laws and orders of the State, he/she shall officially approve and stamp one set of plans and return them to the owner and shall issue a building permit therefor which shall be kept at the site of the proposed building. After being approved, the plans and specifications shall not be altered in any respect which involves any of the above rules, laws or orders or the safety of the building, except with written consent of the Building Inspector. If adequate plans are presented, the Building Inspector may, at his/her discretion, issue a permit for a part of the building before receiving plans and specifications for the entire building. No

person shall commence work on any building or alteration before a building permit has been issued.

- (b) No building permit shall be issued under any circumstances until the Building Inspector is satisfied that the party desiring the permit has sewer and water facilities available in accordance with the laws of the State and the ordinances of the Village and that the same will be utilized by the applicant, and the building which he/she desires to build will be connected with such utilities.
- (c) No building permit shall be issued under any circumstances until the Building Inspector is satisfied that the party making application has a public road meeting the minimum standards of the Village and accepted by the village, abutting upon the parcel of land on which construction is contemplated.
- (d) No building permit shall be issued under any circumstances until the Building Inspector is satisfied that the final grading plan for the lot shall not cause any permanent or temporary unreasonable accumulation of water on the lot or upon any adjoining property. Nor shall any building permit be issued if the erection of the building or the proposed grades unreasonably obstructs the natural flow of water from the surface of adjoining property or obstructs the flow of water in any existing ravine, ditch, drain or storm water sewer draining adjoining property unless a suitable alternative is provided for such flow by means of an adequate ditch or pipe, which shall be shown on the plans and shall be constructed so as to provide continuous drainage at all times.
- (e) By accepting a permit, the applicant, owner or contractor grants the Building Inspector the right of access to the real estate on which the permitted construction or demolition will occur.

(5) INSPECTOR MAY REVOKE PERMITS.

- (a) The Building Inspector may revoke any permit, certificate of occupancy or approval issued under the regulations of this Code and may stop construction or use of approved new materials, equipment, methods of construction, devices or appliances for any of the following reasons:
  - 1. Whenever there is a violation of any regulation of this Code or of any other ordinance, law or lawful orders or Wisconsin Statute relating to the same subject matter.
  - 2. Whenever the continuance of any construction becomes dangerous to life or property.

3. Whenever there is any violation of any condition or provision of the application for permit or of the permit.
  4. Whenever, in the opinion of the Building Inspector, there is inadequate supervision provided on the job site.
  5. Whenever any false statement or misrepresentation has been made in the application for permit, plans, drawings, data, specifications or certified lot or plot plan on which the issuance of the permit or approval was based.
  6. Whenever there is a violation of any of the conditions of an approval or occupancy given by the Building Inspector for the use of any new materials, equipment, methods of construction devices or appliances.
- (b) The notice revoking a permit, certificate of occupancy or approval shall be in writing and may be served upon the applicant for the permit, owner of the premises or his agent, if any, and on the person having charge of construction.
- (c) A revocation placard shall also be posted upon the building structure, equipment or premises in question by the Building Inspector.
- (d) After the notice is served upon the persons as aforesaid and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises and the permit which has been so revoked shall be null and void and before any construction or operation is again resumed, a new permit, as required by this Code, shall be procured and fees paid therefore and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this Code.
- (6) FEES. Before receiving a building permit, the owner or his agent shall pay the fee specified in Table 1. In applying the provisions of this Code, in respect to new work, existing buildings, alterations and repairs, the physical value of the work shall be determined by the Building Inspector on the basis of current costs.

#### **14.06 APPROVED PLANS.**

- (1) A weatherproof card, signed by the Building Inspector, indicating the permit has been issued shall be posted at the job site during construction. After issuance of a building permit, the approved plans shall not be altered unless any proposed change is first approved by the Building Inspector as conforming to the provisions of this Code.



## (2) EXPIRATION OF PERMIT.

- (a) Existing buildings, accessory buildings and accessory structures. The building permit shall become void unless operations are commenced within four (4) months from the date thereof or if the building or work authorized by such permit is suspended at any time after work is commenced, for a period of sixty (60) days. The period of time may be extended by the Building Inspector if the delay was due to conditions beyond the control of the applicant.
- (b) New dwellings. The building permit shall expire twenty-four (24) months after issuance if the dwelling exterior has not been completed.

- (3) Before any work is commenced or recommenced after the permit has lapsed, a new permit shall be issued at the regular fee rate.

**14.07 REGULATIONS FOR MOVING BUILDINGS.**

- (1) GENERAL. No person shall move any building or structure upon any of the public right-of-ways of the Village without first obtaining a permit therefore from the Building Inspector and upon the payment of the required fee. Every such permit issued by the Building Inspector for the moving of a building shall designate the route to be taken, the conditions to be complied with and shall limit the time during which said moving operations shall be continued.
- (2) MOVING DAMAGED BUILDINGS. No building shall be repaired, altered or moved within or into the Village that has deteriorated or has been damaged by any cause (including such moving and separation from its foundation and service connections in case of moved buildings) fifty (50) percent or more of its equalized value and no permit shall be granted to repair, alter or move such building within or into the Village.
- (3) CONTINUOUS MOVEMENT. The movement of buildings shall be a continuous operation during all the hours of the day, and day by day and at night, until such movement is fully completed. All of such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street crossing or intersection, or so near thereto as to prevent easy access to any fire hydrant or any other public facility. Lighted lanterns shall be kept in conspicuous places at each end of the building during the night.
- (4) STREET REPAIR. Every person receiving a permit to move a building shall, within one day after said building reaches its destination, report the fact to the Building Inspector who shall thereupon, in the company of the public works director, inspect the streets and highways over which said building has been moved

and ascertain their condition. If the removal of said building has caused any damage to any street or highway, the person to whom the permit was issued shall forthwith place them in good repair as they were before the permit was granted. On the failure of the said permittee to do so within ten (10) days thereafter to the satisfaction of the governing body, said body shall repair the damage done to such streets and hold the person obtaining such permit and the sureties on his/her bond responsible for the payment of same.

- (5) **CONFORMANCE WITH CODE.** No permit shall be issued to move a building within or into the Village and to establish it upon a location within the Village until the Building Inspector has made an investigation of such building at the location from which it is to be moved and is satisfied from such investigation that said building is in a sound and stable condition and of such construction that it will meet the requirements of this Building Code in all respects. A complete plan of all further repairs, improvements and remodeling, with reference to such building, shall be submitted to the Building Inspector, who shall make a finding of fact to the effect that all such repairs, improvements and remodeling are in conformity with the requirements of this Building Code and that when same are completed, the building, as such, will so comply with said Building Code. In the event a building is to be moved from the municipality to some point outside of the boundaries thereof, the provisions; with respect to the furnishing of plans and specifications for proposed alterations to such building, may be disregarded.

(6) **BOND.**

- (a) Before a permit is issued to move any building over any public way in this in municipality, the party applying therefore shall give a bond to the municipality a sum, to be fixed by the Building Inspector, and which shall not be less than Twenty Five Thousand Dollars (\$25,000). Said bond is to be executed by a corporate surety or two personal sureties to be approved by the governing body or designated agent conditioned upon, among other things, the indemnification to the Village for any costs or expenses incurred by it in connection with any claims for damages to any persons or property, and the payment of any judgment, together with the costs or expenses incurred by the Village in connection therewith, arising out of the removal of the building for which the permit is issued.
- (b) Unless the Building Inspector, upon investigation, shall find it to be a fact that the excavation exposed by the removal of such building from its foundation shall not be so close to a public thoroughfare as to permit the accidental falling therein of travelers or the location, nature and physical characteristics of the premises and the falling into such excavation by children under 12 years of age unlikely, the bond required by (a) shall be further conditioned upon the

permittee erecting adequate barriers and within forty-eight (48) hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the Building Inspector and reasonably adopted or calculated to prevent the occurrences set forth herein.

- (7) **INSURANCE.** The Building Inspector shall require, in addition to said bond above indicated, public liability insurance covering injury to one person in the sum of not less than Five Hundred Thousand Dollars (\$500,000) and for one accident in a sum not less than One Million Dollars (\$1,000,000), together with property damage insurance in a sum not less Five Hundred Thousand Dollars (\$500,000), or such other coverage as deemed necessary.
- (8) **PLAN COMMISSION.**
  - (a) No such permit shall be issued unless it has been found as a fact by the Plan Commission of the Village by at least a majority vote, after an examination of the application for the permit which shall include exterior elevations of the building and accurate photographs of all sides and views of the same and in case it is proposed to alter the exterior of said building, plans and specifications of such proposed alterations and after a view of the building proposed to be moved and of the site at which it is to be located, that the exterior architectural appeal and functional plans of the building to be moved or moved and altered, will not be so at variance with either the exterior architectural appeal and functional plan of the buildings already constructed or in the course of construction in the immediate neighborhood or in the character of the applicable district established by the zoning ordinances of the Village or any ordinance amendatory thereof or supplementary thereto, as to cause a substantial depreciation in the property values of said neighborhood within said applicable district. In case the applicant proposes to alter the exterior of said building after moving the same, he shall submit, with his application papers, complete plans and specifications for the proposed alterations. Before a permit shall be issued for a building to be moved and altered, the applicant shall give a bond to the Village's Plan Commission, which shall not be less than \$1,000 to be executed in the manner provided in subsection (6) hereof to the effect that he will, within a time to be set by the Plan Commission, complete the proposed exterior alterations to said building in the manner set forth in his plans and specifications. This bond shall be in addition to any other bond or surety which may be required by other applicable ordinances of the Village. No occupancy permit shall be issued for said building until the exterior alterations proposed to be made have been completed.
  - (b) Upon application being made to the Building Inspector, he/she shall request a meeting of the Plan Commission to consider applications for moving permits

which has been found to be in compliance, in all respects, with all other ordinances of the Village. The Plan Commission may, if it desires, hear the applicant for the moving permit in question and/or the owner of the lot on which it is proposed to locate the building in question, together with any other persons, other residents or property owners, desiring to be heard, giving such notice of hearing as they may deem sufficient. Such hearing may be adjourned for a reasonable length of time and within forty-eight (48) hours after the close of the hearing, the Plan Commission shall, in writing, make or refuse to make the finding required by subsection (8) hereof and file it in the office of the clerk, who shall send a copy of it to the Building Inspector.

#### **14.08 RAZING OF BUILDINGS.**

- (1) **RAZING OF BUILDINGS.** The Building Inspector is hereby authorized to act for the Village under the provisions of §66.05, Wis. Stats., relating to the razing of buildings and all acts amendatory thereof and supplementary thereto. The municipal treasurer is authorized to place the assessment and collect the special tax as therein provided.
- (2) Before a building can be demolished or removed, the owner or agent, shall notify all utilities having service connections within the building, such as water, electric, gas, sewer and other connections. A permit to demolish or to remove a building shall not be issued until it is ascertained that service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner. Excavations shall be filled with solid fill to match lot grade within five (5) days of removal of the structure. Any excavation shall be protected with appropriate fences, barriers and/or lights.

#### **14.09 INSPECTIONS.**

- (1) **COORDINATED INSPECTIONS.** All provisions of the laws and regulations of the Village and of legally adopted rules of local fire and health officials in respect to the operation, equipment, housekeeping, fire protection, handling and storage of flammable materials, liquids and gases and the maintenance of safe and sanitary conditions of use in occupancy in all buildings shall be strictly enforced by the administrative officials to whom such authority is delegated. Whenever inspection by any authorized enforcement officer discloses any violation of the provisions of this Code, or of any other rules, regulations or laws, he/she shall immediately notify the administrative officer having jurisdiction of the violation.
- (2) **CERTIFIED REPORT.** The Building Inspector may require a certified report of all required inspections as regulated by this Code from the registered architect or registered engineer supervising the construction of any building, structure or

equipment requiring their supervision. Such certified report shall state, in detail, that all construction work has been executed in accordance with all of the regulations of this Code, approved plans, specifications, terms of the permit and, further, that such construction work was executed in accordance with accepted architectural and engineering standard procedures.

- (3) **BOARD OF APPEALS OR OTHER ASSIGNED BOARD OR COMMISSION.** Any person feeling himself aggrieved by any order or ruling of the Building Inspector may appeal from such ruling to the Board of Appeals within twenty (20) days after written notice of such ruling shall have been delivered to said person. Such appeal is to be in writing, setting forth the order appealed from and the respects in which said person claims that said order on ruling is erroneous or illegal. Said notice of appeal shall be filed with the Clerk, who shall thereupon notify the Building Inspector of said appeal, and the appeal shall be heard at the next meeting of the Board of Appeals. The said Board of Appeals, after consideration thereof, shall affirm, reverse or modify said ruling as is just in the premises. The ruling or order of the Inspector shall be enforced until changed by said Board of Appeals.

#### **14.10 STOP WORK ORDER.**

Whenever the provisions of this Code or of the plans approved thereunder are not complied with, a stop work order shall be served on the owner or his representative and a copy thereof shall be posted at the site of the construction. Such stop work order shall not be removed except by written notice of the Building Inspector after satisfactory evidence has been supplied that the violation has been corrected.

#### **14.11 CERTIFICATE OF OCCUPANCY.**

##### **(1) INSPECTIONS.**

- (a) The Building Inspector shall make a final inspection of all new buildings, additions and alterations. If no violations of this or any other ordinance can be found the Building Inspector may issue a certificate of occupancy, stating the purpose for which the building is to be used.
- (b) No building, nor part thereof, shall be occupied until such final inspection or certificate has been issued, nor shall any building be occupied in any manner which conflicts with the conditions set forth in the certificate of occupancy.

##### **(2) USE DISCONTINUED.**

- (a) Whenever any building or portion thereof is being used or occupied contrary to the provisions of this Code, the Building Inspector shall order such 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 thereof within ten (10) days after receipt of the notice or make the building, or portion thereof, comply with the requirements of this Code.

- (b) Any building, structure or premises, or any part thereof, hereafter vacated or damaged by any cause whatsoever so as to jeopardize public safety or health, shall not hereafter be occupied or used under an existing certificate of occupancy or without the same, until an application has been filed and a new certificate of occupancy issued.
- (3) **CHANGE.** It shall be unlawful to change the use of any building, structure, premises or part thereof, without first obtaining, from the Building Inspector, an approval of such change in the occupancy or use and a certificate of occupancy therefore.
- (4) **HARDSHIP.** The Building Inspector shall have the authority and power to permit the occupancy of any building or structure in the municipality, prior to issuance of an occupancy certificate, in all such cases of hardship, as in his/her judgment and discretion, warrant occupancy before final stage of completion as set forth in this Code. Before granting such permission, the Building Inspector shall first examine the premises and determine if it is safe and sanitary. The Building Inspector shall determine the time within which such building or structure can be completed. Such time should not exceed one hundred twenty (120) days.

#### **14.12 PROPERTY MAINTENANCE CODE.**

- (1) **PURPOSE.** The purpose of this section is to recognize the private and public benefits resulting from the safe, sanitary and attractive maintenance of residential and non-residential buildings, structures, yards or vacant areas by adopting minimum standards. Attractive and well-maintained property will enhance the neighborhood and the Village as a whole by maintaining physical, aesthetic and monetary values. With respect to rental housing, it is necessary to adopt minimum regulations regarding human habitation to protect the health, safety, and general welfare of tenants within the Village. In sum, this section will preserve and promote the public health, safety, comfort, convenience, prosperity and general welfare of the people of the Village of Sturtevant and its environs.
- (2) **PROHIBITION.** No person shall allow or permit any building or structure, whether dwelling, non-dwelling, or accessory on his/her property, including the premises

surrounding such building or structure, to remain in or deteriorate to a condition that is not in accord with the following provisions:

(a) Ceilings, Walls and Foundations.

1. Every wall and ceiling shall be free of holes, breaks, loose, rotting or missing boards, timbers or other building materials or any other conditions which might admit rain or dampness to the interior portions of walls, or to the occupied spaces of the building.
2. Every foundation and exterior wall shall be reasonably weather tight, rodent proof, insect proof and shall be kept in a good and sound condition and state of repair. The foundation elements shall adequately support the building at all points. Any sagging or bulging shall be properly repaired to a level or plumb position. All chimneys and breeching shall be so constructed and maintained so as to ensure that they safely and properly remove the products of combustion from the building.

(b) Paint and Other Preservatives. Exterior surfaces of buildings, fences and other structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint or other preservative shall be maintained so as to prevent chipping, cracking or other deterioration of the exterior surface or the surface treatment and to present an attractive appearance. Missing or damaged siding shall be promptly replaced.

(c) Doors, Windows and Basement Hatchways.

1. Every window, screen, exterior door and basement hatchway shall be tight and shall be kept in a good and sound condition and state of repair. Every window sash shall be fully supplied with glass windowpanes or an approved substitute which is without open cracks or holes. Every window sash shall be in good condition and fit well within its frame.
2. Every exterior door, door hinge and door latch shall be maintained in a good and sound condition and state of repair. Exterior doors, when closed, shall fit well within their frames.

(d) Porches, Railings, Stairways, Decks, Balconies, Platforms and Patios. Every outside stair, porch, balcony, platform, patio and appurtenance thereto, shall be so constructed to be safe to use and capable of supporting normal loads as

required by the Building Code and shall be kept in a good and sound condition and state of repair.

(e) Roofs and Drainage.

1. All roofs shall be maintained so as not to leak and all water shall be so drained and conveyed therefrom so as to not cause damage to the exterior walls, interior walls, eaves, soffits or foundations.
2. All courts, yards or other areas on the premises shall be properly graded to divert water away from the building. Ground surface adjacent to the building shall be sloped away from the structure where possible.

(f) Fence and Retaining Wall Requirements.

1. All fences shall be properly maintained and kept in a good and sound state of repair.
2. Retaining walls shall be structurally sound. No retaining wall shall be constructed or maintained in such a manner as to cause a repeated spillage of mud, gravel or debris upon any public sidewalk, street, alley or adjoining property.

(g) Exterior Property Areas. All exterior property areas shall be properly maintained in a clean and sanitary condition free from debris, rubbish or garbage, or physical hazards, rodent harborage and infestation, or animal feces.

(h) Landscaping. All exterior property areas shall be kept free from noxious weeds as defined in Chapter 10 of these ordinances. Landscaping, plantings and other decorative surface treatments including common species of grass shall be installed if necessary and maintained to present an attractive appearance in all court and yard areas.

(i) Public Nuisances. All buildings, structures, and surrounding premises shall be nuisance free as required under Chapter 10 of these ordinances and Chapter 823 of the Wisconsin Statutes.

(3) PROHIBITION AS TO RENTAL HOUSING.

(a) Scope. The provisions of this subsection shall apply to all dwelling units within the Village, all or a portion of which are rented, except such buildings as shall be subject to the Wisconsin Uniform Dwelling Code and to which this section is prohibited in its application.



- (b) Definitions. The following definitions shall apply in the interpretation and enforcement of this section:

*Cellar.* A portion of a building located partly or wholly underground, but having ½ or more of its clear floor to ceiling heights below the average grade of the adjoining ground.

*Dwelling.* Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

*Dwelling Unit.* Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating by one family.

*Habitable Room.* A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, laundries, pantries, foyers, communication corridors, closets and storage spaces.

*Building Inspector.* The Building Inspector of the Village or his or her authorized representative.

*Lodging House.* A residential building or portion thereof containing lodging rooms which accommodate in the aggregate 3 or more persons who are not members of the keeper's family, for which lodging or meals or both, or lodging and kitchen privileges are provided for compensation.

*Lodging Room.* A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. Includes a room or rooms so rented in a single family dwelling or dwelling unit.

*Occupant.* Any person over one year of age living, sleeping or eating or having actual possession of a dwelling unit.

*Owner.* Any person who, alone or jointly or severally with others shall be the record holder of the title, with or without actual possession thereof, or who has charge, care or control of any dwelling as agent of the owner or as executor, administrator, trustee or Guardian of the estate of the owner.

*Person.* Includes owners, their agents, tenants and any individual, firm, corporation, partnership or association.

- (c) Standards For Basic Equipment and Facilities of Habitable Living Quarters. No person shall occupy as owner or let to another for occupancy any dwelling or dwelling unit within the scope of this section for the purpose of living or sleeping therein, which does not comply with the following requirements for healthful living:

1. Toilet and Lavatory. Every dwelling unit shall contain a water flush toilet within a room which affords privacy to a person in such room. Artificial light shall be provided. Toilet and lavatory rooms shall be provided with reasonably adequate ventilation by mechanical means or by natural means, and if by natural means, the openings shall not be less than 3½% of the floor area or minimum exhaust ventilation of 50 cfm, and in no event shall be less than 1½ sq. ft. in area. Every dwelling unit shall contain a lavatory basin, preferably but not exclusively in the same room as the toilet. Such toilet and lavatory basins shall be connected to public water and sewer systems and shall be maintained in a good and sanitary working order by the owner.
2. Bathing Facilities. Every dwelling unit shall contain within a room which affords privacy to a person in the room, a bathtub or shower, which shall be connected to public water and sewer systems and shall be maintained in a good and sanitary working condition by the owner.
3. Multiple Use. The occupants of a lodging house or lodging rooms or not more than 2 dwelling units may share a single water flush toilet and a single bathtub or shower if:
  - a. The number of occupants sharing such facilities does not exceed 10.
  - b. The toilet and bathtub or shower are within a room separate from the habitable rooms and is accessible to the occupants of each dwelling unit without going through the dwelling unit of another or outside the building.
  - c. The toilet or shower room is on the same floor with or not more than one floor above or below the dwelling unit it serves.
4. Lighting. Artificial light shall be provided in all common or public spaces within a dwelling.
5. Kitchen Facilities. Every dwelling or dwelling unit shall have a specific kitchen space containing a sink with counter, work space, hot and cold running water and adequate space for the installation of cooking and

refrigeration equipment and for storing cooking utensils. All such facilities shall be maintained in a good and sanitary working condition by the owner.

6. Water Supply. Every lavatory basin, bathtub and shower shall be connected with operable hot and cold water lines.
7. Water Heating Facilities. Every dwelling unit shall have properly installed water heating facilities of not less than 30 gals. capacity, which shall be capable of heating water to such a temperature as to permit water to be drawn at every required lavatory basin, bathtub or shower or sink at a temperature of not less than 110°F. The water heating facilities shall be maintained in a good and safe working condition and shall be properly connected to the hot waterlines required under provisions of pars. (e) and (f) above.
8. Insect Protection. When flies are prevalent, windows and door openings into the outer air shall be effectively screened. Screen doors shall be self-closing. Screens shall be hung not later than June 1 of each year.
9. Space. Every dwelling unit shall contain at least 150 sq. ft. of floor space for the first occupant thereof and 100 sq. ft. for every additional occupant thereof; provided that:
  - a. Floor area shall be calculated on the basis of total habitable room area.
  - b. At least ½ of the floor area of every habitable room shall have a ceiling height of at least 7'; and the floor area of that part of any room where the ceiling height is less than 4' shall not be considered as part of the floor area in computing the total floor area of the dwelling unit for determining the maximum permissible occupancy.
  - c. Each child over the age of one year shall count as one person in the maximum permissible occupancy.
10. Bedroom Space. There shall be provided in each dwelling unit a suitably private space used for sleeping. A bedroom shall not be used as the only means of access to another habitable room other than another bedroom.
11. Heating. Every dwelling or dwelling unit designed or intended to be used or actually used for dwelling purposes shall be equipped, maintained and operated with a heating system which at all times is capable of

maintaining minimum temperatures of 67°F in all bathrooms and toilet compartments with an outside temperature of -10°F.

12. Electric Service. Every habitable room shall contain either 2 or more separate floor or wall type electric convenience outlets or one such convenience outlet and one supplied ceiling type or wall type electric fixture. Every bathroom, laundry room, furnace room and public hall shall contain at least one supplied ceiling or wall type electric fixture. Every such outlet and fixture shall be properly installed and connected to the source of electric power and shall be maintained in good and safe working condition by the owner.
13. Plumbing Fixtures. Every plumbing fixture required under this section shall be maintained by the owner so as to be reasonably impervious to water and easily cleaned.
14. Toilet and Bathroom Floors. The floors of all toilet rooms and bathrooms shall be constructed and maintained by the owner so as to be reasonably impervious to water and easily cleaned.
15. Discontinuance of Service. No occupancy shall be permitted in any dwelling or dwelling unit to which the electrical, water or gas service has been disconnected, except for such temporary interruptions as may be necessary while actual repairs or alterations are in progress or during a temporary emergency when discontinuance of service is approved by the enforcing officer.
16. Cleanliness. Each dwelling or dwelling unit, including surrounding grounds and accessory structures shall be kept in a clean and sanitary condition. Prior to moving, vacating or relinquishing occupancy or control, each dwelling or dwelling unit shall be made free of all garbage, rubbish and refuse.
17. Extermination of Pests. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises. The owner of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination within the unit. Extermination of any infestation in a dwelling unit shall be the responsibility of the owner when the condition may have been caused by a previous occupant.

- (4) **ENFORCEMENT.** This section shall be enforced by the Building Inspector for the Village of Sturtevant or, with respect to subsection (2), the Building Inspector or the

Village Board's designee. The Building Inspector shall prohibit or terminate the occupancy of any dwelling or dwelling unit which is unfit for human occupancy under the provisions of this section until the necessary corrections have been made.

- (a) Enforcement Procedures. The Building Inspector or the Village Board's designee shall on his/her own motion or upon written complaint made by another, inspect any property within the scope of this Section to determine compliance to this and related Village ordinances. Any necessary reinspection shall be subject to the reinspection fee set by the Village Board. Any unpaid reinspection fee shall be collected as a special charge against the property under 66.0627, Stats.
- (b) Access to Property. The Building Inspector or the Village Board's designee after proper identification shall be permitted to enter upon any property at any reasonable time for the purpose of making inspections to determine compliance with this and related ordinances. If denied access the Building Inspector or the Village Board's designee may acquire an Inspection Warrant for such access.
- (c) Notice of Violation. Whenever the Building Inspector or the Village Board's designee finds upon inspection any violation of this section, he or she shall notify the owner, occupant or agent responsible therefor by means of a written notice of violation. In such notification the Building Inspector or the Village Board's designee shall set forth the specific condition found, the correction necessary to bring about compliance and a specific and reasonable time for such correction and compliance. Each condition continued or repeated after the time specified in such notification shall constitute a separate violation of this section.
- (d) Service of Notice. Each notice or order provided under this section shall be deemed to have been properly served when it has been delivered personally or mailed postage prepaid to the owner, occupant or agent, as the case may be, of the dwelling or dwelling unit which is the subject of such notice or order.
- (e) Occupancy of Rental Unit After Notice. Upon the failure of the owner, occupant or agent, after due notice to comply with the provisions of this section within the time prescribed by the Building Inspector, the subject dwelling or dwelling unit shall be considered unfit for human habitation, occupancy and use and shall be so designated and placarded by the Building Inspector in accordance with §66.05, Wis. Stats. Any dwelling or dwelling unit designated as unfit for human habitation shall be vacated within 30 days after due notice to the owner and occupant by the Building Inspector and shall not again be used for human habitation until the corrections prescribed by the Building Inspector have been made.

- (f) Appeal. Any person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this section may request and shall be granted a hearing before the Village Board. Requests for such hearing will be filed with the Clerk/Treasurer no later than 3 business days from the date of the notice or order.
- (g) Emergency Enforcement Procedure. Notwithstanding any other provisions of this section, if the Building Inspector determines that any dwelling is so damaged, decayed, dilapidated, dangerous, unsanitary, unsafe or vermin infested that it creates a hazard to the health or safety of the occupants or the public, the Building Inspector may placard such dwelling and within 24 hours thereafter serve notice to the occupant and owner or his agent responsible therefor, as the case may be, that the dwelling is unfit for human habitation and that it shall be vacated within a responsible time as ordered by the Building Inspector. The appeal procedure referred to in par. (f) above shall apply to any order for vacation made by the Building Inspector under this paragraph.
- (h) Appeals to the Village Board. The Village Board shall conduct a hearing on any appeal filed by any person affected by any notice or order issued in connection with the enforcement of the provisions of this section. A majority vote shall be required to reverse any order, requirement, decision or determination of the Building Inspector or the Village Board's designee, or to decide in favor of the applicant on any matter upon which it is required to pass under this section.
- (i) Notification of Vacant Apartment. The owner or caretaker of any rental dwelling or rental dwelling unit shall notify the Building Inspector of any vacant apartment within 72 hours of vacation. The Building Inspector shall then inspect the vacant dwelling or dwelling unit to ensure that the requirements of this section are met prior to the issuance of an occupancy permit. Inspection and occupancy permit fees shall be as determined by the Village Board from time to time.

(5) PENALTIES.

- (a) Any person who violates any of the provisions of this section shall upon conviction, forfeit not less than \$100 or more than \$500, together with costs of prosecution.
- (b) Each day a violation of this section exists after service of notice of such violation by the Building Inspector shall constitute a separate violation.

## GARAGES AND ACCESSORY BUILDINGS

**14.20 GENERAL REQUIREMENTS.****(1) DEFINITIONS.**

- (a) *An attached private garage* shall mean a private garage attached directly to the principal building, or attached by means of an enclosed or open breezeway, porch, terrace or vestibule, or a private garage so constructed as to form an integral part of the principal building.
- (b) *A detached private garage* shall mean a private garage entirely separated from the principal building.
- (c) *Accessory buildings* shall conform to all requirements of this section.

**(2) LOCATIONS.** Detached garages shall be governed by applicable setback provisions contained in the Village Zoning Code.**(3) AREA.** All private detached garages shall be governed by the applicable area requirements contained in the Village Zoning Code.**(4) FOUNDATIONS AND FOOTINGS.** Attached private garages shall be provided with the same type footings and foundations as required herein for the principal building. Concrete floors shall be not less than four (4) inches in thickness. Detached private garages may be built with a continuous floating slab of reinforced concrete not less than four (4) inches in thickness. Reinforcement shall be a minimum of number 10 six by six (6" x 6") inch wire mesh. The slab shall be provided with a thickened edge all around, eight (8) inches wide and eight (8) inches below the top of the slab. The thickened edge shall have two (2) #4 horizontal reinforcement bars placed at the center. The lower reinforcement bar shall be set two (2) inches above the bottom of the thickened edge and the upper reinforcement bar shall be set six (6) inches above the bottom of the thickened edge. Exterior wall curbs shall be provided not less than four (4) inches above the finished ground grade adjacent to the garage. Bolts three-eighths ( $\frac{3}{8}$ ) inches in diameter with nuts and washers attached, six (6) inches long, shall be embedded three (3) inches in the concrete curb of detached garages, eight (8) feet on centers.

**FLOOR SURFACE.** The floor in all private garages shall be of concrete construction and sloped toward the exterior garage door or opening. No openings or pits in the floor shall be permitted, except for drainage.

## (5) CONSTRUCTION. Private garages shall be constructed as follows:

- (a) Load bearing foundation walls and partitions shall be constructed as herein regulated except as stated above.
- (b) Detached private garages of wood frame construction shall be constructed with the following requirements.
  - 1. Studs may have a maximum spacing of twenty-four (24) inches on centers.
  - 2. Diagonal comer bracing shall be installed on both walls at each corner. Diagonal comer bracing may be applied on the inside surface of studs.
  - 3. Comer posts may consist of two (2) two by four (2 x 4) inch studs or a single four by four (4 x 4) inch stud.
  - 4. Collar beams at the top plate and collar ties in the upper one third of the roof shall be installed with a maximum spacing of forty-eight (48) inches on center. Collar beams may be two by six (2 x 6) inch. Collar ties shall be at least two by four (2 x 4) inch for roof slopes less than four (4) inches per foot. A one by six (1 x 6) inch collar tie may be used for roof slopes four (4) inches per foot or greater.
  - 5. Detached garage roofs shall be framed in accordance with the applicable requirements of §Comm 21.28, Wis. Admin. Code.

## DECKS

**14.30 GENERAL REQUIREMENTS.**

## (1) DEFINITIONS.

- (a) Deck: Any outdoor structure which serves as a raised horizontal platform or floor which is constructed of wood or other materials, without enclosing walls or roof. For purposes of the requirements of this Section and of the setback requirements of Section 17.30(2)(c), “deck” shall also include a “porch,” which is defined as a roofed area, which may be glazed or screened, attached to or part of and with direct access to or from a principal structure..
- (b) Attached deck: Any deck which is physically connected to the principal building or accessory structure.



- (c) Detached deck: Any deck which is not physically attached to the principal building or accessory structure.

(2) SOIL AND EXCAVATION REQUIREMENTS FOR DECK PIERS OR FOUNDATIONS.

- (a) No pier shall be placed on soil with a bearing capacity of less than 2,000 lbs. per square foot unless the pad support is designed through structural analysis.
- (b) All organic material (roots, etc.) shall be cut off at the sidewalls of the borings or trench. All organic and loose material must be removed from the cavity area prior to pouring concrete.

(3) DECKS PIERS, PADS AND FOUNDATIONS.

- (a) General footings, pads or piers shall be of adequate bearing area to safely distribute all live and dead loads to the supporting soil without exceeding the bearing capacity of the soil.
- (b) Type and size of concrete pads, piers or foundations.

1. Decks attached to principal buildings.

- a. Concrete Pads. The minimum depth of a pad shall be 48” below grade. The minimum dimensions of this pad shall be 4” in depth and 8” in diameter.
- b. Piers. The minimum depth of concrete piers shall be 48” below grade. The minimum dimension of this pier shall be 8” in diameter. (The concrete pier(s) shall extend a minimum of 6” above grade unless an approved mounting bracket is secured at the top surface of the pier(s)).
- c. Direct burial wood posts shall be placed on a minimum 2” normal thickness treated plat or other approved materials at a uniform depth below grade. Posts shall be treated to the requirements of the American Wood Preserver’s Association (AWPA) standards C2 and C15, for direct soil contact 4” below grade. Posts shall be a minimum of 4’ below grade.

(4) FRAMING.

- (a) General Requirements.

1. *Materials.* All wood framing used in deck construction shall be pressure treated against decay or shall be a species of wood that is naturally decay resistant or shall be protected from weather.
2. *Design loading.* Decks shall be designed for a minimum of a 40 pound per square foot loading.
3. See fastener schedule for nailing requirements.

(b) Column Posts.

1. *Column spacing.* Column posts shall be spaced per “Table No. 2”.
2. *Column size.*
  - a. All column posts not exceeding six (6) feet in height shall be a minimum of four inches by four inches (4 x 4) nominal thickness.
  - b. All column posts exceeding six (6) feet in height shall be a minimum of six inches by six inches (6 x 6) nominal thickness.
3. *Lateral support.* Column posts shall be constructed in such a manner or mechanically attached to the deck foundation to resist lateral movement.

(c) Beams.

1. *Beam Size.* All beams shall be sized per “Table No. 2”.
  - a. Beams, except as otherwise noted in “Table No. 2”, shall be a minimum of two (2), two (2) inch thick members or one (1) four (4) inch thick member (i.e., 2 2 x 8 or 1 4 x 8).
  - b. Beams may be spaced on each side of the post provided that blocking is installed a minimum of twenty four (24) inches.
2. *Bearing.* Beams bearing directly on the posts shall be attached by means of approved metal anchors or other approved methods.
3. *Ledger boards.* Ledger boards attached directly to the house or other structure may be used to replace a beam or beams. A single member of equal depth to the required size beam shall be used. The ledger board shall be attached with bolts, lag bolts or nails, spaced no less than 16

inches on center, and secured directly into the building structure. Flashing shall be installed between the ledger and building structure.

4. Beams shall not be cantilevered more than twelve (12) inches past the column post.

(d) Joists.

1. *Joist size.* All deck joists shall be sized and spaced per “Table No. 2”.
2. *Bearing.* Deck joists shall bear a minimum of one and one half (1½) inches on the beam or ledger board. Joists fastened to the face of the beam or ledger shall be attached with approved metal hangers.
3. *Bridging.* Bridging shall be provided at intervals not exceeding eight (8) feet.
4. *Overhanging of joists.* Joists which are at right angles to the supporting beam shall not be cantilevered more than two (2) feet past the supporting beam, unless designed by structural analysis.

(e) Decking.

1. *Material.* All decking material shall be a minimum of one and one quarter (1¼) inches thick, nominal thickness. One inch decking may be used provided that the joists are spaced no more than 16” o.c.
2. *Decking Orientation.*
  - a. Decking shall be installed diagonally or at right angles to the joists.
  - b. Decking shall be centered over joists with cuts made parallel to joists. Not more than two adjacent boards may break joints on the same joist except at ends and at openings.

(f) Guardrails and handrails.

1. Guardrails. All decks which are more than twenty four (24) inches above grade shall be protected with guardrails.
2. Handrails. Every stairway of more than three (3) risers shall be provided with at least one handrail. Handrails shall be provided on the open sides of stairways.

3. Guardrails and handrail detail.

- a. Height. Handrails shall be located at least thirty (30) inches, but not more than thirty four inches, above the nosing of the treads. Guardrails shall be located at least thirty six (36) inches above the surface of the deck.
- b. Open railings. Open guardrails or handrails shall be provided with intermediate rails or an ornamental pattern to prevent the passage of a sphere with a diameter greater than six (6) inches.
- c. Railing loads. Handrails and guardrails shall be designed and constructed to withstand a 200 pound load applied in any direction.

(g) Stairway, treads and risers.

- 1. *Risers.* Risers shall not exceed eight (8) inches in height measured from tread to tread.
- 2. *Treads.* Treads shall be at least nine (9) inches wide, measured horizontally from nose to nose.
- 3. *Variation.* There shall be no variation in uniformity exceeding 3/16 inch in the width of a tread or in the height of risers.
- 4. Stair stringers shall be supported in accordance to the same manner as used for the deck.

(h) Alternative provisions and methods.

- 1. *Wood Decks.* Wood decks attached to the dwelling may be constructed to the Uniform Dwelling Code standards listed below.
  - a. Excavation requirements of §Comm 21.14
  - b. Footing requirements of §Comm 21.15
  - c. Frost penetration requirements of §Comm 21.16
  - d. Load requirements of §Comm 21.02
  - e. Stair, handrail and guardrail requirements of §Comm 21.04

- f. Decay protection requirements of §Comm 21.10
- 2. New materials and methods shall comply with the provisions of Section 14.60.
- 3. *Detached decks.*
  - a. Concrete pads shall be provided at a uniform depth below grade with all loose or organic material moved from the pad area prior to placement of concrete. The pad shall have a minimum depth of 4” thick and 8” in diameter.
  - b. Piers—The minimum of 8’ diameter concrete piers shall be at a uniform depth below grade.
  - c. Direct burial wood posts shall be placed on a minimum 2” nominal pressure treated plate or other approved materials at a uniform depth below grade. Posts shall be treated to at a uniform depth below grade. Posts shall be treated to CCA.40 for direct soil contact.
  - d. Ground contact framing shall be allowed for decks which are less than 24” above grade. All materials in direct contact with the soil shall be treated to the requirements of the American Wood Preservers’ Association (AWPA) Standards C2 and C15.

## SWIMMING POOL REQUIREMENTS

### **14.40 GENERAL REQUIREMENTS.**

#### **(1) TYPE OF POOLS REQUIRING PERMITS.**

- (a) Above ground pools (except wading pools having a depth of less than two (2) feet and which are readily movable).
- (b) Inground pools.
- (c) Public pools. All public pools constructed shall be built and maintained in accordance with the rules of the State Board of Health, Chapter HFS 172.

#### **(2) GENERAL POOL REGULATIONS.**

- (a) Location.

1. No person, firm or corporation shall have a swimming pool located in the front yard nor less than five (5) feet from any lot line or building wall, and in the case of lots bordered on two sides by public streets, no swimming pool may be erected in the area between the setback lines or the main building and the street right-of-way.
2. Swimming pools shall be located from well and septic systems in accordance with the Wisconsin State Plumbing Code.

(b) Access.

1. A fence or other solid structure of not less than 4 feet in height shall completely enclose said premises and/or swimming pool. There shall be no opening in said fence or wall larger than six (6) inches square. All gates or doors opening through such enclosure shall be kept securely closed at all times while unattended and shall be equipped with a self-closing and self-latching device designed capable of keeping such door or gate securely closed. Latches shall be located at least three (3) feet above the ground, accessible deck or stairs.
2. A fence is not required around an above ground pool where the pool wall is at least 4 feet above grade for the full pool perimeter. The finished grade shall be maintained for a minimum of 4 feet beyond the outside perimeter of the pool.
3. When not completely fenced, all ladders, steps or other means of access to an above ground pool shall be removed and/or designed to prevent access when the pool is unattended.

(c) Swimming Pool Decks. All decks shall be constructed in accordance with the Uniform Building Code. Decking shall be considered an integral part of the swimming pool and shall comply with the applicable setback dimensions per the Sturtevant zoning code.

(d) Drainage. No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer or septic tank nor to overflow upon or cause damage to any adjoining property. Provision may be made for draining the contents of any swimming pool into a storm sewer, but such installations shall be subject to prior approval of the Plumbing Inspector and Health Inspector.

(e) Lighting. Lights shall be erected so as to eliminate direct rays and minimize reflected rays of light onto adjoining properties and roadways. Lighting

installation shall be done in accordance with the State of Wisconsin Electrical Code.

- (f) Electrical. Separation from overhead and underground electrical wiring shall be in accordance with the State of Wisconsin Electrical code and/or local code. Required electrical wiring supplying all pools shall be installed in accordance with Article 680 of the National Electrical Code.

(4) APPLICATION FOR PERMIT. The following information is necessary:

- (a) Survey or accurate drawing of the property, IN DUPLICATE, showing all existing structures, proposed swimming pool location, fencing if required, and overhead or underground electrical wiring.
  - 1. Type of pool installation, above ground or inground.
  - 2. Pool height above highest point of grade if above ground installations.
  - 3. Type and height of fence, if proposed.
  - 4. Type and support of decking, if proposed.
  - 5. Overall size and locations of the above in regard to existing buildings and lot lines for property survey reference.
  - 6. Any change in finished grade near pool.
  - 7. County Health Department approval for properties using a private septic system, where applicable.
  - 8. Site inspection letter from a local wiring utility.
- (b) Two (2) copies of brochure which shows the type, style, etc. of the pool to be installed.

## FOUNDATION REPAIR AND DAMPPROOFING

### **14.50 FOUNDATION REPAIRS AND DAMPPROOFING.**

- (1) Application for permit shall include a statement of the existing defects, and an analysis of the cause of those existing defects to ensure that all conditions responsible for foundation defects are corrected.

- (2) Plans and/or specifications must be submitted for approval prior to issuance of a permit.

(3) GENERAL FOUNDATION REQUIREMENTS.

- (a) Walls that are not plumb may be reinforced if supported by engineering data showing benefit of the reinforcing.
  - 1. When repairing any portion of a wall that is not near as plumb as possible that portion must be excavated.
  - 2. When the affected repair includes porches or stoops, frost depth to the uniform code requirements must be met.
- (b) The excavated wall must be cleaned, loose parting removed, cracks and parging must be repaired with Type M mortar or equal, and walls made plumb and damp proofed with one coat of bituminous material or other approved materials.
- (c) If drain tile is not present in the affected area, a drain tile system must be installed and terminated in a newly installed sump with pump or in a properly functioning existing drain collection system provided that it does not discharge to the sanitary sewer.
- (d) Prior to backfill, an inspection is required by the department after which backfill with number one washed stone shall be provided to within eighteen inches of final grade.
- (e) Final grade must ensure drainage away from the foundation.
- (f) Pilasters must be made integral with the exterior wall and reinforced with at least two number three rods and filled with 3000 PSI cement grout material. Pilasters must be a maximum of four feet apart.
- (g) Any other form of reinforcing will require engineered data to be submitted at the time of permit application to include complete system analysis.
- (h) Affected walls to be repaired shall have loose or cracked mortar joints cleaned to a minimum depth of ½” and tuckpointed with type M mortar or equal.
- (i) When installing weep holes in foundation walls, care must be taken to provide adequate drainage from weep holes to drain tile by either stone or mechanical means. No more than one mechanically drilled weep hole is permitted per cell.



When the floor is replaced, a minimum of 3” of concrete shall be placed over the drain tile and a minimum of 2” of concrete over the footing. Lateral support must be maintained at the floor level. An exception to match the existing concrete floor level is allowed.

- (j) Drain tile placed under the basement floor shall be of the approved type not less than 3” in diameter and shall be covered with number 1 washed stone connected to a proper sump with pump or an existing city storm water system. All exposed bleeders must be open. The sump pit must discharge to grade or be equipped with a pump to discharge water away from the dwelling.

