

ORDINANCE NO. 2017 - 01

AN ORDINANCE TO RECODIFY CHAPTER 118 OF CODE OF ORDINANCES OF THE VILLAGE OF UNION GROVE ENTITLED "ZONING"

The Village Board of the Village of Union Grove, Racine County, Wisconsin, do ordain as follows:

1. That the Village's ad hoc zoning code committee has recently completed a review and proposed update to the Village's zoning code, which is codified as Chapter 118 of the Village Code of Ordinances; and,

2. That the length of said revised Chapter as well as the scope of the changes are significant, such that the cost to the Village to publish said revised ordinance verbatim would be substantial, and publication of a summary of the revisions would prove unwieldy; and,

3. That the attached revised Chapter 118, entitled "Zoning," incorporated herein, and the revised zoning map, were placed on file and open to public inspection in the office of the clerk commencing February 6, 2017 for a period of at least two weeks, and were discussed during a public hearing on February 27, 2017, prior to the adoption of this Ordinance, in accordance with the procedure provided under Wis. Stat. § 66.0103, and is hereby adopted as a recodification of said Chapter 118 entitled "Zoning," of the Code of Ordinances of the Village of Union Grove, Racine County, Wisconsin, and of the Zoning Map, and that the previously adopted Chapter 118 entitled "Zoning," of the Code of Ordinances of the Village of Union Grove, and Zoning Map, are hereby repealed, except as provided in Section 4 of this Ordinance. No resolution of the Village Board of the Village of Union Grove is hereby repealed unless specifically mentioned.

4. That Chapter 118 entitled "Zoning," of the Code of Ordinances hereby adopted shall not be deemed to repeal any special or charter ordinances of the Village of Union Grove or repeal any substantive portion of any general ordinance or part thereof relating to the following subjects unless substantively addressed in the proposed Chapter to be recodified as provided in Section 3 of this Ordinance and not conflicting with any of the provisions of the "CODE OF ORDINANCES OF THE VILLAGE OF UNION GROVE, RACINE COUNTY, WISCONSIN":

- a) The issuance of bonds, notes or other obligations of the Village of Grove;
- b) The fixing of salaries or wages of public officials or employees;
- c) Rights, licenses, permits or franchises or the creation of any contractual obligation with the Village of Union Grove;
- d) Establishment of street or sidewalk grades, curb or bulkhead lines, width of sidewalks or streets;
- e) Lighting of streets, sidewalks and alleys;
- f) Naming or changing of, extension, vacation or opening of streets or public ways, public grounds and parks and other public places;

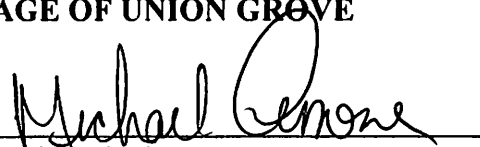
- g) Letting of contracts with or without bids;
- h) Tax and special assessment levies or charges;
- i) Release of persons, firms or corporations from liability;
- j) Construction of any public works;
- k) Ratification or rescission of any agreements with the Village of Union Grove or the act of any municipal officer, board or commission;
- l) Water, sewer and electric main and line construction;
- m) Budget ordinances;
- n) Claim approvals;
- o) Municipal utility regulations;
- p) Dedication or acceptance of any plat or subdivision in the Village;
- q) Any other subject that cannot by law be repealed as provided for in this ordinance; and
- r) Any ordinances that may have been passed during the time the proposed Chapter was open for public inspection.

5. This Ordinance shall take effect upon passage and publication as required by law.

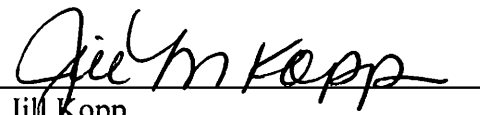
Adopted by the Village Board of the Village of Union Grove, Racine County, Wisconsin, this 27th day of February, 2017.

VILLAGE OF UNION GROVE

By: _____


Michael Aimone
Village President

Attest: _____


Jill Kopp
Village Clerk/Treasurer

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Article I. In General

Sec. 118-1. Definitions.

(a) For the purpose of this chapter, the definitions in this section shall be used. Words used in the present tense include the future; the singular number includes the plural number, and the plural number includes the singular number. The word "shall" is mandatory and not discretionary.

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

Accessory use or structure means a use or detached structure subordinate to the principal use of a structure, land or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.