## FIRE-RELATED PROVISIONS

### **14.60 FIRE LIMITS; INFLAMMABLE OILS AND EXPLOSIVES.**

- (a) There shall be a limit of 2 gallons of gasoline, naptha, benzine, camphine, spirit gas, kerosene or spirits of turpentine kept by any resident within the corporate limits of the Village within a single family residence or on the property. Storage will be in approved U.L. containers and stored in garages, sheds or utility buildings only.
- (b) There shall be a limit of one gallon of the above liquids kept on any 2 family or multifamily residence or on the property.
- (c) There shall be no storage of the above liquids in underground tanks on the premises of any one or 2 family dwellings.
- (d) There shall be a limit of 5 barrels in all or one barrel of each with a capacity of 50 gals. of any of the above stated liquids kept by any firm or corporation for sale or storage within the Village, in any part of a building or warehouse as shall be declared proper for such purposes by the Village Board and written permission granted by the Village Board as provided in this section.
- (e) **PLACING ON STREET.** No crude petroleum, kerosene, gasoline, naptha, benzine, carbon oil, camphine, spirit gas or burning fluid may be kept or stored in front of any building or on any street, alley, sidewalk or lot for a longer time than is sufficient to receive it in store or deliver the same, and in no case shall such time exceed 8 hours.

**14.61 AUTOMATIC FIRE SPRINKLERS.**

- (1) **DEFINITIONS.** As used in this section, the following words and phrases shall have the meanings stated below:

Approved. As applied to automatic fire sprinkler equipment means approval by the authority charged with the enforcement of this section. As applied to automatic fire sprinklers and devices means approval by a recognized testing laboratory.

Area. The maximum horizontal projected area on one floor of buildings or structures within the exterior walls or between approved fire walls.

Automatic fire sprinkler equipment. A system of water supply pipes and orifices to apply water to a fire when activated by an automatic, manual or remote control device.

Basement. Any story where less than half the height between the floor and ceiling is above the average level of street, sidewalk or finished grade.

Combustible. A material or structure which can burn. Combustible is a relative term; many materials which will burn under one set of conditions will not burn under others, e.g., structural steel is noncombustible, but fine steel wool is combustible. The term combustible does not usually indicate ease of ignition, burning intensity or rate of burning, except when modified by a word as “highly” or as “highly combustible interior finish.”

Fire-resistive. The type of construction in which the structural members, including walls, partitions, columns, floor and roof construction are of noncombustible materials with fire-resistive ratings not less than those specified in Ch. Comm 51, Wis. Admin. Code.

Fire wall. A wall which has a fire resistive rating of not less than 2 hrs. and which subdivides a building or separate buildings to restrict the spread of fire.

Incombustible. The same as noncombustible.

Noncombustible. (N.C.) Not combustible.

Nonflammable. Not flammable.

Multifamily Dwelling” means an apartment building, rowhouse, town house, house, condominium or manufactured building, as defined in Wis. Stat. §101.71(6), that does not exceed sixty (60) feet in height or six (6) stories and that consists of three

(3) or more attached dwelling units the initial construction of which is begun on or after January 1, 1993. "Multifamily dwelling" does not include a facility licensed under Chapter 50 of the Wisconsin Statutes.

Story. That part of a building comprised between a floor and the floor or roof next above.

(2) **INSTALLATION REQUIRED.** Every building or structure hereafter constructed in the Village shall have an approved automatic sprinkler system installed and maintained when occupied in whole or in part for the following purposes:

(a) Buildings for the manufacture, storage or sale of combustible goods or merchandise.

1. *Fire-resistive buildings.* Throughout every fire-resistive building occupied in whole for the manufacture, storage or sale of combustible goods or merchandise if any of the following apply:
  - a. Over 10,000 sq. ft. in area.
  - b. Over one story in height and exceeding 6,000 sq. ft. in area.
  - c. Over 4 stories in height, regardless of area.
2. *Nonfire resistive buildings.* Throughout every nonfire resistive building occupied, in whole or in part, for the manufacture, storage or sale of combustible goods or merchandise if any of the following apply:
  - a. Over 7,000 sq. ft. in area.
  - b. Over one story in height, and exceeding 4,000 sq. ft. in area.
  - c. Over 3 stories in height, regardless of area.

(b) Garages. Throughout the following garages if any of the following apply:

1. In fire-resistive buildings over 10,000 sq. ft. in total area or exceeding 4 stories in height.
2. In nonfire resistive buildings over 6,000 sq. ft. in total area or exceeding 4 stories in height.

3. Basement and sub-basement garages and garages above or below other occupancies in excess of 3 passenger vehicles.
  4. Garages used as passenger terminals.
- (c) Basements. Basements having an area exceeding 2,500 sq. ft. when used for the manufacture, sale or storage of combustible goods or merchandise.
1. Where automatic sprinklers are required in a basement only, the supply shall be from a public water main. Where there is no public water supply, such basement sprinklers need not be installed, but at such time as a public water supply becomes available, such required basement sprinklers shall be installed.
  2. Every basement sprinkler system shall also include sprinklers in all shafts, except elevator shafts, leading to the story above.
- (d) Multifamily Dwellings. Pursuant to Wisconsin Administrative Code §SPS 362.0903(5), an automatic sprinkler system shall be installed in all newly constructed multifamily dwellings.
- (e) Theaters and assembly halls.
1. Throughout all buildings of nonfire resistive construction.
  2. In buildings of fire resistive construction in such places as the stage, under the roof of the stage, gridiron, fly galleries and bridges, in dressing rooms, work rooms, property rooms and on the stage side of the proscenium opening.
- (f) Hospitals.
1. Throughout all buildings of nonfire restrictive construction.
  2. In buildings of fire resistive construction throughout all basements, kitchens, shops, laundries, laboratories, stairways, corridors and throughout all other areas where combustible materials are handled or stored.
- (g) Nursing, convalescent, old age and other like institutional buildings. Throughout all nursing, convalescent, old age and other like institutional buildings.

(h) Schools, colleges and universities.

1. Throughout all buildings of nonfire resistive construction.
2. In buildings of fire resistive construction throughout basements, workshops, laboratories, stairways, corridors, stage areas of auditoriums, janitor closets, kitchens, cafeterias and throughout all other areas where combustible materials are handled or stored. An Underwriters Laboratory approved automatic fire or smoke detection system wired to the fire station may be substituted for automatic sprinkler protection.

(i) Dormitories, fraternities and sorority houses.

1. Throughout all buildings of nonfire resistive construction.
2. In buildings of fire resistive construction in such places as linen rooms, storage rooms, boiler rooms, kitchens, stairways, corridors and throughout all other areas where combustible materials are handled.

(j) Hazardous properties. In buildings or structures the occupancy or use of which involves combustible, highly flammable or explosive material or that has characteristics that constitute a special fire hazard, including among others:

1. Aluminum powder factories.
2. Cellulose nitrate plastic factories.
3. Cereal mills.
4. Distilleries.
5. Explosives and pyrotechnics manufacturing.
6. Floor and feed mills.
7. Gasoline bulk plants.
8. Grain elevators.
9. Lacquer and paint factories and paint shops, linseed oil and varnish works.
10. L.P.G. bulk plants.
11. Mattress factories.
12. Waste paper plants.
13. Aircraft hangers.
14. Chemical works.
15. Linoleum and oil cloth, shade, cloth manufacturing.
16. Oil refineries.
17. Pyroxlin plastic manufacturing and processing.
18. Other occupancies involving the processing, mixing, storage and dispensing of volatile liquids.

- (3) APPLICATION TO EXISTING BUILDINGS. Where the Village Fire Chief finds that existing buildings which are used in whole or in part for the purposes set forth in sub. (2) above and which constitute a severe fire hazard to its occupants or to the adjoining property, he/she may require compliance with the provisions of this section, by the approval of the Village Board. Appeals from the decision of the Village Fire Chief may be made to the Village Board as provided in this Code.
- (4) INSTALLATION.
  - (a) Approved automatic fire sprinkler equipment shall be installed in accord with the current edition of Pamphlet #13, entitled “Standards for the Installation of Sprinkler Systems,” other applicable standards of the National Fire Protection Association and §Comm 51.23, Wis. Admin. Code or other applicable state regulations, all of which are in effect at the time of installation.
  - (b) Required automatic sprinkler systems shall be designed and constructed in conformity with good established practice. Reinstallation of used sprinkler heads is prohibited and other secondhand devices may be installed only by special permission of the Village Board.
- (5) EXEMPTION AND SUBSTITUTION OF OTHER FIRE PROTECTION EQUIPMENT. Nothing contained herein shall be construed as to require the installation of sprinklers in safe deposit or other vaults or in rooms or buildings devoted to the manufacture or storage of aluminum powder, calcium carbide, calcium phosphide, metallic sodium and potassium, quick lime, magnesium powder, sodium peroxide or like materials where the application of water may cause or increase combustion, nor in any other location where the installation of sprinklers may increase the hazard, or shall it be construed in any way to prohibit the substitution of other automatic protective equipment when approved by the Village Board.
- (6) OCCUPANCY. No occupancy permit shall be issued by the Building Inspector until this section is complied with.

#### **14.62 SMOKE AND FIRE DETECTION AND WARNING SYSTEMS IN PUBLIC RESIDENTIAL BUILDINGS.**

- (1) PURPOSE. The purpose of this section is to require installation of smoke and fire detection and warning systems in public portions of residential buildings as well as private dwellings in accordance with §§101.145 and 101.645, Wis. Stats., and this section. Such systems will help to provide protection from death, personal injury

and property damage from the hazards of smoke and fire. It is anticipated that early detection provided by such systems will result in the increased effectiveness in emergency actions by Village departments.

(2) DEFINITIONS.

Approved systems. Those systems or detectors which have received an approved rating by Underwriters Laboratory (UL).

Smoke detectors. Devices which detect visible or invisible particles or products of combustion. Detectors shall be sensitive to any of the products of combustion, except the detectors sensitive only to heat are not acceptable as smoke detectors.

(3) DETECTORS REQUIRED. Smoke detectors shall be provided in dwellings in the Village as required by the pertinent sections of this Municipal Code as follows:

- (a) Existing one and two family dwelling units as required by State statutes and this Code.
- (b) New one and two family dwelling units as required by this Code.
- (c) Dwellings of 3 or more units as required by this Code.

(4) DUTY TO INSTALL. All smoke detectors required by this section shall be installed by the owner of the building. All other smoke detectors required by this section and not previously required shall be installed by the owner of the building.

(5) MAINTENANCE.

- (a) The owner of the dwelling shall be responsible for maintaining the smoke detectors and the smoke detection system in good working order.
- (b) Tenants shall be responsible for informing the owner in writing of any smoke detector malfunction within 5 days of the date of discovery of the malfunction.
- (c) The owner shall have 5 days upon receipt of written notice from the tenant to repair or replace the smoke detector.
- (d) The owner shall check batteries at the beginning of a new lease.
- (e) The owner shall furnish to the tenant written notice of the obligation of the owner and the responsibilities of the tenant regarding smoke detector maintenance.

- (6) **TAMPERING.** No person shall tamper with or remove a smoke detector or battery, except in the course of repair or replacement.
- (7) **VILLAGE TO INSTALL.** If upon inspection of an authorized representative of the village the inspector finds that the owner has failed to install the smoke detectors required by this section, the Village shall install or cause to be installed the proper smoke detectors in such dwelling unit. The Village shall charge the cost of the installation to the owner. If the owner fails to pay the charge within 30 days of the date of the billing, the cost shall be deemed a delinquent special charge and shall become a lien on the real estate and be extended on the next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge in accordance with the provisions of §66.60(16), Wis. Stats.
- (8) **REQUIREMENT.**
  - (a) The owner of each public residential as well as private residential building shall install:
    - 1. A fire detection device in the basement or boiler/furnace room of each building.
    - 2. The smoke detection device at the head of each common stairway at each floor level and smoke detector units installed in each common hallway or corridor so that no entrance to the living unit (or sleeping unit in hotels, motels and similar buildings) is farther than 15' from a detector on the floor level.
    - 3. If there is a door at the head of the stairs, a smoke detector shall be installed at the center of the ceiling on the basement side of the door.
  - (b) The owners of each public residential building shall install, maintain in good working order and test any smoke detecting devices as the specifications of the manufacturer recommend. Records shall be maintained by the owner or his representative and shall include, as to each smoke detector device, the date of installation, dates of testing, dates and type of maintenance and the name of the person who performed such installation, maintenance or testing.
- (9) **AUTOMATIC DIALERS PROHIBITED.** No person shall use or cause to be used any telephone or electronic device or attachment that automatically selects a public telephone trunk line of the Fire or Police Department and then reproduces a recorded message to report a fire alarm.



## MISCELLANEOUS AND VIOLATIONS

### **14.70 NEW MATERIALS AND METHODS.**

ALTERNATE MATERIALS. No provision in this Code is intended to prohibit or prevent the use of any alternate material or method of construction not specifically mentioned in this Code. Approval of alternate materials or methods of construction shall be obtained from the Village. Requests for approval shall be accompanied by evidence showing that the alternate material or method of construction performs in a manner equal to the material or method required by this Code. The Village may require any claims made regarding the equivalent performance of alternate materials or method to be substantiated by test.

### **14.71 TESTS.**

The Village may require that the materials, methods, systems, components or equipment be tested to determine the suitability for the intended use. The Village will accept results conducted by a recognized independent testing agency. The cost of testing shall be borne by the person requesting the approval.

- (1) The test method used to determine the performance shall be one that is a nationally recognized standard.
- (2) If no nationally recognized standard exists, past performance or recognized engineering analysis may be used to determine suitability.
- (3) Ungraded or used building materials may be used or reused as long as the material possesses the essential properties necessary to achieve the level of performance required by this Code for the intended use. The Village may require tests in accordance with this Section.

### **14.72 IDENTIFICATION OF PRODUCTS.**

All materials shall be identified by the approved label, the grade mark, the trade mark or by other approved manufacturer's identification.

### **14.73 INVALIDITY OF PART.**

If any section, subsection, paragraph, clause or provision of this Code shall be adjudged invalid, such adjudication shall apply only to the provisions so adjudged and the rest of this Code shall remain valid and effective.

**14.74 VIOLATIONS.**

It shall be unlawful for any person to erect, use, occupy or maintain any building or structure in violation of any provisions of this Code, or to cause, permit or suffer any such violations to be committed. Any person violating any of the provisions of this Code shall be subject to the penalty provisions as set forth in the Municipal Code. It shall be the responsibility of the offender to abate the violation as expeditiously as possible and each day that such violation is permitted to continue shall constitute a separate offense. If, in any action, a permit was issued, it shall not constitute a defense nor shall any error, oversight or dereliction of duty on the part of the Building Inspector constitute a defense. For the purpose of administering and enforcing the provisions of this Code, the Village designates the office of the Building Inspector.

**14.75 FAILURE TO OBTAIN PERMIT.**

It shall be unlawful to commence work prior to obtaining a permit therefore. Double fees shall be charged if work is commenced prior to the issuance of a permit.

**14.76 DISPOSAL OF HUMAN EXCRETA AND LIQUID WASTE.**

- (1) No person shall build, erect, maintain, occupy or use any residence, place of business or other building in the Village wherein persons reside, congregate or are employed without providing for the use of such occupants adequate and properly maintained water closets and sinks conforming to the State Plumbing Code and local plumbing regulations or without providing a sanitary septic tank, constructed according to the plans and specifications approved by the state agency with jurisdiction over the same.
- (2) The owner or agent of each building in the Village which abuts any street, alley or way along which there are public sewer or water lines or is within 250' of such a sewer or water line in the street abutting the property shall connect with such sewer all water closets, toilets, bathtubs, lavatories, sinks, urinals and similar devices so that their contents will empty into such sewer in accordance with the provisions of the State Plumbing Code and such additional local rules and regulations not inconsistent herewith.
- (3) No person shall build, erect, construct or maintain any septic tank or private system for the disposal of human excreta, liquid waste or water upon any lot or premise abutting or within 250' of any street, alley or way in which there is a public sewer and water line.

- (4) Whenever any public sewer and water lines are laid along any street, avenue, lane or public alley in the Village and the same is ready for use, the Clerk/Treasurer shall notify in writing the occupant, owner or agent of every residence or building situated on lots abutting upon the streets, avenues or alleys along which such sewer and water lines are laid, to connect all water closets, toilets, sinks, bathtubs, lavatories, urinals and similar devices upon their respective lots with such sewer lines, so that the contents of the same will discharge into such sewer in a sanitary manner within 60 days after notice of such service, unless an extension is granted by the Village Board. Street excavations from the curb to the center of the street to make connections to the sanitary sewer shall be back filled with sand.
- (5) All septic systems and septic tanks shall be maintained in a sanitary manner.
- (6) Any water closet, sink, cesspool or septic tank existing or being maintained which does not conform to the requirements of this section shall be and is hereby declared a nuisance, dangerous to the public health and the Building Inspector shall order abatement of such nuisance in accordance with the Wisconsin Statutes and this Municipal Code.
- (7) The Building Inspector shall strictly enforce the provisions of this section and see that each and every violation thereof is promptly abated and the violators prosecuted, and the Village Fire Chief shall promptly report to the Building Inspector in writing each and every violation of this section within this Village which shall come to his knowledge.

#### **14.80 IMPACT FEES.**

- (a) **Intent.** The intent of this section is to impose impact fees on developers to pay for the capital costs that are necessary to accommodate land development.
- (b) **Authority.** Authority for this section is provided by Section 66.0617 of the Wisconsin Statutes.
- (c) **Definitions.** In this section:
  - (1) “Capital Costs” means the capital costs to construct, expand, or improve public facilities, including the cost of land, and including legal, engineering, and design costs to construct, expand, or improve public facilities, except that not more than ten (10) percent of capital costs may consist of legal, engineering, and design costs unless the Village can demonstrate that its legal, engineering, and design costs which relate directly to the public improvement for which the impact fees were imposed exceed ten (10) percent of capital costs. Capital costs does not include

other non-capital costs to construct, expand, or improve public facilities, vehicles, or the costs of equipment to construct, expand, or improve public facilities.

- (2) “Developer” means a person that constructs or creates a land development.
- (3) “Impact Fees” means cash contributions, contributions of land or interests in land or any other items of value that are imposed on a developer by the Village under this section.
- (4) “Land Development” means the construction or modification of improvements to real property that creates additional REUs within the Village or that results in nonresidential uses that create a need for new, expanded, or improved public facilities within the Village.
- (5) “Public Facilities” means highways, as defined in section 340.01 (22), Wis. Stats., and other transportation facilities, traffic control devices, facilities for collecting and treating sewage, facilities for collecting and treating storm and surface waters, facilities for pumping, storing and distributing water, parks, playgrounds and land for athletic fields, solid waste and recycling facilities, fire protection facilities, law enforcement facilities, emergency medical facilities and libraries. “Public facilities” does not include facilities owned by a school district.
- (6) “Service Area” means the entire Village.
- (7) “Building Permit” shall mean a permit required for new construction and additions pursuant to the Village Code of Ordinances. The term building permit, as used herein, shall not be deemed to include permits required for remodeling, rehabilitation, or other improvements to an existing structure, or for the reconstruction or replacement of a structure existing at the time of the adoption of this section, provided that there is no increased need for new, expanded or improved public facilities therefrom.
- (8) “Needs Assessment” means the assessment of needs required by section 66.0617, Wis. Stats.
- (9) “REU” means one residential housing (dwelling) unit. Each single-family residential unit constitutes one REU, regardless of whether such unit is located in within a one-family, multi-family, condominium, cooperative, rental, or owner-occupied unit. For example, a single family house would constitute one REU, a duplex would constitute two REUs, and a six family apartment building would constitute six REUs. Facilities such as nursing homes, community based residential care facilities (CBRFs) or residential

care apartment complexes (RCACs), as defined by statute, whether for-profit or not-for-profit, and state prisons or penal facilities, which include living space for five or more patients or residents and which are intended for long-term or permanent residential purposes, shall not constitute residential development for purposes of imposing impact fees under this section.

- (d) **Needs Assessment.** The “Public Facility Needs Assessment Park Impact Fee For The Village Of Sturtevant, Racine County, Wisconsin,” dated April, 2005, as it may be amended and supplemented from time to time, is hereby approved and incorporated by reference. A copy of this document and any amendments or addenda thereto shall be available for inspection in the Village Clerk’s office, and shall be the basis for the impact fee imposed pursuant to this section.
- (e) **Impact Fees.** Any developer creating or constructing any land development within the Village shall pay a fee to the Village pursuant to this subsection to help defray the capital costs necessary to accommodate the land development.
  - (1) Residential Development. Residential development shall mean land development resulting in the construction or creation of new REUs within the Village. For each REU to be constructed or created by the proposed development, a residential developer shall pay a park facility impact fee in the amount of \$1,250.00 per REU.
  - (2) The Village may adjust the number of REUs assigned, or the Impact Fee imposed, based upon satisfactory evidence from the developer that such an adjustment is justified, and shall adjust impact fees to account for contributions to the cost of public improvements from other funding sources.
  - (3) Impact fees shall be imposed as a condition of approval of any building permit for the subject land development and full payment thereof must be made to the Village within fourteen days of the issuance of such building permit.
- (f) **Other Means of Financing Improvements Reserved.** Pursuant to Section 66.0617 (2)(b), Wis. Stats., the imposition of impact fees under this section does not prohibit or limit the Village’s authority to finance public facilities by any other means authorized by law.

(g) **Administration.**

- (1) **Segregated Account.** There is hereby established a park facility impact fee fund, which shall be placed in a segregated, interest-bearing account and shall be accounted for separately from all other funds of the Village.
- (2) **Expenditures.** Impact fee revenues and interest earned thereon may be expended only for the particular capital costs for which the impact fee was imposed, unless the fee is refunded as provided under subsection (3). Funds shall not be used for maintenance nor to address any existing deficiencies in any public facilities at the time of enactment.
- (3) **Refund of Impact Fees.** Any impact fees collected under this section, and all interest earned thereon, which is not expended or committed for expenditure within 7 years from the date the impact fee was paid, shall be refunded to the current owner of the property, unless by Board Resolution the Village extends this period for up to an additional three years due to specified extenuating circumstances or hardship.
- (4) The expenditure and use of the impact fee shall be under the control and supervision of the Village Board. The Village's annual budget summary, required under §65.90, Wis. Stats., shall include revenue and expenditure totals for each impact fee fund.

(h) **Appeal.**

- (1) Any person upon whom an impact fee is imposed, may, within 15 days of the imposition of the impact fee, contest the amount, collection, or use of the impact fee by filing a written request with the Village Clerk which describes the nature of the appeal, provides supporting documentation, and specifies the basis upon which the appeal is made.
  - (2) At the next regular Village Board meeting, the Village Board shall hear and decide the appeal.
  - (3) The Clerk shall notify the appealing party of the time and place of the Village Board meeting at which time the appealing party shall be given the opportunity to present additional information in support of the appeal.
- (i) **Severability.** If any portion of this section is declared illegal or invalid for any reason, that illegality or invalidity shall not affect the remaining legal and valid portions of this section, which shall remain in full force and effect.”

**14.81 PENALTIES.**

Except as otherwise provided in this chapter, any person found to be in violation of any provision of this chapter or any rule or order promulgated hereunder shall be subject to a penalty as provided in Section 25.04 of this Municipal Code.

**STURTEVANT UNIFORM BUILDING CODE APPENDIX****14.86 BUILDING CODE PERMIT FEES.**

1. Minimum permit fee ..... \$ 73.00
2. Reinspections ..... \$152.00
3. **Plan Review Fees:**
  - 1 & 2 Family Residences Plan Review ..... \$220.00
  - 1& 2 Family Additions ..... \$116.00
  - 1& 2 Family Alterations ..... \$73.00
  - Accessory Building -120 sq ft or more ..... \$73.00
  - Apartment 3 Family & over ..... \$343.00 plus \$33.00 per unit
  - Row Housing ..... \$343.00 plus \$33.00 per unit
  - Multiple family dwelling ..... \$343.00 plus \$33.00 per unit
  - Deck Plans ..... \$73.00
  - Swimming Pool Plans ..... \$73.00
  - Heating Plans (submitted separately w/calculations) ..... \$73.00
  - Lighting & Electric Plans (submitted separately w/calculations) ..... \$73.00
  - Fire Suppression or Protection Plans (Non-commercial) ..... \$73.00
  - Re-submission of previously approved plans ..... \$73.00
4. Wisconsin Uniform Building Permit Seal ..... \$44.00

**5. Commercial Plan Review Fees:**

Area Sq. Feet	Commercial Plan Review Fees for:			
	Building	HVAC	Fire Alarm	Fire Suppression
2,500 or Less	\$ 600	\$ 253	\$ 385	\$ 385
2,501 – 5,000	\$ 600	\$ 333	\$ 385	\$ 385
5,0001 – 10,000	\$ 851	\$ 399	\$ 495	\$ 495
10,001 – 20,000	\$ 1,158	\$ 613	\$ 495	\$ 495
20,001 – 30,000	\$ 1,691	\$ 825	\$ 605	\$ 605

30,001 – 40,000	\$ 2,302	\$ 1,265	\$ 605	\$ 605
40,001 – 50,000	\$ 3,061	\$ 1,691	\$ 1,100	\$ 1,100
50,001 – 75,000	\$ 4,139	\$ 2,302	\$ 1,650	\$ 1,650
75,001 – 100,000	\$ 5,204	\$ 3,221	\$ 2,750	\$ 2,750
100,001 – 200,000	\$ 8,571	\$ 4,139	\$ 3,850	\$ 3,850
200,001 – 300,000	\$ 15,160	\$ 9,650	\$ 5,500	\$ 5,500
300,001 – 400,000	\$ 22,960	\$ 14,082	\$ 8,800	\$ 8,800
400,001 – 500,000	\$ 28,324	\$ 18,368	\$ 13,200	\$ 13,200
500,001 & over	\$ 30,613	\$ 20,670	\$ 16,500	\$ 16,500

6. Commercial Alternations/Additions Plan Review \$600.00
7. Industrial Alternations/Additions Plan Review \$600.00
8. Special Inspections & Reports \$333.00 each

**Priority Plan Review:** At the discretion of the Building Inspector and depending upon workload of the department, 2 business days Priority Plan Review may be provided at double the regular rate of plan review fees. Priority Plan Review shall not apply to submittals requiring reviews and/or approval by other governing agencies of the municipality.

**NOTE:** The state fee schedule for commercial building projects may be charged in lieu of or in addition to this fee schedule at the Village's discretion.

**NOTE:** An additional fee for plan review may be assessed at the time of application if renewal of the permit is needed.

**9. Occupancy Permits:**

Residential	\$73.00
Apartment Rental	\$31.00
Office	\$103.00
Commercial	\$230.00
Industrial	\$230.00
Temp Occupancy Permit (6 months or less)	\$116.00
Additions, alteration, or accessory building over 120 sq ft	\$73.00

**Building Permit Fees:**

10. 1-2 Family residence \$ 0.51
- Attached garages \$ 0.51



11. Residences and Apartments 3 family & over	\$ 0.51
Row Housing	\$ 0.51
Multiple Family Dwellings	\$ 0.51
Institutional	\$ 0.51
12. Residences – Additions	\$ 0.51
13. Local business	\$ 0.48
Office buildings	\$ 0.48
Additions	\$ 0.48
14. Manufacturing (office area charged under 13)	\$ 0.41
Industrial (office area charged under 13)	\$ 0.41
15. Agricultural Buildings	\$ 0.32
Detached Garages	\$ 0.32
Accessory buildings (sheds, etc.)	\$ 0.32
16. All other buildings, structures, alterations, repairs where sq ft cannot be calculated	\$15.00

**Calculations are determined as follows:**

- a. Gross square footage calculations are based on exterior dimensions, including garage and each finished floor level. Unfinished basements or portions thereof are not included
- b. In determining costs, all construction shall be included with the exception of heating, air conditioning, electrical or plumbing work.

17. <b>Early footings/foundations:</b> - Commercial	\$326.70
- Industrial	\$326.70
- Multi-family	\$326.70
- 1 & 2 Families Residential	\$302.50

**Other Miscellaneous Fees:**

18. Wrecking, Razing or Interior Demolition fees	\$72.60 plus \$0.13 per sq. ft. with \$825.00 maximum fee for a building
19. Moving building over public ways	\$314.60 plus \$0.15 per sq. ft.
20. Pools – Above Gr. & Below Gr. (see also plan review fees)	\$14.30 per \$1,000 valuation – \$72.60 minimum
21. Spas/Hot Tubs	\$72.60
22. Decks (see also plan review fees)	\$72.60

23. Fences	\$72.60
24. Water Heaters	\$72.60
25. Fuel Tanks (for removal purposes)	\$72.60
26. Grade Recertification Fee	\$150.00
27. Impact Fees	Charged in accordance with Municipal Code Section 14.80
28. Sewer Connection Fee	Charged in accordance with Municipal Code Section 13.17
29. Commercial Sewer Connection Fee	Charged in accordance with Municipal Code Section 13.17
30. Erosion Control Fees:	
1 & 2 Family Lots	\$302.50 per lot
Multi-Family Lots	\$363.00 per Bldg plus \$9.08/1,000 sq ft of disturbed lot area (max \$4,500)
Commercial Lots	\$462.00 per Bldg plus \$9.08/1,000 sq ft of disturbed lot area (max \$4,500)
Industrial Lots	\$462.00 per Bldg plus \$9.08/1,000 sq ft of disturbed lot area (max \$4,500)
Institutional Lots	\$462.00 per Bldg plus \$9.08/1,000 sq ft of disturbed lot area (max \$4,500)
Other	\$181.50
<u>HVAC Permit Fees</u>	
31. Heating – Incinerators – Wood burning appliances	\$72.60 per unit, up to & including 150,000 input BTU units
<u>Additional fee of</u>	\$31.90 ea additional 50,000 BTUs or fraction thereof, \$1,540 (max/unit)
32. Commercial/Industrial Exhaust Hoods	\$121.00 per unit
33. Exhaust Systems	\$121.00 per unit
34. Heating & Air Conditioning Distribution System	\$3.14 per 100 sq ft of conditioned area \$72.60 minimum fee
35. Air Conditioning	\$72.60 per unit, up to 3 tons or ] 12,000 BTUs or fraction thereof
<u>Additional fee of</u>	\$31.90/each additional ton or 12,000 BT BTUs or fraction thereof \$1,540 Max/unit)

**14.87 ELECTRICAL PERMIT FEES.****36. Unit Charge New Residential Construction only (plus ampere charges listed below)**

	1-bedroom	\$72.60
	2-bedroom	\$79.20
	3-bedroom	\$86.800
	4-bedroom	\$121.00
Residential	0 – 100 amp	\$72.60 + \$1.94 per circuit
New, Add, Alters	101 – 200 amp	\$79.20 + \$1.94 per circuit
<b>Ampere charge</b>	201 – 400 amp	\$91.30 + \$1.94 per circuit
	401 – 600 amp	\$110.00 + \$1.94 per circuit
	601 – 800 amp	\$145.20 + \$1.94 per circuit
Commercial/Industrial/Agricultural Work (New Construction, alternations, or additions)		
	\$50 – \$500 of electrical cost	\$3.63 per each \$100 of work
	\$500 – \$10,000 cost of electrical work	\$48.40 for 1 <sup>st</sup> \$500 of work, plus \$3.03 for each additional \$100 of work
	Over \$10,000 electrical cost	\$302.50 for the 1 <sup>st</sup> \$500 of work, plus \$1.82 for each additional \$100 of work
Minimum Electrical Permit Fee		\$72.60
Re-Inspection Fee		\$151.80

**14.88 PLUMBING FEES.**

37.	Each plumbing fixture	\$16.50 per fixture
	Connection to main sewer holding tank/mound	\$96.80 plus \$.73 per ft for each ft over 100 ft
	Water service connection	\$96.80 plus \$.73 per ft for each ft over 100 ft
	Storm sewer installation	\$96.80 plus \$.73 per ft for each ft over 100 ft
	Building sewer abandonment	\$72.60
	Septic tank abandonment	\$84.70
	Well abandonment or registration	\$84.70
	Sanitary building drain	\$96.80 plus \$.73 per ft for each ft over 100 ft
	Storm building drain	\$96.80 plus \$.73 per ft for each ft over 100 ft
	Minimum Plumbing Permit Fee	\$72.60
	Alterations to Residential Buildings	\$16.50 per fixture plus \$48.40 per number of anticipated inspections (Minimum fee of \$151.80)
	Re-Inspection	\$151.80

**14.89 FIRE INSPECTION FEES.**

<b>Fee for Calculations/Review of Plans</b>		<b>Fees Per Unit</b>
1.	Fire sprinkler, fire control and/or fire suppression system plan review with one set of hydraulic calculations, per system for each review (This fee is charged for each separate system, floor and/or area of a building)	\$385.00 each minimum plus appropriate square footage fee per Table 34-132-1
2.	Verification of additional sets of hydraulic calculations (This fee is charged for each additional set of hydraulic calculations required by the AHJ.)	\$195.00 each
3.	Verification of additional sets of hydraulic calculations utilizing the Darcy-Weisbach calculation method which is required for all antifreeze systems in addition to the review fees charged above (This fee is charged for each additional set of hydraulic calculations required by the AHJ.)	\$295.00 each
4.	Stand pipe systems	\$385.00 each
5.	Fire pumps, per review	\$300.00 each
6.	Modifications to existing sprinkler systems:	
	a. Minimum fee for a system modification without hydraulic calculations	\$200.00 each
	b. The fee per sprinkler head up to 19 sprinklers without hydraulic calculations – up to 19 sprinklers	\$20.00 each
	c. Modifications of existing systems over 19 sprinklers with hydraulic calculations	\$385.00 per system
7.	Fire sprinkler system underground mains, including combination mains:	
	a. 0 to 999 feet	\$200.00 + .73 foot
	b. 1,000 feet or more	\$400.00 + .73 per foot
8.	Other fire protection, fire control and/or fire suppression systems including wet chemical, dry chemical or gaseous agent systems, etc.	\$300.00 each
9.	Fire alarm systems per control panel, per review	\$250.00 each
10.	Fire alarm system manual pull stations, initiating and annunciating devices; this includes smoke, heat, flame, ionization,	\$50.00 up to 3 \$10.00 per additional

- photoelectric detectors, water flow devices, horns, strobes, bells and all monitoring devices, per device
11. Fire hose standpipe connections \$15.00 per outlet
  12. Fire hydrant \$50.00 per hydrant
  13. Various Site Inspection Services, witnessed tests, etc.
    - a. Witnessing of all required tests \$100.00 per hour (2 hour minimum)
    - b. Witness final acceptance tests of fire protection systems \$100.00 per hour (2 hour minimum)
    - c. Hydrant Flow test \$100.00 per hour
    - d. Site inspection of all types of fire protection/prevention systems during installation NOTE: Fire protection/prevention systems may NOT be concealed prior to inspection. Inspections are required for all installations, \$100.00 per hour (2 hour minimum)
    - e. Site Inspections/Special Inspection Services for: Spray booths, Dip Tanks, Liquid Spray, Hood & Duct Ventilation, Halon, Carbon Dioxide, Water or Foam Spray, Dry Chemical Ect. \$100.00 per hour (2 hour minimum)
    - f. Fire protection consulting on systems and/or for occupancies or permits including fire hydrant site plan review, fire department access review \$175.00 per hour
  14. Testing of emergency lighting \$100.00 per hour
  15. General Fee Information
    - a. These fees apply to all above listed plan reviews, system inspections, system testing whether conducted by the fire department or fire department consultant or other municipal representative.
    - b. All fees shall be rounded up to the next full dollar amount.
    - c. Tests and inspections must be scheduled with the fire department a minimum of 72 hours in advance.
    - d. Tests and inspections shall be scheduled when the contractor can assure the work has been completed. Tests scheduled before the job is complete will be charged a re-inspection fee.

- e. Tests and inspections must begin within 30 minutes after the arrival of the Fire Inspector.
- f. Other fees charged to the Village of Mount Pleasant from other governmental entities for reviewing plans or permits, as indicated by the above indicated code section in their entirety fees charged are at cost.
- g. Except in emergency cases, the standard permit fee shall be tripled upon failure to obtain a permit BEFORE work on a building has started.
- h. Failure to call for a final inspection is a \$100.00 charge.

**14.90 FEES GENERALLY.**

- 39. All fees shall be rounded up to the next full dollar amount.
- 40. Other fees charged to the Municipality from other governmental entities for reviewing plans or permits, as indicated by the above indicated code section in their entirety fees charged are at costs.
- 41. Except in emergency cases, the standard permit fee shall be tripled upon failure to obtain a permit BEFORE work on a building has started.
- 42. Failure to call for a final inspection is a \$55.00 charge.

## **CHAPTER 15**

### **CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL, POST CONSTRUCTION STORM WATER MANAGEMENT**

#### **I CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL ORDINANCE**

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##### **15. 04 Applicability and Jurisdiction**

- (1) Applicability
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- (2) Erosion and Sediment Control Practices
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- (4) Implementation

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**15. 10 Erosion and Sediment Control Plan, Statement and Amendments**

(1) Erosion and Sediment Control Plan Statement

(2) Erosion and Sediment Control Plan Requirements

(3) Erosion and Sediment Control Plan Amendments

**15. 11 Fee Schedule**

**15. 12 Inspection**

**15. 13 Enforcement**

**15. 14 Appeals**

(1) Board of Appeals

(2) Who May Appeal

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## **FOREWORD.**

Use of this ordinance will foster consistent, statewide application of the construction site performance standards for new development and redevelopment contained in subchapters III and IV of ch. NR 151, Wis. Adm. Code.

The Village Board of the Village of Sturtevant does hereby ordain that Chapter 15 of the Municipal Code of the Village of Sturtevant is created to read as follows:

### **15.01 AUTHORITY.**

- (1) This ordinance is adopted under the authority granted by s. 61.354 Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 61.35, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in s 61.354, Wis. Stats., s. 61.35, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The [governing body] hereby designates the Village Engineer to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:
  - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under ss. 281.16 and 283.33, Wis. Stats.
  - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

### **15.02 FINDINGS OF FACT.**

The Village Board acknowledges that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in Village of Sturtevant.

### **15.03 PURPOSE.**

It is the purpose of this ordinance to maintain safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion and sediment discharge; 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 by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the Village of Sturtevant.

#### **15.04 APPLICABILITY AND JURISDICTION.**

**(1) APPLICABILITY.**

- (a) Except as provided under par. (b), this ordinance applies to any construction site as defined under S. 05 (6).
- (b) This ordinance 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.
- (c) 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.

**(2) JURISDICTION.**

This ordinance applies to land disturbing construction activity on lands within the boundaries and jurisdiction of the Village of Sturtevant;

**(3) EXCLUSIONS.**

This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats.

#### **15.05 DEFINITIONS.**

- (1) "Village Engineer" means a governmental employee, or a regional planning commission empowered under s 61.354 Wis. Stats., that is designated by the Village Board to administer this ordinance.
- (2) "Agricultural facilities and practices" has the meaning in s. 281.16 (1), Wis. Stats.
- (3) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.
- (4) "Business day" means a day the office of the Village Engineer is routinely and customarily open for business.
- (5) "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 Engineer.
- (6) "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. A long-range planning document that describes separate construction projects, such as a 20-year transportation improvement plan, is not a common plan of development.
- (7) "Design Storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.
- (8)\* "Division of land" means the creation from one parcel of two or more parcels or building sites of one or fewer acres each in area where such creation occurs at one time or through the successive partition within a 5-year period.
- (9) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (10) "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.
- (11) "Extraterritorial" means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.
- (12) "Final stabilization" means 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 percent of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.

- (13) "Governing body" means Village Board of Trustees.
- (14) "Land disturbing construction activity" means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative 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.
- (15) "Landowner" means 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.
- (16) "Maximum extent practicable" means 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 S. 055 of this ordinance.
- (17) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (18) "Permit" means a written authorization made by the Village Engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (19) "Pollutant" has the meaning given in s. 283.01 (13), Wis. Stats.
- (20) "Pollution" has the meaning given in s. 281.01 (10), Wis. Stats.
- (21) "Responsible party" means the landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.
- (22) "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.
- (23) "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- (24) "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.
- (25) "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.
- (26) "Stop work order" means an order issued by the Village Engineer which requires that all construction activity on the site be stopped.
- (27) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (28) "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 s. 85.095 (1)(b), Wis. Stats. "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 s. 281.33, Wis. Stats.

- (29) "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.

#### **15.055 APPLICABILITY OF MAXIMUM EXTENT PRACTICABLE.**

Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance 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.

#### **15.06 TECHNICAL STANDARDS.**

All BMPs required for compliance with this ordinance shall meet 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.

#### **15.07 PERFORMANCE STANDARDS FOR CONSTRUCTION SITES UNDER ONE ACRE.**

- (1) **RESPONSIBLE PARTY.** The responsible party shall comply with this section.

- (2) **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 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.

- (3) **LOCATION.** The BMPs shall be located so that treatment occurs before runoff enters waters of the state.

- (4) **IMPLEMENTATION.** The BMPs used to comply with this section shall be implemented as follows:

- (a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
- (b) Erosion and sediment control practices shall be maintained until final stabilization.
- (c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- (d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
- (e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

#### **15.08 PERFORMANCE STANDARDS FOR CONSTRUCTION SITES OF ONE ACRE OR MORE.**

- (1) **RESPONSIBLE PARTY.** The responsible party shall comply with this section and implement the erosion and sediment control plan developed in accordance with 15.10.

(2) **EROSION AND SEDIMENT CONTROL PLAN.** A written site-specific erosion and sediment control plan shall be developed in accordance with 15.10 of this ordinance and implemented for each construction site.

(3) **EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS.** The erosion and sediment control plan required under sub. (2) shall include the following:

(a) **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 discharge of sediment from erosive flows at outlets and in downstream channels.
8. 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.
9. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.

(b) **SEDIMENT PERFORMANCE STANDARDS.** In addition to the erosion and sediment control practices under par. (a), the following erosion and sediment control practices shall be employed:

1. 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.
2. 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.

3. Notwithstanding subd. 1., 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.

(c) **PREVENTIVE MEASURES.** The erosion and sediment control plan shall incorporate all of the following:

1. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
2. Minimization of soil compaction and preservation of topsoil.
3. Minimization of land disturbing construction activity on slopes of 20 percent or more.
4. Development of spill prevention and response procedures.

(d) **LOCATION.** The BMPs used to comply with this section shall be located so that treatment occurs before runoff enters waters of the state.

(4) **IMPLEMENTATION.** The BMPs used to comply with this section shall be implemented as follows:

- (a) 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 15.08 (2).
- (b) Erosion and sediment control practices shall be maintained until final stabilization.
- (c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- (d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
- (e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

#### **15.09 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.**



- (1) **PERMIT REQUIRED.** No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the Village Engineer.
- (2) **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 15.10, and shall pay an application fee to the Village Engineer in the amount specified in 15.11. By submitting an application, the applicant is authorizing the Village Engineer to enter the site to obtain information required for the review of the erosion and sediment control plan.
- (3) **PERMIT APPLICATION REVIEW AND APPROVAL.** The Village Engineer shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:
  - (a) Within 10 business days of the receipt of a complete permit application, as required by sub. (2), the Village Engineer shall inform the applicant whether the application and erosion and sediment control plan are approved or disapproved based on the requirements of this ordinance.
  - (b) If the permit application and erosion and sediment control plan are approved, the Village Engineer shall issue the permit.
  - (c) If the permit application or erosion and sediment control plan is disapproved, the Village Engineer shall state in writing the reasons for disapproval.
  - (d) The Village Engineer may request additional information from the applicant. If additional information is submitted, the Village Engineer shall have 10 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.
  - (e) Failure by the Village Engineer to inform the permit applicant of a decision within 10 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) **SURETY BOND.** As a condition of approval and issuance of the permit, the Village Engineer may require the applicant to 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.
- (5) **PERMIT REQUIREMENTS.** All permits shall require the responsible party to:

- (a) Notify the Village Engineer within 48 hours of commencing any land disturbing construction activity.
  - (b) Notify the Village Engineer of completion of any BMPs within 14 days after their installation.
  - (c) Obtain permission in writing from the Village Engineer prior to any modification pursuant to 15.10 (3) of the erosion and sediment control plan.
  - (d) Install all BMPs as identified in the approved erosion and sediment control plan.
  - (e) Maintain all road drainage systems, storm water drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
  - (f) 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.
  - (g) 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.
  - (h) Allow the Village Engineer 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.
- (6) **PERMIT CONDITIONS.** Permits issued under this section may include conditions established by Village Engineer in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in 15.07 or 15.08.
- (7) **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 Engineer 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.
- (8) **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.

#### **15.10 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT AND AMENDMENTS.**

- (1) **EROSION AND SEDIMENT CONTROL PLAN STATEMENT.** For each construction site identified under 15.04 (1)(c), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Village Engineer. 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.

(2) **EROSION AND SEDIMENT CONTROL PLAN REQUIREMENTS.**

- (a) An erosion and sediment control plan shall be prepared and submitted to the Village Engineer.
- (b) The erosion and sediment control plan shall be designed to meet the performance standards in 15.07, 15.08 and other requirements of this ordinance.
- (c) 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:
  - 1. 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.
  - 2. 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.
  - 3. 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.
  - 4. 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.
  - 5. Calculations to show the compliance with the performance standard in 15.08 (3)(b)1.
  - 6. Existing data describing the surface soil as well as subsoils.

7. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
  8. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.
- (d) 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.
1. 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.
  2. Boundaries of the construction site.
  3. Drainage patterns and approximate slopes anticipated after major grading activities.
  4. Areas of soil disturbance.
  5. Location of major structural and non-structural controls identified in the erosion and sediment control plan.
  6. Location of areas where stabilization BMPs will be employed.
  7. Areas which will be vegetated following land disturbing construction activities.
  8. 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.
  9. Areas(s) used for infiltration of post-construction storm water runoff.
  10. An alphanumeric or equivalent grid overlying the entire construction site map.
- (e) 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:
1. 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.

2. 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.
  3. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
  4. Trapping of sediment in channelized flow.
  5. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
  6. Protection of downslope drainage inlets where they occur.
  7. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.
  8. Clean up of off-site sediment deposits.
  9. Proper disposal of building and waste material.
  10. Stabilization of drainage ways.
  11. Installation of permanent stabilization practices as soon as possible after final grading.
  12. Minimization of dust to the maximum extent practicable.
- (f) 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.
- (3) **EROSION AND SEDIMENT CONTROL PLAN AMENDMENTS.** The applicant shall amend the erosion and sediment control plan if any of the following occur:
- (a) 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.
  - (b) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.
  - (c) The Village Engineer notifies the applicant of changes needed in the erosion and sediment control plan.

#### **15.11 FEE SCHEDULE.**

The fees referred to in other sections of this ordinance shall be established by the Village Board and may from time to time be modified by resolution. A schedule of the fees established by the Village Board shall be available for review in the office of the Village Engineer.

#### **15.12 INSPECTION.**

If land disturbing construction activities are occurring without a permit required by this ordinance, the Village Engineer may enter the land pursuant to the provisions of ss. 66.0119 (1), (2), and (3), Wis. Stats.

#### **15.13 ENFORCEMENT.**

- (1) The Village Engineer may post a stop work order if any of the following occurs:
  - (a) Land disturbing construction activity regulated under this ordinance is occurring without a permit.
  - (b) The erosion and sediment control plan is not being implemented in good faith.
  - (c) The conditions of the permit are not being met.
- (2) If the responsible party does not cease activity as required in a stop work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the Village Engineer may revoke the permit.
- (3) If the responsible party, where no permit has been issued or the permit has been revoked, does not cease the activity after being notified by the Village Engineer, or if a responsible party violates a stop work order posted under sub. (1), the Village Engineer may request the village attorney to obtain a cease and desist order in any court with jurisdiction.
- (4) The Village Engineer may retract the stop work order issued under sub. (1) or the permit revocation under sub. (2).
- (5) After posting a stop work order under sub. (1), the Village Engineer may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Village Engineer may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the Village Engineer, plus interest at the rate authorized by Village Board shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to subch. VII of ch. 66, Wis. Stats.

- (6) Any person violating any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$500 nor more than \$1000 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
- (7) Compliance with the provisions of this ordinance 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 injunctive proceedings.

#### **15.14 APPEALS.**

- (1) **ZONING BOARD OF APPEALS.** The Zoning Board of Appeals created pursuant to section 17.40 of the village's ordinance pursuant to s. 61.354 (4)(b) Wis. Stats.:
  - (a) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Village Engineer in administering this ordinance except for cease and desist orders obtained under 15.13 (3).
  - (b) May authorize, upon appeal, variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
  - (c) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (2) **WHO MAY APPEAL.** Appeals to the Zoning Board of Appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the Village of Sturtevant affected by any decision of the Village Engineer.

#### **15.15 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.

## **II POST-CONSTRUCTION STORM WATER MANAGEMENT ORDINANCE**

## **Foreword**

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**15.24 Storm Water Management Plan**

- (1) Storm Water Management Plan Requirements
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**15.25 Maintenance Agreement**

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**15.27 Fee Schedule**

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- (1) Board of Appeals or Adjustment
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**15.30 Severability**

**15.31 Effective Date**

## **II POST-CONSTRUCTION STORM WATER MANAGEMENT**

### **FOREWORD.**

The intent of this ordinance is to reduce the discharge of pollutants carried in storm water runoff to waters of the state. Use of this ordinance by municipalities will foster the consistent, statewide application of post-construction performance standards for new development and redevelopment contained in subchapters III and IV of chapter NR 151, Wis. Adm. Code.

### **15.16 AUTHORITY.**

- (1) This ordinance is adopted by the Village Board under the authority granted by 61.354 Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s 61.35 Wis. Stats., that relate to storm water management regulations. Except as otherwise specified in s. 61.354 Wis. Stats., s. 61.35, Wis. Stats. applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The Village Board hereby designates the Village Engineer to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:
  - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
  - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

### **15.17 FINDINGS OF FACT.**

The Village Board acknowledges 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:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (2) 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.
- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (4) Reduce the quality of groundwater by increasing pollutant loading.
- (5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.

#### **15.18 PURPOSE AND INTENT.**

- (1) **PURPOSE.** The general purpose of this ordinance 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:
  - (a) Further the maintenance of safe and healthful conditions.
  - (b) 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.
  - (c) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; and control increases in the scouring and transportation of particulate matter.
  - (d) Minimize the amount of pollutants discharged from the separate storm sewer to protect the waters of the state.
- (2) **INTENT.** It is the intent of the Village Board that this ordinance regulates post-construction storm water discharges to waters of the state. This ordinance may be applied on a site-by-site basis. The Village Board recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this ordinance 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 s. 281.16, Wis. Stats., for regional storm water management measures and have been approved by the Village Board, it is the intent of this ordinance that the approved storm water management plan be used to identify post-construction management measures acceptable for the community.

#### **15.19 APPLICABILITY AND JURISDICTION.**

##### **(1) APPLICABILITY.**

- (a) Except as provided under par. (b), this ordinance applies to a post-construction site whereupon one acre or more of land disturbing construction activity occurs during construction.
- (b) A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance:
  - 1. A post-construction site with less than ten percent 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 ordinance.
  - 2. Agricultural facilities and practices.
  - 3. Underground utility construction, but not including the construction of any above ground structures associated with utility construction.
- (c) Notwithstanding the applicability requirements in par. (a), this ordinance applies to post-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, causes undue channel erosion, or increases water pollution by scouring or the transportation of particulate matter.

##### **(2) JURISDICTION.**

This ordinance applies to post construction sites within the boundaries and jurisdiction of the Village of Sturtevant

##### **(3) EXCLUSIONS.**

This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats.

## 15.20 DEFINITIONS.

- (1) "Adequate sod, or self-sustaining vegetative cover" means 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) "Village Engineer" means a governmental employee, or a regional planning commission empowered under s. 61.354, Wis. Stats., that is designated by the Village Board to administer this ordinance.
- (3) "Agricultural facilities and practices" has the meaning given in s. 281.16 (1), Wis. Stats.
- (4) "Atlas 14" means 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" means 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" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.
- (7) "Business day" means a day the office of the Village Engineer is routinely and customarily open for business.
- (8) "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 Engineer.
- (9) "Combined sewer system" means a system for conveying both sanitary sewage and storm water runoff.
- (10) "Connected imperviousness" means 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" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.
- (12) "Development" means residential, commercial, industrial or institutional land uses and associated roads.
- (13) "Direct conduits to groundwater" means 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)\* "Division of land" means the creation from one parcel two or more parcels or building sites of one or fewer acres each in area where such creation occurs at one time or through the successive partition within a 5-year period.
- (15) "Effective infiltration area" means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (16) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (17) "Exceptional resource waters" means waters listed in s. NR 102.11, Wis. Adm. Code.
- (18) "Extraterritorial" means the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within one and a half miles of a fourth class city or village.
- (19) "Filtering layer" means soil that has at least a 3-foot deep layer with at least 20 percent fines; or at least a 5-foot deep layer with at least 10 percent fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.
- (20) "Final stabilization" means 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 percent of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.
- (21) "Financial guarantee" means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Village Engineer by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (22) "Governing body" means village board of trustees.
- (23) "Impervious surface" means 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.
- (24) "In-fill" means 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.
- (25) "Infiltration" means the entry of precipitation or runoff into or through the soil.
- (26) "Infiltration system" means 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.
- (27) "Land disturbing construction activity" means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative 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.

- (28) "Landowner" means 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.
- (29) "Maintenance agreement" means a legal document that provides for long-term maintenance of storm water management practices.
- (30) "Maximum extent practicable" means 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 15.205 of this ordinance.
- (31) "New development" means development resulting from the conversion of previously undeveloped land or agricultural land uses.
- (32) "NRCS MSE3 or MSE4 distribution" means a specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.
- (33) "Off-site" means located outside the property boundary described in the permit application.
- (34) "On-site" means located within the property boundary described in the permit application.
- (35) "Ordinary high-water mark" has the meaning given in s. NR 115.03 (6), Wis. Adm. Code.
- (36) "Outstanding resource waters" means waters listed in s. NR 102.10, Wis. Adm. Code.
- (37) "Percent fines" means the percentage of a given sample of soil, which passes through a # 200 sieve.
- (38) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (39) "Permit" means a written authorization made by the Village Engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (40) "Permit administration fee" means a sum of money paid to the Village Engineer by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (41) "Pervious surface" means 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.
- (42) "Pollutant" has the meaning given in s. 283.01 (13), Wis. Stats.
- (43) "Pollution" has the meaning given in s. 281.01 (10), Wis. Stats.
- (44) "Post-construction site" means a construction site following the completion of land disturbing construction activity and final site stabilization.

- (45) "Pre-development condition" means 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.
- (46) "Preventive action limit" has the meaning given in s. NR 140.05 (17), Wis. Adm. Code.
- (47) "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.
- (48) "Redevelopment" means areas where development is replacing older development.
- (49) "Responsible party" means the landowner or any other entity performing services to meet the requirements of this ordinance 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.
- (50) "Separate storm sewer" means 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.
- (51) "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.
- (52) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (53) "Stop work order" means an order issued by the Village Engineer which requires that all construction activity on the site be stopped.
- (54) "Storm water management plan" means 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.
- (55) "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.
- (56) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (57) "Top of the channel" means 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



percent continually for at least 50 feet. If the slope of the land is 12 percent 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.

- (58) "Total maximum daily load" or "TMDL" means 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.
- (59) "TP-40" means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.
- (60) "TR-55" means 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.
- (61) "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 s. 85.095 (1)(b), Wis. Stats. "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 s. 281.33, Wis. Stats.
- (62) "TSS" means total suspended solids.
- (63) "Type II distribution" means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published in 1973".
- (64) "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.

#### **15.205 APPLICABILITY OF MAXIMUM EXTENT PRACTICABLE.**

Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance 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.

#### **15.21 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 ordinance:

- (1) Consistent with the technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- (2) 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 Village Engineer.

#### **15.22 PERFORMANCE STANDARDS.**

- (1) **RESPONSIBLE PARTY.** The responsible party shall comply with this section.
- (2) **STORM WATER MANAGEMENT PLAN.** A written storm water management plan in accordance with S. 09 shall be developed and implemented for each post-construction site.
- (3) **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 ordinance, whichever is more stringent.
- (4) **REQUIREMENTS.** The storm water management plan required under sub. (2) shall include the following:
  - (a) **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:
    1. BMPs shall be designed in accordance with Table 1. or to the maximum extent practicable as provided in subd. 2. 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 percent
In-fill development	80 percent
Redevelopment	40 percent of load from parking areas and roads

2. **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.
3. **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.

(b) **PEAK DISCHARGE.**

1. By design, BMPs shall be employed to maintain or reduce the 1-year, 24-hour; and the 2-year, 24-hour post-construction peak runoff discharge rates to the 1-year, 24-hour; and the 2-year, 24-hour pre-development peak runoff discharge rates respectively, or to the maximum extent practicable. 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, Atlas 14 precipitation depths, and the appropriate NRCS Wisconsin MSE3 or MSE4 precipitation distribution. On a case-by-case basis, the Village Engineer may allow the use of TP-40 precipitation depths and the Type II distribution.

<b>Table 2. Maximum Pre-Development Runoff Curve Numbers</b>				
Runoff Curve Number	Hydrologic Soil Group			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

2. This subsection of the ordinance does not apply to any of the following:
  - a. 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.

- b. Except as provided under S. 07 (3), a redevelopment post-construction site.
- c. An in-fill development area less than 5 acres.

(c) INFILTRATION.

1. Best Management Practices. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable:
  - a. *Low imperviousness.* For development up to 40 percent 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 percent 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 one percent of the post-construction site is required as an effective infiltration area.
  - b. *Moderate imperviousness.* For development with more than 40 percent and up to 80 percent 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 percent 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 percent of the post-construction site is required as an effective infiltration area.
  - c. *High imperviousness.* For development with more than 80 percent 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 percent 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 percent of the post-construction site is required as an effective infiltration area.
2. Pre-development. The pre-development condition shall be the same as specified in Table 2 of the Peak Discharge section of this ordinance.
3. Source Areas.

- a. *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 15.22 (4)(c)6.:
  - i. Areas associated with a tier 1 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.
  - ii. Storage and loading areas of a tier 2 industrial facility identified in s. NR 216.21 (2)(b).

*Note to Users: Runoff from the employee and guest parking and rooftop areas of a tier 2 facility may be infiltrated but runoff from the parking area may require pretreatment.*

- iii. Fueling and vehicle maintenance areas. Runoff from rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.
- b. *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:
  - i. Parking areas and access roads less than 5,000 square feet for commercial development.
  - ii. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the Prohibitions under par a.
  - iii. Except as provided under 15.22 (3), redevelopment post-construction sites.
  - iv. In-fill development areas less than 5 acres.
  - v. Roads on commercial, industrial and institutional land uses, and arterial residential roads.

4. Location of Practices.

- a. *Prohibitions.* Infiltration practices may not be located in the following areas:
  - i. Areas within 1000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.
  - ii. 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 non-community 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.

- iii. Areas where contaminants of concern, as defined in s. NR 720.03 (2), are present in the soil through which infiltration will occur.

b. *Separation distances.*

- i. 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

- ii. Notwithstanding par. b., 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 5 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.

- 5. Alternate Use. Where alternate uses of runoff are employed, such as for toilet flushing, laundry, or 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.

6. Groundwater Standards.

- a. 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.
- b. Notwithstanding par. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

7. 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 subd. 6. Pretreatment options may include, but are not limited to, oil and grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

8. Maximum Extent Practicable. Where the conditions of subd. 3. and 4. limit or restrict the use of infiltration practices, the performance standard of S. 07 (4)(c) shall be met to the maximum extent practicable.

(d) PROTECTIVE AREAS.

1. 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.

- a. For outstanding resource waters and exceptional resource waters, 75 feet.

- b. 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.
  - c. For lakes, 50 feet.
  - d. For wetlands not subject to par. e. or f., 50 feet.
  - e. 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.
  - f. For less susceptible wetlands, 10 percent 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.
  - g. In pars. d. to f., 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.
  - h. 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.
  - i. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
  - j. Notwithstanding pars. a. to i., the greatest protective area width shall apply where rivers, streams, lakes and wetlands are contiguous.
2. Applicability. This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 4.
3. Requirements. The following requirements shall be met:
- a. 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.

- b. Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70 percent 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.
- c. 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.

4. Exemptions. This section does not apply to any of the following:

- a. Except as provided under 15.22 (3), redevelopment post-construction sites.
- b. In-fill development areas less than 5 acres.
- c. Structures that cross or access surface water such as boat landings, bridges, and culverts.
- d. Structures constructed in accordance with s. 59.692 (1v), Stats.
- e. 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 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 subd. 2., 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.F. (Velocity and Depth) and V.G. (Slope Geometry Criteria) with a swale treatment length as long as that specified in section V.C. (Pre-Treatment) of the Wisconsin Department of Natural Resources technical standard 1005 "Vegetated Infiltration Swales", dated May 2007, 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 subd. 1., the Village Engineer 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 Village Engineer to determine if additional BMPs beyond a water quality swale are needed under this subsection.

(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 15.22 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 Village Engineer may approve off-site management measures provided that all of the following conditions are met:
  - 1. The Village Engineer determines that the post-construction runoff is covered by a storm water management system plan that is approved by the [name of municipality] 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.
- (c) Where a regional treatment option exists such that the Village Engineer 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 Engineer. In determining the fee for post-construction runoff, the Village Engineer shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

- (7) **ADDITIONAL REQUIREMENTS.** The Village Engineer may establish storm water management requirements more stringent than those set forth in this ordinance if the Village Engineer 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.

**15.23 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.**

- (1) **PERMIT REQUIRED.** No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the Village Engineer prior to commencing the proposed activity.

- (2) **PERMIT APPLICATION AND FEES.** Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the Village Engineer a permit application on a form provided by the Village Engineer for that purpose.
- (a) Unless otherwise excluded by this ordinance, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee.
  - (b) The storm water management plan shall be prepared to meet the requirements of 15.22 and 15.24, the maintenance agreement shall be prepared to meet the requirements of 15.25, the financial guarantee shall meet the requirements of 15.26, and fees shall be those established by the Village Board as set forth in 15.27.
- (3) **PERMIT APPLICATION REVIEW AND APPROVAL.** The Village Engineer 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:
- (a) Within [number] business days of the receipt of a complete permit application, including all items as required by sub. (2), the Village Engineer shall inform the applicant whether the application, storm water management plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.
  - (b) If the storm water permit application, storm water management 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 Engineer shall issue the permit.
  - (c) If the storm water permit application, storm water management plan or maintenance agreement is disapproved, the Village Engineer shall detail in writing the reasons for disapproval.
  - (d) The Village Engineer may request additional information from the applicant. If additional information is submitted, the Village Engineer shall have [number] business days from the date the additional information is received to inform the applicant that the storm water management plan and maintenance agreement are either approved or disapproved.
  - (e) Failure by the Village Engineer to inform the permit applicant of a decision within [number] business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) **PERMIT REQUIREMENTS.** All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The Village Engineer may suspend or revoke a permit for violation of

a permit condition, following written notification of the responsible party. An action by the Village Engineer to suspend or revoke this permit may be appealed in accordance with 15.29.

- (a) 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.
- (b) The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.
- (c) The responsible party shall notify the Village Engineer at least [number] business days before commencing any work in conjunction with the storm water management plan, and within [number] business days upon completion of the storm water management practices. If required as a special condition under sub. (5), the responsible party shall make additional notification according to a schedule set forth by the Village Engineer so that practice installations can be inspected during construction.
- (d) Practice installations required as part of this ordinance 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 Engineer or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The Village Engineer 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.
- (e) The responsible party shall notify the Village Engineer of any significant modifications it intends to make to an approved storm water management plan. The Village Engineer may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.
- (f) 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 [governing body], or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- (g) The responsible party authorizes the Village Engineer 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 subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under 15.26.
- (h) If so directed by the Village Engineer, 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.

- (i) The responsible party shall permit property access to the Village Engineer or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
- (j) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Village Engineer may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
- (k) The responsible party is subject to the enforcement actions and penalties detailed in 15.28, if the responsible party fails to comply with the terms of this permit.

(5) **PERMIT CONDITIONS.** Permits issued under this subsection may include conditions established by Village Engineer in addition to the requirements needed to meet the performance standards in 15.22 or a financial guarantee as provided for in 15.26.

(6) **PERMIT DURATION.** Permits issued under this section shall be valid from the date of issuance through the date the Village Engineer notifies the responsible party that all storm water management practices have passed the final inspection required under sub. (4)(d).

#### **15.24 STORM WATER MANAGEMENT PLAN.**

(1) **STORM WATER MANAGEMENT PLAN REQUIREMENTS.** The storm water management plan required under 15.22 (2) shall contain at a minimum the following information:

- (a) 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.
- (b) 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.
- (c) Pre-development site conditions, including:
  - 1. One or more site maps at a scale of not less than 1 inch equals [number] 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

[number] 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 s. NR 811.16, Wis. Adm. Code.

2. 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).

(d) Post-development site conditions, including:

1. 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.
2. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
3. One or more site maps at a scale of not less than 1 inch equals [number] 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 [number] 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.

4. 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).
  5. 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.
- (e) A description and installation schedule for the storm water management practices needed to meet the performance standards in 15.22.
  - (f) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
  - (g) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
  - (h) Other information requested in writing by the Village Engineer to determine compliance of the proposed storm water management measures with the provisions of this ordinance.
  - (i) All site investigations, plans, designs, computations, and drawings shall be certified by a [licensed professional engineer] to be prepared in accordance with accepted engineering practice and requirements of this ordinance.
- (2) **ALTERNATE REQUIREMENTS.** The Village Engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under 15.22 (5).

#### **S. 10 MAINTENANCE AGREEMENT.**

- (1) **MAINTENANCE AGREEMENT REQUIRED.** The maintenance agreement required under 15.23 (2) for storm water management practices shall be an agreement between the Village Engineer 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 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.
- (2) **AGREEMENT PROVISIONS.** The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by S. 09 (1)(f):



- (a) Identification of the storm water facilities and designation of the drainage area served by the facilities.
- (b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under 15.24 (2).
- (c) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under 15.25 (2).
- (d) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in par. (b).
- (e) Authorization for the Village Engineer 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.
- (f) A requirement on the Village Engineer 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.
- (g) Agreement that the party designated under par. (c), as responsible for long term maintenance of the storm water management practices, shall be notified by the Village Engineer of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Village Engineer.
- (h) Authorization of the Village Engineer to perform the corrected actions identified in the inspection report if the responsible party designated under par. (c) does not make the required corrections in the specified time period. The Village Engineer shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.

#### **15.26 FINANCIAL GUARANTEE.**

- (1) **ESTABLISHMENT OF THE GUARANTEE.** The Village Engineer may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Village Engineer. The financial guarantee shall be in an amount determined by the Village Engineer 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 Engineer the authorization to use the funds to complete the storm water management practices 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 Village Engineer that the requirements of this ordinance have not been met.

- (2) **CONDITIONS FOR RELEASE.** Conditions for the release of the financial guarantee are as follows:
- (a) The Village Engineer shall release the portion of the financial guarantee established under this section, less any costs incurred by the Village Engineer to complete installation of practices, upon submission of "as built plans" or "record" drawings by a licensed professional engineer. The Village Engineer may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
  - (b) The Village Engineer 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 Engineer, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

#### **15.27 FEE SCHEDULE.**

The fees referred to in other sections of this ordinance shall be established by the Village Engineer and may from time to time be modified by resolution. A schedule of the fees established by the Village Engineer shall be available for review in [location].

#### **15.28 ENFORCEMENT.**

- (1) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance 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 ordinance.
- (2) The Village Engineer shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (3) Upon receipt of written notification from the Village Engineer under sub. (2), 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 Engineer in the notice.

- (4) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the Village Engineer may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Village Engineer plus interest and legal costs shall be billed to the responsible party.
- (5) The Village Engineer is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the [municipal attorney, corporation counsel] to obtain a cease and desist order in any court with jurisdiction.
- (6) The Village Engineer may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.
- (7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Village Engineer or by a court with jurisdiction.
- (8) The Village Engineer is authorized to refer any violation of this ordinance, or a stop work order or cease and desist order issued pursuant to this ordinance, to the Village attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (9) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$500 dollars or more than \$1000 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (10) Compliance with the provisions of this ordinance 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 injunctive proceedings.
- (11) When the Village Engineer determines that the holder of a permit issued pursuant to this ordinance 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 Engineer or a party designated by the Village Engineer 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 storm water management plan. The Village Engineer 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 S. 11 of this ordinance. 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.

#### **15.29 APPEALS.**

- (1) **ZONING BOARD OF APPEALS** The zoning board of appeals, created pursuant to section 17.40 of the Village of Sturtevant ordinances pursuant to s. 61.354 (4)(b Wis. Stats., shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Village Engineer in administering this ordinance. 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 ordinance 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.
- (2) **WHO MAY APPEAL.** Appeals to the zoning board of appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the Village of Sturtevant affected by any decision of the Village Engineer.

#### **15.30 SEVERABILITY.**

If any section, clause, provision or portion of this ordinance is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain in force and not be affected by such judgment.

#### **15.31 EFFECTIVE DATE.**

This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the Village Board of the Village of Sturtevant on the ----- day of -----, 2016.

Approved: \_\_\_\_\_

Attested: \_\_\_\_\_

Published on [day, month, year].

## CHAPTER 16

### SHORELAND/WETLAND ZONING

(Cr. #091-18)

<i><b>Section Number</b></i>	<i><b>Title</b></i>	<i><b>Ordinance Number</b></i>	<i><b>Date of Ordinance</b></i>
16.01	Statement of Purpose		
16.02	Shoreland/Wetland Overlay District		
16.03	Interpretation		
16.04	Principal Uses		
16.05	Conditional Uses		
16.06	Prohibited Uses		
16.07	Additional Application Requirements Concerning Conditional uses of Wetlands		
16.08	Standards in Reviewing Conditional Uses		
16.09	Review and Approval by the Building Inspector of Shoreland/Floodplain Applications		
16.10	Appeals to the Board of Appeals		
16.11	Amendments		
16.12	Definitions		
16.15	Penalty		

**16.01 STATEMENT OF PURPOSE.** (Rep. & recr. #96-12)

This chapter is adopted pursuant to the authorization in §§61.35, 61.351, 87.30 and 144.26, Wis. Stats. The shoreland/wetland overlay district is intended to be used to maintain safe and healthful conditions to prevent water pollution, to prevent fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty, and to control building and development in wetlands. When development occurs in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

**16.02 SHORELAND/WETLAND OVERLAY DISTRICT.** (Rep. & recr. #96-12)

The shoreland/wetland overlay district includes all shoreland wetlands five acres or larger that are shown on the Wisconsin Wetland Inventory map stamped final on July 25, 1990 hereby adopted and made part of this chapter.

**16.03 INTERPRETATION.** (Rep. & recr. #96-12)

Where a provision of this chapter, including definitions, is required by a standard in chapter NR117, Wis. Adm. Code, the provision shall be interpreted in light of the chapter NR117 standards in effect on the date of adoption of this chapter [Oct. 1, 1996] or in effect on the date of the most recent text amendment to this chapter.

**16.04 PRINCIPAL USES.**

- (1) The following uses must be carried out without filling, flooding, draining, dredging, ditching, tiling or excavating:
  - (a) Hiking.
  - (b) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
  - (c) The practice of silviculture, including the planting, thinning and harvesting of timber.
  - (d) The pasturing of livestock.
  - (e) The cultivation of agricultural crops.

- (2) The following uses may involve filling, flooding, draining, dredging, ditching, tiling or excavating to the extent specifically provided below. A zoning permit is not required for such uses.
- (a) 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.
  - (b) Dike and dam construction and ditching for the purpose of growing and harvesting cranberries.
  - (c) 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.
  - (d) Limited excavating and filling necessary for the construction and maintenance of fences for the pasturing or livestock.
  - (e) Limited excavating and filling necessary for the construction and maintenance of piers, docks and walkways built on pilings.
  - (f) Limited excavating and filling necessary for the maintenance, repair, replacement and reconstruction of existing town and county highways.
  - (g) The maintenance and repair of existing town and county bridges.

#### **16.05 CONDITIONAL USES.**

- (1) The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation, provided that:
- (a) The road cannot as a practical matter be located outside the wetland.
  - (b) The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:
    - 1. The road shall be designed and constructed as a single lane roadway with only such depth and width necessary to accomplish the machinery required to conduct agricultural and silvicultural activities.
    - 2. Road construction activities are to be carried out in the immediate area of the roadbed only.

3. 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.
- (2) 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 the building cannot as a practical matter be located outside the wetland, provided that:
  - (a) Any such building does not exceed 500-sq. ft. in floor area.
  - (b) Only limited excavating and filling necessary to provide structure support for the building is allowed.
- (3) 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 and fur animal farms, provided that:
  - (a) Any private recreation or wildlife habitat area must be used exclusively for that purpose.
  - (b) Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game bird and animal farms, fur animal farms and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- (4) 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:
  - (a) The transmission and distribution lines and related facilities cannot as a practical matter be located outside the wetland.
  - (b) Any filling, excavating, ditching or draining that is to be done shall 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.
- (5) The construction and maintenance of railroad lines, provided that:



- (a) The railroad lines cannot as a practical matter be located outside the wetland.
  - (b) Any filling, excavating, ditching or draining that is to be done shall be necessary for such construction or maintenance and shall be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetland and the replacement and reconstruction of existing Village and county bridges.
- (6) The conditional uses herein shall be approved under application made pursuant to Section 17.43 of this Municipal Code.

#### **16.06 PROHIBITED USES.**

Any use that is not listed above as a principal or conditional use is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this chapter in accordance with §62.23(7)(d)2., Wis. Stats., and Ch. NR 117, Wis. Adm. Code.

#### **16.07 ADDITIONAL APPLICATION REQUIREMENTS CONCERNING CONDITIONAL USES OF WETLANDS.**

- (1) Such information shall be supplied to the Village Building Inspector 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. Fee receipt from the Building Inspector for the fee required by the Village Board.
- (2) An application for a conditional use permit will be rejected without a hearing if either the Land Use Committee or the Village Board, acting pursuant to Section 17.43 of this Municipal Code, votes such rejection. In all other cases, the Land Use Committee shall fix a reasonable time and place for a public hearing on the application and give public notice thereof in accordance with the applicable requirements of the Wisconsin Statutes.
- (3) A copy of all notices for public hearings on applications for conditional uses in the floodland districts, including a copy of the application, shall be transmitted to the Wisconsin Department of Natural Resources (DNR) for review and comment. Final

action on floodland applications shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first.

- (4) Notice of public hearings on shoreland and shoreland/wetland conditional uses shall be mailed to the DNR district office at least 10 days prior to the hearing. A copy of any decision on any such conditional uses shall be mailed to the DNR district office within 10 days after it is granted or denied.

#### **16.08 STANDARDS IN REVIEWING CONDITIONAL USES.**

In reviewing the proposed conditional uses, the Planning Committee and the Village Board shall be guided by the following standards and requirements:

- (1) All conditional uses shall be in accordance with the purpose and intent of this chapter and shall not be hazardous, harmful, offensive or otherwise adverse to the environmental quality, water quality, shoreland cover or property values in the village and its communities.
- (2) 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) Conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, higher performance standards, street dedication, certified survey maps, floodproofing, ground cover, diversions, silting basins, terraces, stream bank protections, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or additional parking may be required by the Planning Committee upon its finding that these are necessary to fulfill the purpose and intent of this chapter and the State Water Resources Act of 1965 and to meet the provisions of the state's flood plan 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 17.40(2) of this Municipal Code.

- (5) With respect to conditional uses within shorelands, the standards set forth in §144.26(5), Wis. Stats., in particular as they relate to the avoidance or control of pollution.

#### **16.09 REVIEW AND APPROVAL BY THE BUILDING INSPECTOR OF SHORELAND/FLOODPLAIN APPLICATIONS.**

- (1) The Building Inspector may approve shoreland/floodplain conditional use permit applications under this chapter without a public hearing, provided that the applicant agrees to sign a contract setting forth the methods for eliminating erosion, sedimentation and pollution.
- (2) The Building Inspector may request technical assistance from any Village office, officer or department in review of shoreland/wetland conditional use permit applications prior to setting forth the contractual provisions. Such contractual provisions shall be in compliance with the standards set forth in Ch. 17 of this Municipal Code.
- (3) The applicant may request a public hearing if the applicant does not agree with the provisions of the contract or feels the public hearing is in the applicant's best interest.
- (4) The Building Inspector may require a formal conditional use public hearing where it is deemed that the subject land may be susceptible to flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low bearing strength, erosion or any other feature likely to be harmful to the sensitive environment of the shoreland/floodplain areas or to the public interest to the Village.
- (5) The Building Inspector 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 shoreland/floodplain conditional use applications which are more strict than those imposed by the Building Inspector. The Village Board shall have 20 days from the receipt of the application to notify the Building Inspector of the more strict conditions being imposed for inclusion in the contract.

#### **16.10 APPEALS TO THE BOARD OF APPEALS.** (Cr. #96-12)

- (1) Any person aggrieved or by any officer, department, board or bureau of the Village affected by any order, requirement, decision or determination of the Building Inspector under this chapter may appeal to the Board of Appeals as provided in Section 17.40 of the Municipal Code.

- (2) The procedure shall be as provided in Section 17.40, except that the notice of public hearing shall be published as a Class II notice under Ch. 985, Wis. Stats., and copies of the notice shall be mailed to the parties in interest and to the Milwaukee district office of the Department at least 10 days prior to the hearing.
- (3) The decision shall be in writing and shall state the specific facts which are the basis of the Board's determination. A copy of the decision shall be mailed to the parties in interest and to the Milwaukee district office of the Department within 10 days after the decision is issued.

#### **16.11 AMENDMENTS.** (Cr. #96-12)

- (1) This chapter, including any district boundaries or maps, may be amended in accordance with the requirements of §61.351, Wis. Stats. and NR117, Wis. Adm. Code as are in effect at the time of such amendments, and this chapter.
- (2) Wetlands in the shoreland/wetland zoning district may not be rezoned where the proposed rezoning may result in significant adverse impact upon any of the following wetland functions:
  - (a) Storm and flood water storage capacity;
  - (b) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
  - (c) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
  - (d) Shoreline protection against erosion;
  - (e) Fish spawning, breeding, nursery or feeding grounds;
  - (f) Wildlife habitat; or
  - (g) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.
- (3) Any proposed amendment to this chapter, whether text or map, shall be referred to the Plan Commission for its recommendation. Within 5 days of the referral of the proposed amendment to the Plan Commission the Clerk/Treasurer shall mail a copy of the proposed amendment to the Department. Prior to adoption of any amendment to this chapter, a public hearing shall be held thereon by the Village Board. Notice

of the public hearing shall be by publication of a Class II notice and mailing a copy to the Department's district office at least 10 days prior to the hearing.

- (4) Where the Department determines that a proposed rezoning may have significant adverse impact on any of the criteria listed in sub. (2) above, the Department shall notify the Village in writing, either prior to or during the public hearing on the rezoning. If the Department provides such a notice, the proposed amendment shall not become effective until more than 30 days have elapsed after mailing of the notice of the Village decision as required in sub. (3) above. If within the 30-day period, the Department notifies the Clerk/Treasurer that it intends to adopt a superseding shoreland/wetland zoning ordinance for the Village under §61.351(6), Wis. Stats., the proposed amendment shall not become effective until the superseding ordinance adoption procedure is completed or terminated.

#### **16.12 DEFINITIONS.** (Cr. #96-12)

As used in this chapter, the following words or terms shall have the meanings as set forth herein:

**DEPARTMENT.** The Wisconsin Department of Natural Resources.

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

**DRAINAGE SYSTEM.** One or more artificial ditches, file drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

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

**NAVIGABLE WATERS.** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state.

**ORDINARY HIGH-WATER MARK.** The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevent of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

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

**SHORELAND/WETLAND DISTRICT.** The zoning district, created in this shoreland/wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this chapter.

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

**WETLAND ALTERATION.** Any filling, flooding, draining, dredging, ditching, tiling, excavation, temporary water level stabilization measures or dike and dam construction in a wetland area.

#### **16.15 PENALTY.**

Except as otherwise provided herein, any person found in violation of any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in Section 25.04 of this Municipal Code.

CHAPTER 17  
**ZONING CODE**  
 INTRODUCTION  
 (2014-03 08/19/14)

<b><i>Section Number</i></b>	<b>Title</b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
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## INTRODUCTION

### **17.01 PURPOSE.**

This chapter is enacted to promote the health, safety, morals and general welfare; to regulate and restrict the height, number of stories and size of buildings and other structures, percentage of lot which may be occupied, size of yards, courts and other open spaces, density of population, location and use of buildings, structures and land for trade, industry, residence and other purposes and to divide the Village into districts of such number, shape and area as are deemed best suited to carry out such purposes; to provide a method for its administration and enforcement and to provide penalties for its violation.

### **17.02 INTERPRETATION.**

- (1) The provisions of this chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Village.
- (2) It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants or agreements between parties or with any rules, regulations or permits previously adopted or issued pursuant to law. However, where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this chapter shall govern.

### **17.03 ZONING ADMINISTRATOR.**

- (1) Designated; duties.
  - (a) The Village Administrator, or the Village Administrator's designee, or the Village Board's designee, is established as the administrative and enforcement officer for this chapter ("Zoning Administrator").
  - (b) The duty of the Zoning Administrator shall be to interpret and administer this chapter and to issue or deny, after on-site inspection, all permits required by this chapter. The Zoning Administrator shall further:
    1. Maintain records of all permits issued and inspections made.

2. Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
3. Inspect all structures, lands, and water as often as necessary to ensure compliance with this chapter.
4. With the aid of the local law enforcement authority and the village attorney, investigate all complaints made relating to the location of structures and the use of structures, lands, and waters; give notice of all violations of this chapter to the owner, resident, agent, or occupant of the premises; and report uncorrected violations to the village attorney in a manner specified by him/her.
5. Assist the village attorney in the prosecution of violations of this chapter.
6. Be permitted access to public or private premises, lands, structures or water during reasonable hours to make those inspections as deemed necessary by him/her to ensure compliance with this chapter. If, however, the Zoning Administrator is refused entry after presentation of his/her identification, he/she may procure a special inspection warrant in accordance with Wis. Stat. §66.0119, except in cases of emergency.
7. Prohibit the use or erection of any structure, land, or water until he/she has inspected and approved such use or erection.
8. Request assistance and cooperation from the municipal police authority and village attorney as deemed necessary.

(c) Interpretation-Materially Similar Uses.

1. The Zoning Administrator shall determine if a use not mentioned can reasonably be interpreted to fit into a use category where similar uses are described. Interpretations shall be ratified by the Village Board upon recommendation by the Plan Commission, before the Zoning Administrator's interpretation regarding the proposed use becomes effective. It is the intent of this section to group similar or compatible land uses into specific zoning districts, either as permitted uses or as uses authorized by conditional use permits. Uses not listed as a permitted use or as a conditional use are presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed as a prohibited use and is not

otherwise prohibited by law, the Zoning Administrator shall determine whether a materially similar use exists in this section.

2. Should the Zoning Administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed, and the Zoning Administrator's decision shall be recorded in writing. Should the Zoning Administrator determine that a materially similar use does not exist, the matter may be referred to the Plan Commission for consideration for amendment to the zoning code to establish a specific listing of the use in question.

#### **17.04 DISTRICTS.**

- (1) The Village is hereby divided into the following zoning districts:
  - (a) Single-family Residence District.
  - (b) Two and Multiple Family Residence District.
  - (c) Commercial District
  - (d) Mixed Use Commercial and Single-family Residence District
  - (e) Industrial/Business Park District
  - (f) Planned Development District
  - (g) Government and Institutional District
- (2) The boundaries of the districts in sub. (1) are hereby established as shown on the map entitled "District Map, Village of Sturtevant, Wisconsin" which map is made a part of this chapter by reference. All notations and references shown on the district map are as much a part of this chapter as though specifically described herein.
  - (a) The district boundaries are either streets or alleys, unless otherwise shown, and where the designation on the district map indicates that the various districts are approximately bounded by a street or alley, such street or alley centerline shall be construed to be the district boundary line.

- (b) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines and where the designations on the district map are approximately bounded by lot lines, such lot lines shall be construed to be the boundaries of the district.
- (c) In unsubdivided property, the location of the district boundary lines shown on the district map shall be determined by use of the scale shown on such map.
- (d) There shall be a certified copy of the district map described above. A copy of such map shall be kept in the office of the Village Clerk/Treasurer and shall be available for inspection by any person during regular office hours. Such copy shall bear on its face the notation that it is the certified copy of the district map, the certificate to be signed by the Village President and attested by the Clerk/Treasurer and it shall show the number and the title of the ordinance and the date of its adoption. Thereafter, no amendment to this chapter which causes a change in the boundaries of any district shall become effective until such change, together with a certificate describing the change, has been shown on the certified copy. Such certificate of amendment shall likewise be signed by the Village President and attested by the Clerk/Treasurer and shall show the number of the amending ordinance and the date of its adoption.
- (e) The Village has adopted a comprehensive plan in accordance with Wis. Stat. §66.1001 entitled “A Multi-Jurisdictional Comprehensive Plan for Racine County: 2035.” Pursuant to Wis. Stat. §66.1001(3), zoning ordinances enacted or amended must be consistent with the Village’s comprehensive plan. Thus, areas of existing development shall, over time, be placed in a zoning district that is consistent with the land use designations shown on the land use plan map. Rezoning to achieve consistency between the zoning map and the comprehensive plan will be considered if requested by the property owner. The Village also reserves the right to initiate a rezoning to achieve consistency. See Table 17-1 for the land use category that corresponds with each zoning district designation.

TABLE 17-1

<u>Zoning District</u>	<u>Comprehensive Plan Land-Use Category</u>
Single-family Residence	Medium Density Residential
Two and Multiple Family Residence	High Density Residential
Commercial	Commercial
Mixed-Use Comm. and Single-family Res.	Mixed Use Commercial and Residential
Industrial/Business Park	Industrial/Business Park
Governmental and Institutional	Governmental and Institutional
Planned Development District	

## 17.05 **DEFINITIONS.**

For purposes of this chapter, certain words and terms are defined as follows:

**GENERALLY.** Words used in the present tense include the future; the singular number includes the plural number and the plural number includes the singular number; “building” includes “structure”; “shall” is mandatory and not directory. Any words not herein defined shall be construed as defined in the State and Village building codes.

**ABUT OR ABUTTING.** Having property lines in common.

**ACCESSORY DWELLING UNIT.** A habitable living unit added to, created within, or detached from a single-family dwelling, that typically provides the basic requirements for living, sleeping, eating, cooking, and sanitation and is usually subordinate in size, location, and appearance to the primary unit. Accessory dwelling units may not be income-producing. A “mother-in-law suite” is an example of an accessory dwelling unit.

**ACCESSORY USE.** A use subordinate or incidental to, and located on the same lot as, a principal use.

**ACCESSORY STRUCTURE.** A structure, including a facility or building, which is subordinate or incidental to the principle structure.

**ADDITION.** A completely new structure or new component to an existing structure.

**ADJACENT.** Two properties, lots or parcels are “adjacent” where they abut or where they are separated by a roadway or street, right-of-way, or railroad line, or any stream, river, canal, lake or other body of water.

**AIRPORT, PUBLIC.** Any airport which complies with the definition contained in Wis. Stat. §114.002(18m) or any airport which serves or offers to serve common carriers engaged in air transport.

**ALLEY.** A public right-of-way primarily designated to serve as access to the side or rear of those properties whose principal frontage is on some other street.

**APARTMENT.** See DWELLING, MULTIPLE-FAMILY.

**BASEMENT.** Any area of the building having its floor subgrade (below ground level) on all sides.

**BOARDING HOUSE.** An establishment other than a hotel where lodging is provided for definite periods for compensation, and meals are regularly prepared and served as part of the rental arrangement. A bed and breakfast is one type of a boarding house.

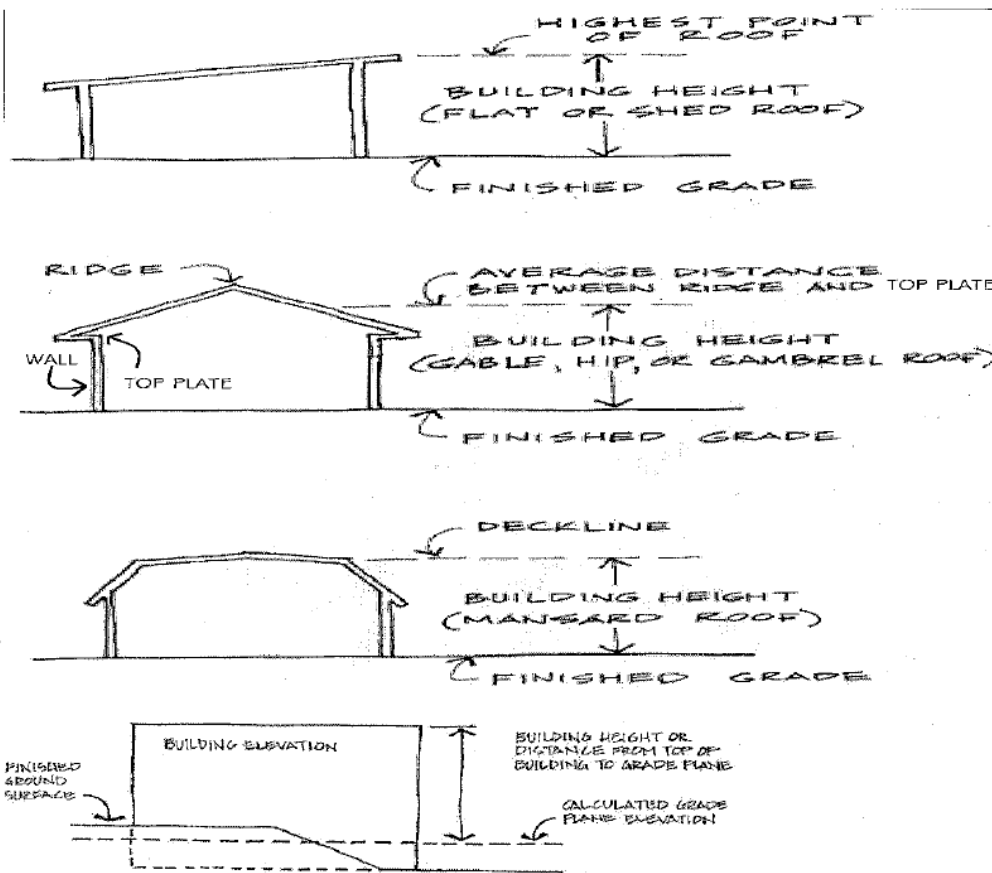
**BODY PIERCE,** as a verb, means to perforate any human body part or tissue, except an ear, and to place a foreign object in the perforation to prevent the perforation from closing. (Cr. #099-5)

**BODY-PIERCING ESTABLISHMENT** means the premises where a body piercer performs body piercing. (Cr. #099-5)

**BUILDING.** Any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property.

**BUILDING, ACCESSORY.** A building or portion of a building subordinate to the principal structure and used for a purpose customarily incidental to the permitted use of the principal structure or the use of the premises. An automobile trailer or other vehicle or part thereof or other building used as a temporary or permanent dwelling or lodging place is not an accessory building or use for the purposes of this chapter.