Addition means any new construction whereby an existing building or structure is expanded in perimeter or height.

Agricultural means all uses, commonly classified as agricultural, apiculture, horticultural, floricultural, viticulture, or forestry, such as: the tilling of soil, crop and tree farming, truck farming, gardening, plant nurseries, dairy farming, keeping or raising of domestic livestock or poultry, bee keeping and sod farming together with the operation of any machinery or vehicles that are incidental to the above uses and any agricultural business such as fruit packing, dairying or similar activities.

Alley means a special public right-of-way designed to afford only secondary access to abutting properties.

Apartment means a room or suite of rooms in a multiple family structure which is arranged, intended or designed to be occupied as a residence by one individual or by one family.

Appeal is a means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this chapter as expressly authorized by the provisions of this chapter.

Arterial street means a public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as county trunk and state trunk highways, and parkways.

Automobile service station is a place where petroleum products stored in underground or above ground tanks for the operation of motor vehicles are offered for sale directly to the public, including but not limited to such facilities that also sell motor vehicle parts and accessories.

Basement means any enclosed area of a building having its floor below outside ground level on at least fifty (50%) percent of all sides.

Bed and breakfast establishment means any place of lodging that provides rooms for rent to guests for overnight stay, is occupied by the owner or his employee at the time of rental,

and in which guests are provided breakfast as a part of the room accommodation. "Breakfast" shall mean any meal provided or served between 6:00 a.m. and 11:00 a.m.

Bedroom means a room in a residence that is marketed, designed, used or otherwise likely to function primarily for sleeping quarters.

Boardinghouse means a building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four or more persons not members of a family, but not exceeding 12 persons and not open to transient customers, and that is licensed pursuant to Wis. Stats. ch. 254.

Boat means a vessel that is designed to carry at least one individual on the surface of a body of water, and is propelled by oars, paddles, wind or motor power. Motor power includes, but is not limited to, power generated by steam engine, electric motor or combustion engine of any kind.

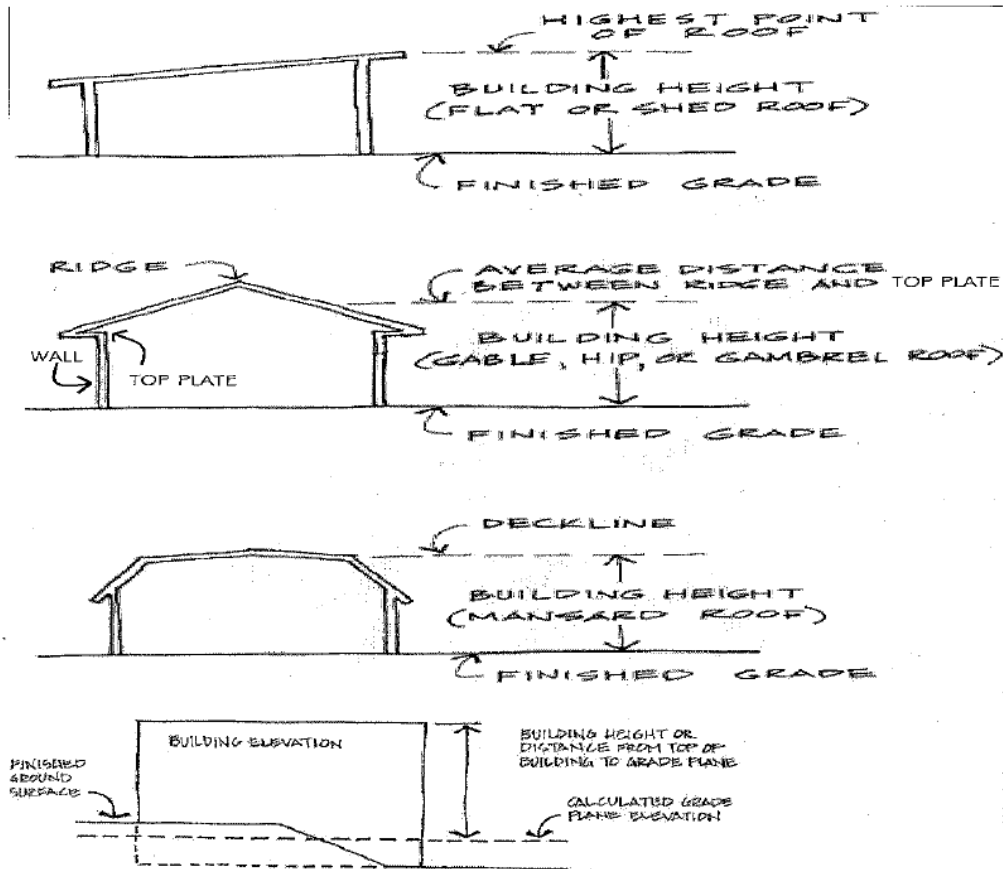
Buildable lot area means the portion of a lot remaining after required yards have been provided, and upon which structures may be constructed.