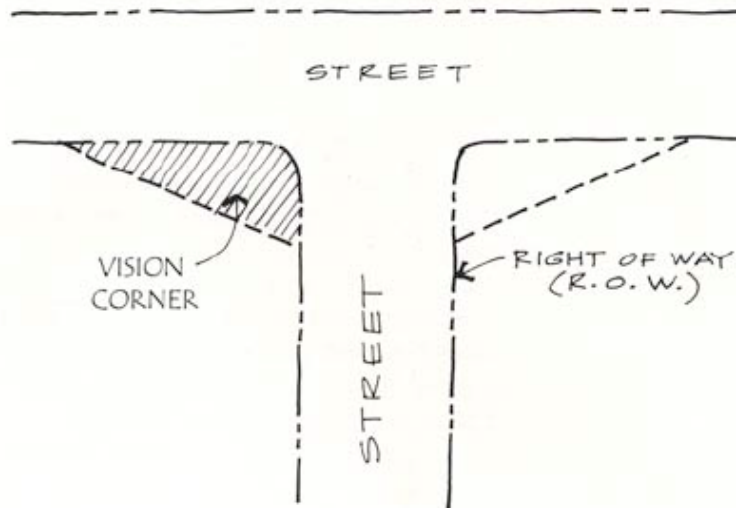
**BUILDING, HEIGHT OF.** The vertical distance from the average curb level in front of the lot or the finished grade at the front building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height between the plate and ridge of the highest gable, gambrel, hip or pitch roof.



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**CLEAR VISION AREA.** The triangular area adjacent to the intersection of any street within which no obstruction may be placed that blocks the sight lines for vehicular traffic.



**COMPREHENSIVE PLAN.** A document adopted by the Village Board under authority of Sec. 66.1001, Wis. Stats.

**CONDITIONAL USE.** A use which is not permitted as a matter of right but rather only when conducted pursuant to a conditional use permit issued under the procedures and limitations established in this Chapter. See Sec. 17.29.

**CONVENIENT CASH BUSINESS** (also known as a “payday loan business,” “title for cash business,” “check cashing business,” or similar enterprise). Any entity licensed pursuant to Wis. Stat. Sections 218.05 or 138.09, 138.14, or 138.16, and any amendments thereto, which accepts a check or title for payment, holds the check or title for a period of time before negotiating or presenting the check or title for payment, and pays to the issuer an agreed-upon amount of cash, or which refinances or consolidates such a transaction.

**DWELLING.** One or more rooms providing complete living facilities for one family, including kitchen facilities or equipment for cooking, or provisions for same, and including a room or multiple rooms for living, sleeping, bathing and eating. Also known as a “dwelling unit.”

**DWELLING, SINGLE-FAMILY.** A detached building designed for and occupied exclusively by not more than one family.

**DWELLING, TWO-FAMILY.** A detached or semi-detached building designed for and occupied exclusively as the residence of not more than two families, each living as an independent house-keeping unit.

**DWELLING, MULTIPLE-FAMILY.** A dwelling or group of dwellings on one lot containing separate living units for three or more families, but which may have joint services or facilities.

**EXCEPTION.** A use of property, including the use and location of buildings, the size of lots and the dimensions of required yards, which is not in full conformity with the terms of this chapter but which is permissible by reason of special provisions of this chapter.

**FAMILY.** One or more persons occupying a dwelling and living together as a single housekeeping entity.

**FENCE.** An artificial structure of posts and boards, wire, pickets, panels, rails or similar materials that is used as an enclosure of land. For purposes of this chapter, a fence shall not include vegetation, nor shall it include a retaining wall that retains or supports earth. Additionally, a fence shall not include a temporary snow fence that is installed and removed within the months of November through April, nor shall it include a temporary fence required to be erected by this Code. The “good side” of the fence is the side of the fence that by virtue of its design and appearance would generally be considered as the most aesthetically pleasing side of the fence.

**FLOOR AREA.** The sum of the gross horizontal areas of all floors of a structure, measured from the exterior walls or from the center line of a wall separating two structures. However, the floor area of a dwelling shall not include unimproved space, such as utility rooms, garages, breezeways and unenclosed porches, or attics or basements with only one means of ingress and egress.

**FRONTAGE.** That distance where a property line abuts a street right-of-way line.

**GARAGE, PRIVATE.** A building or building appendage that is accessory to a principal structure, providing for the storage of automobiles and in which no occupation or business for profit is carried on, and enclosed on all four sides and pierced only by windows and customary doors.

**GARAGE, PUBLIC.** Any building or premises, other than a private or storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.

**GARAGE, STORAGE.** Any building or premises used for the storage only of motor-driven vehicles by previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired or sold.

**HOME OCCUPATION.** Any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit.

**HOUSE.** Unless a different meaning is clearly intended by the context, "house" shall mean a single-family dwelling.

**HOTEL.** A building or group of buildings containing rooms intended or designed to be used or that are used, rented, or hired out to be occupied or that are occupied for sleeping purposes by guests.

**JUNKYARD (SALVAGE YARD).** Any premises on which there is an accumulation of scrap metal, paper, rags, glass, lumber, inoperable machinery, tires, or other materials stored or customarily stored for salvage, buying, selling, exchanging, dealing, disassembling, packing, bailing, wrecking, or handling, including the accumulation of more than three (3) inoperable vehicles unless such accumulation shall be housed in a completely enclosed building.

**LOADING SPACE.** An off-street space or berth on the same lot with a building or contiguous to a group of buildings and abutting on or having direct access to a public street or alley for the temporary parking of a commercial vehicle while loading or unloading cargo.

**LODGING HOUSE.** A building other than a hotel where lodging only is provided for compensation for not more than 5 persons not members of the family.

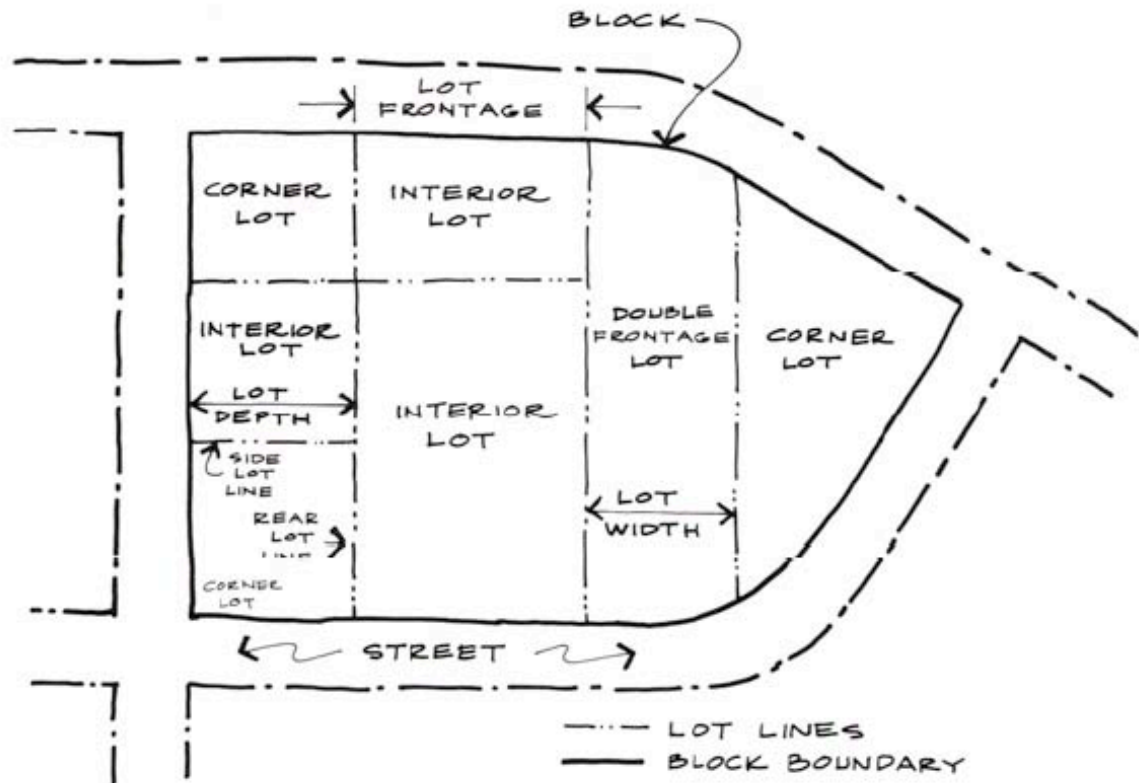
**LOT.** A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, and other open space provisions of this chapter.

**LOT, CORNER.** A lot abutting on 2 or more streets at their intersection, provided that the interior angle of such intersection is less than 135°. Corner lots shall have two "street yards," being those sides fronting on the lots' two public roadways, and two side yards.

**LOT, DEPTH OF.** The mean horizontal distance between the front and rear lot lines.

**LOT, DOUBLE FRONTAGE.** See through lot.

LOT, INTERIOR. A lot other than a corner lot.



LOT, THROUGH. An interior lot having frontage on 2 nonintersecting streets; also known as a double frontage lot.

LOT LINES. The lines bounding a lot as defined herein.

MOTEL. A building or group of detached, semi-detached, or attached buildings on a lot containing guest dwellings, each of which has a separate outside entrance leading directly to rooms, with a garage or parking space conveniently located with each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

NONCONFORMING. A description of the legal status of a lot, parcel, structure or use that was lawfully established, erected or commenced prior to the adoption or amendment of applicable land development or zoning regulations, or that was established, erected or commenced in compliance with then-applicable land development or zoning regulations, and that fails to meet currently-applicable land development or zoning requirements, including without limitation area, height, yards, setback, or use restrictions, only because of a change in the applicable land

development or zoning regulations, or due to annexation, condemnation of a portion of the lot, or other governmental action.

OFFICE. A building, or part thereof, used primarily for conducting the affairs of a business, profession, service, industry, government, or like activity.

OFFICIAL MAP. A map adopted by the Village Board under authority of s. 62.23(6), Wis. Stats.

PARCEL. A distinct tract or plot of land. Unless a different meaning is clearly intended by the context, “parcel” shall be interchangeable with “lot”.

PARKING LOT. A building or premises containing one or more parking spaces, open to the public free or for a fee.

PARKING SPACE. An unobstructed piece of ground or floor space sufficient for the temporary storage of one automobile. Each such parking space shall be located off the public street but accessible thereto and shall be not less than 180-sq. ft. in area, exclusive of the means of ingress and egress. A loading space is not a parking space.

PRINCIPAL STRUCTURE. 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. For example, and without limitation, a house would be the principal structure on a residential lot.

RIGHT-OF-WAY LINE. A street line.

ROADSIDE STAND. A structure not permanently fixed to the ground that is readily removable in its entirety, covered or uncovered and not wholly enclosed and used solely for the sale of farm products.

SETBACK. The minimum horizontal distance between the front street right-of-way line and the nearest point of a building or any projection thereof, excluding uncovered steps. “Within the setback line” means between the setback line and the street line.

SELF-STORAGE FACILITY, CLIMATE-CONTROLLED Any building with central access that is composed of individual rooms, units or defined areas, which are rented to the public for storage of personal property and which have independent, interior access and locks under the control of the tenant.

**SELF-STORAGE FACILITY, COLD STORAGE (a/k/a MINI-STORAGE UNITS).** Any building or group of buildings that is composed of contiguous individual rooms or units, which are rented to the public for the storage of personal property and which have independent, exterior access and locks under the control of the tenant.

**STORY.** That portion of a building included between the surface of a floor and the surface of the floor next above it or, if there be no floor above it, the space between the floor and the ceiling next above it.

**STORY, HALF.** The space under any roof, i.e. the attic, except if occupied for dwelling purposes, which shall then be counted as a full story for the purposes of this chapter.

**STREET.** A right-of-way that provides a channel for vehicular circulation; is the principal means of vehicular access to abutting properties; and includes space for possible amenities or appurtenances, such as utilities, sidewalks, pedestrian walkways, bicycle lanes, and drainage. Any such right-of-way is included in this definition, regardless of whether or not it is developed. Street includes any vehicular way that is an existing state, county or municipal roadway; is shown upon a plat approved pursuant to law; or is approved by other official action; and includes the land between the street lines, whether improved or unimproved. Unless a different meaning is clearly intended by context, street shall include all highways, as defined in Wis. Stat. § 340.01(22), all roadways, as defined in Wis. Stat. § 340.01(54), and all streets, as defined in Wis. Stat. § 340.01(64).

**STREET LINE.** A dividing line between a lot, tract or parcel of land and a contiguous street, also known as a right-of-way line.

**STRUCTURAL ALTERATIONS.** Any change in the supporting members of a building, such as foundations, bearing walls, columns, frames or girders.

**STRUCTURE.** Anything constructed or a combination of materials that form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water. Structure includes, without limitation, all buildings, driveways, patios, sheds and lean-tos.

**TATTOO,** as a verb, means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.

**TATTOO ESTABLISHMENT** means the premises where a tattooist applies a tattoo to another person.

VARIANCE. An authorization granted by the Board of Appeals, pursuant to established procedures and limitations, allowing such deviation from the dimensional standards of this zoning code as is not contrary to the public interest but in keeping with the spirit of the ordinance, where, owing to special circumstances unique to the property, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. A variance may not permit the use of a property that is otherwise prohibited by this chapter or allow floodland construction that is not protected to the flood protection elevation. See Sec. 17.26.

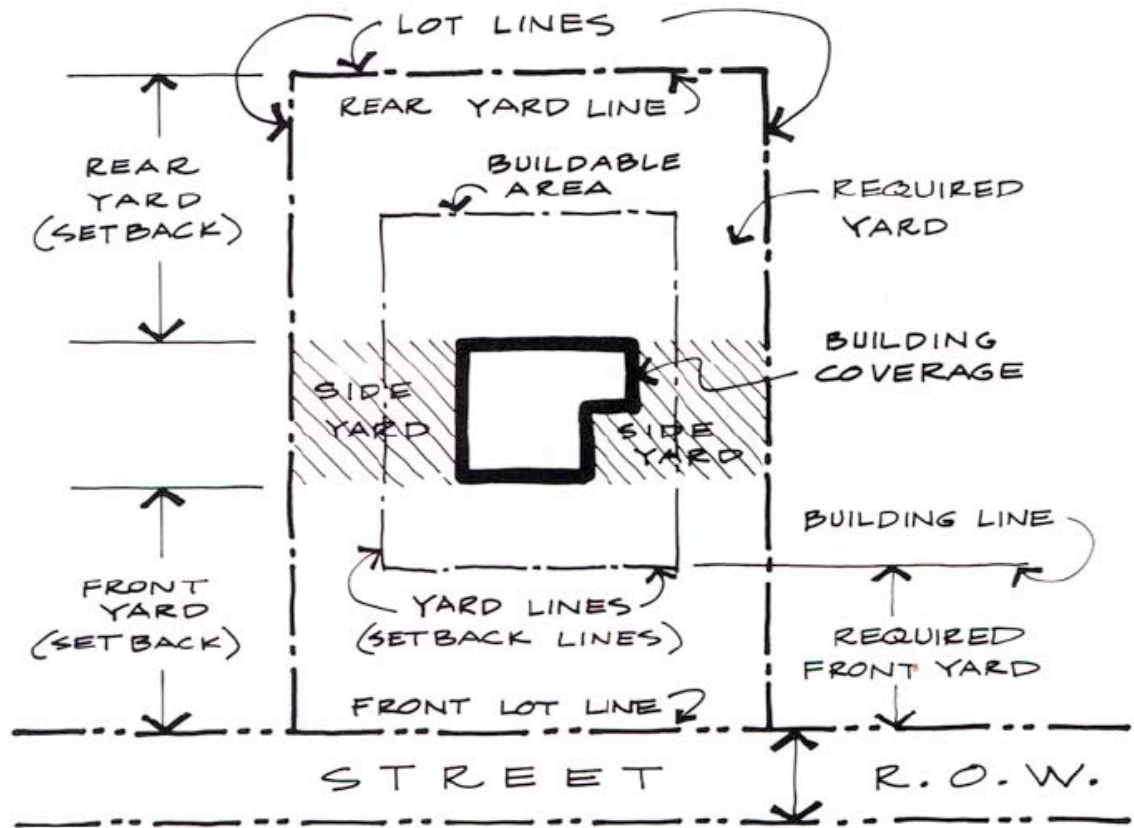
YARD. An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward except as otherwise provided herein.

YARD, FRONT. A yard extending the full width of the lot between the front lot line and the nearest part of the principal structure, excluding only uncovered steps.

YARD, REAR. A yard extending the full width of the lot, being the minimum horizontal distance between the rear lot line and the nearest part of the principal structure, excluding only uncovered steps. In the case of irregular or triangular lots, where none of the lines bounding the rear of the lot are at an angle of less than 45° to the front lot line, the rear lot line for the purposes of this chapter shall be a line 15' long, wholly within the lot, parallel to the front lot line or the main chord thereof and at the maximum distance from the lot line.

YARD, SIDE. A yard extending from the front yard to the rear yard, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest part of the principal structure.

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## GENERAL PROVISIONS

### 17.06 APPLICATION.

Except as otherwise provided in this chapter, the following regulations shall apply to all districts.

### 17.07 BUILDINGS AND USES.

- (1) No provision of this chapter shall be construed to bar an action to abate the use or occupancy of any land, buildings or other structures as a nuisance under the laws of the State or ordinances of the Village.
- (2) No provision of this chapter shall be construed to prohibit the customary and necessary construction, reconstruction or maintenance of overground or underground public utility neighborhood service lines and mechanical



appurtenances to such lines, where reasonably necessary for the preservation of the public health, safety, convenience and welfare.

- (3) The use and height of buildings hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.
- (4) No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.
- (5) Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one principal structure on one lot, unless otherwise provided in this ordinance or as permitted as part of an approved plan of development. Notwithstanding the above, more than one principal structure may be constructed in the commercial, industrial or institutional districts with the prior approval of the Plan Commission.
- (6) All streets, alleys and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be the same zone as the property immediately abutting upon such alleys, streets or railroad rights-of-way. Where the center line of a street or alley serves as a district boundary, the zoning of such street or alley unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such property line.

#### **17.08 NONCONFORMING USES, STRUCTURES AND LOTS.**

- (1) The existing lawful use of a building, premises, structure, or fixture at the time of the enactment of this chapter or any amendment thereto may be continued although such use does not conform with the provisions of this chapter for the district in which it is located, but such nonconforming use shall not be enlarged or extended. The total structural repairs or alterations in such a nonconforming building, premises, structure, or fixture shall not during its life exceed 50 percent of the assessed value of the building, premises, structure, or fixture unless permanently changed to a conforming use.
- (2) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more

restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.

- (3) A nonconforming use shall not be changed to any other nonconforming use unless or until a permit therefor shall have been issued by the Plan Commission, which may attach such conditions as it deems appropriate.
- (4) If the nonconforming use is discontinued for a period of 12 months, any future use of the building, premises, structure, or fixture shall conform to the regulations for the district in which it is located.
- (5)
  - (a) The above restrictions on repairs or alterations to damaged or destroyed nonconforming structures do not prohibit the restoration of a nonconforming structure if the structure will be restored to the size, location, and use that it had immediately before the damage occurred if all of the following apply:
    - 1. The nonconforming structure was damaged or destroyed on or after May 2, 2006.
    - 2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold or infestation.
  - (b) If the above conditions are applicable, the size of a structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.
- (6) If two or more abutting lots, any of which is nonconforming, are or come under common ownership, such nonconforming lots may not be sold separately from the abutting lots and shall be combined by the owner with any abutting conforming lot, or, if none, into one single lot, by use of a deed restriction or similar instrument, which shall be recorded in the office of the Racine County Register of Deeds Office. This subsection shall not apply if a habitable principal structure already exists on each such abutting lot.

#### **17.09 PRIOR PERMITS EXCEPTED.**

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of this chapter and the construction of which shall have been

started within 6 months from the date of such permit and completed within 12 months of such date.

#### **17.10 ACCESSORY BUILDINGS.**

- (1) Accessory buildings in the Single-family and Two and Multiple Family Residential Districts which are not part of the principal structure shall comply with the following requirements. For purposes of this section, square footage shall mean the footprint of the accessory building.
  - (a) For lots with an area greater than 108,900 sq. ft. (2 ½ acres) the owner may construct one accessory building of 4,135 sq. ft. or less and a second accessory building of 865 sq. ft. or less. If installing only one accessory building, the owner may construct one accessory building of 5,000 sq. ft. or less. Accessory buildings in excess of 1,050 sq. ft. shall require a conditional use permit in accordance with Section 17.29 of the Village Zoning Code.
  - (b) For lots with an area of 65,341 sq. ft. (1 ½ acres) to 108,900 sq. ft. (2 ½ acres), the owner may construct one accessory building of 2,400 sq. ft. or less, and a second accessory building of 865 sq. ft. or less. If installing only one accessory building, the owner may construct one accessory building of 3,265 sq. ft. or less. Accessory buildings in excess of 1,050 sq. ft. shall require a conditional use permit in accordance with Section 17.29 of the Village Zoning Code.
  - (c) For lots with an area of 12,000 sq. ft. to 65,340 sq. ft. (1 ½ acres), the owner may construct one accessory building of 900 sq. ft. or less, and a second accessory building of 150 sq. ft. or less. If installing only one accessory building, the owner may construct a building of 1,050 sq. ft. or less.
  - (d) For lots with an area less than 12,000 sq. ft., the owner may construct one accessory building of 600 sq. ft. or less, and a second accessory building of 150 sq. ft. or less. If installing only one accessory building, the owner may construct a building of 750 sq. ft. or less.
  - (e) Notwithstanding the above subsections, accessory buildings shall not occupy more than 50% of the rear yard area.
  - (f) Accessory buildings shall not exceed 15 feet in height, as measured to the top of the roof ridge board from the surrounding ground elevation, except as may be necessary to accommodate a 6:12 standard pitched roof. No accessory building may be more than one story.

- (g) Accessory buildings shall not be nearer than 8 feet to any lot line, except that buildings on or with respect to lots existing prior to the adoption of Ordinance 2003-32 (i.e., October 7, 2003) shall not be nearer than 4 feet to any lot line. Where a private garage has an entrance facing an alley, the entrance shall not be located nearer than 10 feet from the nearest alley line. Accessory buildings must comply with all setback requirements.
  - (h) The provisions of Section 17.18(2) relating to “home occupations” and home “professional office” shall apply to all accessory buildings in residential districts.
  - (i) No accessory building is allowed without a principal structure existing on the same lot.
- (2) Non-Residential Accessory Building Restrictions. The number and size of accessory buildings allowed in non-residential districts shall be as permitted by the Plan Commission.

**17.11 Reserved.**

**17.12 Reserved.**

**17.13 FRONT, SIDE AND REAR YARD REGULATIONS.**

- (1) No part of a yard or open space provided about any building in compliance with the provisions of this chapter shall be included as a part of a yard or open space required for another building.
- (2) Where boundary lines of different districts coincide there shall be a side yard in each district. The width of the side yard in the district with the smaller required minimum side yard shall be the average width of the required minimum side yards in the two abutting districts. Any rear yard abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yard in the two districts which abut the district boundary line.
- (3) Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings in a rear yard and the ordinary projections of sills, belt courses, cornices and ornamental features extending not more than 12”.

- (4) Open and enclosed fire escapes and fire towers may project into a required yard not more than 5' provided they be so located as not to obstruct light and ventilation.
- (5) Temporary Structures and Temporary Storage. No temporary structure or temporary storage is allowed within a front yard. Temporary storage and temporary structures may be located in side yards or rear yards for a period of not longer than five months in any 12-month period. For purposes of this section, a "temporary structure" is any structure that is designed without a permanent foundation, and "temporary storage" means the keeping of any item(s) anywhere on a property outside of a permanent structure and, with respect to legally- and mechanically-operable motor vehicles, any place but a property's driveway. Any temporary structure or temporary storage use other than as allowed in this subsection is permitted only as otherwise provided in this Chapter for permanent structures or permanent storage. Temporary structures and temporary storage may be permitted within side yard and rear yard setback areas provided that such uses do not cause adverse impacts on neighboring properties, including due to storm water runoff or snow accumulation.

#### **17.14 SETBACKS.**

- (1) Where 50% or more of the frontage within 120 feet on both sides of a property (excluding the width of any streets) is occupied by buildings having setbacks which are greater or less than the setback required by this chapter for the district in which such frontage is located, the setback shall be the average setback established by such buildings.
- (2) Where less than 50% of the frontage is occupied by buildings, the setback for the remainder of the frontage shall be as follows: (Am. #089-04)
  - (a) Greater Setbacks. Where vacant lots abut an occupied lot having a setback greater than is required by this chapter, the setback on the abutting vacant lots shall be the average of the setback required by this chapter for the district in which such lot is located and the setback on the occupied lot.
  - (b) Lesser Setbacks. Where vacant lots abut an occupied lot having a setback less than is required by this chapter, the setback on the vacant lots shall be the setback required by this chapter for the district in which such lots are located. No part of the building on such occupied lot which is within the setback line shall be enlarged or structurally altered unless such enlargement or structural alteration is outside the setback line required by this chapter for the district in which such lot is located. The purpose of this

paragraph is to finally establish a setback line which is not less than the minimum setback determined to be necessary for the preservation of the public safety, health, welfare and convenience.

- (3) Subject to the provisions of subs. (1) and (2) above, but without regard to setback restrictions otherwise provided in this chapter, the following setbacks shall apply: (Cr. #089-04) (See also, with respect to subdivisions abutting on state trunk highways or connecting highways, Wis. Admin. Code TRANS 233)
- (a) Durand Ave. Every building located on property accessing Durand Ave. shall be setback a minimum of 50' from the Durand Ave. right-of-way line and, unless otherwise approved by the Plan Commission not more than 75' from the Durand Ave. right-of-way line. Every building located on property located on Durand Ave., but not accessing Durand Ave., shall be setback from the Durand Ave right-of-way line such distance as is determined by the Plan Commission to be adequate for green space and the sidewalk, but in no event less than 15' from the Durand Ave. right-of-way line.
  - (b) Wisconsin St. Every building to be erected and constructed upon lands fronting on Wisconsin St. in the Village shall be so constructed that the front of the building shall be set back not less than 4' from the line designated as the sidewalk line of Wisconsin St. provided, however, that on the east side of Wisconsin St. north of the north line of Park Court Subdivision as recorded, the setback shall be 75' from the east right-of-way line of Wisconsin St. and further provided that on the west side of Wisconsin St. north of the north line of the S½ of the N½ of Section 21, T3N, R22E, the setback shall be 25' from the west right-of-way line of Wisconsin St. No parking of vehicles shall be permitted within 25' of the right-of-way line of Wisconsin St. in such 75' and 25' setbacks.
  - (c) Washington Ave. Every building to be erected and constructed upon lands fronting on Washington Ave. in the Village shall be so constructed that the building shall be set back not less than 100' from the right-of-way of Washington Ave. No parking of vehicles shall be permitted within 25' of the right-of-way line of Washington Ave.
  - (d) Through Lots. Buildings on through lots which extend from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard, provided that the setback requirements of both streets be complied with.

## 17.15 MOTOR VEHICLE PARKING.

- (1) **LOADING AND UNLOADING.** In any commercial or industrial district wherever a lot abuts upon a public or private alley, sufficient space for the loading and unloading of vehicles shall be provided on the lot in connection with any business or industrial use so that the alley shall at all times be free and unobstructed for the passage of traffic.
- (2) **OFF-STREET PARKING AND LOADING.**
  - (a) Required Off-Street Parking. Off-street vehicle parking space shall be provided for buildings and uses as specified in this section, except as may be otherwise permitted by the Plan Commission. Such parking shall be reasonably adjacent to the use or building being served; be intended specifically to serve the residents, patrons or employees of the use or buildings; and the required number of spaces shall be demonstrably usable and accessible for such purpose.

<u>Use</u>	<u>Minimum Off-Street Parking Requirements</u>
Single-family Dwelling	At least two spaces per dwelling. Parking spaces serving a single-family dwelling need not be striped.
Two and Multiple-Family Dwelling [Am. 10/19/93]	Two spaces per dwelling unit. Parking spaces serving a two-family dwelling need not be striped.
Public Assembly Facilities Providing for Seated Audiences (Churches, Theaters, Auditoriums, etc.)	One parking space per every 3 seats.
Hotels, Motels	One space per guest room plus one space per every 3 employees.
Elementary and Secondary Schools	Two spaces per classroom or auditorium requirement (whichever is greater).
High Schools	One per 3 students of maximum peak hour capacity.

Funeral Homes	Minimum 12 per chapel or parlor, plus 1 per funeral vehicle kept on premises.
Hospitals	One per every 3 beds plus one per every 2 employees.
Nursing, Convalescent, Rest and Homes for the Elderly Clinics	One per every 5 beds plus one per every 2 employees and one per staff doctor.  Medical - 5 per doctor. Dental - 3 per doctor.
Industrial Uses	One per every 2 employees.
Office Buildings	One per every 2 employees.
Retail Stores, Shopping Centers	One per every 150 sq. ft. of primary floor area.
Rooming Houses, Boarding Houses, Dormitories, Clubs with Sleeping Rooms	One per each sleeping room.
Customer Service Establishments (Barber, Beauty Shop, Appliance Repair, etc.)	One per every 100 sq. ft. of primary floor area.
Restaurants, Taverns, Supper Clubs and Bars	One space per 2 seats.
Gymnasiums, Health Salons, Swimming Pools, Skating Rinks and Dance Halls, Commercial	Minimum one space per 3 persons, based on maximum number of persons who may be accommodated at one time per design capacity and one per 3 employees.
Bowling Alleys	Minimum 7 spaces per alley, plus additional spaces required for additional uses such as restaurants and the like.
Financial Institutions	One space per 300 sq. ft. of primary floor area and one space per 2 employees.



Automobile Service  
Stations

Minimum one space per employee, plus 2 per  
each service stall.

In any case as to parking requirements for any use except single-family and two-family dwellings, such case should come to the Plan Commission, which shall have the final authority to determine the appropriate application of the parking requirements to the specific situation.

- (b) Application to Existing Uses. The provision of parking space shall not be required for legally existing uses as of April 21, 1981, but shall be required for any expansion of such use by the addition of new primary floor area or other partial expansion of building or use generating new parking demand.
- (c) Area. A required off-street parking space shall be at least 9' in width and at least 20' in length, exclusive of access drives or aisles, ramps, columns or office or work areas. Enclosed parking spaces shall have a vertical clearance of at least 7'. With prior Plan Commission approval and for good cause shown, some or all parking space lengths may be reduced from 20' to 18'.
- (d) Disabled Parking Requirements. Unless more stringent number, size and/or location requirements are applicable under state or federal law, the following provisions shall apply. Additionally, such number of disabled parking spaces as is required by state statute or federal law shall have an access aisle, meeting minimum applicable requirements, immediately adjacent to the parking spaces to provide entry to and exit from vehicles by persons with physical disabilities, and such access aisle spaces shall also be marked as required.

1. Number of Spaces:

TOTAL PARKING SPACES PROVIDED	REQUIRED MINIMUM NUMBER OF ACCESSIBLE SPACES
1 to	1
26 to	2
51 to	3
76 to	4
101 to	5
151 to	6
201 to	7
301 to	8
401 to	9
501 to	2% of
More than 1,000	20 plus one for each 100 over

2. Stall Size and Location:

Disabled parking spaces shall be at least twelve feet (12') wide and located as close as possible to an entrance which allows a physically disabled person to enter and leave the principal structure or use area.

3. Disabled Parking Signs:

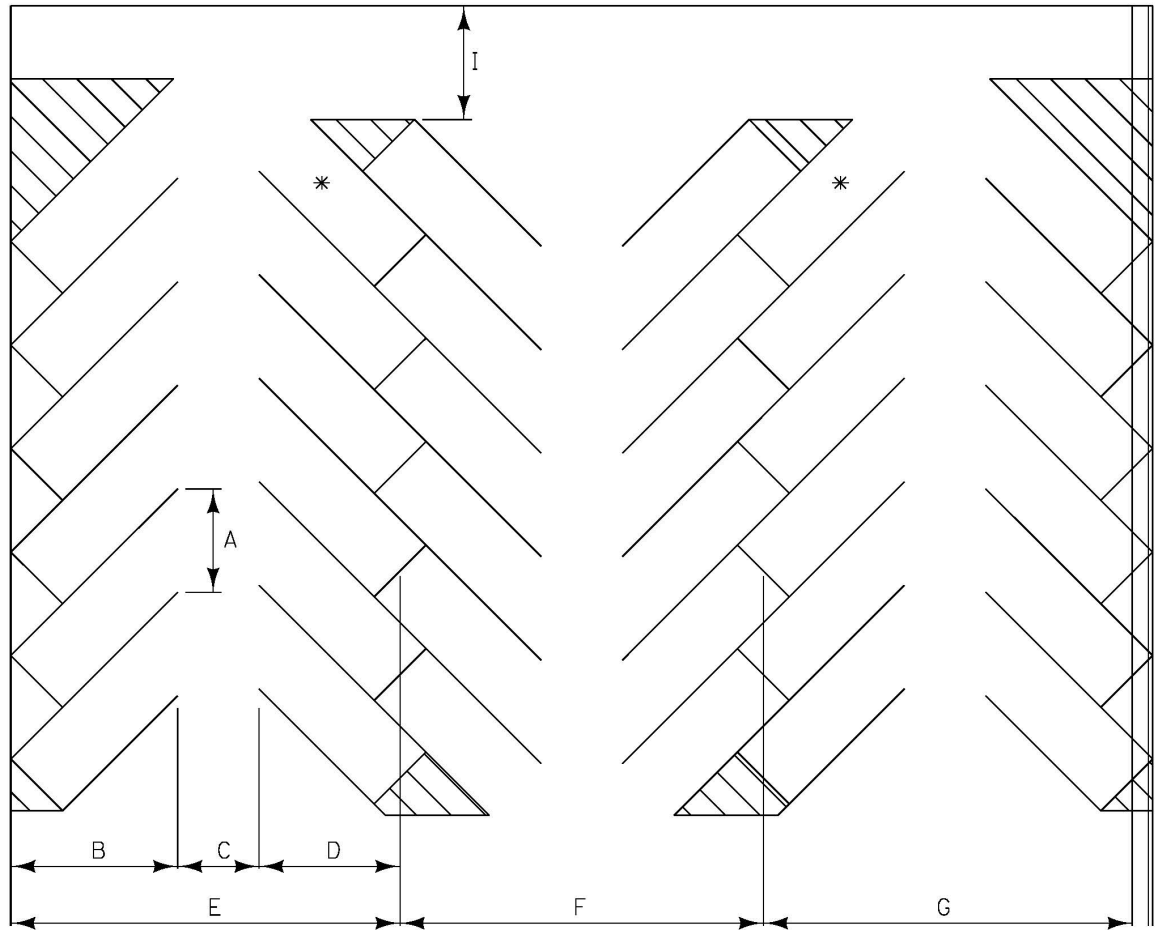
All required disabled parking spaces shall be posed with signs as follows:

- a. Disabled parking signs shall consist of a white rectangle with longer dimension vertical, having green message, a green arrow, if required under this section, and a blue and white international symbol for the barrier-free environments. The sign may be reflective or non-reflective.
- b. The sign shall include the words "reserved parking" and the words "vehicles with VET or DIS plates or state disabled card" or other words with similar meaning.
- c. The size of the sign shall be not less than 12 inches by 18 inches.
- d. A right arrow, left arrow, or words "This Stall" or similar wording shall be included near the bottom of the sign.
- e. Each sign shall be erected on an adequate support. The vertical distance from the parking lot surface to the bottom of a sign shall be not less than 4 feet. A single sign with the message "This Space" or similar wording shall be used to designate a single reserved space. At least 2 signs are required for multiple reserved spaces. When 2 signs are used they shall be located at the outermost limits of the spaces reserved and, by arrow, designate the location of the reserved spaces. A sign shall be located at the end of an angled or right-angled space and shall be set to face a motorist entering the space.
- f. Signs in place prior to adoption of the rules: Signs which are in place prior to the effective date of these standards and specifications may remain in place and have the same

effect as the signs described herein for 5 years after the effective date provided that they include the international symbol for barrier-free environments and the wording required under 3.a) either as a part of the original sign or on a supplementary plaque or plaques.

Note: The standards and specifications pertaining to Disabled Parking Requirements meet the provisions of Wisconsin ss. 346.503 with respect to parking spaces for vehicles displaying special registration plates or special identification cards.

- (e) Striping. All parking spaces shall be clearly striped with white or yellow stripes a minimum of 3" wide. Such striping shall delineate parking space dimensions consistent with space number and size requirements of the Village of Sturtevant.
- (f) Access. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement. No driveway across public property at the right-of-way line shall exceed a width of 35', unless excepted by the Plan Commission.
- (g) Design and Maintenance.
  - 1. Open and Enclosed Parking Spaces. Accessory parking spaces may be open to the sky or enclosed in a building.
  - 2. Surfacing. All open off-street parking areas shall be improved with a compacted base and a permanent-wearing surface.
  - 3. Parking Lot Layout Geometrics.



\* - These stalls may not be used for certain layouts.

Measurement description	Parking stall angle			
	45°	60°	75°	90°
A. Stall width parallel to aisle (ft.)	12.7	10.4	9.3	9
B. Stall depth to wall (ft.)	20.5	21.8	21.6	20
C. Aisle width between stall lines (ft.)	10	14	21	24
D. Stall depth, interlock (ft.)	17.3	19.6	20.5	20
E. Module - wall to interlock (ft.)	47.8	55.4	63.1	64
F. Module - interlocking (ft.)	44.6	53.1	62	64
G. Modules - interlock to curb (ft.)	45.3	52.9	60.6	61.5
H. Bumper overhang (ft.)	2	2.3	2.4	2.5
I. Cross aisle - one way (ft.)	14	14	14	14
I. Cross aisle -two way (ft.)	20	20	20	20

- (h) Screening. All open automobile parking areas containing more than 4 parking spaces located less than 40' from a property line shall be effectively screened on each side adjoining or fronting on any property situated in a residential district or any institutional premises by a wall, fence or densely planted compact hedge not less than 5' nor more than 8' in height.
- (i) Parking Lot Landscaping.
1. Street Edge Landscaping. Street edge landscaping, unless specifically excluded, shall include a rhythmic planting of trees no more than 50' on center of the tree trunk. Rhythmic planting shall mean the inclusion of 2 to 3 different species of trees planted in an alternating fashion. Trees shall be planted parallel to the right-of-way. Trees shall be canopy, deciduous trees of the varieties set forth in Section 8.11(3)(b)-(c), and meeting the "canopy" definition in paragraph 3. Trees bordering a parcel shall be of the same species in order to provide visual continuity along the street edge. In addition to rhythmic planting of trees, a secondary landscape layer located behind the tree line should be created using ornamental fences and continuous evergreen hedges that block views of parking areas. Unless otherwise noted these should have a minimum height of 4' above the elevation at the right-of-way. Berms should not be used as a device for visual screening unless specific approval is given by the Village Board. When berms are approved for use, they shall have a minimal slope in contrast to the surrounding landscape. When a berm is intended to screen a building from a public right-of-way, the berm must be configured so that the building is screened at all visual angles from the public right-of-way. Trees, fences, and hedges may be eliminated when there is a planned view of an open landscaped area included as part of a long-term open space management plan in a planned unit development or as provided by the standards for pedestrian main streets.
  2. Shared Cross-Easements. Vehicular access between adjacent sites shall occur when possible, eliminating the need to return to the public street when traveling between multiple adjacent sites. Site access from arterial and local streets shall be shared between sites whenever possible.
  3. Landscape Features in Large Surface Parking Lots. For large surface parking lots with more than fifty (50) parking spaces, landscaped islands shall be located at the ends of aisles and spaced

geometrically throughout parking lots and along the likely pedestrian routes. For every twenty (20) parking spaces, three hundred (300) square feet of landscaped area should be provided. For the purposes of this paragraph, landscape features shall be defined as canopy trees (where the canopy is intended to be at least eight (8) feet above grade) and hedges or bushes with an intended height of four (4) feet or greater. The pattern and geometry of the landscape should follow the geometry of the buildings and circulation system. It should not appear as a series of isolated plantings unrelated to the visual character of the spaces created by the buildings and lots. Where feasible, trees and landscape features should be combined to create larger public spaces/greens within or adjacent to buildings and active uses.

4. Linkages to Trails, Environmental Features, Sidewalks and Public Places. Pedestrian linkages shall be provided to abutting trail systems and pedestrian walkways. The internal trails and walkways shall be connected in a pedestrian-friendly manner to the commercial uses on the site, building entries, and parking access.
- (j) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as not to create a nuisance and such lighting shall be extinguished 1/2 hour after the close of business except as may otherwise be permitted or required by the Village Board for maintaining illumination with less candlepower after the time specified above. Lighting shall be shielded so that illumination is not directed toward the sky.
- (k) Repair and Service. No motor vehicle repair work or service of any kind shall be permitted in conjunction with any parking lot.
- (3) **OFF-STREET COMMERCIAL VEHICLE PARKING IN RESIDENTIAL DISTRICTS.** No person shall park or store more than one commercial vehicle or trailer weighing more than 6,000 pounds in any residential district in the Village, including Two and Multiple Family Residence Districts, except for purposes of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence located in the residential district, unless such person obtains a conditional use permit under sub. (4).
- (4) **CONDITIONAL USE PERMIT TO ALLOW OFF-STREET PARKING OF MORE THAN ONE COMMERCIAL VEHICLE IN RESIDENTIAL DISTRICTS.** A person may apply for a conditional use permit to park more than one commercial vehicle at the applicant's residence in a residential district in

accordance with the procedures set forth in Section 17.29 of this Municipal Code. The application shall include the applicant's name, the name of the owner of the site where the commercial vehicle would be parked or stored, a description of the commercial vehicle including its weight, the proposed route of travel to the applicant's residence, the names and addresses of all residents living within 400 feet of the proposed site, and such other information as the Zoning Administrator requires.

#### **17.16 SITE PLAN AND ARCHITECTURAL CONTROL.**

- (1) **OBJECT AND PURPOSE.** The purpose of this section is to promote the public health, safety and general welfare of the citizens of the Village by providing regulations concerning the site plan and the architectural requirements pertaining to the exterior design of all non-residential and all two- and multiple-family dwelling unit residential structures hereafter built, enlarged, altered, or demolished within or moved within or into the Village and to prohibit structures incompatible with the character of 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 prevent the depreciation thereof. The Village of Sturtevant hereby establishes Architectural standards to promote stability of property values, to promote compatible development, to protect certain public investments in the area, to maintain an attractive community as a place to live and work, to preserve character and quality, and to raise the level of community expectations for the quality of its environment. The purpose of this section is also to avoid the overcrowding of population, to lessen congestion on the public roads and streets, to reduce hazards of life and property, and to facilitate existing plans.
- (2) **FINDING OF CONFORMITY.** No non-residential use, development, or structure, or residential building containing two or more dwelling units, shall hereafter be erected, moved, reconstructed, extended, enlarged, altered, or changed until the Plan Commission has reviewed and approved site plans and architectural plans for the use, site, or structure. The Plan Commission shall not approve any plans that violate the intent and purposes of this ordinance.
- (3) **SITE PLAN REVIEW.** Village staff shall review the site, existing and proposed structures, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewer and water systems, lighting, erosion control measures, and the proposed operation. The Plan Commission will approve plans only after determining that:

- (a) The proposed use conforms to all use and design provisions and requirements found in this Ordinance or any other codes or laws.
- (b) The use or uses conform to the uses permitted for that zoning district per sections 17.18 through 17.24 of the Village Code.
- (c) When a site plan modification or addition is reviewed, all existing non-conformities and outstanding code violations shall be identified, resolved, and remedied, to the extent possible.
- (d) All buildings and structures shall conform to the required area, yard, setback, and height restrictions of the Village Zoning Ordinance.
- (e) Plans must adhere to the Village's requirements for grading and drainage.
- (f) Plans shall meet all requirements for parking per the Zoning Ordinance.
- (g) Land, buildings, and structures shall be accessible to emergency vehicles as well as the disabled following proper ADA guidelines.
- (h) Dumpsters and other trash receptacles shall be screened from view from street right-of-way and adjacent residential uses. Exterior screening should be comparable to the exterior of the building.
- (i) Outdoor storage areas for materials, equipment, fuel, scrap, inoperative vehicles, and other such objects shall not be visible from public rights-of-way nor from neighboring, residential properties.
- (j) Buffer Strip. Adverse effects of the development and activities upon adjoining residents or owners shall be minimized by appropriate screening, fencing, or landscaping. Building permit and inspection are required for all fences per the Zoning Ordinance.

(4) ARCHITECTURAL STANDARDS.

- (a) Legislative findings. The Village Board makes the following legislative findings with regard to this section:
  - 1. The outward design appearance of a building can have a substantial and long-lasting effect on surrounding properties and the overall character of a community.



2. Buildings and especially those within a largely developed area should fit into the context in which they occur.
  3. Architectural design standards should allow for a variety of architectural styles and be flexible to the greatest extent possible.
  4. The standards in this section are intended to provide meaningful guidance to applicants, design professionals, and public officials.
  5. This section is not intended to limit or infringe upon reasonable accommodations to afford a person with disabilities equal opportunity to use and enjoy a building.
  6. The standards in this section are intended to promote the public health, safety, and welfare and are reasonably related to the public purpose of achieving an attractive, functional, and prosperous community.
- (b) Architectural standards. Buildings subject to review under this section shall adhere to the following architectural standards:
1. The scale of the building shall be compatible with the overall massing and the individual parts of adjacent buildings, especially existing and anticipated residential buildings in a residential zoning district.
  2. A commercial or institutional building with two or more stories shall be designed to include a base, middle, and cap. For the purpose of this subsection, the base consists of one or more entryways and ground floor windows; the middle is set apart from the base by a molding, reveal, or other suitable feature, and may consist of windows, balconies, or both; and the cap consists of a roof overhang, a parapet cornice, or other similar feature.
  3. Windows, doors, and other openings must form a unified composition in proportion to the building elevation.
  4. For commercial buildings, clear glass shall occupy a minimum of 40 percent of the first floor of buildings that front on a sidewalk intended for pedestrian circulation.
  5. A docking or loading area for a commercial, institutional, or industrial building shall be easily accessible to service vehicles,

separated from the on-site parking area, and designed to serve multiple establishments and tenants, when possible. Such docking or loading area shall not be readily visible from a public street, an on-site customer parking area, or an abutting property in a commercial or residential district. Screening from view may be accomplished by integrating such area into the overall design of the building (e.g., inside of the building or use of architectural extension of a building wall) or by using a fence; a berm; landscaping, above what is otherwise required in this code; other suitable feature; or any combination thereof.

6. Principal structures located in a commercial zoning district having a front elevation of more than 750 square feet in area shall be divided into distinct planes of 500 square feet or less. The following design features can be used to meet this provision (1) canopies or awnings; (2) arcades; (3) porches; (4) vertical wall offsets having a minimum depth of 8 inches and a minimum width of 10 feet; (5) horizontal offsets having a minimum depth of 2 feet; (6) pilasters having a minimum depth of 8 inches, a minimum width of 12 inches, and a minimum height of 80 percent of the wall height; (7) recessed areas for entryways and the like having a minimum depth of 8 inches; and (8) other suitable multi-dimensional design features.
7. Oversized fenestration elements which tend to create a monumental scale shall not be used unless specifically required by the type of building or relationship to its surroundings.
8. Awnings shall be designed to complement doors and windows to which they relate. Awnings should be composed of straight planar surfaces and opaque materials and shall not be lit from within.
9. Building entrances must be clearly recognizable from parking lots and pedestrian circulation routes. An entrance could be distinguished with the use of a recess or projection, a canopy, a change in exterior building materials, a change in height, added design elements, and added architectural features.
10. The appearance of a side or rear of a commercial or institutional building that is readily visible from a public street or an abutting property in a commercial or residential zoning district shall be the same as or similar to the front of such building.

11. Rooftop mechanical equipment shall be positioned so it is not readily visible from a public street or an abutting property in a residential zoning district. Rooftop mechanical equipment may be placed in an enclosure or screened from view provided such enclosure or screening is used as an element of the building's architecture.
12. Accessory buildings and other structures shall be of the same or similar architectural design and materials as the principal structure.
13. Fencing shall complement the appearance of onsite buildings.
14. Building façade colors shall be non-reflective, subtle, neutral, or earth tone. The use of high intensity colors, metallic colors, black, or fluorescent colors on façades shall be prohibited. Building trim and architectural accent elements may feature brighter colors, but such colors shall be muted, not metallic, not fluorescent, and not specific to particular uses or tenants. Notwithstanding the above, standard corporate and trademark colors may be permitted by the Plan Commission.

- (5) **PLAN COMMISSION DUTIES.** For the purposes of this section the Plan Commission shall be charged with the administration thereof. 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, giving such notice of the hearing as it may deem sufficient. 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 sub. (3) as to conformity with the immediate neighborhood. Such finding and determination shall be in writing and signed on behalf of the Plan Commission by its chairman and secretary. The secretary shall thereupon file a copy of such findings and determination in the office of the Village Clerk/Treasurer. Thereupon the Building Inspector shall issue or refuse to issue a building permit in accordance with the determination of the Plan Commission.
- (6) **APPEAL.** Any person feeling himself aggrieved by the findings and determination of the Plan Commission may appeal such findings to the Village Board within 30 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/Deputy Treasurer. Such appeal shall thereupon be heard at the next regular meeting of the Village Board. The appeal shall follow the format set forth in Wis.

Stat. §68.11. The Board of Appeals shall have no jurisdiction with respect to appeals of variance requests related to this section.

**17.17 FENCES, SCREENS AND BUSHES.** (Cr. 6/7/89)

(1) Zoning Permit.

- (a) No fence shall be constructed in the Village without first obtaining a permit from the Village. The application for such permit shall be on a form prescribed by the Village and shall be accompanied by a plot plan showing the lot, the proposed location and height of the fence, and a description of the materials to be used.
- (b) A permit fee in an amount as established by and as may be modified from time to time by resolution of the Village Board of the Village of Sturtevant shall be paid at the time of the filing of the application for a permit hereunder.
- (c) A permit issued pursuant to this chapter shall be valid and permit construction of the fence for a period of one (1) year from date of issuance. If the fence is not completed within such period, a new permit shall be required. The construction of a fence shall impose a continuing obligation on the owner to perform all work necessary to maintain the fence, structurally and aesthetically, as initially constructed.
- (d) The Village Engineer or his representative shall have a right to enter upon the premises to inspect the fence and its construction to ensure compliance with the permit and the provisions of this chapter.
- (e) As a condition of receiving a permit under this section, the owner agrees to defend, indemnify and hold the Village of Sturtevant harmless from and against all claims, including boundary disputes, for injury or damage received or sustained by any person or entity in connection with the installation or construction of a permitted fence.

(2) DESIGN.

- (a) Height. All heights shall be as measured from ground level.
  - 1. Residential properties.

- a. A fence within the front yard may not exceed three (3) feet in height, and may not exceed any visual clearance requirements established by Ordinance 17.17(2)(e).
- b. A fence within a rear or side yard may not exceed six (6) feet in height and may not exceed any visual clearance requirements established by Ordinance 17.17(2)(e).
- c. Corner Lots with two “street yards” may not exceed three (3) feet in height on the side of the house that bears the street address, and may not exceed any visual clearance requirements by Ordinance 17.17(2)(e).
- d. Corner Lots with two “street yards” may exceed three (3) feet, but no greater than six (6) feet in height, for sides of the house that does not bear the street address and may not exceed any visual clearance requirements established by Ordinance 17.17(2)(e).
- e. A supporting fence post that is set into the ground may exceed the heights specified above by six (6) inches.
- f. In no event shall any provision of this chapter be construed to permit a spite fence in violation of Section 844.10, Wisconsin Statutes.

2. Commercial and industrial properties.

- a. Fences on commercial and industrial properties shall not exceed eight (8) feet in height, unless provided otherwise in a Conditional Use Permit/Site Plan Review applicable to the property.
- b. A fence located within a street yard setback, as defined by the applicable zoning ordinance, may not exceed four (4) feet in height, unless provided otherwise by a Conditional Use Permit/Site Plan Review.
- c. A supporting fence post that is set into the ground may exceed the heights specified above by six (6) inches.

(b) Prohibited Materials.

1. No person shall construct or cause to be constructed, in whole or in part, a fence with barbed wire, creosote-covered materials, electrified wire, or other injurious materials within a residentially zoned district.
  2. No person shall construct or cause to be constructed, in whole or in part, a fence with barbed wire, creosote-covered materials or electrified wire or other injurious materials in a commercially or industrially zoned district unless so provided in a Conditional Use Permit/Site Plan Review under the applicable zoning ordinance.
- (c) Maintenance. A fence shall be maintained in a structurally sound condition. Posts, supports, rails, boards, panels, etc. shall be repaired or replaced as reasonably required toward that purpose.
- (d) Aesthetics.
1. The “good” side of a fence shall face toward the adjoining property and toward the public road right-of-way. Fence posts shall be placed on the inner side of the fence. Metal fence posts shall be set in concrete bases.
  2. The Village Engineer, or designee, shall determine which side of a fence is the “good” side and shall provide property owners with such determination upon request. The Village Engineer, or designee, may require the property owner to provide sufficient evidence to make said determination. The determination of the Village Engineer, or designee, may be appealed to the Plan Commission, whose determination shall be final.
- (e) Location.
1. A fence or other significant landscaping may not be located within a public right-of-way. A fence or other landscaping may be located within a public drainage, sanitary sewer, or water main easement only as allowed by and subject to such reasonable restrictions as are imposed by the Village Engineer. A fence must be completely within the installing property owner’s lot lines.
  2. A fence may be located within street, side, rear, and shore yard setbacks as permitted by applicable zoning ordinances, unless otherwise prohibited or restricted herein or unless prohibited or restricted by a Conditional Use Permit/Site Plan Review.

3. Fences abutting alleys shall be set back a minimum of two (2) feet from the lot line extending along the alley.
4. CLEAR VISION AREA FOR CORNER LOTS. Notwithstanding the foregoing provisions, to provide adequate vision clearance for persons using the public roads, no fence, screening, structure, bush, tree, branches or mound shall be erected, grown, placed or maintained on a corner lot in the Village which shall obstruct the vision between 3' and 6' above the curb level or, if none, the street grade at the location, within a triangle formed by the intersecting right-of-way lines and a line connecting such street lines from points 15' from the intersection of the right-of-way lines.

(3) GENERAL PROVISIONS.

- (a) Fences or other significant landscaping located within a public right-of-way shall not be permitted and shall be removed.
- (b) A fence or other landscaping currently located within a public drainage, sanitary sewer or water easement in the Village of Sturtevant shall be permitted to remain unless in the opinion of the Village Engineer, or his designee, the fence or other landscaping is determined to obstruct the purpose for which the easement was obtained or the maintenance of the easement, including underground lines. The determination of the Village Engineer as to the existence of an obstruction may be appealed as set forth in (d) below.
- (c) The Village Engineer may order any fence or other landscaping located within the Village of Sturtevant contrary to the provisions of this chapter to be removed, repaired or otherwise corrected, as the case may be. Such notice shall be in writing and delivered in person or by mail to the last known address of the owner of the property where the fence or other landscaping is located. The work or action shall be completed within thirty (30) days after mailing or personal delivery of the notice. Upon written request of the Owner, and for good cause shown, the Village Board may extend the time for compliance with the Order provided the Owner waives any appeal rights set forth below.
- (d) Any person shall have a right to request a review of the determination of the Village Engineer by filing a request for review in accordance with Chapter 68 of the Wisconsin Statutes. Failure to comply with the notice of required action shall permit the Village of Sturtevant to enter upon the premises and complete such action. Any cost to the Village of Sturtevant

shall be charged as a special charge against the property as provided in Wis. Stat. Section 66.0627.

- (e) Fences existing in any residential district prior to the effective date of this chapter which do not meet the regulations of this chapter are permitted to be repaired for ordinary maintenance, including painting, staining, and cleaning. No permit shall be required for such work. The replacement of 50% or more of the fence, or 50% or more of the component parts thereof, shall require a new permit and compliance with the regulations of this chapter.
- (f) As an exception to any notice requirements set forth above, the Zoning Administrator may order the emergency removal of a fence, or a portion thereof, or other landscaping where there is an immediate danger to persons or property, or a significant maintenance concern. This determination shall be made by the Zoning Administrator, upon the recommendation of the Village Engineer.

## ZONING DISTRICTS

### **17.18 SINGLE-FAMILY RESIDENCE DISTRICT.**

- (1) USES. In the Single-family Residence District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses, provided, however, that the uses specified below in subsection 17.18(1)(b) shall be conditional uses and shall be permitted only under the conditions as determined and provided under Section 17.29 of this Chapter.
  - (a) Single-family dwellings.
  - (b) Churches, philanthropic and charitable institutions, public and parochial schools, public libraries and museums. Municipal buildings, including public recreational and community center buildings and grounds, except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards and penal or correctional institutions.



- (c) Roadside stands; provided that no such roadside stand shall be more than 300 sq. ft. in ground area and there shall be not more than one roadside stand on any one premises.
- (d) Accessory buildings.
- (e) Railroad right-of-way and passenger depots, not including switching, storage, freight yards or siding.
- (f) Uses customarily incident to any of the above uses when located on the same lot and not involving the conduct of a business.
- (g) Home occupations, if in accordance with Section 17.18(2)
- (h) Home occupation signage shall be allowed only as otherwise permitted by Village ordinance.
- (i) Licensed family child care homes, as required by Wis. Stat. § 66.1017.

(2) HOME OCCUPATIONS.

- (a) Purpose and findings. This Section:
  - 1. Establishes criteria for operation of home occupations in dwelling units within residential districts.
  - 2. Permits and regulates the conduct of home occupations as an accessory use in a dwelling unit, whether owner- or renter-occupied.
  - 3. Ensures that such home occupations 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, sewers, or water or utility systems, are not burdened by the home occupation 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 occupation regulations.
7. Promotes and protects the public health, safety, and general welfare.

(b) Applicability.

1. This section applies to any occupation, profession, or business activity customarily 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 dwelling purposes and does not change the character of the dwelling unit. A home occupation is an accessory use to a dwelling unit.
2. No home occupation, 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. A home occupation shall be incidental and secondary to the use of a dwelling unit for residential purposes.

(c) Exempt Home Occupations. The activities listed in subsections (1) through (4), below, are not subject to this section, provided that all persons engaged in such activities reside on the premises, and provided that there are no nonresident employees working on the premises.

1. Artists, sculptors, and composers not selling their artistic product to the public on the premises.
2. Craft work, such as jewelry-making and pottery, with no sales permitted on the premises.
3. Home offices with no client visits to the home permitted.
4. Telephone answering and message services.

(d) Permitted Home Occupations.

1. The home occupations permitted in subsection (d)(2), below, are allowed in a residential setting provided they do not compromise the residential character of an area, do not generate conspicuous traffic, do not visually call unusual attention to the home, and do not generate noise of a nonresidential level.

2. The following home occupations, without limitation due to enumeration, are permitted subject to the standards established in this section. Home occupation uses in addition to those listed below may be permitted pursuant to Section 17.03(1)(c):
  - a. Accounting, tax preparation, bookkeeping, and payroll services.
  - b. Baking and cooking.
  - c. Catering.
  - d. Child care.
  - e. Computer systems design and related services, computer training, information and data processing services, computer processing and data preparation and processing services, and computer-related services.
  - f. Drafting services.
  - g. Engineering, architecture, and landscape architecture.
  - h. Financial planning and investment services.
  - i. Fine arts studio.
  - j. Hair salon, barbering, hairdressing, and other personal care services.
  - k. Insurance sales.
  - l. Interior decoration.
  - m. Legal services.
  - n. Mail order business.
  - o. Musical instruction, voice, or instrument.
  - p. Musical instrument tuning and repair.

- q. Offices for professional, scientific, or technical services or administrative services.
- r. Photographic services.
- s. Professional services, including the practice of law.
- t. Real estate services and appraisal.
- u. Tailoring (e.g., dressmaking and alterations) services.
- v. Teaching of crafts and incidental sale of supplies to students.
- w. Tutoring.
- x. Exempt home occupations listed above, but with no more than one nonresident employee.

(e) Prohibited Home Occupations. The following uses, without limitation due to enumeration, are not permitted as home occupations in residential zoning districts.

- 1. Medical/dental office.
- 2. Motor vehicle and engine repair.
- 3. Outdoor recreation activities.
- 4. Medical/cosmetic facilities for animals, including animal care or boarding facilities.
- 5. Machine shop/metal working.
- 6. Retail sales.
- 7. Commercial food preparation.
- 8. Contractors shops.
- 9. Mortuaries.
- 10. Medical procedures.

11. Body piercing and/or painting tattoos, or any type of physical therapy or psychotherapy.
- (f) Performance Standards. Home occupations shall comply with the performance standards set forth below.
1. The use shall be clearly incidental and secondary to residential occupancy.
  2. The use shall be conducted entirely within the interior of the residence.
  3. No more than one nonresident employee shall be permitted.
  4. Not more than twelve client visits per day, allowed only between the hours of 8:00 a.m. and 8:00 p.m.
  5. Not more than 25% of the gross floor area of the principal dwelling structure shall be utilized for the home occupation.
  6. Child care (maximum of three children who are unrelated to or not legal wards of the caregiver) is permitted.
  7. Public facilities and utilities shall be adequate to safely accommodate equipment used by home occupation.
  8. Storage of goods and materials shall be inside and shall not include flammable, combustible, explosive, or otherwise hazardous materials.
  9. Parking shall be provided only in the driveway.
  10. Outside storage of heavy equipment or material shall be prohibited.
  11. No truck or van with a payload rating of more than 1 ton shall be parked on the site or in front of the site on a regular basis.
  12. Mechanized equipment shall be used only in a completely enclosed building.
  13. Electronically amplified sounds shall not be audible from adjacent properties or public streets.

14. No generation of dust, odors, noise, vibration, or electrical interference or fluctuation shall be perceptible beyond the property line.
  15. Deliveries and pickups shall not block traffic circulation, and shall occur only between 8:00 a.m. and 8:00 p.m., Monday through Saturday.
  16. Accessory buildings shall not be used for home occupation purposes, unless such use is approved by the Plan Commission.
- (g) Unsafe Home Occupations. If any home occupation 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 shall issue an order to the dwelling owner and/or tenant on the property on which the home occupation is being undertaken, directing that the home occupation immediately be made safe or be terminated. The property owner and/or tenant shall take the necessary corrective steps or measures but, in the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Zoning Administrator may take any and all available enforcement actions to render the home occupation and dwelling safe. Costs incurred by the Zoning Administrator, if forced to take enforcement actions, shall be borne by the property owner and shall be treated as a zoning violation.
- (3) ACCESSORY DWELLING UNITS. Accessory dwelling units shall be conditional uses and shall be permitted only under the conditions as determined and provided under Section 17.29 of this chapter, and subject to the following restrictions:
- (a) Limitation on occupancy. An accessory dwelling unit shall only be occupied by people who are related by blood or marriage to the family occupying the primary portion of the single-family dwelling. Not more than 2 such persons shall occupy an accessory dwelling unit. An accessory dwelling unit shall not be allowed unless there is adequate off-street parking on the property to accommodate one additional vehicle per bedroom in the accessory dwelling unit.
  - (b) Limitation on floor area and bedrooms. The floor area of an accessory dwelling unit shall not exceed 900 square feet, and may not contain more than 2 bedrooms.

- (c) Exterior appearance. The architecture of the accessory dwelling unit shall be compatible with the existing single-family dwelling and adjacent residences. The building shall appear to be a single-family residence. No accessory dwelling unit may have a separate mailing address or separate utility connections from the main residence.
- (d) Doorways. An accessory dwelling unit shall not have a primary exterior door. A patio-type door is allowed as a secondary exterior door if it opens onto a deck or patio and does not face the front of the lot. There shall be an interior door or opening between the accessory dwelling unit and the primary portion of the single-family dwelling.
- (e) Compliance with building codes. Prior to establishment of an accessory dwelling unit, the building inspector shall certify that the single-family dwelling meets all applicable building codes.
- (f) Required actions following termination of use. At such time as the accessory dwelling unit is no longer occupied by a person that is related by blood or marriage to the family occupying the primary portion of the single-family dwelling, the property owner shall remove the stove and/or oven in the accessory dwelling unit or in the other dwelling unit and the interior door separating the two units shall be removed.
- (g) Deed restriction. Prior to the establishment of an accessory dwelling unit, the property owner shall file a deed restriction in the Racine County Register of Deeds office, acceptable to the Zoning Administrator, that includes the following provisions:
  - 1. the accessory dwelling unit is to be occupied by not more than 2 people who are related by blood or marriage to the family occupying the primary portion of the single-family dwelling; and,
  - 2. the approval of an accessory dwelling unit is not transferable to another property owner without formal approval of the Plan Commission; and,
  - 3. a prohibition on the establishment of a separate mailing address or separate utility connections for the accessory dwelling unit; and,
  - 4. such other provisions deemed appropriate by the reviewing authority.

- (4) **HEIGHT AND AREA.** In the Single-family Residence District the height of buildings, the minimum dimensions of yards and the minimum lot areas per family shall be as follows:
- (a) Height. Buildings hereafter erected or structurally altered shall not exceed 35' in height above the average grade established for the street in front of the building or the average ground level at the front building line.
  - (b) Side yard. There shall be a side yard on each side of a building as follows:
    - 1. The sum of the widths of required side yards shall not be less than 20' and no single side yard shall be less than 6'.
    - 2. With respect to corner lots, one side yard shall not be less than 6' and the side yards not less than 20'.
  - (c) Setback.
    - 1. Unless otherwise provided, there shall be no setback less than 25' wide and of record at the time of the passage of this chapter. Corner lots shall have street yard setbacks of not less than 25' each, provided, however, that in no case shall the buildable width of such corner lot be reduced to less than 24'.
    - 2. Notwithstanding the above or any other setback requirements or prohibitions of this Chapter, any deck or porch, as defined in Section 14.30: (1) may not, if constructed in the front yard, be higher than three feet above the average grade level of the adjoining ground; (2) may not extend more than 33% or 8 feet (whichever distance is less) into the front yard (excluding steps allowing access between the deck or porch and front yard); (3) may not obstruct lighting or ventilation of principal structure; and, (4) may not compromise the aesthetic or architectural appeal of principal structure.
  - (d) Rear Yard. There shall be a rear yard having a minimum depth of 25'.
  - (e) Lot Area.
    - 1. Every building hereafter erected or structurally altered for use as a one family dwelling shall provide a lot area of not less than 9,000 sq. ft. and no such lot shall be less than 75' wide.



2. No corner lot laid out or divided after July 19, 1977, shall be less than 85' in width.
3. No one-family building hereafter erected, altered structurally or moved on to a lot for residential purposes shall have a floor area of less than 1,200 sq. ft.
4. The provisions of subpars. 1. through 3. above shall not apply with respect to lots of a lesser size which are a part of a subdivision plat within the Village which has been approved as a preliminary or final plat by the Village Board prior to July 19, 1977. Such lots shall meet the size and lot area requirements for Single-family Residence Districts as existed prior to adoption of Ord. #077-11.
5. Auto Parking. See Section 17.15 of this chapter.

#### (5) HEIGHT AND AREA EXCEPTIONS

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

- (a) Chimneys, television reception towers, masts or aerials, telephone and power transmission poles and lines, air conditioning units, boilers, antennas, and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter and maybe erected to a height not to exceed 60 feet. Notwithstanding the above, tower facilities, as defined therein, shall be regulated as provided in Sections 17.70 through 17.99.
- (b) Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120' from the line of the higher average established grade.
- (c) Where a lot has an area less than the minimum number of square feet required but was of record at the time of the passage of this chapter, such lot may be occupied by a single-family dwelling.
- (d) Churches, schools, hospitals, and other public and quasi-public buildings may be erected to a height not exceeding 60 feet, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the district's maximum height limit.

## **17.19 TWO AND MULTIPLE FAMILY RESIDENCE DISTRICT.**

- (1) **USES.** [Am. #090-22] In the Two and Multiple Family Residence District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:
  - (a) Any use permitted in the Single-family Residence District. Single-family residences in the Two and Multiple Family Residence District shall comply with the height and area requirements applicable to the Single-Family Residence District.
  - (b) Two and multiple-family dwellings.
  - (c) Private clubs, fraternities, lodges, except those whose chief activity is a service customarily carried on as a business.
  - (d) The following uses shall be conditional uses and shall be permitted only under the conditions as determined and provided under Section 17.29 of this Chapter:
    1. Boardinghouses.
    2. Lodging houses.
- (2) **HEIGHT AND AREA.**
  - (a) Height. Buildings hereafter erected or structurally altered shall not exceed 35' in height above the average grade established for the street in front of the building or the average ground level at the front building line.
  - (b) Side Yard. There shall be a side yard on each side of a building hereafter erected or structurally altered. In all cases and regardless of the number of stories in any building, the sum of the widths of required side yards shall be not less than 25' and no single side yard shall be less than 10' in width. In cases where the lots are a part of a subdivision recorded at the time of the adoption of this chapter, the Board of Appeals shall have the power to award such variances in side yard requirements as are necessary to prevent an unnecessary hardship.
  - (c) Setback. The setback requirements for the Two and Multiple-Family Residence District shall be the same as those for the Single-family Residence District, Section 17.18(4)(c).

- (d) Rear Yard. The rear yard requirements for the Two and Multiple-Family Residence District shall be the same as those for the Single-family Residence District. See Section 17.18(4)(d).
- (e) Lot Area Per Family.
  - 1. No two-family dwelling hereafter erected, altered structurally or moved on to a lot for residential purposes shall have a floor area of less than 2400 sq. ft.
  - 2. Every building hereafter erected or structurally altered for use as a two-family dwelling shall provide a lot area of not less than 6,000 sq. ft. per family and no such lot shall be less than 100' wide.
  - 3. For a multiple-family dwelling, the floor area per family shall be exclusive of hallways and stairways in common areas. A multiple-family dwelling shall have no less than the following:
    - a. A studio or efficiency apartment with no bedroom shall have no less than 375 square feet of floor area.
    - b. A one-bedroom apartment shall have no less than 600 square feet of floor area.
    - c. A two-bedroom apartment shall have no less than 750 square feet of floor area.
    - d. A three-bedroom apartment shall have no less than 900 square feet of floor area.
- (f) Auto Parking. There shall be a minimum of 2 off-street parking spaces for each family unit in each multiple-family dwelling.
- (g) Plan Commission Approval Required. The Building Inspector shall not issue a permit for the construction of a multiple-family dwelling unless the plans and specifications are first approved by the Plan Commission as being in compliance therewith.

### (3) HEIGHT AND AREA EXCEPTIONS

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

- (a) Chimneys, television reception towers, masts or aerials, telephone and power transmission poles and lines, air conditioning units, boilers, antennas, and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter and maybe erected to a height not to exceed 60 feet. Notwithstanding the above, tower facilities, as defined therein, shall be regulated as provided in Sections 17.70 through 17.99.
- (b) Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120' from the line of the higher average established grade.
- (c) Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record as such at the time of the passage of this chapter, such lot may be occupied by one family.
- (d) Churches, schools, hospitals, and other public and quasi-public buildings may be erected to a height not exceeding 60 feet, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the district's maximum height limit.

## **17.20 COMMERCIAL DISTRICT**

- (1) USES. (Am. #090-22) In the Commercial District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses, provided, however, that all such uses specified under 17.20(1) shall be conditional uses and shall be permitted only under the conditions as determined and provided under Section 17.29 of this chapter:
  - (a) Any of the following specified uses:
    - 1. Art shop, antique shop, gift shop.
    - 2. Bakery (retail).
    - 3. Bank, financial institution.
    - 4. Barber shop, beauty parlor, salon.
    - 5. Book and stationery store, newsstand.

6. Business and professional offices, public utility offices.
  7. Candy store, confectionery store.
  8. Clothing store, department store, dress shop, dry goods store, hosiery shop, millinery shop, shoe store, shoe repair shop.
  9. Drug store, ice cream shop, pharmacy, soda fountain, soft drink stand.
  10. Electronics retail store.
  11. Florist shop.
  12. Furniture store, office equipment store, upholsterer's shop.
  13. Hardware store, home appliance store, paint store, sporting goods store.
  14. Jewelry store, watch repair shop.
  15. Optical store.
  16. Photographer and photographer's supplies.
  17. Police and fire station, post office.
  18. Retail delicatessen, grocery store and meat market.
  19. Tailor shop, clothes pressing shop.
- (b) Any other uses similar in character to those listed in subsection (a), and the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises. (Rnb. #099-05)
- (c) Such accessory uses as are customary in connection with the foregoing uses listed in subsection (b) and are incidental thereto. (Rnb. # 099-05)
- (d) Conditional uses shall be as follows:
1. Animal hospital, pet shop.
  2. Automotive parts sales and service.

3. Bars and taverns.
4. Body-piercing establishments which are licensed under § DHS 173.04, Wis. Admin. Code. (Am. #099-05)
5. Bowling alley, pool and billiard room, drive-in food or beverage stand.
6. Building supply stores.
7. Bus depot.
8. Cemeteries.
9. Clinic.
10. Clubs.
11. Construction services, including general building contractors, carpentry, wood flooring, concrete services, masonry, stonework, tile setting, plastering services, roofing, sheet metal services, and water well drilling services.
12. Convenient-cash businesses, provided that no other convenient cash business is located within 2,500 feet and the business is located at least 250 feet from a residential district.
13. Dance halls.
14. Fitness, recreational and athletic facility.
15. Fraternities.
16. Freight forwarding services, packing and crating services, and petroleum bulk stations.
17. Fuel oil, bottled gas, and ice dealers.
18. Funeral Homes.
19. Garden center, supply and landscaping store.

20. Gasoline service stations, automobile and truck rental services, and automobile washing.
21. Group daycare.
22. Hotel, motel.
23. Laundromat, dry cleaning and dyeing establishment.
24. Lawn, garden and recreational vehicle sales and service.
25. Lodges.
26. Motor vehicle sales and service establishments and auto body repair.
27. New and used automobile, aircraft, and marine craft sales and the sale of tires, batteries, and other automotive, marine, and aircraft accessories.
28. Printing shop.
29. Printing.
30. Public garage, parking lot, storage garage.
31. Radio and television transmitting and receiving stations.
32. Restaurant, barbecue stand, cafe, cafeteria, caterer and lunchroom.
33. Retail tobacco and liquor store.
34. Roadside stands and farmers markets.
35. Self-Storage Facility, Climate-Controlled.
36. Tattoo establishments licensed under § DHS 173.04, Wis. Admin. Code. (Am. #099-05)
37. Theaters and places of amusement, except drive-in theaters.
38. Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities, or studios.

39. Veterinary clinics, provided that no service, including the boarding of animals, is offered outside of an enclosed building.
  40. Warehousing and retail/wholesale sales of electrical apparatus and equipment, wiring supplies and construction materials; hides, skins and raw furs; outdoor storage as permitted by the Plan Commission.
- (2) **HEIGHT AND AREA.** In the Commercial District the height of buildings, the minimum dimensions of yards and the minimum lot area per development site shall be as follows:
- (a) Height. Buildings hereafter erected or structurally altered shall not exceed 45' in height above the average grade established for the street in front of the building or the average ground level at the front building line.
  - (b) Side Yard. A side yard, if provided, shall not be less than 6' in width. See Section 17.13.
  - (c) Setback. (Am. #089-04) The setback shall be 4' from the right-of-way line of the street.
  - (d) Rear Yard. There shall be a rear yard having a minimum depth of 20' for a building 20 feet or less in height. For each additional 10 feet in height, the depth of such rear yard shall be increased 5'. See Section 17.13.
  - (e) Clear-Vision Area. No building erected at the intersection of 2 or more streets, where a setback of less than 10' exists or is provided, shall hereafter be erected or structurally altered for any purpose unless a vision clearance triangle, free of visual obstruction of any kind, is provided at the corner of the building nearest such intersection. Such vision clearance triangle shall extend not less than 10' horizontally along each street line from their intersection and shall extend vertically from the curb line to the ceiling line of the ground floor, but in no case shall such vision clearance triangle be less than 10' high.
  - (f) Auto Parking. See Section 17.15.
- (3) **HEIGHT AND AREA EXCEPTIONS.**
- (a) Architectural projections, such as spires, belfries, cupolas, domes, flues and chimneys, are limited to a height of 100 feet.



- (b) Special structures, such as elevator penthouses, gas tanks, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, are limited to a height not to exceed 30 feet higher than the highest point of the roof.
- (c) Essential services, utilities, water towers, electric power and communication transmission lines are limited to a height of 200 feet.
- (d) Communication structures, such as radio and television transmission, receiving, and relay towers and aerial towers shall not exceed 350 feet in height, 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. Notwithstanding the above, tower facilities, as defined therein, shall be regulated as provided in Sections 17.70 through 17.99.
- (e) Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control for a distance of 120' measured perpendicular to the street line of the street with the higher average established grade.
- (f) Churches, schools, hospitals, and other public and quasi-public buildings may be erected to a height not exceeding 60 feet, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the district's maximum height limit.

## **17.21 MIXED-USE COMMERCIAL AND SINGLE-FAMILY RESIDENCE DISTRICT**

MXD Mixed Use District; The mixed use district is intended to allow a diversity of land uses in close proximity, within a limited area; to promote a balance of land uses; to facilitate development proposals responsive to current and future market conditions; facilitate integrated physical design; and to encourage interaction among activities located within the district. There shall be only one building per parcel for setback reasons.

(1) Permitted Uses

- (a) Residential: secondary to primary business.
  - 1. Multifamily dwelling
  - 2. Attached single-family dwelling (townhouse).
  - 3. Adult care facilities and group homes.
  - 4. Family day care home.
- (b) Office and Research:
  - 1. Medical and dental offices.
  - 2. Business or professional offices.
  - 3. Bank, trust company, or other financial institution.
  - 4. Research and development office.
  - 5. Research, experimental and testing laboratory.
  - 6. Radio or television studio.
- (c) Retail and Services:
  - 1. Business service.
  - 2. Retail sale of merchandise, but not sales of gasoline, automobiles, trucks, campers, trailers, recreational vehicles or motorized vehicles.
  - 3. Eating and/or drinking establishment, including bar; lunchroom, cafeteria, and food commissary with no drive-thru facilities.
  - 4. Fast food establishment only if it is not located in a separate structure and it does not exceed three thousand square feet of gross floor area with no drive-thru facilities.
  - 5. Child day care facilities.
  - 6. Printing, reproduction and mailing services.
  - 7. Personal service establishments, including but not limited to hairdresser, barber shop, locksmith shop, laundry or dry cleaning pick up establishment, self service laundry, shoe repair or tailoring shop, photography studio and florists.
  - 8. Studios including but not limited to music, art, sculpture, tutoring and dance.
  - 9. Bed and Breakfast.
  - 10. Hotel
  - 11. Animal grooming and veterinarian facilities.
- (d) Institutional and Civic
  - 1. Religious assembly.
  - 2. Library, museum, community center and cultural institution.
  - 3. Government offices and facilities.
  - 4. Health care facilities including medical research.

5. Social service facilities including emergency residential shelter.
6. Lodges and clubs.

(e) Entertainment and Recreation:

1. Indoor commercial entertainment establishments including but not limited to cinema, theater, concert hall, cabaret and night club.
2. Recreation facilities including bowling alley, indoor or outdoor tennis courts, public recreation building, health club, or skating rink.
3. Hall, auditoriums and spaces used for public gatherings including festival grounds and outdoor markets.
4. Park or playground.
5. Sports and gaming facility.

(f) Transportation and Communication

1. Automobile parking lot or parking garage.

(2) Permitted Accessory Uses

- (a) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.
- (b) Outdoor vending machines
- (c) Parcel Delivery.
- (d) Electric substation and distribution equipment.
- (e) Bicycle rental stations.

(3) Conditional Uses:

- (a) Detached single-family dwelling.

(4) Multiple uses in the same structure. Within the district there shall be no restriction on combining different uses within the same building other than those restrictions imposed by state building codes, or other federal, state or local regulations. For the purposes of meeting the requirements found in other areas of the village ordinances the use of a lot containing multiple uses shall be the use that occupies the majority of the gross floor area as determined by the zoning board of appeals.

(5) Lot area and width.

- (a) Lots with residential uses shall have a minimum area of 4,800 square feet.
- (b) Lots shall not be less than 60 feet in width.

- (6) Building height and area.
  - (a) The maximum height of a building will be 30 feet (3 stories)
  - (b) The sum total of the floor area of all principal and accessory buildings shall not exceed the following percentages of lot coverage.
    - 1. A maximum of 60 percent for lots with detached single family residence.
    - 2. A maximum of 90 percent for lots with residential permitted uses.
    - 3. A maximum of 90 percent for lots with non-residential uses.
- (7) Setbacks and yards.
  - (a) There shall be a minimum building setback of 20 feet from the right-of-way of all streets for lots north of Hallock.
  - (b) There shall be a maximum building setback of 10 feet from the right-of-way of all streets for lots south of Hallock.
  - (c) There shall be minimum side yards with the following requirements:
    - 1. For lots with retail and services uses or detached single family residential conditional uses, 6 feet on each side and the total of both side yards shall be a minimum of 12 feet.
    - 2. For lots with office and research, institutional and civic, or entertainment and recreation uses, 6 feet on each side and the total of both side yards shall be a minimum of 12 feet.
    - 3. For lots with transportation and communication uses, 15 feet on each side and the total of both sides shall be a minimum of 30 feet.
  - (d) There shall be a rear yard of not less than 20 feet for all lots.
  - (e) There shall be open space in accordance with the following requirements:

1. A minimum of 20 percent for lots with detached single family residential uses.
2. A minimum of 10 percent for lots with residential permitted uses or non-residential uses.

## **17.22 INDUSTRIAL/BUSINESS PARK DISTRICT.**

- (1) USE. (Am. #090-22) In the Industrial/Business Park District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses provided, however, that all uses set forth below in Section 17.22(1) shall be conditional uses and shall be permitted only under the conditions as determined and provided under Section 17.29 of this chapter:

- (a) Any of the following specified uses:

1. Automotive body repairs; automotive upholstery; cleaning, pressing and dying establishments; commercial greenhouses; food locker plants; laboratories; machine shops; manufacturing and bottling of beverages; painting; printing; publishing; trade and contractor's offices and yards. Manufacture, fabrication, packing, packaging and assembly of products from furs, glass, leather, metals, paper, plaster, plastics, textiles and wood. Manufacture, fabrication, processing, packaging and packing of confections, cosmetics, electric appliances, electronic devices, foods, meats, instruments, jewelry, pharmaceuticals, tobacco and toiletries. Freight yards, terminals and transportation depots. Gas powered electrical generating power plants. Self-storage facilities, including cold storage and climate-controlled. Quarters for the accommodation of a watchperson whose presence on the premises of the industrial use is required continuously during the hours when the premises are not open for business.
2. Self-storage facilities, cold storage. In addition to satisfying the requirements of Section 11.15 ("Storage of Hazardous Materials in Mini-Storage Units") and any conditions imposed on self-storage facilities through the conditional use process in Section 17.29, such facilities shall comply with the following requirements;
  - a. The lot size shall be between a minimum of 2 acres and a maximum of 5 acres.

- b. The total area covered by buildings shall not exceed 50 percent of the site.
- c. The maximum height of the building or buildings permitted is 20 feet.
- d. No outside storage is permitted.
- e. No business activity other than the rental of storage units shall be conducted on the premises.
- f. A landscaped buffer, as approved by the Village, shall be provided along the front property line and along any property line that abuts a residential zoning district.
- g. No self-storage facility shall be located within one (1) mile of another facility or within 300 feet of Highway 11 or Highway 20.

- 3. Any other similar type of use which is not in conflict with any of the laws of the State or any ordinance of the Village governing nuisances.

(2) **HEIGHT AND AREA.** In the Industrial/Business Park District, the height of buildings and the minimum dimensions of yards should be as follows:

- (a) Height. Buildings hereafter erected or structurally altered shall not exceed 80 ft. in height.
- (b) Side Yard. A side yard, if provided, shall be not less than 12' in width.
- (c) Setback. Where parts of the frontage on the same side of the same block are designated on the district map as Residence District and Industrial/Business Park District, the setback regulations of the Residence District shall apply to the Industrial/Business Park District; otherwise no setback shall be required.
- (d) Rear Yard.
  - 1. There shall be a rear yard having a minimum depth of 20' for a building 2 stories or less in height.

2. For each additional story or fractional story in height the depth of such rear yard shall be increased 3’.
- (e) Vision Clearance. No building erected at the intersection of 2 or more streets, where a setback of less than 10’ exists or is provided, shall hereafter be erected or structurally altered for any purpose unless a vision clearance triangle, free of visual obstruction of any kind, is provided at the corner of the building nearest such intersection. Such vision clearance triangle shall extend not less than 10’ horizontally along each street line from the intersection of their rights-of-way and shall extend vertically from the curb line to the ceiling line of the ground floor, but in no case shall such vision clearance triangle be less than 10’ high.

(3) HEIGHT AND AREA EXCEPTIONS

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

- (a) Architectural projections, such as spires, belfries, cupolas, domes, flues and chimneys, are limited to a height 200 feet.
- (b) Special structures, such as elevator penthouses, gas tanks, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, are limited to a height of 350 feet.
- (c) Essential services, utilities, water towers, electric power and communication transmission lines are limited to a height of 350 feet.
- (d) Communication structures, such as radio and television transmission, receiving, and relay towers and aerial towers, shall not in any event exceed in height of 350 feet, 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. Notwithstanding the above, tower facilities, as defined therein, shall be regulated as provided in Sections 17.70 through 17.99.
- (e) Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control for a distance of

120' measured perpendicular to the street line of the street with the higher average established grade.

**17.23 PLANNED DEVELOPMENT DISTRICT.** [Cr. #094-6]

- (1) **INTENT AND PURPOSE.** The intent of this section is to encourage and promote improved environmental design in the development of land by allowing greater freedom and flexibility than is possible under the precise and rigid requirements of conventional zoning districts through the use of objective standards establishing goals and criteria for judgment rather than the application of fixed formula. It will permit diversification in the uses permitted and variation in the relationship of uses, structures, open spaces and heights of structures in developments conceived and implemented as comprehensive and cohesive unified projects, while still requiring substantial compliance to the general plan of development and the underlying zoning classification or classifications. Its purpose is to encourage more imaginative site planning, to assist in achieving more rational and economic development with relationship to public services, to permit optimum development of land and to encourage and facilitate the conservation of open land and other natural features such as woods, streams, wetlands, etc., as integral components of a balanced ecology.
- (2) **MINIMUM PLANNED DEVELOPMENT AREA.** To qualify for consideration as a planned development, the site shall be of sufficient size in relation to the proposed uses to justify the application of the special regulations as in this section and shall be under a single or unified ownership.
- (3) **PERMITTED USES.** In a planned development, any use permitted by right in any residential, commercial, mixed use, or industrial/business park district in this chapter may be permitted, subject to the standards below. However, no use shall be permitted except in conformity with a specific and precise development plan approved under the procedural and regulatory provisions in this section and only uses permitted in the underlying zoning classification or classifications which is or are overlaid by the planned development district shall be permitted.
- (4) **STANDARDS.**
  - (a) General. As a basis for determining the acceptability of a planned development proposal, specific consideration shall be given to whether or not it is consistent with the spirit and intent of the purposes of this section; has been prepared with competent professional advice and guidance in terms of planning, architecture and engineering; and produces significant benefits in terms of improved environmental design. However, the



minimum standards of the underlying district or districts shall be met in any event.

- (b) Height and Area. Specific lot size, density, open space, building location, height, size, floor area, yard, parking and other such requirements shall be based upon determinations as to their appropriateness to the uses or structures as they relate to the total environmental concept of the planned development and consistent with the criteria in this chapter and with generally accepted basic standards necessary to protect the public health, safety and welfare.
- (c) Parking. Off street parking facilities shall be provided in accordance with the applicable regulations in Section 17.15(3).
- (d) Design Standards. Engineering and subdivision design standards relative to street type, location and width, sidewalks, street lighting, storm drainage, lot arrangement or other elements of site design shall be based upon determinations as to the appropriate standards necessary to effectively implement the specific function in the specific situation, as it relates to the total plan concept; and consistent with the need for compatibility with existing patterns in areas peripheral to the development. In no case shall minimal construction standards be less than those reasonably required to protect the public health, safety and welfare, taking into account both short-term and long-term considerations for the public and the Village. To this intent, the specific provisions of the Village Subdivision Code, Ch. 18 of this Municipal Code, may be waived where deemed appropriate in the case of a planned development. Notwithstanding the above, however, all streets shall be built to public road standards, including minimum construction standards and right-of-way widths.
- (e) Intensity and Character of Land Use. In a planned development, the suitability of the type and character of uses proposed and their intensity and arrangement on the site shall be based upon the following standards:
  - 1. Compatibility to the physical nature of the site, with particular concern for conservation of natural features such as tree growth, streams, wetlands, geological features, natural resources, etc.; for suitability of soils for the uses proposed for preservation of open space, for careful shaping of terrain to minimize scarring and insure suitable drainage and for preservation of natural terrain wherever appropriate.