Building means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, businesses, equipment, machinery or materials.

Building area means the total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics.

Building, detached means a principal building surrounded by open space on the same lot.

Building height means the vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of the roof. Where the building is on a lot which slopes from the rear down to the street, or vice versa, the height will be determined at a point on the side wall equal distance between the back and front walls of the building. See illustration below.



(Amended; Ordinance 2017-01)

Building line (see *Setback*) means a line between a building and any street line where no buildings or parts of buildings may be erected, altered, or maintained except as otherwise provided for in this chapter.

Building, principal means a building in which the principal use of the lot on which it is located is conducted.

Business means an occupation, employment, or enterprise which occupies time, attention, labor and materials or wherein merchandise is exhibited or sold or where services are offered other than home occupations.

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

Camping unit means any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

Carwash means any facility used for the washing of vehicles requiring the installation of special equipment or machinery and plumbing affixed to or affixed separate of a structure. The

facility shall be installed in such a manner as not to cause spray or runoff water to encroach upon any adjoining properties.

Centerline grade (street grade) means the elevation of the finished street at the centerline or curbs as fixed by the Village Engineer or by such authority as shall be designated by Village regulations to determine such an elevation.

Clothing repair shops means shops where clothing is repaired, such as shoe repair shops, seamstress and tailor shops, shoeshine shops, clothes pressing shops, but not employing over five persons.

Clothing stores means retail stores where clothing is sold, such as department stores; dry goods and shoe stores; dress, hosiery, and millinery shops.

Commercial greenhouse means a business that grows and sells primarily plants and related goods on a retail or wholesale basis, and that includes a structure for the cultivation, shelter or display of plants.

Community living arrangement means the following facilities licensed or operated or permitted under the authority of state statute: child welfare agencies under Wis. Stats. § 48.60, group foster homes for children under Wis. Stats. § 48.02(7m) and community-based residential facilities under Wis. Stats. § 50.01; but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons, and jails. The establishment of a community living arrangement shall be in conformance with Wis. Stats. §§ 46.03(22), 59.97(15), 62.23(7)(i) and 62.23(7a) and amendments thereto.

Conditional uses mean uses of a special, extensive or complex nature as to make impractical their predetermination as a principal use in a specific zoning district.

Convenient-cash business, also referred to as a payday loan business, title for cash business, check cashing business or similar enterprise, is any person licensed pursuant to Wis. Stat. § 218.05, or a person licensed pursuant to Wis. Stat. § 138.09, who accepts a check or title, 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 who refinances or consolidates such a transaction.

Deck means a structure, other than a stoop or walkway, characterized by a flat open horizontal surface or platform at least six inches above the grade of the land it covers and which may or may not be supported by posts, beams, cantilevers or by any other methods, usually attached to the rear or sides of a dwelling unit and intended to be used for leisure or recreational purposes. Such structures, when they have a roof, are usually called porches and are intended to shelter the front entry of the dwelling and for leisure activity.

Development means any artificial or man-made change to improved or unimproved real estate, including but not limited to: the construction of principal and accessory buildings, structures, streets and utilities; the repair or improvement of damaged buildings and structures; the placement of buildings and structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling; the storage, deposition or extraction of materials or equipment; and, the installation, repair or removal of public or private sanitary sewage disposal systems or water supply facilities.

Direct access means a condition of immediate physical connection resulting from adjacency of a road or right-of-way abutting a property.

District, basic means a part of the village for which the regulations of this chapter governing the use and location of land and buildings are uniform.

District, overlay means a special zoning district superimposed over other, basic districts setting forth certain requirements in addition to the requirements of the basic district.

Doublewide mobile home means a mobile home consisting of two mobile home sections combined horizontally at the site while still retaining their individual chassis for possible future movement.