2. Achievement of an attractive environment appropriate to the uses proposed and compatible with existing development in the surrounding area and with official development plans for the area, with particular concern for preservation of ecologic and economic balance.
3. Capacity to be effectively serviced without creating a demand for schools, sanitary sewer, water, storm water drainage, recreational areas, highways or other public services substantially in conflict with the appropriate jurisdictional plans for such services.
4. Adequate provision for the practical functioning of the development in terms of circulation, parking, emergency services, mail and delivery services, street maintenance and utility services.
5. Adequate provision for appropriate sites for schools, parks, highways and other public facilities serving the proposed development.

(f) Provision for Common Open Space, Park or Other Amenity Area.

1. In a planned development consideration shall be given to the preservation of open space and other natural features such as woods, streams, wetlands, etc., as common open space, park land or other amenity area serving the recreational and aesthetic needs of the people in the development, the need created for such area by the development and the suitability or potential of the area for such use.
2. Such areas may include landscaped or naturalistic grounds, water bodies or specific recreational activity facilities and shall be of such size, shape, character and location as makes them a practical recreational amenity to the residents of the development or a contribution to the environmental quality of the development.
3. Adequate provision shall be made for the establishment, preservation and maintenance of common “open space,” park land or amenity areas, either by private reservation or dedication to the public:
  - a. Dedication shall not be mandatory, but where public ownership is desired by the Village, reservation for such purpose may be required by the Village.

- b. In the case of a private open space reservation, the open area to be reserved shall be protected against building development by conveying to the Village as part of the conditions for project approval an open space easement over such open areas restricting the area against any future building or use except as is consistent with that of providing landscaped open space for the aesthetic and recreational benefit of the development.
  - c. The care and maintenance of a private open space reservation or amenity area shall be assured by establishment of appropriate management organization for the project. The manner of assuring maintenance and assessing such cost to individual properties shall be determined prior to the approval of the final project plans and shall be included in the conditions of approval and in the title to each property.
- (g) Economic Feasibility and Impact. To minimize the possibility of adverse effect resulting from failure to implement an approved project or from the economic impact of its development upon the community, the proponents of a planned development shall provide satisfactory evidence of their economic feasibility to finance the project and that the economic prosperity of the area or the values of surrounding properties would not be adversely affected as compared to the impact of development which might reasonably have been anticipated under the zoning in effect at the time the planned development was proposed.
- (h) Implementation Schedule. Proponents of a planned development district shall submit a reasonable schedule for implementation of the development to the satisfaction of the Village Board, including suitable provisions for assurance each phase shall be brought to completion in a manner which would not result in an adverse effect upon the community.
- (i) Enforceability. Such requirements as are made a part of an approved development plan shall be, along with the plan itself, construed to be enforced as a part of this chapter.
- (5) **PROCEDURE.** The procedure for rezoning to a planned development district shall be as required for any other zoning district change under this chapter, except that in addition thereto, the rezoning may only be considered in conjunction with a development plan and shall be subject to the following additional requirements:

- (a) Pre-application Conference. Prior to submittal of a formal application for approval of a planned development, the applicant shall meet with the Plan Commission for an informal discussion of the proposed development in order to provide the basis for proper submittal and processing.
- (b) Application.
1. Submittal for approval of a planned development shall be in the form of a general development plan and a precise implementation plan. The application may be for preliminary approval of a general development plan, followed by the submittal, in whole or part, of final detail plans for approval as a precise implementation plan or for a combined general development and precise implementation plan for all or part of the general development plan.
  2. The application for a general development plan, a general development plan with a precise implementation plan or a precise implementation plan shall be submitted in triplicate to the Clerk/Treasurer who shall transmit it directly to the Plan Commission for processing.
- (c) General Development Plan. The application for approval of a general development plan is intended to provide sufficient definition of the proposed development to make possible a determination as to its basic acceptability in terms of character; use pattern; intensity of use; economic, environmental and service impact and such other factors as would be pertinent to such basic decision prior to the preparation of detailed engineering, architectural and landscape architectural plans. Specifically, such submittal shall include the following:
1. A statement describing the general character of the intended development.
  2. A legal description and an accurate map of the project area including its relationship to surrounding properties and existing topography and key features.
  3. A site plan of the proposed development prepared by a competent professional site planner at a minimum scale of 1" = 200' showing at least the following information in sufficient detail to make possible the evaluation of the criteria for approval:

- a. The pattern of proposed land use including shape, size and arrangement of proposed use areas density and environmental character and the relationship to surrounding uses.
  - b. The pattern of public and private streets, pedestrian ways and parking areas proposed and the relationship to existing streets.
  - c. The location, size and character of recreational and open space areas designated for private reservation or reserved or dedicated for public uses such as school, park, greenway, etc., or any other special amenity to be provided.
  - d. A utility feasibility study including the general system of sewer, water and storm drainage.
  - e. A general analysis of the impact of the development upon traffic facilities.
- 4. Appropriate statistical data on the size of the development, ratio of various land uses, percentages of multiple-family units by number of bedrooms, economic analysis of the development, expected staging and any other plans or data pertinent to proper evaluation of the proposal.
  - 5. General outline of intended organizational structure related to property owner's association, deed restrictions and private provision of common services.
  - 6. Any additional information requested by the Plan Commission as being necessary for adequate evaluation of the concept plan, including completion of any required application forms or checklists.

(d) Referral and Hearing.

- 1. Within 60 days after the filing of the petition for approval of a general development plan is complete, as determined by the Zoning Administrator, the Plan Commission shall forward the petition to the Village Board with a recommendation that the plan be approved as submitted, approved with modifications or disapproved. Such report shall include findings of fact specifying the reasons for the Plan Commission's recommendation.
- 2. Upon receipt of the Plan Commission's recommendation the Village Board shall determine whether or not to initiate a proposed zoning

change to permit the proposed planned development district and to schedule the required public hearing. If the Board fails to initiate such a change within 30 days, the petitioner may file a petition directly with the Clerk/Treasurer as provided by law.

- (e) Village Board Action. Within 30 days following receipt of the report of the Plan Commission, the Village Board shall approve the recommendation, approve the recommendation with modifications, disapprove the recommendation or refer the matter back to the Plan Commission for further consideration. In the case of approval or approval with modification, the Village Board shall adopt an ordinance establishing the planned development district and approving the general development plan and therein may impose such conditions as it deems necessary to insure that the development conforms to such plan. Such approval of a general development plan shall establish the basic right of use for the area in conformity with the plan as approved, but shall be conditioned upon approval of a precise implementation plan, and shall not make permissible any of the uses as proposed until a precise implementation plan is submitted and approved for all or a portion of the general development plan.
- (f) Precise Implementation Plan. A precise plan for implementation of all or a part of a proposed planned development district may be submitted concurrently with a general development plan or within a reasonable period of time as determined by the Village Board. If a precise implementation plan, which the Village Board determines to be a reasonable phase of the total plan, has not been submitted within such time, the Village Board may revoke the approval of the general development plan. The precise implementation plan shall present in greater detail the information given approximately in the general development plan and include sufficient detail to show substantial conformity to the general development plan. The precise implementation plan shall include the following detailed construction and engineering plans and related detailed documents and schedules:
  - 1. An accurate map of the area covered by the plan, including the relationship to the total general development plan, at scale of 1" = 100' with contour lines at 2' intervals.
  - 2. The pattern of public and private roads, driveways, walkways and parking facilities and proposed design and construction standards.
  - 3. Detailed lot layout and subdivision plat where required.

4. The arrangement of building groups, other than single-family dwellings.
5. Floor plans and elevations or perspectives showing the architectural treatment of all buildings other than single-family dwellings.
6. Statistical tabulations showing the apportionment of land uses, the density of residential use, the ratio of apartments by bedroom count, the percentage of ground cover by buildings, the floor area ratio and the parking ratio.
7. Grading plan and storm drainage system.
8. Engineering plans for sanitary sewer, water system and other utilities.
9. The location, type and design detail of all recreational or other special amenities.
10. Location and description of any areas to be dedicated to the public.
11. Landscape plans including plant materials list.
12. Proposed development schedule showing the overall phasing anticipated, the relationship of the proposed precise plan to the total schedule the starting and anticipated completion time for the phase covered by the precise plan and the area of open space to be provided with each phase.
13. Proposed financing plan, including any change in ownership interest involved.
14. If the plan contemplates any portion of the project to be implemented or subsequently owned by other than the petitioner, sufficient information concerning such arrangements shall be submitted to enable the Village to be assured that the development will be carried out in complete compliance with the spirit and intent of the approval granted.
15. Analysis of the economic impact of the development upon the community.
16. Agreements, bylaws, provisions or covenants which govern the organizational structure, use, maintenance and continued protection

of the planned development and any of its common services, common open areas or other facilities.

17. Any other plans, documents or schedules deemed necessary by the Village for proper evaluation of the proposal, including completion of any required application forms or checklists.
- (g) Public Hearing. If the precise implementation plan conforms substantially to the general development plan as approved, no additional public hearing shall be required, though the Plan Commission may hold informal hearings if it so desires. A precise implementation plan submitted for approval shall be deemed to conform substantially to the general development plan approved provided any modification therein, including any modification in location, design and number of buildings, roadways and utilities, does not change the concept or intent of the preliminary plan approved; increase the gross residential density or intensity of use by more than 10%; reduce the area set aside for common open space by more than 10%, or in any case below that required for a minimum; increase by more than 10% the floor area for nonresidential use, or increase by more than 5% the total ground area covered by buildings or structures.
  - (h) Plan Commission Action. Within 30 days following the submittal of a completed petition, as determined by the Zoning Administrator, the Plan Commission shall take action to approve the precise implementation plan as submitted, approve subject to specified modifications or conditions or deny approval.
  - (i) Record. If the precise implementation plan, building, site and operational plans for the development, as approved, as well as all other commitments and contractual agreements which the Village offered or required with regard to project value, character and other factors pertinent to an assurance that the proposed development will be carried out basically as presented in the official submittal plans are approved, they shall be recorded by the developer within a reasonable period of time as determined by the Village Board in the Racine County Register of Deeds' office. This shall be accomplished prior to the issuance of any building permit.
  - (j) Changes. If the precise implementation plan submitted does not conform substantially to the general development Plan previously approved or if the applicant desires to amend substantially a development plan previously approved in general or precise form, the changes therein or amendments thereto may be approved only by following the procedure for original approval. No changes in the precise implementation plan approved



hereunder shall be considered to waive any of the covenants or agreements limiting the use of land, buildings, structures and improvements within the planned development unless specifically so stated.

- (k) Extension or Revocation. If no substantial construction has begun in the planned development within 2 years after the approval by the Village Board of a precise implementation plan, the plan shall be subject to revocation upon written notice to applicant from the Village Board. The applicant may also be required to appear before the Village Board to show cause as to why the approved plan should not be revoked. The Village Board may grant extensions of the applicant's time to begin implementation of the approved plan, if circumstances warrant. In the event of revocation hereunder, an appropriate instrument of revocation shall be filed in the Racine County Register of Deeds' office. For purposes of this section, "substantial construction" shall mean that building permits for at least 30 percent of the proposed construction, or the proposed construction phase if the development is to be constructed in phases, have been obtained.
- (l) Additions. Land contiguous to an existing planned development may be added to such planned development provided such land is made a part of the original development plan in all respects prior to its incorporation into such plan by an amendment of the development plan as provided in par. (j).

#### **17.24 GOVERNMENT AND INSTITUTIONAL DISTRICT. (Cr. #095-4)**

- (1) **USES.** In the Government and Institutional District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:
  - (a) Churches; public and private schools, colleges, universities, libraries and museums; government buildings; public parking and public storage yards, shops and storage yards; and penal or correctional institutions.
  - (b) Hospitals and clinics.
  - (c) Public parks and recreational facilities and buildings.
  - (d) Community center buildings and grounds.
  - (e) Any other uses similar in character to those specifically set forth above.

- (f) Such accessory uses as are customary in connection with the foregoing uses and are incidental thereto.

All such uses shall be conditional uses under the provisions of Section 17.29 of this chapter and shall require a conditional use permit thereunder.

- (2) **HEIGHT AND AREA.** In the Government and Institutional District the height of buildings, the minimum dimensions of yards and the minimum lot area shall be as follows:

- (a) Height. Buildings hereafter erected or structurally altered shall not exceed 60 feet in height.
- (b) Yards, etc. For buildings or parts of buildings hereafter erected or structurally altered the minimum dimensions of front, side, and rear yards, vision, clearance and provisions for automobile parking shall be the same as are required by the regulations of the Commercial District.

(3) **HEIGHT AND AREA EXCEPTIONS**

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

- (a) Architectural projections, such as spires, belfries, cupolas, domes, flues and chimneys, are limited to a height of 200 feet.
- (b) Communication structures, such as radio and television transmission, receiving, and relay towers and aerial towers, and special structures, such as elevator penthouses, gas tanks, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, shall not in any event exceed 350 feet in height, 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. Notwithstanding the above, tower facilities, as defined therein, shall be regulated as provided in Sections 17.70 through 17.99.
- (c) Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control for a distance of

120' measured perpendicular to the street line of the street with the higher average established grade.

## **17.25 ADULT ORIENTED ESTABLISHMENTS**

### **(1) Findings.**

- (a) The board finds that adult oriented establishments as defined in this section require special zoning in order to protect and preserve the health, safety, and welfare of the village.
- (b) Based on its review of certain reports and studies, which are available for inspection at the clerk's office during normal business hours, the board finds that there is convincing evidence that the secondary effects of adult oriented establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing business and surrounding residential areas, including the risk of decreased property values.
- (c) The board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry, to protect the citizens from increased crime, to preserve the quality of life, and to preserve the property values and character of surrounding neighborhoods and areas.
- (d) To minimize and control the secondary effects of adult oriented establishments, it is the board's intent to prevent the location of adult oriented establishments within a certain distance from each other and also from other specified locations which are incompatible with and which would particularly suffer from the secondary effects of adult oriented establishments.
- (e) Based on their prominence as gateways to the village and their central importance to the continued economic well-being and growth of the village, the board finds that the State Trunk Highway 20 and State Trunk Highway 11 corridors are two areas of vital importance to the village which must be protected from the secondary effects of adult oriented establishments for the benefit of the health, safety and welfare of the community.
- (f) 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 oriented establishments while providing an outlet for First Amendment protected activities.

(2) Definitions. As used in this section, the following words and phrases shall mean:

- (a) Adult bookstore. An establishment which has a facility or facilities, including but not limited to booths, cubicles, rooms, or stalls, for the presentation of “adult entertainment”, as defined below, including adult oriented films, computer video, movies or live performances for observation by patrons therein; or an establishment 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 below.
- (b) Adult cabaret. 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, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing specified anatomical areas or specified sexual activities.
- (c) Adult entertainment. 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 as herein defined.
- (d) Adult mini-motion picture theater. 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 as herein defined for observation by patrons therein.
- (e) Adult modeling studio. 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.
- (f) Adult motion picture theater. 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.
- (g) Adult novelty shop. 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.
- (h) Adult oriented establishment. 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 which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult entertainment, or 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. 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.
- (i) Adult booths, cubicles, rooms, compartments or stalls. 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, booth, cubicle, room, compartment or stall does 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 of Wisconsin pursuant to Chapter 50 of the Wisconsin Statutes.

- (j) Nudity. 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.
- (k) Operators. Any person, partnership, or corporation operating, conducting, maintaining or owning any adult oriented establishment.
- (l) Specified anatomical areas.
  - 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.
- (m) Specified sexual activities. Simulated or actual:
  - 1. Showing of human genitals in a state of sexual stimulation or arousal.
  - 2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus.
  - 3. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
- (3) Uses. An adult oriented establishment shall be an allowed principal use in the Commercial District and the Industrial/Business Park District, within the

restrictions contained in this section, and shall be a prohibited use in any other zoning district. The adult oriented establishment may locate in the specified districts only if an adult oriented establishment license has been granted by the village, pursuant to subsections (5) through (9) of this section, and if all other objective requirements of this section and the applicable zoning district's regulations are met.

(4) Regulations applicable to all adult oriented establishments.

- (a) Hours of operation. No adult oriented establishment shall be open for business at any time between the hours of 2:00 a.m. and 12:00 noon.
- (b) 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 oriented establishment or licensed premises.
- (c) Restricted access. No adult oriented establishment patron shall be permitted at any time to enter into any of the non-public portions of any adult oriented establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of adult oriented establishment employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the licensed 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.
- (d) Exterior display. No adult oriented 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 licensed premises is located. No portion of the exterior of an adult oriented 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 section 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.
- (e) Sign limitations. All signs for adult oriented 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

oriented 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 oriented establishment.

- (f) Noise. No loudspeakers or sound equipment audible beyond the adult oriented establishment shall be used at any time.
- (g) Manager's stations. Each adult oriented establishment shall have one (1) or more manager's stations. The interior of each adult oriented 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 adult oriented establishment to which any 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.
- (h) Adult booths prohibited. Adult booths shall be prohibited in all adult oriented establishments.
- (i) No loitering policy. The adult oriented establishment shall clearly post and strictly enforce a no loitering policy.
- (j) Age limit restrictions. The adult oriented establishment shall clearly post and strictly enforce age-limit restrictions. A one-square-foot sign shall be placed on each public entrance which shall state "Admittance to adults only."
- (k) 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 oriented establishment to the nearest point of the protected use as described below.
- (l) Adequate parking. One parking space per one hundred fifty square feet of total gross floor area shall be provided in a lighted area on the licensed premises of an adult oriented establishment.
- (m) Disbursement requirement. No more than one adult oriented establishment may be located on any parcel, and the location of any adult oriented establishment shall be at least one thousand feet from any other adult



oriented establishment. This distance shall be measured from the public entrances of each adult oriented establishment.

- (n) Display windows prohibited. All points of access into structures containing adult oriented 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.
  - (o) Location restrictions. No adult oriented establishment may locate 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, or the right-of-way of State Trunk Highway 20 or State Trunk Highway 11. 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 oriented 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 oriented 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 oriented establishment to the nearest property line of the playground, public park, or recreation area. Along State Trunk Highway 20 or State Trunk Highway 11, this distance is measured from the outside highway right-of-way line, including frontage road(s).
  - (p) Residential quarters not allowed. No residential quarters shall be allowed on a premises with an adult oriented establishment.
- (5) Adult oriented establishment licenses. Operators shall obtain an adult oriented establishment license from the village by providing the village with at least the following information regarding the proposed adult oriented establishment, on such forms as are provided by the Village (if any), and by paying the requisite fee (if any):
- (a) Applicant information.
    - 1. *Individuals.* Applicant's legal name; all of the applicant's aliases, if any; the applicant's age and business address.

2. *Corporations or limited liability companies.* Applicant corporation's or LLC's complete name and official business address; legal names, all aliases, the ages, and business addresses of all of the directors, officers, managers and members of the corporation or LLC and of every person owning or controlling more than twenty-five (25) percent of the voting shares of the corporation or LLC; applicant corporation's or LLC's date and place of incorporation and the objective for which it was formed; proof that the corporation or LLC is in good standing and authorized to conduct business in the State of Wisconsin; name of the registered corporate or LLC agent; 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 or liabilities of the organization.* Applicant organization's complete name and official business address; 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.* Applicant land trust's complete name; legal name, all aliases, and the business address of the trustee of the land trust; 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; the interest, if any, that the land trust holds in the licensed premises.
- (b) If a corporation, LLC, 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 oriented establishment permit is sought.

- (f) The specific name of the business that is to be operated under the adult oriented establishment permit.
- (g) The identity of each fee simple owner of the licensed premises.
- (h) A diagram showing the internal and external configuration of the licensed premises, including all doors, windows, entrances, exits, the fixed structural internal features of the licensed 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 licensed premises and to demonstrate compliance with the provisions of this section. 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 approval otherwise required.
- (i) The specific type(s) of adult oriented establishment(s) that the applicant proposes to operate on the licensed premises.
- (j) A copy of each adult oriented establishment 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 oriented establishment.
- (l) The application fee, site plan review fee, and zoning permit fee in the amount as set periodically by resolution of the Village board.
- (m) Any other information the village may reasonably require to apply the requirements of this section.
- (n) The village reserves the right to require a survey from a surveyor licensed by the State of Wisconsin to determine the spacing requirements under this section, with the cost of such survey being borne by the applicant.
- (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 village.

- (6) Incomplete adult oriented establishment license applications returned. Any application for an adult oriented establishment license that does not include all of the information and documents required pursuant to this section, as well as the required fees, shall be deemed to be incomplete and shall not be acted on by the village, which shall give the applicant a written notification and explanation of such action pursuant to this section.
- (7) Adult oriented establishment applicant cooperation required. An applicant for an adult oriented establishment license shall cooperate fully in the inspections and investigations conducted by Village. The applicant's failure or refusal to give any information reasonably relevant to the investigation of the application, to allow the licensed premises to be inspected, to appear at any reasonable time and place for review purposes, or to otherwise cooperate with the investigation and inspection required by this section shall constitute an admission by the applicant that the applicant is ineligible for an adult oriented establishment license and shall be grounds for denial of the permit by the village.
- (8) Time for issuance or denial of adult oriented establishment licenses. The Village Board shall, within thirty 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 oriented establishment license pursuant to the provisions of this section.
- (9) Standards for issuance or denial of adult oriented establishment licenses.
- (a) Issuance. The village shall issue an adult oriented establishment license to an applicant if the Village Board finds and determines all of the following:
1. All information and documents required by this section for issuance of an adult oriented establishment license has been properly provided.
  2. No person identified in the application has been denied an adult oriented establishment license within the twelve (12) months immediately preceding the date of the application, or has had an adult oriented establishment license revoked within the twelve (12) months immediately preceding the date of the application, or possesses an adult oriented establishment license that is under suspension at the time of application.
  3. The adult oriented establishment and the operator comply with all requirements of this section.

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 oriented 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 oriented establishment permit within thirty (30) days after the properly completed application is submitted, then the adult oriented establishment permit applied for shall be deemed to have been issued.
- (10) Enforcement. A violation of any restrictions imposed by this section or by an adult oriented establishment license is a violation of this section, and notwithstanding any other remedy, a violation of any conditions or an adult oriented establishment license shall be grounds for revocation of the adult oriented establishment license.
- (11) Continued conforming status. Any adult oriented establishment lawfully operating as a conforming use as of the effective date of this ordinance is not rendered a nonconforming use hereby.

## ADMINISTRATION AND ENFORCEMENT

### **17.26 BOARD OF APPEALS**

- (1) ORGANIZATION, RULES AND PROCEDURE.
  - (a) A Board of Appeals is hereby established. The Board of Appeals shall consist of 5 members appointed by the Village President, subject to confirmation by the Village Board, for 3-year terms. The members shall receive compensation as set by the board and shall be removable by the Village President for cause upon written charges and after public hearing. The Village President shall designate one of the members as chairman. The Village President shall also appoint, subject to confirmation by the Village Board, two alternate members for staggered terms of 3 years. Annually, the Village President shall designate one alternate as 1<sup>st</sup> alternate, who shall act with full power only when a member is absent or refuses to vote because of interest, and the other as 2<sup>nd</sup> alternate, who shall act with full power only when the 1<sup>st</sup> alternate or a member is absent or refuses to vote because of

interest. Vacancies shall be filled for the unexpired terms of members and alternates whose terms become vacant. The Board of Appeals may employ a secretary and other employees.

- (b) The Board of Appeals shall adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board of Appeals may determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
  - (c) The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep record of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record.
  - (d) Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the Zoning Administrator or Building Inspector. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Appeals, by filing with the Zoning Administrator or Building Inspector and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator or Building Inspector shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of appeals and give public notice thereof as well as due notice to the parties in interest and shall decide the same within a reasonable time. A filing fee in the amount periodically as set by the Village Board must accompany a Notice of Appeal to the Board of Appeals. (Am. #096-4)
- (2) **POWERS OF THE BOARD OF APPEALS.** The Board of Appeals shall have the following powers:
- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Building Inspector.
  - (b) To hear and decide special exceptions to the terms of this chapter upon which the Board of Appeals is required to pass.

- (c) 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 will result in practical difficulty or unnecessary hardship, so that the spirit of the chapter shall be observed, public safety and welfare secured and substantial justice done, but no action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such district. Use variances shall not be granted.
- (d) In every case where a variance from these regulations has been granted by the Board of Appeals, the minutes of the Board shall affirmatively show that an “unnecessary hardship” or “practical difficulty” exists and the records of the Board shall clearly show in what particular or specific respects an “unnecessary hardship” or “practical difficulty” has been created by the regulations of this chapter.
- (e) The Board of Appeals may reverse or affirm wholly or in part, or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the Building Inspector. If a quorum of members or alternates is present, the Board of Appeals may take action by majority vote. The Board of Appeals shall make the reasoning of its decisions clear, either by issuing a written decision or by including adequate detail in the meeting minutes.
- (f) The Board of Appeals shall have the power to call on any other Village department for assistance in the performance of its duties and such other departments shall render such assistance as may be reasonably required.
- (g) In exercising the foregoing powers the Board of Appeals may in appropriate cases establish suitable conditions and safeguards in harmony with the general purpose and intent of this chapter.

#### **17.27 CHANGES AND AMENDMENTS.**

- (1) The Village Board may from time to time on its own motion or on petition amend or change the district boundaries or the regulations herein, after first submitting the proposal to the Village Plan Commission for recommendation and report and after publishing a class 2 notice under Ch. 985, Wis. Stats., of the proposed changes and hearing thereon and an opportunity to any persons interested to be heard. At least 10 days prior written notice of changes in the district plan shall be given to the clerk of any municipality whose boundaries are within 1,000’ of the land to be affected by the proposed change, but failure to give such notice shall not

invalidate any such change. In the case of a property owner's petition to rezone land, the petitioner shall, along with request, supply the Village with a list of the names and addresses of all neighboring property owners within 300 feet of the land sought to be rezoned. The petitioner shall also erect a temporary sign on each parcel sought to be rezoned, no less than fourteen days before the public hearing thereon, giving notice, at least, of the parcel's current zoning, the proposed zoning, and the date, time and location of the public hearing on the requested zoning change. The temporary sign shall be of such size, and placed at such location, as the Zoning Administrator determines is necessary to make the sign reasonably visible to the public, given the subject property's particular location and features. To defray the Village's costs relating to the rezoning, a petitioner shall also pay such fee as may be set periodically by resolution of the Village Board.

- (2) In case of protest against such change, signed and acknowledged by the owners of 20% or more of the areas of land included in such proposed amendment, supplement or change or by the owners of 20% or more of the area of the land immediately adjacent extending 100' therefrom or by the owners of 20% or more of the land directly opposite thereto extending 100' from the street frontage of such opposite land, such amendment, supplement or change shall not become effective except by the favorable vote of  $\frac{3}{4}$  of the members of the Village Board.

#### **17.28 ENFORCEMENT.**

- (1) **ZONING ADMINISTRATOR.** The Zoning Administrator, with the aid of the Building Inspector and Police Department, shall enforce the provisions of this chapter.
- (2) **ZONING PERMIT.**
  - (a) No building shall hereafter be erected, moved or structurally altered until a zoning permit therefor shall have been applied for and issued. Such zoning permit shall be displayed in a prominent location on the premises, visible from the street, until the erection, moving or altering of such building shall have been completed. Zoning permits shall be obtained from the Zoning Administrator or from the Plan Commission, if the Zoning Administrator determines that the proposed use is not clearly permitted as a matter of right under this chapter.
  - (b) Applicants shall provide such information as is necessary for an evaluation of the proposed property use under this chapter, which may include location plans in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot



of the proposed or existing building and accessory buildings; the lines bounding the yards and other open spaces required by this chapter, the existing and intended use of each building or part of a building, the number of families the building is intended to accommodate and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of this chapter.

1. The Zoning Administrator may waive the above requirements as to location plans with respect to signs and temporary structures in the Commercial District and roadside stands upon the presentation of satisfactory evidence that such buildings and structures will comply with the regulations of this chapter governing the district in which such buildings or structures are to be located.
2. All dimensions shown relating to the location and size of the lot shall be based upon a plat of survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

(3) **CERTIFICATE OF COMPLIANCE.**

- (a) If a conditional use, site plan or architectural design is approved conditioned upon compliance with specific site or architectural restrictions, no occupancy permit may be issued for the property unless a certificate of compliance is first obtained from the Zoning Administrator confirming that the site or architectural restrictions or other approved physical conditions have been satisfied.

**17.29 CONDITIONAL USES.**

- (1) **APPLICATION.** An application for a conditional use permit (“CUP”) shall be made in duplicate to the Zoning Administrator on forms furnished by the Village and providing such information as is required by the Village. Applicants shall pay such application fee as shall be set periodically by resolution of the Village Board.

(2) **REVIEW AND APPROVAL.**

- (a) Procedure. The Plan Commission shall review the application and shall recommend to the Village Board the approval or disapproval of the proposed conditional use and, if approval, the conditions under which it should be granted. Prior to the meeting during which the Plan Commission will review and make its recommendation as to a proposed conditional use,

the Plan Commission shall cause to be published, as a Class I notice, its agenda indicating the Plan Commission's consideration of the proposed conditional use, and further indicating that the Plan Commission will entertain any public comment as to the proposed conditional use during said meeting. After reviewing the Plan Commission's final recommendation, the Village Board shall then approve or disapprove such proposed conditional use and, if approved, shall specify the conditions under which it is approved.

- (b) Conditions. In approving any conditional use permit, the Plan Commission may recommend, and the Village Board may impose, such reasonable standards, conditions, or requirements, in addition to or that supersede any standard specified in the Code, as it may deem necessary to protect the public interest and welfare. Such additional standards may include, but need not be limited to:

1. Financing and availability of adequate public facilities or services;
2. Dedication of land;
3. Reservation of land;
4. Payment of exactions;
5. Impact fees;
6. Creation of special assessment districts;
7. Creation of restrictive covenants or easements;
8. Special setbacks;
9. Yard requirements;
10. Increased screening or landscaping requirements;
11. Area requirements;
12. Development phasing;
13. Standards pertaining to traffic, circulation, noise, lighting, hours of operation, protection of environmentally sensitive areas, and similar characteristics.
14. Provisions of sustainable features, solar or other renewable energy source, rainwater capture, storage and treatment or other sustainability requirements.
15. Require that a performance guarantee acceptable in form, content, and amount to the Village attorney be posted by the applicant to ensure continued compliance with all conditions and requirements as may be specified; and

16. Require that a development agreement be entered into by the applicant.
- (c) Approval Criteria. A conditional use is permitted only if the applicant demonstrates that:
1. The proposed conditional use shall comply with all regulations of the applicable zoning district and any applicable supplemental use regulations and shall be consistent with the Village's comprehensive plan.
  2. The proposed conditional use shall conform to the character of the neighborhood within the same zoning district in which it is located. The proposal as submitted or modified shall have no more adverse effects on health, safety, or comfort of persons living or working in the neighborhood, or shall be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district. In making such a determination, consideration shall be given to:
    - a. The location, type, and height of buildings or structures;
    - b. The type and extent of landscaping and screening on the site; and
    - c. Whether the proposed use is consistent with any policy of the comprehensive plan that encourages uses and/or densities.
  3. Adequate utilities shall be provided.
  4. Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.
  5. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas, relative to purposes already permitted on properties in the immediate vicinity.
  6. The proposed use shall not injure the use and enjoyment of the property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair the property values within the immediate vicinity.

7. The proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the immediate vicinity.
  8. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
  9. The public interest and welfare supporting the proposed use shall be sufficient to outweigh the individual interests that are adversely affected by the establishment of the proposed use.
- (d) Decision. The Village Board shall decide all applications within 30 days after the Plan Commission recommendation and shall deliver a signed copy of its unsigned decision to the applicant. If a conditional use is approved, all property owners shall acknowledge the approved terms by notarized signature and return the same to the Zoning Administrator within 10 days or the decision shall become null and void without any further action by the Village. The conditional use shall only become effective when all required signatures have been obtained and the original signature copy is returned to the Zoning Administrator for execution by the Village. The Zoning Administrator shall record the fully-executed conditional use approval in the Racine County Register of Deeds Office and return a recorded copy of the conditional use approval to the property owner.
- (e) Expiration of Use. Conditional uses granted hereunder shall expire 6 months after the approved conditional use becomes effective unless substantial work has commenced during such time. If the Zoning Administrator determines that substantial work did not commence within 6 months, or if substantial work commenced but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to subsection (f). Upon written petition and with cause, the Zoning Administrator may grant a one-time extension, not to exceed 3 months, provided (1) the permit holder requests the extension prior to the expiration of the approval, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of substantial work and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted. If the Zoning Administrator determines that a conditional use has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the conditional use pursuant to subsection (f).

(3) ENFORCEMENT. (Cr. #93-6)

- (a) Responsibility. The Zoning Administrator, in conjunction with Village law enforcement personnel, shall be responsible for enforcement of compliance with conditional uses permitted hereunder. The owner of the property which is subject to a conditional use permit hereunder shall notify any purchaser, lessee or occupant of the property of the terms and conditions of such conditional use permit.
- (b) Notice of Change of Use. Prior to any substantial change in use or conditions of use of property which was subject to a conditional use permit granted hereunder or prior to any substantial change in use or conditions of use of property which predated the adoption of the ordinance providing for a conditional use permit for such property, the owner, tenant or other user of the property shall notify the Zoning Administrator in writing, on forms furnished by the Zoning Administrator, of the proposed change in use. Such notice shall sufficiently describe the proposed use so as to permit the Zoning Administrator to reasonably determine whether such proposed use is in conformity with the conditional use permit previously issued or whether the use was substantially changed from the uses in effect at the time of the adoption of the ordinance providing for a conditional use permit. Within 10 business days after receipt of such written notice, the Zoning Administrator shall notify the party in writing of his decision as to whether or not such proposed use is in conformity with the conditional use permit or such prior uses. If it is determined such proposed use is in conformity with the conditional use permit or is not substantially different from prior uses in effect at the time of the adoption of the ordinance requiring a conditional use permit, no further or amended conditional use permit shall be required. If it is determined such proposed use is not in conformity with the conditional use permit or is substantially different from prior uses in effect at the time of the adoption of the ordinance requiring a conditional use permit, such proposed use shall not be effected without first obtaining a conditional use permit or an amended permit allowing such use. Any aggrieved person may appeal such determination to the Village Board of Appeals.

(4) AMENDMENT. Any amendment to a conditional use permit shall only be granted upon application and review as provided above for the granting of a conditional use permit. The Village may waive requirements as to information already filed with the Village in connection with the existing conditional use permit.

(5) TERMINATION. If, due to a lapse in use as provided in subsection (3)(e), due to a repeated or egregious failure to comply with an approval condition, or because

circumstances have changed such that an approved conditional use is no longer consistent with the public health, safety or welfare, the Zoning Administrator, the property owner or any aggrieved party believes that an approved conditional use is subject to termination, such person shall file an application with the Plan Commission to terminate the subject conditional use. A request to terminate an approved conditional use shall be acted upon by the Village utilizing the procedure set forth in subsection (2)(a), provided, however, that the property owner and occupant (if different) of the subject property shall be given personal notice, via personal service or via certified and regular mail at the last known address, of the meetings during which such request shall be considered and further provided that, if requested by the property owner, the Plan Commission shall delay its consideration of the request for up to thirty days, unless the public health, safety or welfare requires more immediate consideration. Any approved use that is in compliance with its approval conditions may be terminated only if the village board determines that continuing the use would pose a substantial and imminent threat to the public health, safety or welfare, which threat could not be adequately alleviated by a modification of the approval conditions. If a conditional use is terminated for any reason, the Zoning Administrator shall send notice of such termination to the property owner and shall cause such notification to be recorded in the Racine County Register of Deeds Office, and the property owner shall bring the property into compliance with then-current zoning within such time as the Zoning Administrator determines is reasonable under the circumstances.

**17.30 [RESERVED].**

**17.31 VILLAGE PLAN COMMISSION.**

- (1) CREATION. A Plan Commission for the Village is hereby created.
  - (a) The Village Plan Commission shall consist of seven members, compromised of: (1) the Village President or, at the President's option, and for the duration of the President's term, the Chairman of the Economic Development and Redevelopment Committee; and, (2) the Village Engineer; and, (3) the Building Inspector (if a full-time Village employee); and, (4) a village trustee; and, (5) 3 citizens. Citizen members shall be persons of recognized experience and qualifications. The Village President, or the Chairman of the Economic Development and Redevelopment Committee in his stead, shall be the presiding officer.
  - (b) The trustee member of the Commission shall be elected by a majority vote of the Village Board each April.

- (c) The 3 citizen members of the Plan Commission shall be appointed for 3 year terms by the Village President, subject to confirmation by the Village Board. If there is no engineer or building inspector, additional citizen members shall be appointed in the same manner so that the Commission has 7 members as provided by law. The additional citizen members, if any, shall be first appointed to hold office for a period ending one year from the succeeding first day of May and thereafter annually during the month of April. Whenever a village engineer is appointed or a full-time building inspector hired, such village engineer or building inspector shall succeed to a place in the Commission when the term of an additional citizen member expires.
  - (d) Vacancies other than ex officio shall be filled by appointment for the remainder of the unexpired term in the same manner as appointment for the full term.
  - (e) The official oath required by §19.01, Wis. Stats., shall be taken by citizen members and filed with the Clerk/Treasurer.
- (2) **POWERS OF PLAN COMMISSION.** The Plan Commission shall have the powers and duties set forth in §62.23, Wis. Stats., and such other powers and duties as shall be vested in it from time to time by law or by the Village Board.
  - (3) **NOTICE OF APPOINTMENT BY VILLAGE CLERK/TREASURER.** As soon as all members of the Commission have been appointed, the Clerk/Treasurer shall give each member a written notice of the appointment. The Commission shall elect a vice-chairman and a secretary and shall keep a written record of its proceedings to include all actions taken, a copy of which shall be filed with the Clerk/Treasurer. Four members shall constitute a quorum.
  - (4) **POWER TO EMPLOY EXPERTS.** The Plan Commission shall have the power to employ experts and such staff as may be necessary and to pay for their services and such other expenses as may be necessary and proper within the limits of the budget established by the Village Board or placed at its disposal through gift and subject to any ordinance or resolution enacted by the Village Board. As far as possible the Commission shall utilize the services of existing Village officials and employees.
  - (5) **ADOPTION OF RULES OF PROCEDURE.** The Plan Commission is hereby authorized to adopt rules governing its own proceedings, including recommending fees to the Village Board, subject, however, to state statutes governing the same. Such procedures shall be approved by resolution of the Village Board before they become effective.

- (6) MAPS. The secretary of the Plan Commission shall see that the official map and zoning map of the Village are kept current.

## **17.32 - 17.37 RESERVED**

### **FEES, EXPENSES, VIOLATIONS AND PENALTIES**

#### **17.38 FEES.**

- (a) Every person performing work which by this chapter requires the issuance of a permit shall pay a fee for such permit to the village clerk-treasurer to help defray the cost of administration, investigation, advertising, and processing of permits and variances. Fees pertaining to petitions for zoning amendments, zoning permits, conditional use permits, certificates of compliance, variances, and for appeals to the Board of Appeals, or to any other purpose under this chapter shall be established by action of the Village Board from time to time.
- (b) Permit fees do not include and are in addition to building code fees.
- (c) A double fee may be charged by the Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this chapter nor from prosecution for violation of this chapter. All fees shall be paid to the village clerk-treasurer, who shall give a receipt therefor, and shall be credited to the village treasury.

#### **17.39 PAYMENT OF VILLAGE EXPENSES.**

In addition to those fees established by the Village Board in accordance with section 17.38, each petitioner for any approval under this chapter shall pay an additional fee equal to all expenses incurred by the village in the consideration of his/her petition. Such expenses shall include costs of notices and hearings, legal fees, engineering fees, and fees of other consultants and any other costs which the village may reasonably incur. The Village Board may require that a bond or deposit be made by the petitioner prior to consideration of the petition, and/or the execution of a predevelopment and/or development agreement including an obligation that the petitioner reimburse the Village's costs relating to such petition. No zoning amendment, variance, or conditional use approval shall become effective nor shall any use permits, certificates of compliance,



building permits, or permits of any other kind be issued until all such additional fees are paid to the village.

#### **17.40 VIOLATIONS.**

Any building or structure hereafter erected, moved or structurally altered or any use hereafter established in violation of any of the provisions of this chapter shall be deemed an unlawful building, structure or use. The Zoning Administrator shall promptly report all such violations to the Village Attorney who shall take appropriate steps, which may include bringing an action to immediately adjoin such unlawful building, structure or use, to address the unlawful erection, moving or structural alteration of such building or the establishment of such use or to cause such building, structure or use to be vacated or removed.

#### **17.41 PENALTY.**

Any person who violates, disobeys, neglects, omits or refuses to comply with or who resists the enforcement of any of the provisions of this chapter may also be subject to the penalty provided in Section 25.04 of this Municipal Code. Each day that a violation continues to exist shall constitute a separate offense.

#### **17.42 - 17.69 RESERVED.**

### **TOWER FACILITIES**

#### **GENERALLY**

#### **17.70 INTENT.**

To the maximum extent not incompatible with Wis. Stat. § 66.0404, as may be amended from time to time, or other preempting law or regulation, it is intended that conditional use permits shall be issued under this section to accommodate the expansion of wireless communication technology while minimizing the number of towers and the visual/aesthetic/land use impacts of those towers.

#### **17.71 AFFECTED FACILITIES: DEFINITION.**

- (1) The following facilities are subject to the regulations in Sections 17.70 - 17.89 and site standards in Sections 17.90 - 17.99:

- (a) Towers, masts, poles or other supporting buildings or structures fifty (50) feet or more in height that are used to elevate an antenna or which act as an antenna, and which are intended for transmitting or receiving radio frequency waves. Height shall be measured as the vertical distance between the highest point of the antenna or tower, whichever is higher, and the ground directly below this point. ("tower facility" or "tower")
  - (b) Accessory uses such as manned or unmanned equipment or buildings typically at the base of the tower.
- (2) Amateur and citizen band towers and antennas where the "tower facility," as defined in Section 17.71(1)(a) is fifty (50) feet or more in height are exempt from the provisions of this article except for the following:
  - (a) The installation or construction of such a tower shall require site plan review and approval by the Plan Commission in accordance with the standards and considerations set forth in Section 17.16(4). The Plan Commission may request a public hearing following site review if it is determined that such a hearing is in the public interest.
  - (b) Such "tower" shall be considered an accessory structure and permitted in the side yard or rear yard only. A minimum ten-foot side yard and rear yard setback shall be maintained.

#### **17.72 EXISTING TOWER FACILITIES.**

Any addition or change to an existing tower facility shall be in compliance with requirements for tower appearances and landscaping as set forth in this article. Existing tower facilities shall be exempt from the requirements concerning site size, setbacks and parking.

#### **17.73 PROHIBITION.**

No installation or construction of a tower facility, or change in an existing tower facility, is permitted, except as provided in Section 17.81 and Section 17.82, without conditional use approval or amendment under Section 17.29 and a zoning permit. The types of changes that would require conditional use approval include, but are not limited to, such things as an increase in the number of towers at a site, an increase in a tower's height, a change in the type or style of tower (i.e., guyed vs. self-supporting or lattice vs. monopole), a change in the type or location of any guy wires, a change in the location of a tower, or a proposed change in the size of the tower site. Changes such as an alteration to the size of an existing service building or installation under Section 17.81 and Section 17.82 may be dealt with through the site plan review process under Section 17.71(2)(a) and a zoning permit.

#### **17.74 LOCATION.**

Tower facilities shall not be located in any residential zoning district, shoreland/wetland or floodplain.

#### **17.75 SUBMITTAL REQUIREMENTS.**

In addition to the requirements found in Section 17.29 the applicant must supply the following:

- (1) A description of the telecommunications services that the applicant offers or provides.
- (2) Name, address and telephone numbers of all proposed occupants of the tower. A letter indicating the proposed occupants commitment to place an antenna on the tower and an indication of the firmness of the commitment. The letter shall also indicate the type of service that occupant provides. The applicant shall also provide documentation showing a particularized need for each occupant to locate its antenna at the particular height indicated.
- (3) If the applicant does not own the site or the tower, the applicant shall provide a lease agreement or binding lease memorandum which shows on its face: (1) that it does not preclude the site owner from entering into leases on the site with other provider(s), (2) that it does not preclude the tower owner from entering into leases on the tower with other provider(s), and (3) the legal description and amount of property leased, and (4) in the event of abandonment, the Village reserves the right to remove the tower at the property owner's expense.
- (4) An analysis of the alternatives which identifies the reasonable, technically feasible, alternative locations and/or facilities that could provide the proposed telecommunication service. The intention of the alternatives analysis is to present alternative strategies that could minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the Village. This analysis shall address the potential for co-location and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for the selection of the proposed site in view of the relative merits of any of the feasible alternatives. A pre-application meeting between the applicant and the planning and development department shall be required. At such meeting the applicant and staff will locate all known alternative structures, and, at a minimum, five (5) alternative sites to analyze. This requirement shall not limit the Plan Commission's power to require other sites be analyzed.
- (5) A tabular and map inventory of all the applicant's and occupant's existing towers and antennas that are located within Racine County (defined to include all incorporated and unincorporated areas) and one thousand five hundred (1,500) feet of the county's border. The inventory shall specify the location, height, type, and design of each of the applicant's existing towers and the antennas located on such towers. The inventory shall

also specify whether such towers are currently in operation and indicate the ability of the existing towers to accommodate additional co-location antennas.