Drainage means the removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff, to minimize erosion and sedimentation during and after development, and the means necessary for water supply preservation or alleviation of flooding.

Driveway, residential means that portion of a parcel or property intended to be used for a delineated access, paved or unpaved, from the abutting access street to a garage or carport.

Dwelling means a building designed or used exclusively as a residence or sleeping place, but does not include boardinghouses or lodginghouses, motels, hotels, tents, cabins, or mobile homes.

Dwelling, efficiency means a dwelling unit consisting of one principal room with no separate sleeping rooms.

Dwelling, multiple-family means a residential building containing three or more separate residential dwelling or living units, designed for or occupied with the number of families in residence not to exceed the number of dwelling units provided.

Dwelling, single-family means a detached building designed for or occupied exclusively as a residential dwelling or living unit by one family.

Dwelling, two-family means a building containing two separate residential dwelling or living units, designed for occupancy by not more than two families.

Dwelling unit means an individual building or section of a building or other residential structure devoted to the shelter and living unit of one (1) family (see Residential Unit).

Easement means a right given by an owner of land to another party for a specific limited use of that land or portion thereof.

Eave means the outer edge of a roof that overhangs the wall.

Efficiency or studio apartment means a dwelling unit having no specific bedroom but providing for a kitchen area, a dining area, a sleeping area, and a bathroom.

Elderly housing means residential development designed to meet the needs of and reserved exclusively for persons considered 'senior citizens'.

Emergency shelter means public or private enclosures designed to protect people from aerial radiological, biological, or chemical warfare, fire, flood, windstorm, riots and invasions.

Encroachment means any fill, structure, building, use or development in an easement or right-of-way.

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

Essential services means services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catchbasins, water storage tanks, conduits, cables, fire alarm boxes, police callboxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

Established grade (finished grade) is the elevation referenced off of the centerline grade.

Expandable mobile home means a mobile home with one or more room sections that fold, collapse or telescope into the principal unit when being transported and which can be expanded at the site to provide additional living area.

Family means any number of persons related by blood, adoption, or marriage, or not to exceed four persons not so related, living together in one dwelling unit as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity, motel or hotel.

Family child care homes means a dwelling licensed as a child care center by the State of Wisconsin pursuant to Section 48.65 of the Wisconsin Statutes, where care is provided for not more than eight (8) children.

Farming operation means one or more parcel(s) of land under a single ownership and/or management upon which natural fibers, animals, and/or plants for human or animal consumption are produced.

Farm roadside stand means a farm building or structure used or intended to be used for the sale of unprocessed farm products raised on said farm solely by the owner or tenant of the farm on which such building is located.

Farmstead is that portion of a farm which consists of the home and adjacent accessory buildings.

Fast food restaurant means an establishment the principal business of which is the sale of prepared or rapidly prepared food directly to the consumer in a ready-to-consume state for consumption either within the restaurant building or off-premises.

Floor area means the sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six and one-half (6 1/2) feet.

Foster family home means the primary domicile of a foster parent which is for four or fewer foster children and which is licensed under Wis. Stat. § 48.62 and amendments thereto.

Frontage means the dimension of a lot abutting a public street measured along the street right-of-way line.

Garage, general means garages that are enclosed accessory structures designed for the heated or cold storage of vehicles, equipment and personal belongings. Such structures shall meet the building setback, lot coverage and design restrictions of the applicable zoning district of the Village and, if residential, may not be constructed on a lot or parcel that does not already contain a permitted principal use structure. In addition, no residential garage shall be used for the conduct of a business, storage of commercial and industrial use trucks/vehicles of over 1-1/2 ton rated load capacity, or for habitation. No more than one (1) detached garage may be constructed on a single-family zoned residential parcel of less than two and one-half (2.5) acres in size, and no more than two (2) detached garages may be constructed on a single family residential zoned parcel of two and one-half (2.5) acres or more in size. Detached garages may only be constructed on agriculture or single-family zoned parcels unless otherwise approved by the Plan Commission.

Garage, private, attached residential (See *Garage, general*, above) means attached residential garages that have a fire-rated common wall and/or ceiling with the residence pursuant to Wisconsin Administrative Code; and, that are constructed to be an integral part of the residence in terms of exterior materials, roofline and color.