- (6) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.
- (7) 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.
- (8) Such other information as the Plan Commission or Zoning Administrator may reasonably require.

#### **17.76 MAXIMUM HEIGHT.**

Towers shall not exceed in height the distance from the nearest lot line, provided, however, that if any tower is located within three (3) miles of the boundary line of an airport and landing strips, said height shall not exceed the height limitations of the underlying district 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. If the applicant presents to the Plan Commission a report by a structural engineer licensed by the State of Wisconsin certifying the fall-down radius of the proposed tower to be less than its height, the allowed set back shall be that certified distance.

#### **17.77 REQUIREMENTS.**

No conditional use permit for the placement or construction of a tower shall be issued unless the applicant presents to the Plan Commission credible evidence establishing to a reasonable degree of certainty the following:

- (1) Existing tower or structure is not available. This shall be proven by showing:
  - (a) No existing tower or structure is located within the area in which the applicant's equipment must be located;
  - (b) No existing tower or structure located within the area in which the applicant's equipment must be located is of sufficient height to meet the applicant's requirements and the deficiency in height cannot be remedied at a reasonable cost;
  - (c) No existing tower or structure within the area in which the applicant's equipment must be located has sufficient strength to support the applicant's equipment and the deficiency in structural strength cannot be remedied at a reasonable cost;

- (d) The applicant's equipment would cause electromagnetic interference with equipment on the existing tower(s) within the area in which the applicant's equipment must be located, or the equipment on the existing tower(s) would cause interference with the applicant's equipment and the interference, from whatever source, cannot be eliminated at a reasonable cost;
  - (e) The fees, costs or contractual provisions required by an owner in order to co-locate on an existing tower or structure are unreasonable relative to industry norms; or
  - (f) The applicant demonstrates that there are other factors that render existing towers or structures unsuitable or unavailable and establishes that the public interest is best served by the placement and construction of the new communication tower.
- (2) An alternative site, as required to be analyzed under Section 17.75(4) is not reasonably available to place the proposed tower.
  - (3) The absolute need for the particular height of the proposed tower. Any proposal for a tower by an applicant to build a tower on speculation and seek tenants among telecommunication carriers shall include documentation of the commitments made by those carriers to co-locate at what particular height and the absolute need for such height.
  - (4) The proposed tower is camouflaged to the greatest extent possible in that the tower is designed to include, where appropriate, the use of compatible building materials and colors, screening, landscaping and placement within trees.
  - (5) The proposed tower shall accommodate other users in that any proposed tower shall be designed, structurally, electrically and in all respects to accommodate co-location of both the applicant's antenna(s) and comparable antenna(s) for at least two (2) additional users. Towers shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights, and to accommodate supporting buildings and equipment.

#### **17.78 TECHNICAL REVIEW.**

In the event the Plan Commission determines that it is necessary to consult with a third party in considering a permit, all reasonable costs and expenses associated with such consultation shall be borne by the applicant. Failure to pay such costs and expenses or provide information requested by the Plan Commission shall be grounds for denial or revocation of a conditional use permit. The applicant may provide to the Plan Commission the names of consultants which the applicant believes are qualified to assist in resolving the issues before the Plan Commission.

#### **17.79 ABANDONMENT.**

- (1) Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the owner of such antenna or tower or owner(s) of the property where the tower or antenna is located shall remove said antenna and/or tower including all supporting equipment, buildings, and foundations to a depth of five (5) feet, and shall restore the location to its natural condition (except that any landscaping and 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 antenna/tower and all supporting equipment and buildings, and restore the site at the antenna/tower owner's or property owner's expense.
- (2) The applicant shall submit a copy of a signed agreement, which may be the lease agreement, between the property owner and the owner of the tower, antenna(s) and supporting equipment and building(s) detailing requirements for abandonment and subsequent removal based on the provisions of Section 17.79(1). Said agreement shall also identify that the agreement shall be binding on future property owner(s) and future owner(s) of the tower, antenna and all supporting equipment and building(s).
- (3) The tower and foundation shall be recorded in the register of deed's office and a copy of the deed shall be filed with the Village.

#### **17.80 SECURITY FOR REMOVAL.**

The applicant shall provide to the Village, prior to the issuance of the conditional use 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 Village must be named as obligee in the bond, and it must approve the bonding company. The face of the bond must reflect that the Village 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 Plan Commission reserves the right to require a corresponding increase in the bond amount.

#### **17.81 USE OF EXISTING STRUCTURES.**

A tower or antenna may locate on an alternative support structure such as clock towers, steeples, silos, light poles, buildings, water towers or similar structures provided that the placement of antenna shall not extend more than twenty (20) feet above the top of the structure and shall not extend more than six (6) feet from the structure. Towers located on roofs shall not occupy more than fifty (50) percent of the roof surface of a building and shall be secured from the remaining area to prevent unauthorized access. The towers and antenna(s) shall be painted or otherwise

treated to match the exterior of the structure. Such installation shall not require a conditional use permit but shall require site plan approval under Section 17.71(2)(a).

#### **17.82 CO-LOCATION.**

- (1) A conditional use permit shall not be required for co-location on an existing tower permitted under this chapter, provided the co-located antenna array or equipment does not significantly alter the structural integrity of the tower, and is fully in compliance with all conditions contained in the original conditional use permit. The holder of a permit for any tower on which co-location occurs shall within thirty (30) days of such co-location provide to the Zoning Administrator written notification of the identity of the co-locator and the nature of the equipment installed. Within thirty (30) days of the date on which any co-located use ceases, the permit holder shall provide the Zoning Administrator with written notice of the cessation of such use.
- (2) The holder of a permit for a tower shall allow co-location for at least two (2) additional users and shall make access to the tower for the additional users economically feasible. If additional user(s) demonstrate that the holder of a tower permit has made access to such towers economically unfeasible, then the permit shall become null and void.

#### **17.83 CONTINUED COMPLIANCE.**

Upon written inquiry by the Plan Commission, 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 permit. Failure to establish compliance with all conditions placed upon the conditional use permit shall be grounds for the revocation of the permit. All reasonable costs and expenses associated with such consultation shall be borne by the holder of the permit. Failure to pay such costs and expenses or provide information requested by the Plan Commission shall be grounds for revocation of the permit. The holder of the permit may provide to the Plan Commission the names of consultants which the permit holder believes are qualified to assist in resolving the issues before the Plan Commission.

#### **17.84 INDEMNIFICATION.**

The Village does not warrant any tower against design or structural failure. The Village does not certify that the design is adequate for any tower and the Village hereby accepts no liability through the issuance of a conditional use permit or zoning permit. By acceptance of a conditional use permit, or by issuance of a zoning permit, under this article, the applicant agrees to indemnify the Village against each and every claim, demand, or cause of action that may arise or be made against the Village by reason or in any way arising out of any defect or imperfection in the tower and/or antenna, or any failure to repair the same, and also against every claim, demand,

or cause of action against the Village by reason of any liability that is or may be imposed on the Village, on account of any such defect, imperfection, or any failure to repair the same.

**17.85 – 17.89 RESERVED.**

**SITE STANDARDS**

**17.90 PURPOSE.**

These standards are to ensure site construction and development in a manner which will result in an appearance compatible with permitted uses in the zoning district and to protect adjacent property from safety hazards such as tower failure or falling ice.

**17.91 SITE SIZE AND TOWER SETBACKS.**

- (1) The site shall be of a size and shape sufficient to provide an adequate setback from the base of the tower to any property line. Such setback shall be sufficient to:
  - (a) Provide for an adequate vegetative, topographic or other buffer, as provided in this section.
  - (b) Preserve the privacy of adjoining properties.
  - (c) Protect adjoining properties from the potential impact of tower failure and falling ice by being large enough in area to accommodate such failure and falling ice on the site.
  - (d) Conform to the minimum shore yard setbacks.
- (2) Setbacks shall not be less than the height of the tower above grade between the base of the tower and any property line. If the applicant presents to the Plan Commission a report by a structural engineer licensed by the State of Wisconsin certifying the fall-down radius of the proposed tower to be less than its height, the allowed set back shall be that certified distance.
- (3) When more than one (1) tower is placed on a site, all setback, design and landscape requirements shall be met as to each tower. Structures may be located as close to each other as technically feasible, provided tower failure characteristics of each tower on the site will not lead to multiple failures in the event that one (1) fails.



#### **17.92 GUY SETBACKS.**

- (1) For a guyed structure, the site shall be of a size and shape sufficient to provide an adequate setback from a guy anchor to any property line abutting a residential district, public property or public street. Such setback shall be adequate to provide a vegetative, topographic or other buffer sufficient to obscure view of the anchor from adjoining properties.
- (2) A site with a guyed structure shall provide:
  - (a) 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
  - (b) A setback equal to or exceeding the rear yard 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 requirements of subsection (b), above, as to all other adjoining property lines.
- (4) Guy anchors may be located within required landscape areas.

#### **17.93 SETBACKS FOR ACCESSORY USES.**

Setbacks for all accessory structures and uses shall be at least as great as the required yards of the underlying zone for accessory structures. Accessory structures shall be limited to (fifteen) 15 feet in height.

#### **17.94 TOWER APPEARANCE AND ILLUMINATION.**

- (1) For towers not regulated by the Wisconsin Bureau of Aeronautics or the Federal Aviation Administration, a surface paint or finish shall be used that reduces the visibility of the tower.
- (2) Towers shall not be illuminated except as required by the Wisconsin Division of Aeronautics or the Federal Aviation Administration.

- (3) Facility structures and equipment, including supporting structures, shall be located, designed and screened to blend with the existing natural or built surroundings so as to reduce visual impacts.

#### **17.95 LANDSCAPING.**

Landscaping of the leased site, which abuts or is visible from streets, residences, public parks or areas with access to the general public other than the owner of the adjoining property, in order to mitigate the aesthetic and visual impacts of the tower, shall be required, at a minimum, as follows:

- (1) For towers two hundred (200) feet in height or less, a buffer area no less than twenty-five (25) feet wide shall be provided on all sides of the facility. At least one (1) row of evergreen shrubs shall be spaced not more than five (5) feet apart. Shrubs should be of a variety which can be expected to grow to form a continuous hedge at least five (5) feet in height within two (2) years of planting. At least one (1) row of evergreen trees or shrubs, not less than four (4) feet high at the time of planting, and spaced not more than fifteen (15) feet apart, shall also be planted. Trees and shrubs in the vicinity of guy wires shall be of a type that would not exceed twenty (20) feet in height or would not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the guy anchor from the transmission building or security facilities and staff.
- (2) For towers more than two hundred (200) feet in height, a buffer area of not less than forty (40) feet wide shall be provided on all sides of the facility with at least one (1) row of evergreen shrubs spaced not more than five (5) feet apart, which will grow to form a contiguous hedge at least five (5) feet in height within two (2) years of planting. In addition, one (1) row of deciduous trees, not less than one and one-half (1½) inch caliper measured three (3) feet from the ground at the time of planting and spaced not more than twenty (20) feet apart, and at least one (1) row of evergreen trees not less than four (4) feet at the time of planting and spaced not more than fifteen (15) feet apart, shall also be planted. Trees and shrubs in the vicinity of guy wires shall be of a type that does not exceed twenty (20) feet in mature height or does not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the anchor from the transmission building or security facilities and staff.
- (3) The Plan Commission may allow use of an alternate plan or require a more restrictive plan providing for landscape and screening, including plantings, fences, walls and other features. The plan shall accomplish the same degree of screening for the tower(s) and accessory uses achieved in subsections (1) and (2) above, except when lesser requirements are desirable for security purposes and for continued operation of existing agricultural or forest uses, including produce farms, nurseries, and tree farms.
- (4) Native vegetation and natural land forms on the site shall be preserved to the greatest practical extent. The site plan shall show any existing native vegetation to be removed and shall indicate the type and location of native vegetation to be replanted.

**17.96 SITE DEVELOPMENT, ROADS AND PARKING.**

- (1) A minimum of one (1) parking space shall be provided on each site. On sites with personnel routinely in attendance, additional parking spaces may be required by the Plan Commission.
- (2) All sites must be served by a minimum thirty-foot wide easement with a turnaround. The Plan Commission may modify the easement and turnaround requirement. All sites shall use existing access points and roads whenever possible.

**17.97 – 17.99 RESERVED.**

## CHAPTER 18

### SUBDIVISION CODE

<i><b>Section Number</b></i>	<i><b>Title</b></i>	<i><b>Ordinance Number</b></i>	<i><b>Date of Ordinance</b></i>
18.01	Purpose		
18.02	General		
18.03	Definitions		
18.04	Procedure		
18.05	General Requirements and Design Standards		
18.06	Required Improvements		
18.07	Reservations		
18.08	Plats and Data		
18.09	Subdivision Created by Successive Divisions		
18.10	Variances		
18.15	Penalty		

### **18.01 PURPOSE.**

The purpose of this chapter is to promote the public health, safety and general welfare of the community and these regulations are designed to lessen the congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provisions for transportation, water, sewerage, schools, parks, playgrounds and other public requirements; and to facilitate the further resubdivision of larger tracts into smaller parcels of land. These regulations are made with reasonable consideration among other things of the character of the Village with a view of conserving the value of buildings placed upon land, provided the best possible environment for human habitation and for encouraging the most appropriate use of land throughout the Village.

### **18.02 GENERAL.**

Any division of land within the Village or its extraterritorial plat approval jurisdiction which results in a subdivision as defined herein shall be, and any other division may be, surveyed and a plat thereof approved and recorded as required by this chapter and Ch. 236, Wis. Stats.

### **18.03 DEFINITIONS.**

**MAJOR STREET.** A street which is used principally for fast or heavy traffic.

**SUBDIVISION.** A division of a lot, parcel or tract of land by the owner thereof or his agent for the purpose of sale or of building development where:

- (a) The act of division creates 5 or more parcels or building sites of 1½ acres each or less in area; or
- (b) Five or more parcels or building sites of 1½ acres each or less in area are created by successive divisions within a period of 5 yrs.

### **18.04 PROCEDURE.**

#### **(1) PRELIMINARY PLAT.**

- (a) Before submitting a final plat for approval, the subdivider shall submit a preliminary plat and such copies as shall be required to the Plan Commission for preliminary approval.

- (b) After review of the preliminary plat and negotiations with the subdivider on changes deemed advisable and the kind and extent of public improvements which will be required, the Plan Commission shall within 40 days of its submission approve, approve conditionally or reject the plat. The subdivider shall be notified in writing of any conditions of approval or the reasons for rejection.
- (c) Approval of the preliminary plat shall entitle the subdivider to final approval of the layout shown by such plat if the final plat conforms substantially to such layout and conditions of approval have been met.

(2) FINAL PLAT.

- (a) The final plat and such copies as shall be required shall be submitted within 6 months of the approval of the preliminary plat. However, if approval of the preliminary plat must be obtained from another approving authority subsequent to approval by the Plan Commission, the final plat shall be submitted within 6 months of such approval. The Plan Commission may waive failure to comply with this requirement.
- (b) The Plan Commission shall approve or reject the final plat within 60 days of its submission unless the time is extended by agreement with the subdivider. Reasons for rejection shall be stated in the minutes of the Plan Commission meeting, a copy thereof or a written statement of such reasons shall be supplied to the subdivider.
- (c) If the original of the final plat has been filed with another approving authority, the subdivider may file a true copy of such plat in lieu of the original. However, before approval of the Plan Commission will be inscribed on the original of the final plat, the surveyor or the subdivider shall certify the respects in which the original of the final plat differs from the true copy and all modifications must first be approved.

**18.05 GENERAL REQUIREMENTS AND DESIGN STANDARDS.**

- (1) GENERAL. The proposed subdivision shall conform to the following:
  - (a) The provisions of Ch. 236, Wis. Stats.
  - (b) All applicable ordinances of the Village.

- (c) The rules of the State Department of Commerce relating to lot size and lot elevation, if the subdivider is not served by a public sewer and provision for such service has not been made.
- (d) The rules of the State Department of Transportation relating to safety of access and the preservation of the public interest and investment in the streets, if the subdivision or any lot contained therein abuts on a state trunk highway or connecting street.

(2) STREETS.

- (a) General Considerations. Streets shall be designed and located in relation to existing and planned streets, to topographical conditions and natural terrain features such as streams and existing tree growth, to public convenience and safety and in appropriate relation to the proposed uses of the land to be served by such streets.
- (b) Width. The width and location of all streets shall be in conformity with the official map of the Village.
- (c) Grades. The grade of streets shall not exceed 8% unless necessitated by topography and approved by the Plan Commission.
- (d) Alignment and Visibility. There shall be a minimum sight distance with clear visibility along the centerline of all major streets of not less than 300’.
- (e) Dead End Streets. Dead end streets, cul-de-sacs or streets designed to have one end permanently closed shall not exceed 500’ in length and shall terminate with a turnaround of not less than 100’ in diameter.

(3) INTERSECTIONS.

- (a) Where streets intersect and cross major streets, their alignment shall be continuous and street jogs or off-center intersections shall be avoided.
- (b) Streets shall intersect as nearly as possible at right angles.
- (c) Not more than 2 streets shall intersect at one point unless approved by the Plan Commission.

- (4) ALLEYS. Alleys shall not be less than 24’ wide and shall be continuous through blocks. Alleys shall not be used in residential areas unless approved by the Plan Commission.

- (5) **EASEMENTS.** Easements across lots or centered on rear or side lot lines shall be provided for the installation of utilities where necessary and shall be at least 10' wide and such easements shall be continuous from block to block. When an easement is centered on a rear or side lot line the width of the easement in each lot can be added together to meet the width requirement.
- (6) **BLOCKS.** The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated. Block lengths in residential areas shall not be more than 1,500' nor less than 400' between street lines. Pedestrian crosswalks of not less than 10' wide may be required by the Plan Commission through the center of blocks more than 900' in length where deemed essential to provide circulation and access to community facilities.
- (7) **LOTS.**
  - (a) In General. The size, shape and facing of lots and the minimum buildings setback lines shall be appropriate for the topography of the subdivision and for the type of development and use contemplated.
  - (b) Lot Dimensions.
    1. Residential lots shall have a minimum area of 9,000-sq. ft. and a minimum width of 75' at the building line.
    2. Residential lots to be served by private sewage disposal facilities shall comply with the rules and regulations of the State Department of Industry, Labor and Human Relations.
    3. Residential lots fronting on major streets should be platted with extra depth to permit generous distances between the buildings and such streets.
  - (c) Corner Lots. Corner lots for residential use shall have a width sufficient to provide a full setback from both streets as required by zoning ordinances.
  - (d) Access to Public Street. Every lot shall front or abut on a public street.
  - (e) Lot Lines. Side lot lines shall be substantially at right angles or radial to street lines.
  - (f) Large Lots. A tract subdivided into parcels containing one or more acres shall be arranged to allow the resubdivision of any such parcels into normal lots in accordance with the provisions of these subdivision standards.



- (g) Municipal Boundaries. Lots shall follow municipal boundary lines whenever practicable rather than cross them.

#### **18.06 REQUIRED IMPROVEMENTS**

- (1) **MONUMENTS**. The subdivision shall be monumented as required by §236.15, Wis. Stats., which is hereby adopted by reference.
- (2) **STREETS AND UTILITIES**. Before a final plat of a subdivision located within the corporate limits of the Village shall be approved, the subdivider shall enter into a subdivision control contract with the Village, whereby the subdivider shall agree to pay for the installation of the following listed improvements:
  - (a) Water and sanitary sewer mains and laterals to the lot lines to service such subdivision.
  - (b) Concrete sidewalks, curbs and gutters, ramps and driveways within the street right-of-way installed in accord with specifications in effect in the Village at the time of installation of the same.
  - (c) All streets and alleys in the subdivision graded and constructed with a bituminous concrete surface acceptable to the Village constructed in accord with specifications for street and alley construction in effect in the Village at the time of installation. All street construction shall be done only after installation of sanitary and storm sewer and water mains, laterals and appurtenances required to be installed by the subdivider and after adequate compaction has occurred to provide a firm base for street construction.
  - (d) Storm sewers of a size adequate to provide for drainage of surface waters from within and through the subdivision to a proper outlet. If the Village Board determines that it is not then feasible or compatible with a comprehensive drainage plan to install storm sewers within the subdivision at such time, the Village Board shall require that the subdivider, in lieu of installing such storm sewers, pay to the Village a fee equal to \$15 per front foot of all lots within such subdivision fronting upon public streets. However, if any lots within a subdivision are in excess of 9,000 sq. ft. in size, the subdivider shall pay as to each of such lots a fee equal to \$15 per front foot or \$15 times 1/150th of the total square footage of such lot, whichever is the greater. All such fees shall be held by the Village Clerk/Treasurer in a separate fund to be used solely for the purposes of site and right-of-way acquisition and capital improvements in connection with installing storm sewers in, to and from such subdivisions to provide storm drainage for such subdivisions.

- (e) If the subdivision is traversed by a watercourse, channel, stream, swale or drainageway, adequate provision shall be made for such surface drainage in, through and from such subdivision, including landscaped open channels and enclosed conduits of adequate size and grade to hydraulically accommodate maximum potential volumes of flow.
- (f) Trees shall be planted within the parkways in accord with plans approved and accepted by the Village Board.
- (g) Such other improvements and facilities specified by the Village Board which are required in the subdivision to properly service such subdivision with sewer, water, drainage and public access to, within and from such subdivision.

### (3) COSTS.

- (a) All of the foregoing improvements shall be installed by the Village solely at the cost of the subdivider, unless the Village Board agrees to pay for any part or all thereof as a legitimate expense for the general improvement of the Village.
- (b) The work for any such improvements shall be let by the Village by public bid pursuant to §62.15, Wis. Stats. Prior to advertising for bids the subdivider shall submit a preliminary development plan to the Village Board with a written request for the construction of specified improvements. Upon deposit by the subdivider with the Village of a sum equal to 10% of the cost of such specified improvements as estimated by the Village Engineer, the Village Board shall authorize the preparation of detailed plans and specifications for such improvements, which shall be submitted to all approving agencies, the Village Board and the subdivider for approval. Upon receipt of such approvals, the Village Board shall advertise for public bids. Prior to letting such contract, the subdivider shall deposit with the Village a sum equal to 120% of the lowest responsible bid, less any amounts previously paid as herein provided. If the subdivider does not deposit such sum within 20 days of written notice of the lowest responsible bid, the Village may deduct all administrative, engineering and legal costs incurred with respect to such proposed improvements from amounts deposited by the subdivider and pay the balance to the subdivider. The Village shall have no further liability to the subdivider with respect to such proposed improvements. If the subdivider deposits the required funds, the Village shall let the contract to the lowest responsible bidder. Upon completion of such contract the subdivider shall pay to the Village any additional contract costs over the original estimates, including 20% for engineering, attorneys and administrative expenses of the

Village with respect to such contract. The subdivider shall be paid by the Village any sums in excess of 120% if such final contract costs shall be less than originally estimated. Upon completion and acceptance by the Village, all such improvements shall become the property of the Village; provided, however that the subdivider shall be liable for the maintenance of all such improvements installed pursuant to this chapter for a period of one year following acceptance by the Village Board. The subdivider shall repair or replace any improvements found to be defective during such one year period of maintenance within 60 days after written notice of such defect having been given to the subdivider by the Village; provided, however, for cause shown the Village Board may extend such time for completing such maintenance work.

- (4) **TIME FOR COMPLETION.** All of the foregoing improvements shall be completed either within 2 yrs. after approval of the plat by the Village Board or prior to issuance of building permits upon 60% of the lots within such plat, whichever shall occur sooner. No building permits shall issue with respect to any lots within such plat fronting upon any road or street until all sanitary and storm sewers and water mains, including all appurtenances and street laterals to the lot lines, which are required to be installed in such road or street shall have been constructed with a temporary, passable road acceptable to the Village. The issuance of building permits for lots fronting on a temporary road shall not constitute a final acceptance of such road or street by the Village, nor shall any occupancy permits be issued for any such buildings unless and until such road or street has been finally accepted by the Village.
- (5) **BOND.** The subdivision control contract shall be accompanied by a cash or surety bond with sureties acceptable to the Village Board to guarantee that such improvements shall be installed and maintained in accordance with such contract and the ordinances of the Village within such period after the date of plat approval by the Village, as shall be provided in the subdivision control contract and this chapter.

#### **18.07 RESERVATIONS.**

In the design of a plat, due consideration shall be given by the subdivider and the Plan Commission to the reservation of suitable sites of adequate area for future schools, parks, playgrounds and other public purposes.

## **18.08 PLATS AND DATA.**

### **(1) PRELIMINARY PLAT.**

- (a) The preliminary plat shall be drawn with waterproof non-fading black ink or legibly drawn with pencil on tracing cloth or tracing paper of good quality at a scale of not more than 100' to an inch and shall be in sufficient detail and contain such information as will enable the Plan Commission to determine whether the design of the final plat will conform to this chapter.
- (b) The subdivider shall furnish the following supplementary information with this preliminary plat:
  - 1. A brief description of the improvements such as grading, paving, tree planting, installation of utilities which the subdivider proposes to make and the time when he proposes to make them.
  - 2. A brief description of the deed restrictions, if any, which will not be put on the plat.

### **(2) FINAL PLAT.**

- (a) A final plat of subdivided land shall comply with the requirements of §236.20, Wis. Stats., which is hereby adopted by reference.
- (b) The affidavits and certificates required by Ch. 236, Wis. Stats., shall be lettered or printed legibly with black durable ink or typed legibly with black ribbon on the final plat.

## **18.09 SUBDIVISIONS CREATED BY SUCCESSIVE DIVISIONS.**

- (1) Where it is not practicable to require that a final plat of a subdivision created by successive divisions be filed in accordance with this chapter, the Plan Commission may in lieu thereof order an assessor's plat to be made under §70.27, Wis. Stats., and may assess the cost thereof as provided in such section or to the subdivider.
- (2) Regardless of the type of plat filed, any such subdivision shall comply with all provisions of this chapter to the extent that they may reasonably be applied.

**18.10 VARIANCES.**

When in the judgment of the Plan Commission it would be inappropriate to apply literally a provision of this chapter, because a subdivision is located outside of the corporate limits or because extraordinary hardship would result, it may waive or vary such provision so that substantial justice may be done and the public interest secured, provided that in no event shall the requirement of filing and recording the plat be waived.

**18.15 PENALTY.**

- (1) Any person who violates any provision of this chapter shall be subject to the penalty as provided in Section 25.04 of this Code. Each day a violation exists or continues shall constitute a separate offense.
- (2) In addition, the remedies provided by Ch. 236, Wis. Stats., shall be available to the Village.

## CHAPTER 19

### SIGNS

<i><b>Section Number</b></i>	<i><b><u>Title</u></b></i>	<i><b>Ordinance Number</b></i>	<i><b>Date of Ordinance</b></i>
19.01	Purpose		
19.02	Definitions		
19.03	Permit Required		
19.04	Application for Permits		
19.05	Permit Issued if Application in Order		
19.06	Permit Fees		
19.07	General Requirements		
19.08	Protecting Signs		
19.09	Detached Signs		
19.10	Painted Signs		
19.11	Window Signs		
19.12	Barber Poles		
19.13	Temporary Commercial Signs		
19.14	Illuminated Signs—Approval by Electrical Inspector		
19.144	Electric Illuminated Message Board Signage	2017-03	09/05/2017
19.15	Wind Pressure and Dead Load Requirements		
19.16	Existing Signs		
19.17	Maintenance		
19.18	Prohibited Signs		
19.19	Public Property		
19.20	Exemptions		
19.21	Special Exceptions		
19.22	Remedies		

#### **19.01 PURPOSE.**

The purpose of this chapter is to provide minimum standards to safeguard life, health and property and promote public welfare and Village aesthetics by regulating and controlling the design, area, number, quality of material, construction, location, electrification, installation and maintenance of all signs referred to hereunder. It is not the intent of this chapter to inhibit or stifle the use of innovative concepts, imagination or originality in designing signs to be erected in the Village. For this reason, special exceptions may be granted under the provisions of Section 19.21.

## **19.02 DEFINITIONS.**

**SIGN.** Any medium, including its structure and component parts, which is used or intended to be used to attract attention for advertising or identification purposes.

**SIGN, COMMERCIAL.** Any sign which directs attention to a business, commodity, product, service, entertainment or attraction which is conducted, manufactured, produced, sold, offered or existing.

**SIGN, DETACHED.** Any sign not supported by or attached to any side of a building or structure. (See Section 19.09.)

**SIGN, FLAT.** Any sign the back of which is attached flat against any side of a building or structure and which does not extend outward more than 9”.

**SIGN, ILLUMINATED.** A sign in which the source of illumination is an integral part of the sign. Floodlights illuminating the sign do not convert the sign to an illuminated sign within the meaning of this chapter, but such illumination nevertheless shall be subject to the provisions of the Village Electrical Code. Illumination allowed hereunder, including floodlight illumination, shall be of such nature as to illuminate only the immediate area of the sign, concentrating light within or upon the sign without radiating light upon adjacent public or private property so as to interfere with the comfort and repose of those residing in the neighborhood dwellings; an illuminated sign shall be limited to approved internal illumination.

**SIGN, PAINTED.** A sign painted upon the side of any building or upon any structure for which no separate background structure is used. Identification or advertising painted upon an awning or canopy shall be considered a painted sign hereunder.

**SIGN, PROJECTING.** Any sign attached to any side of a building or structure and which extends outward more than 6”. Canopies and awnings shall not be considered projecting signs but shall be maintained in accordance with the provisions of this chapter and shall be subject to the provisions of Section 19.08.

**SIGN, SKELETON CUTOUT LETTER.** A sign composed of letters so constructed and assembled as to use no other structure for background other than the building or structure itself. The area shall be determined by multiplying the extreme horizontal dimension by the average height of the letters; in the case of a vertical skeleton cutout letter sign, the area shall be measured by using the extreme vertical and horizontal dimensions of the letters.

SIGN, TEMPORARY COMMERCIAL. Any commercial sign which is erected or displayed for less than 14 days and shall be limited to those advertising special events, sales, promotions and similar matters. (See Section 19.13.)

### **19.03 PERMIT REQUIRED.**

No person shall place, erect, alter or relocate within the Village any sign as defined in this chapter without first obtaining a permit and paying the fee required hereunder, unless excepted herein. All illuminated signs shall, in addition, be subject to the provisions of the electrical code and permit fees required thereunder.

### **19.04 APPLICATION FOR PERMITS.**

Application for a permit hereunder shall be made on the forms provided by the Building Inspector and shall contain or have attached thereto the following:

- (1) Name, address and telephone number of the applicant.
- (2) Location of building, structure or lot to which or upon which the sign is to be attached or erected.
- (3) Position of the sign in relation to nearby buildings or structures.
- (4) A scale drawing of such sign on which is indicated the dimensions, the materials to be used, the type of illumination to be installed and the method of construction and attachment.
- (5) Name of person erecting the sign.
- (6) Written consent of the owner of the building, structure or land to which the sign is to be erected.
- (7) Any electrical permit required and issued for such sign.
- (8) Insurance policy or bond as may be required hereunder.
- (9) Permit fee, if required.
- (10) Such other information as the Building Inspector shall require to show full compliance with this and all other ordinances of the Village and laws of the state.



### **19.05 PERMIT ISSUED IF APPLICATION IN ORDER.**

The Building Inspector, upon filing of an application for a sign permit, shall examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign and if it shall appear that the proposed sign is in compliance with all the requirements of this chapter and all the laws of the state and the ordinances of the Village, he shall issue or cause to be issued the permit, but subject to the provisions of Section 19.07. Prior to issuing a permit, the Building Inspector shall determine whether or not the proposed sign would be referred to the Plan Commission for consideration and recommendation in accordance with the authority granted under Section 19.07(7). If the work authorized under a permit has not been completed within 3 months after the date of issuance, it shall become null and void.

### **19.06 PERMIT FEES.**

The applicant shall pay a permit fee of \$10 which shall accompany the application and which shall be received before a sign permit is issued. No permit shall be required if the applicant is an educational, religious, charitable, philanthropic or other similar organization of a nonprofit nature.

### **19.07 GENERAL REQUIREMENTS.**

- (1) Commercial signs shall be permitted only on the premises on which the business, commodity, product, service, entertainment or attraction to which they relate is conducted, manufactured, produced, sold, offered or existing. All other commercial signs not located on such premises shall be prohibited. Such commercial signs as are herein permitted shall be permitted to be located only in the business district.
- (2) Allowable commercial signing for businesses located on the first floor of any building or structure shall be determined in accordance with the following table and further conditions contained herein. In addition, ½ sq. ft. of commercial signing area shall be allowed for every foot the building or structure occupied by the sign applicant is set back behind the required front setback.

<u>Length of Facade *</u>	<u>Allowable Sq. Ft. of Signing Area</u>	<u>Length of Facade *</u>	<u>Allowable Sq. Ft. of Signing Area</u>
15'	31	85'	74
20'	36	90'	76
25'	40	95'	78
30'	44	100'	80
35'	47	105'	82
40'	51	110'	84
50'	57	120'	88
55'	59	125'	90
60'	62	150'	98
65'	64	175'	106
70'	67	200'	114
75'	69	225'	120
80'	72		

\* Length of facade means length of side of that portion of the building or structure occupied by the sign applicant, adjacent and parallel to any public street.

- (3) When a building contains offices or business establishments above the first floor, one additional commercial sign may be erected on the front of such building located at a first floor level. This sign shall be a directory type sign only for the purpose of listing such offices or business establishments located in such building. Each listing thereon shall be limited to one square foot.
- (4) The placing, painting or erecting of any sign on one side of a building or structure used for business purposes, other than the front thereof, when such building or structure is not located on a corner lot or when such side is not immediately adjacent to or facing a street, vacant lot, parking lot or open space of not less than 30' in width is prohibited; provided, however, that if any business establishment has more than one customer entrance, such establishment shall be allowed additional signing to be erected on, over, or adjacent to each regular customer service. Each such additional signing shall be limited to 10% of the allowable signing area for such building or structure under sub. (2), above.
- (5) No signs as contemplated in this chapter or any part of such sign or any anchor, brace or guide rod shall be attached, fastened or anchored to any fire escape, fire ladder or standpipe, and no such sign or any part of such sign or any anchor, brace or guide rod shall be erected, put up or maintained which will cover or obstruct any door, doorway or window of any building, hindering or preventing ingress or egress

through such door, doorway or window, or which will hinder or prevent the raising or placing of ladders against such building by the Fire Department as necessity may require.

- (6) No sign shall extend over the public way or parkway.
- (7) If in the opinion of the Building Inspector, the aesthetics of a proposed sign may be at variance with the exterior design of the building upon which it is to be erected, the exterior design of other buildings in the same area, or the design of other signs in the area or in general in conflict with the aesthetics of the area, he shall refer it to the Planning Commission in accordance with §21.21(2).

#### **19.08 PROJECTING SIGNS.**

No projecting sign shall be less than 10' nor more than 15' in perpendicular height from its lowest edge to the established grade of the adjacent or nearest public way and may be erected only along public ways, but in no event shall any portion of such projecting sign invade or extend into or over a public way.

#### **19.09 DETACHED SIGNS.**

Only one detached commercial sign may be erected in or upon parking lots which serve one or more business establishments. In addition, only one detached commercial sign may be erected upon any lot or buildable lot on which may be located one or more business establishments. A detached commercial sign erected in or upon a parking lot or the premises of a business establishment shall be limited to 200 sq. ft. in area and shall be no more than 15' in perpendicular height from its lowest edge to the established grade of the adjacent or nearest public way. No sign to be allowed in public parkway of any type.

#### **19.10 PAINTED SIGNS.**

Painted signs shall only be permitted on the cornice, fascia, lintel or panel of a building or on an awning or canopy.

#### **19.11 WINDOW SIGNS.**

Window signs shall not exceed 30% of the window area where located, affixed or displayed.

### **19.12 BARBER POLES.**

Barber poles may be attached to the outside of any building in accordance with Section 19.07. No part of the barber pole shall be more than 12” from the side of the building, but in no event shall it invade or extend over or onto the public way.

### **19.13 TEMPORARY COMMERCIAL SIGNS.**

Temporary commercial signs shall not exceed 40% of the allowable signing area for any one building or structure under Section 19.07(2), or lot under Section 19.09. If any temporary commercial signs are erected or displayed on any building or structure or lot, no other temporary commercial signs shall be erected or displayed thereon for a period of at least 90 days after the removal of such signs.

### **19.14 ILLUMINATED SIGNS – APPROVAL BY ELECTRICAL INSPECTOR.**

- (1) The application for a permit for the erection of a sign in which electrical wiring and connections are to be used shall be submitted by the Building Inspector to the Electrical Inspector for approval.
- (2) The Building Inspector shall not authorize the issuance of a sign permit until approval has been given by the Electrical Inspector.
- (3) All wiring, fittings and materials used in the construction and operation of illuminated signs shall be in accordance with the state electrical code and the ordinances of the Village.
- (4) The lowest edge of all illuminated signs shall be located at least 10’ above the established grade of the adjacent or nearest public way if erected outside of any building.

### **19.144 ELECTRONIC ILLUMINATED MESSAGE BOARD SIGNAGE.**

- (1) Electronic Illuminated Message Board Signage is only permitted along 90th Street, Wisconsin Street, Durand Avenue, and Wisconsin Avenue, as conditional uses, and are subject to the following requirements:
  - (a) Signs shall be a maximum of 25 percent of the total allowable sign area.

- (b) A message may not be repeated or changes at intervals of less than 30 second intervals.
- (c) No such sign shall be illuminated to a degree of brightness greater than necessary for adequate visibility. Signs found to be too bright will be adjusted accordingly.
- (d) Traveling message signs are not permitted.
- (e) Messages are subject to review and permission by the Village Planning Commission.

#### **19.15 WIND PRESSURE AND DEAD LOAD REQUIREMENTS.**

All signs and other advertising structures shall be designed and constructed to withstand a wind pressure of not less than 40 lbs. per square foot of area and shall be constructed to receive dead loads as required in the building code or other ordinances of the Village.

#### **19.16 EXISTING SIGNS.**

- (1) Signs existing on the effective date of this chapter need not conform to the provisions of this chapter; provided, however, any such sign when removed from its fast, except for routine maintenance or when the copy or facing is altered to the extent of 50% or more, shall not be re-erected or maintained unless the sign, location and erection thereof are made to conform with the provisions of this chapter and other applicable ordinances of the Village.
- (2) Any sign now or hereafter existing which no longer advertises a bona fide business product or service associated with such business shall be taken down and removed by the owner, agent or person having the beneficial use of the premises upon which such sign may be found, within 14 days after written notification of the Building Inspector, and upon failure to comply with such notice, the Building Inspector is hereby authorized to cause removal of such sign, and any expense incidental thereto shall be paid by the owner of the premises on which such sign is located in accordance with the provisions of Section 19.17(3).

#### **19.17 MAINTENANCE.**

- (1) The owner of any sign shall keep it in good maintenance and repair.

- (2) If the owner of such sign or the owner of the premises on which such sign is erected shall fail to comply with the orders of the Building Inspector relative to the painting, repair, alteration, maintenance or removal of such sign pursuant to written notice thereof and within 14 days after the notice has been received, the Building Inspector shall then have the authority to proceed to paint, repair, alter, maintain or remove such sign without further notice to such owner.
- (3) The cost of such painting, repair, alteration, maintenance or removal of such sign shall be billable to the owner of the property upon which the sign is erected and shall be certified in the proper manner to have them levied as special charges against such property and proper officers of the Village are authorized and directed to enter such charges onto the tax roll.

#### **19.18 PROHIBITED SIGNS.**

- (1) GENERAL. No person shall paste or otherwise fasten any paper or other material, paint, stencil or write any number, sign name or any disfiguring mark on any sidewalk, curb, gutter, street, any post, pole or tree, any other sign, building, fence or other structure that isn't their property; nor shall any such objects be defaced in any manner, unless sanctioned by the provisions of this chapter or other provisions of the Village Code or by the Building Inspector in carrying out any public work or construction.
- (2) BEACON AND FLASHING TYPE DEVICES. No flashing, alternating, rotating or swinging sign, whether illuminated or not shall be permitted hereunder. No flashing, alternating, rotating or swinging flood, spot or beacon light shall be permitted for illuminating any sign or any structure for the purpose of advertising. No flood or spot light shall be located and directed in such a manner as to cause a glare or light to be directed to surrounding buildings and premises.
- (3) OBSTRUCTION OF TRAFFIC CONTROL DEVICES. No person shall erect or maintain any sign which constitutes a traffic hazard or is a detriment to traffic safety by obstructing the vision of drivers or detracting from the visibility and prominence of any official traffic control device.
- (4) MISCELLANEOUS. The use of any banner, pennant, flag, balloons, streamers or other similar media for advertising or identification purposes shall be strictly prohibited, except as may be permitted to promote special events for a period not to exceed 7 days and which shall be subject to the special written approval of the Village Clerk/Treasurer if extended 4 to 14 days.

### **19.19 PUBLIC PROPERTY.**

- (1) GENERAL. The temporary occupancy of the sidewalk or the street or other public property in case of construction, removal, repair, alteration or maintenance of a sign shall not be deemed to be a violation of this chapter provided the space occupied is roped off, fenced off or otherwise isolated when necessary for public convenience and protection. A permit shall be required as provided in Section 14.05 of this Code, where applicable.
- (2) BONDS. Prior to the issuance of any permit for a sign which is located over public property or which may require any work over public property, the owner of the premises or his agent or representative shall comply with the provisions of Section 14.05 of this Code, where applicable.

### **19.20 EXEMPTIONS.**

The provisions of this chapter relating to permits and permit fees shall not apply to the following signs and sign work; provided, however, that these exemptions shall not apply to any such signs which are illuminated signs. In addition, these exemptions shall not be construed as relieving the owner of a sign from complying with the applicable provisions of this chapter relating to size, number, erection and maintenance.

- (1) PAINTING. Painting, repairing or cleaning of a sign unless a structural change is made.
- (2) PROFESSIONAL. Nameplate signs not more than 2' in area which are fastened directly to the building which do not extend beyond the property line.
- (3) REAL ESTATE. Signs not to extend outside of the property line, detached or free standing wherever possible, which advertise the sale, rental or lease of the premises upon which such signs are located, to be removed when purpose for placement has been accomplished and further limited as follows:
  - (a) In residential districts, no more than 8-sq. ft. in area.
  - (b) In all other districts, no more than 20-sq. ft. in area.
- (4) SIGNS WITHIN BUILDINGS. Any sign placed in such a manner as to be viewed or intended for view from the inside of a building.

- (5) **COMMERCIAL IDENTIFICATION.** Limited to name of owner, name of business, business address and hours of operation; shall not exceed 2 sq. ft. and shall be placed on or adjacent to a customer entrance.
- (6) **DIRECTION AND INFORMATIONAL.** Erected for safety and informational purposes but not for advertising purposes; not to exceed 2 sq. ft.
- (7) **CONTRACTOR SIGNS.** Not more than 32-sq. ft. in area naming the contractors engaged in construction on the property where the sign is located, to be removed when such construction is completed.
- (8) **MEMORIAL SIGNS.** Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or inlaid so as to be part of the building or when constructed of bronze or other noncombustible material.
- (9) **GOVERNMENTAL.** Governmental, legal notices, traffic, danger, emergency and trespassing signs.
- (10) **ELECTION CAMPAIGN SIGNS.** (Am. MSC '91) Election campaign signs in behalf of a candidate for public office may be installed on private or public property when permission is obtained from the owner of such property. Such sign shall not exceed 24-sq. ft. in area and shall not be erected before the campaign period prior to the election to which it relates. The signs shall be removed within 7 days following the election to which they relate unless held within 60 days. If the signs are not removed within 7 days following the election, the Building Inspector shall cause such signs to be removed without the necessity of giving notice and the cost of such removal shall be chargeable to the owner of the property on which the sign is located, in accordance with the provisions of Section 19.17(3) of this chapter.
- (11) **TEMPORARY SIGNS.** See Sections 19.02 and 19.13.

#### **19.21 SPECIAL EXCEPTIONS.**

- (1) After review and recommendation by the Planning Commission, the Village Board, upon application as required herein, may grant a special exception to the provisions of this chapter as it relates to the number, site, location and type of signs that any person, organization or business establishment may erect, affix or display, provided that the Board considers:
  - (a) Purpose of signing proposed.
  - (b) Type of signing proposed.