Garage, private, detached residential (See *Garage, general* above) means detached garages on single-family zoned parcels that are constructed of the same exterior materials as the principal structure on the parcel; and, that are oriented so as not block all view of water bodies and/or other common private or public open space from existing principal residences located on adjacent parcels.

Garage, public means any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing, or public parking of motor vehicles.

Gift stores means retail stores where items such as art, antiques, jewelry, books, and notions are sold.

Group day care center means a facility, that is not in an occupied residence, where care and supervision is provided for four (4) or more children under the age of seven (7) for less than twenty-four (24) hours a day.

Group foster home means any facility operated by a person required to be licensed by the state under Wis. Stat. § 48.62 for the care and maintenance of four or fewer children or more than four children if all the children are siblings.

Hard surface means the area of a lot devoid of grass, trees or other natural landscape features that is paved or otherwise surfaced in a manner that prevents natural infiltration of water into the underlying soil. (See definition of Impervious Surface)

Hardware stores mean retail stores where items such as plumbing, heating, and electrical supplies; sporting goods; and paints are sold.

Home occupation means an activity for financial gain or profit which is incidental to and carried on entirely within a dwelling unit located on a lot, exclusive of attached garage or patio area, by resident occupants of the dwelling unit and which occupation is clearly incidental to and accessory to the residential use of the premises.

Hotel or motel mean a series of commercial, attached, semi-attached or detached sleeping rooms or units for overnight or temporary accommodation of transient guests for compensation.

Impervious surface means any surface on which at least 50 percent of precipitation falling thereon is not absorbed but is released from the surface to flow elsewhere as stormwater runoff, such as roofs, concrete or asphalt driveways and patios, decks, and paved or graveled parking lots and outside storage areas and stored materials and equipment.

Institutional means uses, facilities, or organizations dedicated to public service.

Junk or salvage yard means an area consisting of buildings, structures or premises where junk waste, discarded or salvage materials are bought, sold, exchanged, stored, shredded, pulverized, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.

Kennel means an outdoor or indoor enclosure for the keeping of household pets as a commercial or hobby venture.

Legal nonconforming Lot means any lawfully established lot or parcel of land at the time of the enactment of this chapter or any amendment applicable thereto which does not meet the requirements for minimum lot width and area for the zoning district in which it is located.

Legal nonconforming structure means any lawfully established building or structure at the time of the enactment of this chapter or any amendment applicable thereto that does not conform to the dimensional regulations for the zoning district in which it is located.

Legal nonconforming use means any lawfully established use of land, premises, building or structure at the time of the enactment of this chapter or any amendment applicable thereto that does not conform to the use regulations for the zoning district in which it is located.

Light or limited industrial means Industrial establishments such as those engaged in warehousing, wholesaling and distribution, assembly, fabrication, repair and maintenance services that comply with the standards listed in this chapter.

Living rooms means all rooms within a dwelling except closets, foyers, storage areas, utility rooms, and bathrooms.

Loading area means a completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

Lot (or parcel) means a parcel of land on which a principal building and its accessory building are placed, together with the required open spaces; provided that no such parcel be

bisected by a public street or other public or private right-of-way and shall not include any portion of a public right-of-way. No lands dedicated to the public or reserved for roadway purposes shall be included in the computation of lot size.

Lot, corner means a lot abutting two or more streets at their intersection. Corner lots shall have one or more side yards and two street yards, being those sides abutting on the lot's two public roadways.

Lot coverage means the area under a roof and enclosed by the exterior permanent walls.

Lot, double frontage means a parcel of land, other than a corner lot, with frontage on more than one (1) street or with frontage on a street and a navigable body of water. Double frontage lots shall be deemed to have two (2) street yards and no rear yard, even though access may be permitted on only one street.

Lot, interior means a lot situated on a single street which is bounded by adjacent lots along each of its other lines.

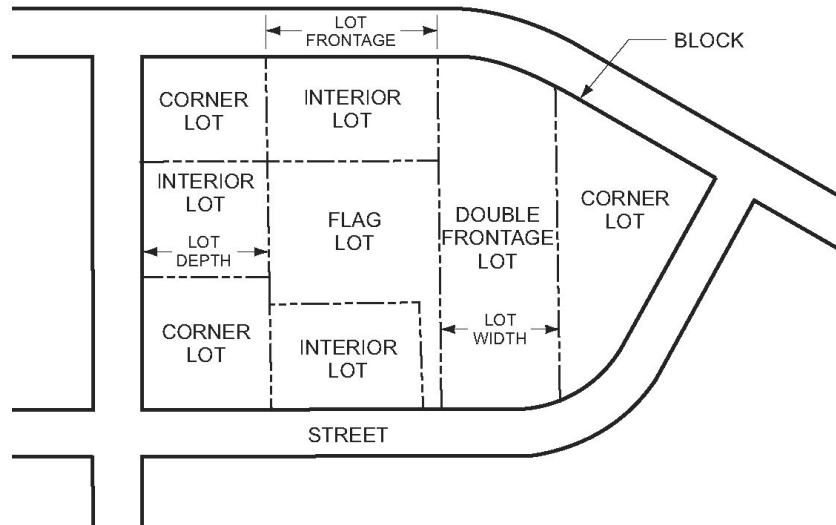
Lot lines and area mean the peripheral boundaries of a parcel of land and the total area lying within such boundaries.

Lot of record means a platted lot of a recorded subdivision, certified survey map, or parcel of land for which the deed, prior to the effective date of the ordinance from which this chapter derives, is on record with the county register of deeds and which exists as described therein.

Lot, through See *Lot, double frontage*.

Lot width means the width of a parcel of land measured at the street setback line, as defined herein. See below illustration.

TYPICAL CORNER, DOUBLE FRONTAGE,
FLAG AND INTERIOR LOTS



(Amended; Ordinance 2017-01)

Machine shops means shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding, and sheetmetal shops; plumbing; heating and electrical repair and overhaul shops.

Master plan means a plan, map, report, or other document pertaining to the physical development of the Village which has been adopted by the Village, as described in Wis. Stat. Sections 62.23 and 66.1001 (sometimes called a comprehensive plan).

Minor structure means any small, movable accessory erection or construction, such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences under four feet in height.

Mobile home or a manufactured mobile home means a transportable structure, being eight feet or more in width (not including the overhang of the roof) or 32 feet or more in length (not including the overhang of the roof or tow bar), built on a chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.

Mobile home lot means a parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

Mobile/manufactured home park means a parcel of land which has been developed pursuant to this ordinance and other codes and ordinances of the Village for placement of a mobile/manufactured home and owned by an individual, a firm, trust, partnership, public or

private association, or corporation. Individual lots within a mobile home park may be rented or sold to individual mobile home owners. Also including the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed such as the installation of utilities, construction of streets, site grading and the pouring or placement of concrete pads.

Mobile recreational vehicle or RV means a single chassis vehicle designed to be self-propelled, or carried or towed by a licensed light-duty vehicle; is licensed for highway use if required by local or state law; is designed for temporary or seasonal recreation use and not for permanent habitation; and, is normally less than 300 square feet but can be no more than 400 square feet in wall-to-wall area.

Modular unit means a factory-fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational, or industrial purposes.

More restrictive means a regulation imposed by this chapter prohibits or limits development to a greater extent or by means of more detailed specifications.

Multiple family dwelling means a structure arranged or designed to be occupied by three (3) or more families living independently of each other.

Net land area means a parcel of land including no land devoted to access to the parcel or devoted to uses attendant to or provided for service to the parcel or residents thereof.

Nonconforming use, building or structure See *legal nonconforming lot*, *legal nonconforming structure* and *legal nonconforming use*.

Occupancy permit means a required permit that allows occupancy of a building, structure, land, or use, which certifies that the occupancy complies with the provisions of this chapter and any other applicable governmental regulations.

Open space means a natural area or manmade landscape area not occupied by any structures, impervious surfaces, gravel drives, or parking areas.

Outlot means a parcel of land in a subdivision or development that may be held in common ownership and that is set aside for the preservation of the land in a natural state or for a future phase of the development. Outlots may not be used for any purpose except for recreation/open space, utility or drainage purposes or that use which is existing at the time of being designated an outlot, but may be changed to a standard lot by action of the Plan Commission and Village Board.

Owner means the person or persons having the right of legal title.

Parking lot means a structure or premises containing five (5) or more marked off-street parking spaces. Such spaces may be for rent or a fee in a non-residential area.

Parking space means a graded and surfaced area of not less than 180 square feet in area, either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

Parties in interest means an owner of property, all abutting property owners, all property owners within 100 feet, and all owners of property across the street.

Party wall means a wall containing no opening, which extends from the elevation of building footings to the elevation of the outer surface of the roof or above, and which separates contiguous buildings but is in joint use for each building.