- (c) Type of signing materials to be used.
  - (d) Type of construction to be employed.
  - (e) Appearance of proposed sign.
  - (f) Location of building or structure in a particular zoning district in which the signing is proposed.
  - (g) Size of proposed sign in relation to area facing of the building or structure where the sign is to be located.
  - (h) Effect that proposed signing will have on the appearance and character of applicant's property, adjacent and neighboring property and area in general.
  - (i) Effect that proposed signing will have on property values of applicant's property, adjacent and neighboring property and area in general.
  - (j) The legislative intent.
  - (k) Such other matters that the Planning Commission deems relevant and material.
- (2) Prior to granting a special exception and based on the criteria set forth in sub. (1) hereof, the Village Board shall find that the appearance, nature and type of signing proposed is not so at variance with the appearance and character of other signing in the area, nor so at variance with the appearance and character of the building or structure on which it is to be located, with the adjacent or neighboring properties or with the properties in the general area, so as to adversely affect or cause a depreciation of property values; but on the contrary, such proposed signing would serve a public or desirable or useful purpose and maintain or improve the general appearance and character of the building or structure where located, the adjacent or neighboring properties and the general area where erected or displayed.

## **19.22 REMEDIES.**

No person shall violate or fail to comply with the provisions of this chapter.

- (1) Any sign erected, altered, moved or structurally modified without a permit or altered with a permit but in violation with the provisions of this chapter shall be removed at the owner's expense or brought into compliance within 30 days of written notification by the Building Inspector. If the violation is failure to obtain a permit, a permit fee shall be required and the permit fee shall be 5 times normal fees. If the

owner does not remove or bring the sign into compliance, the Building Inspector may order removal, the expenses of which will be assessed to the tax roll of the property on which the noncomplying sign is located.

- (2) This section shall not preclude the Village from maintaining any appropriate action to prevent or remove a violation of this chapter.

## CHAPTER 20

### FLOODPLAIN ZONING

#### STORMWATER MANAGEMENT SERVICES

<i><b>Section Number</b></i>	<i><b>Title</b></i>	<i><b>Ordinance Number</b></i>	<i><b>Date of Ordinance</b></i>
1.0	STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS		
1.1	Statutory Authorization		
1.2	Finding of Fact		
1.3	Statement of Purpose		
1.4	Title		
1.5	General Provisions		
	(1) Areas to be Regulated		
	(2) Official Maps and Revisions	2018-12	01/15/19
	(3) Establishment of Districts		
	(4) Locating Floodplain Boundaries		
	(5) Removal of Lands from Floodplain		
	(6) Compliance		
	(7) Municipalities and State Agencies Regulated		
	(8) Abrogation and Greater Restrictions		
	(9) Interpretation		
	(10) Warning and Disclaimer of Liability		
	(11) Severability		
	(12) Annexed Areas for Cities/Villages		
2.0	GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN		
2.1	Hydraulic and Hydrologic Analysis		
2.2	Watercourse Alterations		
2.3	Chapter 30, 31, Wis. Stats., Development		
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3.0	FLOODWAY DISTRICT (FW)		
3.1	Applicability		
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- 4.0 FLOODFRINGE DISTRICT (FF)
  - 4.1 Applicability
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- 5.0 GENERAL FLOODPLAIN DISTRICT (GFP)
  - 5.1 Applicability
  - 5.2 Permitted Uses
  - 5.3 Standards for Development
  - 5.4 Determining Floodway/Floodfringe Limits
  
- 6.0 NONCONFORMING USES
  - 6.1 General
  - 6.2 Floodway Districts
  - 6.3 Floodfringe Districts
  
- 7.0 ADMINISTRATION
  - 7.1 Zoning Administrator
  - 7.2 Zoning Agency
  - 7.3 Board of Adjustment/Appeals
  - 7.4 To Review Appeals of Permit Denials
  - 7.5 Floodproofing
  - 7.6 Public Information
  
- 8.0 AMENDMENTS
  - 8.1 General
  - 8.2 Procedures
  
- 9.0 ENFORCEMENT AND PENALTIES
- 10.0 DEFINITIONS

## **1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS.**

### **1.1 STATUTORY AUTHORIZATION**

This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for villages and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, Stats.

### **1.2 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.

### **1.3 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.

### **1.4 TITLE**

This ordinance shall be known as the Floodplain Zoning Ordinance for the Village of Sturtevant, Wisconsin.

## 1.5 GENERAL PROVISIONS

### (1) AREAS TO BE REGULATED

This ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

### (2) OFFICIAL MAPS & REVISIONS

The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see s. 8.0 *Amendments*) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Village Clerk, Village of Sturtevant. If more than one map or revision is referenced, the most restrictive information shall apply.

#### (a) OFFICIAL MAPS: Based on the FIS:

1. Flood Insurance Rate Map (FIRM), panel numbers 55101C0206E, 55101C0207E, and 55101C0208E, dated February 1, 2019, and 55101C0209D, 55101C0216D and 55101C0217D, dated May 2, 2012 with corresponding profiles that are based on the Flood Insurance Study (FIS) dated February 1, 2019, volume number 55101CV001B.

Approved by: The DNR and FEMA

### (3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

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

- (a) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.
- (b) The Floodfringe District (FF) is that 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 subd (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0 *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(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 s. 8.0 *Amendments*.

- (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 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 s. 8.0 *Amendments*.

(6) COMPLIANCE

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

(7) 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), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the

Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

(8) ABROGATION AND GREATER RESTRICTIONS

- (a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; s. 61.35 for villages; or s. 87.30, Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) 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.

(9) 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.

(10) 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.

(11) 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.

(12) 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.

## **2.0 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 ordinance and all other requirements in s. 7.1(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.

## **2.1 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 s. 8.0 *Amendments* are met.

## **2.2 WATERCOURSE ALTERATIONS**

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the

Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of s. 2.1 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 8.0 *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.

### **2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT**

Development which requires a permit from the Department, under chs. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to s. 8.0 *Amendments*.

### **2.4 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 land use permit for the campground is issued by the zoning administrator;
- (3) 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;
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (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 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;
- (9) The municipality 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 180 consecutive days must meet the applicable requirements in either s. 3.0, 4.0 or 5.0 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.

### **3.0 FLOODWAY DISTRICT (FW)**

#### **3.1 APPLICABILITY**

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 5.4.

#### **3.2 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 s. 3.3 and 3.4; and
  - all permits or certificates have been issued according to s. 7.1.
- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
  - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

- (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 3.3 and 3.4.
- (5) Extraction of sand, gravel or other materials that comply with s. 3.3(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 chs. 30 and 31, Stats.
- (7) Public utilities, streets and bridges that comply with s. 3.3(3).

### **3.3 STANDARDS FOR DEVELOPMENTS IN THE FLOODWAY**

#### **(1) GENERAL**

- (a) Any development in the floodway shall comply with s. 2.0 and have a low flood damage potential.
- (b) Applicants shall provide the following data to determine the effects of the proposal according to s. 2.1:
  - 1. A cross section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
  - 2. An analysis calculating the effects of this proposal on regional flood height.
- (c) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. (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 openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings 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) It 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 s. 2.1.

(4) FILLS OR DEPOSITION OF MATERIALS

Fills or deposition of materials may be allowed by permit, if:

- (a) The requirements of s. 2.1 are met;
- (b) 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;
- (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.

**3.4 PROHIBITED USES**

All uses not listed as permitted uses in s. 3.2 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 s. 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.

#### **4.0 FLOODFRINGE DISTRICT (FF)**

##### **4.1 APPLICABILITY**

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 5.4.

##### **4.2 PERMITTED USES**

Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 4.3 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 7.1 have been issued.

##### **4.3 STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE**

S. 2.1 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of s. 6.0 *Nonconforming Uses*;

(1) 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 s. 6.0 *Nonconforming Uses*;

- (a) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of s 4.3 (1)(b) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
- (b) 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;
- (c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (d).
- (d) 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:
  - 1. 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
  - 2. The municipality has a DNR-approved emergency evacuation plan.

(2) ACCESSORY STRUCTURES OR USES

Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(3) COMMERCIAL USES

Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of s. 4.3(1). Subject to the requirements of s. 4.3(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.

(4) MANUFACTURING AND INDUSTRIAL USES

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection

elevation or meet the floodproofing standards in s 7.5. Subject to the requirements of s. 4.3(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.

(5) STORAGE OF MATERIALS

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 7.5. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

- (a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 7.5.
- (b) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(7) SEWAGE SYSTEMS

All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 7.5(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(8) WELLS

All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 7.5(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(9) SOLID WASTE DISPOSAL SITES

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(10) DEPOSITION OF MATERIALS

Any deposited material must meet all the provisions of this ordinance.



(11) MANUFACTURED HOMES

- (a) 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.
- (b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
  - 1. have the lowest floor elevated to the flood protection elevation; and
  - 2. be anchored so they do not float, collapse or move laterally during a flood
- (c) Outside of existing manufactured 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 s. 4.3(1).

(12) MOBILE RECREATIONAL VEHICLES

All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 4.3 (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.

**5.0 GENERAL FLOODPLAIN DISTRICT (GFP)**

**5.1 APPLICABILITY**

The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

**5.2 PERMITTED USES**

Pursuant to s. 5.4, it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the Floodway (s. 3.2) and Floodfringe (s. 4.2) Districts are allowed within the General Floodplain District, according to the standards of s. 5.3, provided that all permits or certificates required under s. 7.1 have been issued.

### **5.3 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT**

S. 3.0 applies to floodway areas, s. 4.0 applies to floodfringe areas. The rest of this ordinance applies to either 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.

### **5.4 DETERMINING FLOODWAY AND FLOODFRINGE LIMITS**

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

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and 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 s. 7.1(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.

## **6.0 NONCONFORMING USES**

### **6.1 GENERAL**

#### **(1) APPLICABILITY**

If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance 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 ordinance 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 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.

- (b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
- (c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;

- (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(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;
- (e) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1).
- (f) 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 s. 4.3(1).
- (g) 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.
- (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 s. 7.5(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 s. 5.3(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 s. 6.1(2)(h)1a-b and e-g.
- 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 s. 7.5(1) or (2).
- c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.3(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 s. 3.3(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 6.1(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.

## **6.2 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 which meets all ordinance requirements;
  - (b) Meets the requirements of s. 6.1;
  - (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 s. 7.5, 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 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;
    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, s. 7.5(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, s. 7.5(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

### **6.3 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 s. 4.3 except where s. 6.3(2) is applicable.
- (2) 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 s. 7.3, 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:
  - (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 feet;
  - (e) Flood velocities shall not exceed two feet per second; and
  - (f) The structure shall not be used for storage of materials as described in s. 4.3(5).
- (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, 7.5(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 ordinance, s. 7.5(3) and ch. NR 811 and NR 812, Wis. Adm. Code.

## **7.0 ADMINISTRATION**

Where a zoning administrator, planning agency or a board of adjustment/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.

### **7.1 ZONING ADMINISTRATOR**

#### **(1) DUTIES AND POWERS**

The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

- (a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (b) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
- (c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
- (d) Keep records of all official actions such as:
  - 1. All permits issued, inspections made, and work approved;
  - 2. Documentation of certified lowest floor and regional flood elevations;
  - 3. Floodproofing certificates.
  - 4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
  - 5. All substantial damage assessment reports for floodplain structures.
  - 6. List of nonconforming structures and uses.
- (e) Submit copies of the following items to the Department Regional office:
  - 1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;



2. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.
  3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (f) Investigate, prepare reports, and report violations of this ordinance 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) LAND USE PERMIT

A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(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 s. 3.0 or 4.0 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 s. 2.1. This may include any of the information noted in s. 3.3(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 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 500 feet.
  - viii. standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
  - ix. the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
- c. Mapping

A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

- i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
- ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

## 2. Zone AE Floodplains

### a. Hydrology

If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

### b. Hydraulic model

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

#### i. Duplicate Effective Model

The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

#### ii. Corrected Effective Model.

The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for 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 1% and 0.2% annual chance floodplains and floodway boundaries.
- iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
- v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
- vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
- vii. Both the current and proposed floodways shall be shown on the map.
- viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(d) EXPIRATION

All permits issued under 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.

(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 ordinance;
- (b) Application for such certificate shall be concurrent with the application for a permit;

- (c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (d) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of s. 7.5 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 s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

**7.2 ZONING AGENCY**

(1) The Planning Commission 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 ordinance, maps and text.

(2) The Planning Commission shall not:

- (a) grant variances to the terms of the ordinance 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.

**7.3 BOARD OF ADJUSTMENT/APPEALS**

The Board of Adjustment/Appeals, created under s. 59.694, Stats., for counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.

(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 ordinance;
- (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 ordinance 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 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 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 s. 7.3(3);
- b. Decide variance applications according to s. 7.3(4); and
- c. Decide appeals of permit denials according to s. 7.4.



(c) **DECISION:** The final decision regarding the appeal or variance application shall:

1. Be made within a reasonable time;
2. Be sent to the Department Regional office within 10 days of the decision;
3. Be a written determination signed by the 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 s. 8.0 *Amendments*.

(4) **VARIANCE**

- (a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
  1. Literal enforcement of the ordinance 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 ordinance in s. 1.3.
- (b) In addition to the criteria in subd. (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 can only be granted for lots that are less than one-half 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 ordinance.
- (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 ordinance or map(s) required in s. 8.0 *Amendments*; 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 \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

#### **7.4 TO REVIEW APPEALS OF PERMIT DENIALS**

- (1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:
  - (a) Permit application data listed in s. 7.1(2);
  - (b) Floodway/floodfringe determination data in s. 5.4;
  - (c) Data listed in s. 3.3(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 s. 7.3;
  - (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 s. 8.0 *Amendments*; 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.

#### **7.5 FLOODPROOFING STANDARDS FOR NONCONFORMING STRUCTURES OR USES**

- (1) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.

- (2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
  - (a) certified by a registered professional engineer or architect; or
  - (b) meets or exceeds the following standards:
    - 1. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - 2. the bottom of all openings shall be no higher than one 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; and
  - (d) Minimize or eliminate infiltration of flood waters.
  - (e) Minimize or eliminate discharges into flood waters.

## **7.6 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.

## **8.0 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 s. 8.1.

- (1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.1. Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) 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 s. 8.1.

## **8.1 GENERAL**

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 8.2 below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- (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 1.5 (2)(b);
- (4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- (5) Correction of discrepancies between the water surface profiles and floodplain maps;
- (6) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the 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.

## **8.2 PROCEDURES**

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. The petitions shall include all data required by ss. 5.4 and 7.1(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 s. 62.23, Stats., for cities and villages or s. 59.69, Stats., 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.

## **9.0 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, 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.

## **10.0 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.
5. ALTERATION – An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
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, i.e., below ground level, 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, but 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 insure 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 water surface profile elevation designated for the regional flood. (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). 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.
46. **MAINTENANCE** – The act or process of restoring to original soundness, including

redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

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 of 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 – For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
61. 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.)
62. 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.)

63. **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.
64. **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.
65. **OPEN SPACE USE** – Those uses having a relatively low flood damage potential and not involving structures.
66. **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.
67. **PERSON** – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
68. **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 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.
69. **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.
70. **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.
71. **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.
72. **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.

73. **STRUCTURE** – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
74. **SUBDIVISION** – Has the meaning given in s. 236.02(12), Wis. Stats.
75. **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.
76. **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 preformed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
77. **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.

- 78. **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.
- 79. **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.
- 80. **WATERSHED** – The entire region contributing runoff or surface water to a watercourse or body of water.
- 81. **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.
- 82. **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.



## CHAPTER 21

### STORMWATER

#### STORMWATER MANAGEMENT SERVICES

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
21.01	Purpose and Necessity; Authorization		
21.02	Creation of Stormwater Committee	2008-11	08/05/08
21.03	Separate Fund	2008-11	08/05/08
21.04	Budget		
21.05	Accountability		
21.06	Extensions and Emergency Expenditures		
21.07	Authority		
21.08	Definitions		
21.09	Rates and Charges		
21.10	Classifications of Customers		
21.11	Storm Sewers	2008-11	08/05/08
		2009-02	04/08/09
		2009-11	11/03/09
		2010-01	02/16/10
		2010-08	09/21/10
		2010-13	12/07/10
		2012-10	08/21/12
21.12	Payment; Lien; Penalty	2005-02	04/05/05
		2008-11	08/05/08
21.13	Customer Classifications		
21.14	New Construction		
21.15	Complaints		
21.16	Illicit Discharges and Connections	2005-02	04/05/05
		2009-01	02/03/09
21.17	Penalty		

#### **21.01 PURPOSE AND NECESSITY; AUTHORIZATION.**

The Village Board of the Village of Sturtevant finds that the management of stormwater and other surface water discharges within and beyond the Village is a matter that affects the health, safety and welfare of the Village, its citizens and businesses and others in the surrounding area. Failure to effectively manage stormwater affects the sanitary sewer utility operations of the Village by, among other

things, increasing the likelihood of infiltration and inflow into the sanitary sewer system. 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 and adjacent to the Village. A system for the collection and disposal of stormwater provides services to all properties within the Village of Sturtevant and surrounding areas, including those properties not currently served by the system. The cost of operating and maintaining the Village 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. In order to protect the health, safety and welfare of the public, the Village Board hereby exercises its authority to manage stormwater and surface water discharges and establish the rates for stormwater management services.

#### **21.02 CREATION OF STORMWATER COMMITTEE.**

There is hereby established a stormwater committee in the Village of Sturtevant, consisting of three (3) members of the Village Board of Trustees. The operation of the stormwater committee shall be under the supervision of the Village Board.

#### **21.03 SEPARATE FUND.**

The Village Treasurer, under the direction of the stormwater committee, shall keep a separate account of money or income received from all stormwater management charges collected relating to the stormwater management system and the fund thereby created shall be devoted to the expense of maintaining and operating such system. A monthly financial report shall be made to the Village Board by the Village Treasurer.

#### **21.04 BUDGET.**

Annually, on or before November 15 of each year, the stormwater committee shall prepare and submit to the Village Board a proposed budget for the operation of the stormwater management services for the ensuing year. Upon approval of the Village Board, the budget shall constitute the budget for such stormwater management services for such year. This budget shall also be submitted to the residents of the Village in conjunction with the Village's annual budget hearing.

#### **21.05 ACCOUNTABILITY.**

Annually, the stormwater committee shall cause an audit to be made of the stormwater management services and shall submit a report thereof to the Village Board.

## **21.06 EXTENSIONS AND EMERGENCY EXPENDITURES.**

All extensions to the stormwater management system shall be made by and under the direction of the Village Board. The stormwater committee shall have the power to authorize emergency repairs subject to ratification by the Village Board.

## **21.07 AUTHORITY.**

The Village, acting through the stormwater committee, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities, operations and activities, as are deemed by the Village to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, without limitation due to enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls, ponds, streets, roads, ditches and such other facilities as will support a stormwater management system.

## **21.08 DEFINITIONS.**

- (1) "Charge" means the fee imposed under this chapter for the rendering of stormwater management services by the Village.
- (2) "Equivalent runoff unit" or "ERU" is the basic unit by which a storm sewer charge is calculated under this chapter and is based upon the typical runoff volume of stormwater from one residential property during a 10 year, 24 hour rainfall event pursuant to the methodology developed by the National Resources Conservation Service (NRCS) as set forth in Technical Release – 55 publication (TR-55), and any amendments thereto.
- (3) "Impervious area" means a surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. The term includes, without limitation due to enumeration, all areas covered by structures, roof extensions, patios, porches, driveways, loading docks and sidewalks, and semi-impervious surfaces such as compacted gravel, all as measured on a horizontal plane.
- (4) "Dwelling unit" means a room or group of rooms including cooking accommodations, occupied by one family, and in which not more than two persons, other than members of the family, are lodged or boarded for compensation at any one time.
- (5) "Single family unit" means any residential property, including manufactured homes, consisting of one dwelling unit.

- (6) "Stormwater committee" means the committee established under this chapter for the purpose of managing stormwater and imposing charges for the recovery of costs connected with such stormwater management.
- (7) "Undeveloped property" means property that is not developed by the addition of an improvement such as a building, structure, grading or substantial landscaping. A property shall be considered to be developed if:
  - (a) A certificate of occupancy has been issued for a building or structure on the property or, if no certificate of occupancy has been issued, upon substantial completion of construction or final inspection; or
  - (b) Construction of an improvement on the property is at least 50 per cent completed and such construction has ceased for a period of at least 3 months, whether consecutive or not.

#### **21.09 RATES AND CHARGES.**

- (1) The basis for computation of the charge for stormwater services to lots and parcels of land within the Village is established under this section. The amount of charge to be imposed, the establishment of formulas for the calculation of charges, the creation of customer classifications for the imposition of charges, and changes in such charges, formulas and customer may be made by resolution. All charges established pursuant to this chapter shall be fair and reasonable. A schedule of current charges shall be maintained and on file in the office of the Village Clerk.
- (2) Charges shall be imposed to recover all or a portion of the costs of the stormwater management. Such charges may include the following components:
  - (a) Base Charge. A base charge may be imposed on all property 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. The base charge shall be assessed to collect the administrative costs of the stormwater committee and may include capital, operating and maintenance costs of the stormwater committee which are not recovered by other means.
  - (b) Equivalent runoff unit charge (ERU). An equivalent runoff unit charge may be imposed on all property that contributes to stormwater run-off. The ERU charge shall be assessed based upon the property's zoning

classification, or, at the discretion of the Village Engineer, based upon the principal use of the property regardless of zoning classification.

#### **21.10 CLASSIFICATIONS OF CUSTOMERS.**

The Village Board may establish classifications other than the customer classifications under section 21.13 as will be likely to provide a reasonable and fair distribution of the costs of the stormwater management.

#### **21.11 STORM SEWERS.**

Stormwater, other than that exempted in 13.07 (1), and all other unpolluted drainage, shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Storm and Wastewater Committee ("Approving Authority") and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Approving Authority, to a storm sewer, combined sewer or natural outlet.

##### **(1) Discharge of Unpolluted Waters**

- (a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff or subsurface drainage, which is not contaminated, into any sanitary sewer. Stormwater and all uncontaminated drainage shall be discharged into storm sewers or to a natural outlet or watercourse in accordance with applicable laws, ordinances and regulations. Roof down spouts shall not be connected to the Village's storm sewer laterals or mains but shall drain to porous surfaces, rain barrels or rain gardens unless the Village specifically gives permission to connect to the Village's storm sewer laterals or mains.
- (b) Removal of water from the footing drains may be effected by means of a sump pump or other equally suitable method. Except as otherwise provided herein, the outlet or discharge point of any sump pump or other authorized discharge shall be directed toward either the rear or the front of the property. Any in-yard discharge point shall be directed toward either the rear or the front of the building, nor farther than 15 feet from the foundation, and may not be directed so that discharge flows onto an adjacent property or a public sidewalk. Where a lot is on a corner, discharge may be directed toward the side yard abutting on a public street.
- (c) Any residence that has a Village-provided access point through the curb to the storm sewer gutter may utilize such access for discharge only

between April 1 and November 30. Between December 1 and March 31 ("Winter Months"), all such connections to the gutter shall be disconnected from the curb access and must be directed in a manner consistent with subsection (1)(b). Any permitted sump pump discharge that is connected directly to the Village's storm sewer is not impacted by this subsection.

- (d) Any permitted sump pump discharge that is connected directly to the Village's storm sewer is not impacted by this subsection.
- (e) During Winter Months, causing or permitting sump pump discharge to enter the street where icing conditions can form is strictly prohibited.

(2) Connection of Sump Pump to Storm Sewer System. (Cr. #97-15)

- (a) Upon securing the necessary permit from the Village of Sturtevant, a property owner may connect his/her sump pump so that it discharges directly into the Village's storm sewer system. The cost of accomplishing such connection shall be borne by the property owner. The property owner shall also be responsible for restoring any areas disturbed by said work.
- (b) At the written request of the property owner, the Village, in its discretion, may agree to accomplish connection of a property owner's sump pump to the Village's storm sewer system. Such request shall constitute a waiver to a hearing on and consent to the imposition of a special assessment against the property for the cost of such connection, which shall be borne by the property owner. At the discretion of the Village, such amount may be repaid to the Village in installments over a 5-year period, plus interest, all as more specifically agreed to by and between the parties.
- (c) 1. Installation of Storm Drain Pipe After Enactment of Ordinance. If, subsequent to the enactment of this ordinance, the Village installs, or requires a third party to install, a storm drain pipe to serve a parcel in the Village, the property owner shall obtain the necessary permit and connect his/her sump pump discharge to the storm drain pipe. The property owner shall be responsible for the cost of extending a lateral to the edge of the Village's right-of-way. In the case of new building construction, the connection shall be made by the property owner prior to receiving an

occupancy permit. If a building currently exists on a parcel and the storm drain pipe is installed to serve said parcel, the property owner shall have six months from the date that the property owner is sent written notice from the Village that a storm drain has been installed, to make the connection. In the event that a property owner installs additional sump pumps to serve his or her property, the property owner shall have sixty days from the date of issuance of a plumbing permit for the additional pumps to connect his/her sump pump discharge to the previously installed storm drain pipe. If a storm drain pipe is 8 inches or smaller in diameter, it is presumed that said storm drain pipe is solely for the purpose of channeling sump pump water discharges and the Village shall not assess the property owners for the cost of installation of the storm drain pipe or the laterals within the Village's right-of-way.

2. Installation of Storm Drain Pipe Prior to Enactment of Ordinance. If, prior to the enactment of the ordinance, the Village has installed, or has required a third party to install, a storm drain pipe to serve a parcel in the Village, an owner of a parcel with an existing building shall have no obligation to connect to said pipe. Owners of vacant parcels shall be required to connect in accordance with Section 21(2)(c)1, prior to receiving an occupancy permit for new building construction.
3. Exemptions. Upon a showing of good cause, the Village Board may grant the property owner an exemption from the connection requirements of the ordinance. An exemption issued by the Village is valid for the specific property owner only and is subject to any conditions placed upon the exemption granted. Upon change of the property's ownership, the exemption shall expire and the new property owner must reapply for a new exemption or make connection to the storm drain pipe within six months of the change in ownership. Good cause for not connecting to the storm drain pipe shall include: the sump pump discharges into a catch basin, a natural waterway, designated wetland or detention pond, or where it is demonstrated, to the satisfaction of the Village, that there is no adverse impact as a result of the discharge of sump pump water.

- (d) Any person who shall violate any provision of this section shall upon conviction thereof forfeit not less than \$100 nor more than \$1,000, together with the costs of prosecution.

#### **21.12 PAYMENT; LIEN; PENALTY.**

- (1) **Billing and Payment.** Storm water management fees, at the rate set annually by the Village Board, shall be billed to the owners of each parcel within the Village at the same time and in the same manner as the Village tax bill, as an additional fee for storm water services. The full storm water management fee shall be due with the first tax installment. Alternatively, storm water management fees 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 storm water management fee shall serve as notice to the property owner that failure to pay the storm water management fee 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.
- (2) **Lien.** All storm water management fees shall be a lien upon the property, as provided in Wis. Stat. § 66.0809.

#### **21.13 CUSTOMER CLASSIFICATIONS.**

- (1) For the purpose of imposing the charges imposed under this chapter, all lots and parcels of land in the Village shall be classified into the following customer classifications:

<u>CLASSIFICATIONS</u>	<u>ERU</u>
(a) Properties Zoned in One and Two Family Residence District, Mobile Home District, and Properties Located in Other Zoning Districts Where the Principal Use is Residential (one or two family).	1 ERU
(b) Properties Zoned in Multiple Family Residence District	.5 ERU per each dwelling unit
(c) Properties Zoned in Business District A and Business District B	6.1 ERUs per acre
(d) Properties Zoned in Industrial District	5.1 ERUs per acre



- (e) Properties Zoned in Institutional District 4.8 ERUs per acre
- (f) Undeveloped Properties or Parkland Regardless of Zoning 2.7 ERUs per acre
- (2) Exceptions to ERU Charges.
  - (a) Properties in which the principal use is agricultural, as determined by the Village Engineer, are exempt from ERU charges.
  - (b) A reduced ERU charge of 3.1 ERUs per acre may be extended as to any property where adequate stormwater facilities have already been constructed by the owner or developer as required by the Village.

#### **21.14 NEW CONSTRUCTION.**

- (1) Except for one or two family units, a property owner shall be responsible for submitting a stormwater management service application at the time a building permit is issued or a site plan review is conducted. The application shall be made on a form prescribed by the Village and provided with each application for a building permit or application for site plan review. Failure to submit such stormwater utility service application or providing false information on such form shall be a violation of this chapter.

#### **21.15 COMPLAINTS.**

Complaints pertaining to whether the stormwater committee's rates, rules or practices are unreasonable or unjustly discriminatory are to be made to the Public Service Commission in accordance with Chapters 66 and 196 of the Wisconsin Statutes.

#### **21.16 ILLICIT DISCHARGES AND CONNECTIONS**

- (1) DEFINITIONS.

The following definitions shall be applicable in this Section:

- (a) Illicit Connection: Any drain or conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter the Municipal Separate Storm Sewer System and any connections to a Municipal Separate Storm Sewer from indoor drains and sinks, regardless of whether said drain or connection had been allowed, permitted, or approved by a government agency, prior to the adoption of this ordinance.

- (b) **Illicit Discharge.** Any discharge to a Municipal Separate Storm Sewer or the Waters of the State that is not composed entirely of storm water, unless exempted below. Any such Illicit Discharge is a public nuisance.
  - (c) **Municipal Separate Storm Sewer System:** A conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, piped storm drains, pumping facilities, ditches, retention or detention basins, reservoirs, constructed channels or storm drains, which meets the following criteria:
    - 1. Owned or operated by a municipality.
    - 2. Designed or used for collecting or conveying storm water.
    - 3. Which is not a combined sewer conveying both sanitary or storm water.
    - 4. Which is not part of a publicly owned wastewater treatment works which provides secondary or more stringent treatment.
  - (d) **Person:** Any owner, operator, individual, association, organization, partnership, firm, corporation, municipality, interstate agency, state agency, federal agency or other entity recognized by law and acting as either the owner or as the owner's agent.
  - (e) **Storm Water:** Storm water runoff, snow or ice melt runoff, and surface runoff and drainage.
  - (f) **WPDES:** Wisconsin pollutant discharge elimination system.
  - (g) **Waters of the State:** Those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.
- (2) **DISCHARGES PROHIBITED.** No person shall cause an Illicit Discharge to a Municipal Separate Storm Sewer or the Waters of the State.
  - (3) **CONNECTIONS PROHIBITED.** The construction, use, maintenance or continued existence of an Illicit Connection to the Municipal Separate Storm Sewer is prohibited. This prohibition expressly includes, without limitation, an Illicit Connection made prior to the adoption of this ordinance, regardless of

whether the connection was permissible under law or practice applicable or prevailing at the time of connection.

- (4) EXEMPTIONS. The following discharges and flows are not considered Illicit Discharges:
- (a) Discharges authorized by a WPDES permit issued by the Wisconsin Department of Natural Resources.
  - (b) Discharges resulting from fire fighting activities.
  - (c) Water line flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, roof drains, sump pumps, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool water and street wash water.
- (5) ENFORCEMENT. Whenever the Department of Public Works finds a person has violated a prohibition or failed to meet a requirement of this Section, the Department of Public Works Director or his designee may order compliance by written notice of violation to the responsible person. Enforcement action under this subsection may be in addition to prosecution under subsection (6) below. Such notice shall set forth a deadline and may require without limitation:
- (a) The performance of monitoring, analyses, and reporting;
  - (b) The elimination of an Illicit Connection or Discharge;
  - (c) That violating discharges, practices, or operations shall cease and desist;
  - (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (6) PENALTY. In the event the person fails to perform monitoring, analyses and reporting, fails to eliminate an Illicit Connection or Discharge, fails to cease and desist in discharges, practices or operations in violation of this Section, or fails to abate or remediate the storm water pollution or contamination hazards, as required by the Department of Public Works Director or his designee that person may be subject to a forfeiture of not less than \$50.00 nor more than \$500.00 for each offense, together with the cost of prosecution. Each day that the violation exists shall constitute a separate offense.

- (7) In the event that an Illicit Discharge is identified, and emergency clean up action is undertaken by the Village, WDNR, or other authority having jurisdiction, the persons may be responsible for payment or reimbursement of all associated clean up costs incurred.
- (8) If the violator fails to remediate or restore within the established deadline, the work may be done by the Village of Sturtevant or by a contractor chosen by the Village of Sturtevant and the expense thereof shall be charged to the violator. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Department of Public Works or designated contractor to enter upon the premises for the purposes set forth above.
- (9) VIOLATIONS DEEMED A PUBLIC NUISANCE. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed to be a public nuisance, and may be summarily abated or restored at the violator's expense in accordance with Chapter 10 of the Village's Code of Ordinances, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance.

#### **21.17 PENALTY.**

- (1) A person violating section 21.14 shall, upon conviction, pay a forfeiture not to exceed \$500 for each offense, in addition to the costs of prosecution which are allowed by law. Each day during which a violation exists shall constitute a separate offense.

## CHAPTER 22

### OFFICIAL MAP AND COMPREHENSIVE PLAN

(2014-04 08/19/14 – Moved from 17.50 – 17.55 to New Chapter 22)

<i><b>Section Number</b></i>	<i><b>Title</b></i>	<i><b>Ordinance Number</b></i>	<i><b>Date of Ordinance</b></i>
22.01	Purpose		
22.02	Certificate to be Filed with the Register of Deeds		
22.03	Authority of the Village		
22.04	Building Permits, Plot Plan		
22.05	Village Board May Change		
22.06	Comprehensive Plan	2015-04	05/19/15
		2016-10	09/06/16
		2017-02	08/15/17
		2018-02	02/20/18
		2019-06	09/17/19

#### **22.01 PURPOSE.**

In order to conserve and promote the public health, safety, convenience and general welfare, there is hereby adopted and established the official map of the Village of Sturtevant which consists of 2 sheets: Sheet 1 of 2, Street Development Plan, for the area within the Village limits; and Sheet 2 of 2, Street Extension Plan, for the area outside the Village limits over which the Village has extra-territorial jurisdiction, in accordance with §62.23(6), Wis. Stats. It is the further purpose of the official map to show the width and location of streets, highways and parkways in order to promote the efficient and economical development of the Village.

#### **22.02 CERTIFICATE TO BE FILED WITH THE REGISTER OF DEEDS.**

Immediately upon adoption of this ordinance, the Village Clerk/Treasurer shall file with the County Register of Deeds a certificate showing that the Village of Sturtevant has established the official map as described in Section 22.01 and shall do likewise as to any changes or additions.

#### **22.03 AUTHORITY OF THE VILLAGE.**

The Village Plan Commission, when passing upon a land subdivision plat referred to it by the Village Board, shall not recommend such plat for approval unless it conforms with

the official map, and the Village Board shall not approve a land subdivision plat unless it conforms with the official map.

#### **22.04 BUILDING PERMITS PLOT PLAN.**

For the purpose of preserving the integrity of the official map, no permit shall hereafter be issued for any building in the bed of any street, highway or parkway shown or laid out on such map except as provided in §62.23(6)(d) and (g), Wis., Stats. The proper official authorized by the Village Board to issue building permits shall require each applicant to submit a plot plan, certified by a qualified surveyor for approval. Such plot plan shall show accurately the location of any proposed building with reference to any streets as shown on the official map.

#### **22.05 VILLAGE BOARD MAY CHANGE.**

The Village Board, whenever and as often as it may deem it for the public interest, may change or add to the official map of the Village in conformity with the provisions contained in §62.23(6)(b) and (c), Wis. Stats.

#### **22.06 COMPREHENSIVE PLAN.**

The Village Board of the Village of Sturtevant, Wisconsin, formally adopts the document titled "A Multi-Jurisdictional Comprehensive Plan for Racine County: 2035," pursuant to Wis. Stat. §66.1001(4)(c), as the Village of Sturtevant comprehensive plan, as well as the following amendments to the Comprehensive Plan:

- (a) Amendment to parcels 181-03-22-29-001-000, 181-03-22-29-002-010, and 181-03-22-29-002-000, as provided in Ordinance 2012-13, adopted on December 4, 2012.
- (b) Amendment to parcels 181-03-22-28-013-001, 181-03-22-28-014-001, 181-03-22-28-016-001, 181-03-22-28-011-010, 181-03-22-28-011-020, 181-03-22-28-006-001, 181-03-22-28-008-001, 181-03-22-28-009-001, 181-03-22-28-007-001, 181-03-22-28-010-001, 181-03-22-28-004-000, 181-03-22-28-005-000, 181-03-22-28-054-010, 181-03-22-28-054-000, 181-03-22-28-055-000, 181-03-22-28-056-000, 181-03-22-28-057-000, 181-03-22-28-058-000, 181-03-22-28-059-000, and 181-03-22-28-060-000 as provided in Ordinance 2014-01, adopted on February 18, 2014.

- (c) Amendment to parcel 181-03-22-16-428-051, as provided in Ordinance 2015-04, adopted on April 8, 2015.
- (d) Amendment to parcel 181-03-22-22-033-000, as provided in Ordinance 2016-10 adopted on September 6, 2016.
- (e) Amendment to parcel 181-03-22-21-225-000 as provided in Ordinance 2017-02, adopted on April 15, 2017.
- (f) Amendment to parcel 181-03-22-21-172-000 as provided in Ordinance 2018-02, adopted on February 20, 2018.
- (g) Amendment to parcel 181-03-22-28-005-000 as provided in Ordinance No. 2019-05, adopted on September 17, 2019.\*

The comprehensive plan shall be available for public inspection in the office of the Village Clerk.

(This amendment is intended to be a part of the adoption of Ordinance 2014-04 creating Chapter 22 of the Code of Ordinances for the Village of Sturtevant even though it was adopted prior to the creation of Chapter 22.)

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\* The adopting Ordinance 2019-06 inadvertently left out subsection (g). The ordinance included the obvious intent to amend this Section to include a subsection (g).

## CHAPTER 25

### CONSTRUCTION AND EFFECT OF ORDINANCES

<i><b>Section Number</b></i>	<i><b>Title</b></i>	<i><b>Ordinance Number</b></i>	<i><b>Date of Ordinance</b></i>
25.01	Rules of Construction		
25.02	Conflict and Separability		
25.03	Clerk to File Documents Incorporated by Reference		
25.04	Penalty Provisions	2008-23	12/16/08
25.05	Repeal of General Ordinances		
25.06	Effect of Repeals		
25.07	Title; Effective Date; Citation		
25.08	Keeping Code Current; Revisor's Amendments		
25.09	Withholding of Licenses, Permits and Approvals	2014-05	08/19/14



## **25.01 RULES OF CONSTRUCTION.**

In the construction of this Municipal Code, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

- (1) **STATUTORY REFERENCES.** (Am. MCC '95) All references to "Wisconsin Statutes" or "Wis. Stats." means the current version of the Wisconsin Statutes, as amended from time to time, all references to the "Wisconsin Administrative Code" or "Wis. Admin. Code" means the current version of the Wisconsin Administrative Code, as amended from time to time, and all references to or incorporation of any other code or statutory provisions means the current version of such code or statute, as amended from time to time.
- (2) **GENDER, SINGULAR AND PLURAL.** Every word in this Code imparting the masculine gender may extend and be applied to females as well as males, and every word imparting the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided these rules of construction shall not be applied to any provision which contains any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto.
- (3) **PERSON.** The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and to all entities capable of being sued, unless plainly inapplicable.
- (4) **ACT 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.
- (5) **VERBS.** The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.
- (6) The word "state" means the State of Wisconsin, unless plainly inapplicable.

## **25.02 CONFLICT AND SEPARABILITY.**

- (1) **CONFLICT OF PROVISIONS.** If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.

- (2) **SEPARABILITY OF CODE PROVISIONS.** If any section, subsection, sentence, clause or phrase of the Code is for any reason held to be invalid or unconstitutional by reason of a decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The Board hereby declares that it would have passed this Code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.

### **25.03 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.

### **25.04 PENALTY PROVISIONS.**

- (1) **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:
  - (a) First Offense. Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$5 nor more than \$500, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution may be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.
  - (b) 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 \$50 nor more than \$500 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs may be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 6 months.
- (2) **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.

(3) CITATION METHOD OF ENFORCEMENT.

(a) Statutory Authorization. (Am. #087-22) Pursuant to §66.119, Wis. Stats., which is hereby incorporated by reference and made a part of this section, the use and issuance of citations for violations of ordinances of the Village, including those for which a statutory counterpart exists, is hereby authorized.

(b) Contents of Citation. The citation shall contain the following:

1. Name and address of the alleged violator.
2. Factual allegations describing the alleged violation.
3. Time and place of the offense.
4. Number and section of the ordinance violated.
5. A designation of the offense in such a manner as can readily be understood by a person making a reasonable effort to do so.
6. Time and date in which the violator may appear in court.
7. A statement which informs the violator:
  - a. That a cash deposit based on the established schedule may be delivered or mailed to the Clerk of Municipal Court prior to the time of the scheduled court appearance.
  - b. That if a deposit is made no appearance in court is necessary unless he is subsequently summoned.
  - c. That if a cash deposit is made and the alleged violator does not appear in court at the specified time, an action may be commenced to collect the forfeiture.
  - d. 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 required statement has been read. Such statement shall be sent or brought with the cash deposit.

8. Deposits shall be made in cash, money order or certified check to the Clerk of Municipal Court who shall provide a receipt therefor.
- (c) Issuance of Citations. The Village Police Chief and all police officers employed by the Village may issue citations authorized under this section.
- (4) **GAMBLING DEVICES.** (Ct. #095-28) In addition to other penalties authorized by this Municipal Code, anything devised solely for gambling or found in actual use for gambling may be seized and, after a judicial determination that it was used solely for gambling or found in actual use for gambling, may be destroyed.

#### **25.05 REPEAL OF GENERAL ORDINANCES.**

All ordinances heretofore adopted by the Village Board are hereby repealed, except all ordinances or parts of ordinances relating to the following subjects and not conflicting with any of the provisions of this Code:

- (1) The issuance of corporate bonds and notes of the Village of whatever name or description.
- (2) The establishment of grades, curb lines and widths of sidewalks in the public streets and alleys.
- (3) The fixing of salaries of public officials and employees.
- (4) Rights, licenses or franchises or the creation of any contract with the Village.
- (5) The lighting of streets and alleys.
- (6) The annexation of territory to the Village.
- (7) The naming and changing of names of streets, alleys, public grounds and parks.
- (8) The letting of contracts without bids.
- (9) The establishment of wards, ward boundaries and election precincts.
- (10) Tax and special assessment levies.
- (11) Releases of persons, firms or corporations from liability.

- (12) Construction of public works.
- (13) Water, sewer and electric rates, rules and regulations and sewer and water main construction.
- (14) Budget ordinances, resolutions and actions.

#### **25.06 EFFECT OF REPEALS.**

The repeal or amendment of any section or provision of this Code or of any other ordinance or resolution of the Board shall not:

- (1) By implication be deemed to revive any ordinance not in force or existing at the time such repeal or amendment takes effect.
- (2) Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been reserved by the Village.
- (3) Affect any offense committed, or penalty or forfeiture incurred, previous to the time when any ordinance is repealed or amended; except when any forfeiture or penalty has been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time.
- (4) Affect any prosecution for any offense, or the levy of any penalty or forfeiture pending at the time when any ordinance aforesaid is repealed or amended; but the right of action shall continue and the offender shall be subject to the penalty as in all respects, as if such ordinance had not been repealed; except all such proceedings had after the time this Code takes effect shall be conducted according to the provisions of this Code.

#### **25.07 TITLE; EFFECTIVE DATE; CITATION.**

These ordinances shall be known as the “Municipal Code of the Village of Sturtevant” and shall take effect from and after passage and publication as provided in §66.035, Wis. Stats. All references thereto shall be cited by section number (example: Section 13.06, Municipal Code of the Village of Sturtevant).

### **25.08 KEEPING CODE CURRENT; REVISOR'S AMENDMENTS.**

As each ordinance or resolution affecting the Municipal Code becomes effective, the Clerk shall forward such ordinance or resolution to the Revisor, who shall incorporate them into the Municipal Code. The Revisor shall make no substantive changes to such ordinances and resolutions but may renumber, rearrange and edit them without first submitting them to the Village Board; and such rearranging, renumbering and editing shall not affect the validity of such ordinances and resolutions or the provisions of this Municipal Code affected thereby.

### **25.09 WITHHOLDING OF LICENCES, PERMITS AND APPROVALS.**

No license, permit or approval of any kind that is required by this Code, including, without limitation by enumeration, any license, permit or approval that is required by Chapter 12 (Licenses and Permits), Chapter 14 (Building Code), Chapter 17 (Zoning Code) or Chapter 18 (Subdivision Code), shall be granted to any person who is then in violation of any provision of this code, or for any property that is then in violation of any provision of this code, except in order to correct such violation or as may be required by state law. No person shall be eligible to hold any license or permit from the village if such person is delinquent in the payment of any local taxes, forfeitures, charges, assessments, fees, special charges or other amounts payable to 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, under this section, the licensee, permittee, or applicant shall be entitled to notice in writing and an opportunity to be heard by the Village Board. If such license or permit has procedures applicable to revocation or nonrenewal, e.g., alcohol beverage licenses, such provisions shall apply.