Planned unit development (PUD) is the process or procedure whereby a relatively large parcel of land is developed for a specific use or uses in such a way so as to provide specific benefits to both the developer and the community in which the development is proposed. The basic benefits to the developer are: the reduction in individual parcel size and yard requirements while maintaining the density requirement of the zoning district or districts within which the development is located; the consequent reduction in linear feet of streets and utilities; provision of common open space; and, the greater flexibility in overall design in order to overcome or avoid negative characteristics of the land. The basic benefits to the community include: the reduction in linear feet of streets and facilities to be maintained; greater control of the aesthetic quality of the development; better utilization of the land; and, the addition of open space area providing recreational opportunities to immediate residents of the development. PUDs when allowed in a zoning district must comply with the specific requirements as set forth in the district regulations.

Planting screen means an area landscaped with natural growing coniferous and deciduous plant material that are sufficiently dense and of adequate height at all times as to effectively visually screen from view the object that is intended to be hidden.

Portable storage containers (enclosed) means a portable metal, wood or plastic storage unit or container or box of various sizes that is transported to a site similar to a solid waste dumpster and used to store goods and material. Such containers are sometimes called 'pods'.

Primary floor area means the floor area of a building for purposes of determining required parking ratios, which area shall include only that portion of the total floor area devoted to customer service, sales and office space and shall not include utility, hallways and other accessory space in which employees are not specifically accomplishing work tasks and, therefore, does not generate parking demand.

Principal building or structure means a building or structure used or intended to be used for the principal use as permitted on such lot by the regulations of the zoning district in which it is located.

Principal use means the main or primary use of land, premises, buildings or structures as permitted by the regulations of the zoning district in which such use is located.

Private sewerage system means one of several on-site sewage disposal systems officially approved for use by the Wisconsin Department of Safety and Professional Services and Racine County, including: a 'conventional' septic tank and attached absorption field; a 'mound' system; or, a holding tank.

Processing is a series of operations, usually in a continuous and regular action or succession of actions, taking place or carried on in a definite manner. The term processing is generally associated with the transformation of raw materials or substances into new products. For purposes of use in this chapter, processing shall not include heavy industrial uses such as

tanneries, meat packing, foundries, hazardous waste recycling, chemical production, and other similar uses.

Public and semipublic buildings are structures that house uses that serve a public need such as: hospitals, rest homes, schools (including, but not limited to, private academic schools and nursery schools), government offices, libraries, museums, post offices, police and fire stations, public and private utilities and other similar public services; but not including bars, restaurants or recreation facilities.

Public Improvements mean any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs such as: streets, roads, alleys or pedestrian walks or paths, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewerage disposal and treatment, public utility and energy services.

Public utility means any person, corporation or municipality duly authorized, under public regulation, to furnish and/or manage electricity, gas, steam, telephone, communication, transportation, sanitary sewerage service or water supply to the public.

Public utilities means any underground or overhead electricity, telephone or communication transmission lines as well as underground systems of pipes or conduits transporting natural gas, oil, steam, potable water, storm water or wastewater.

Quarrying means the removal of rock, slate, gravel, sand, topsoil, peat or other natural material from the earth by excavation, stripping, leveling or any other such process, excluding the removal solely of sod.

Quasi-Public means property owned or operated by a non-profit, religious or charitable institution and providing educational, cultural, recreational, religious or similar types of public programs.

Reach means a longitudinal segment of a stream generally including those floodlands wherein flood stages are primarily and commonly controlled by the same manmade or natural obstructions to flow.

Rear lot line means the lot line opposite to and most distant from street lot line.

Rear yard means a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot.

Recreational vehicle or equipment means a vehicle or piece of equipment which can be towed, hauled, carried or driven and designed as a temporary living accommodation for recreational camping and/or travel use and including but not limited to travel trailers, truck campers, tent trailers, camping trailers, self propelled motor homes, and boats.

Residential unit means a configuration of rooms or individual spaces normally consisting of bedroom(s), bathroom(s), kitchen, living room/area, dining room/area and access hallways and, perhaps, basement and automobile garage all enclosed within exterior walls as either a single unit or attached to other such enclosures as a multiple unit building and designed and

built for the purpose of housing a person, family or group of persons as a dwelling place or place to reside.

Restaurant means a commercial establishment where food and beverage are prepared, served and consumed primarily within the principal building, and where food sales constitute more than eighty (80%) percent of the gross sales receipts for food and beverages.

Retail means the sale of commodities, goods or services in small quantities to ultimate consumers.

Right-of-way means a strip of land acquired by gift, purchase, reservation, dedication, forced dedication, or condemnation and occupied or intended to be occupied by a street, highway, cross-walk, railroad, electric transmission line, oil or gas pipeline, water line, sanitary or storm sewer and other similar uses.

Road is synonymous with street.

Roof line means the uppermost line of the roof of a building or, in the case of an extended facade or parapet, the uppermost height of said facade or parapet.

Safe vehicular access means an access of sufficient width and adequate vertical and horizontal alignment to accommodate emergency vehicles and having a slope not to exceed ten (10%) percent at any point.

Seat means furniture upon which to sit, having a linear measurement not less than 24 inches across the surface used for sitting.

Sectional home means a dwelling made of two or more modular units, factory fabricated and transported to the home site where they are put on a foundation and joined to make a dwelling unit.

Sedimentation means the deposition of soil that has been transported from a site or origin by water, ice, wind, gravity, or other natural means as a result of erosion.

Secondary access is a means of vehicular or non-vehicular approach, i.e. entry to a property from a source other than a public street or highway, or exit from a property to a source other than a public street or highway.

Side yard means a yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

Skilled nursing facilities means a nursing home which is licensed by the State to provide skilled nursing services.

Sleeping accommodations offered for pay. All sleeping rooms on the premises including quarters occupied by permanent guests but excluding sleeping rooms occupied by the operator or owner or his or her immediate family.

Soil processing means an operation which entails the import or export of soil material for purposes of machine processing, sifting, pulverizing, blending or like process.

Start or commencement of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured 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.

Story means that portion of a principal building included between the surface of any floor and the surface of the next floor above, or, if there is no floor above, the space between the floor and the ceiling next above. A basement shall not be counted as a story.

Story, half means a story that is situated in a sloping roof, the floor area of which does not exceed two-thirds of the floor area of the story immediately below it, and which does not contain an independent dwelling unit.

Street means a public right-of-way not less than 60 feet wide providing primary access to abutting properties.

Street dedication means the designation by plat, certified survey map, or written deed of a certain area to be used for street or other public purposes pursuant to Wisconsin Statutes. A dedication transfers title to the dedicated property from the private landowner to the public domain.

Street line means a dividing line between a lot or parcel of land and a contiguous street.

Street lot line means a lot line which abuts a public or private street right-of-way

Street reservation (road reservation) means the designation by plat, certified survey map, or written deed of a certain area reserved for possible future public street purposes. A reservation does not transfer title of the reserved area to the public domain unless the area is accepted by the Village for public street purposes.

Street yard or set back means a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) such yards.

Strip development means a linear pattern of, usually, commercial land uses or buildings located on a single parcel development visible from and fronting on a street and which is generally only one lot deep.

Structural alterations means any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

Structure means any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

Substantial damage means damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its pre-damaged condition would equal or exceed fifty (50%) percent of the equalized assessed value of the pre-damaged building or structure.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either: (i) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (ii) any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components.

Subsisted yield forestry is the management of forested lands to provide periodic crops of forest products.

Swimming pool means any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent which is either above or below the ground in which water of more than twenty-four (24") inches in depth is contained and which is used primarily for the purpose of swimming.

Temporary use means a use of a building permitted by the Plan Commission to exist during periods of construction of the main building or use, or for special events.

Tourist or transient. A person who travels to a location away from his or her permanent address for a short period of time for vacation, pleasure, recreation, culture, business or employment.

Tourist rooming house. All lodging places and tourist cabins and cottages, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients. "Tourist rooming house" does not include private boarding or rooming houses not accommodating tourists or transients, nor bed and breakfast establishments regulated under state law, but does include, without limitation, all short-term rentals of homes or apartments, or parts thereof, via "Airbnb," "VRBO," and similar websites, apps, and other services that facilitate individuals renting space in their residences to tourists or transients.

Townhouse means a linear series of single family dwelling units, usually two (2) or more stories, attached on one or both sides by party walls to other single family units of similar type in the series and having direct outside access and individual street and rear yards, the end units only having a single side yard on the unattached side.

Tri-level dwelling means a three-level dwelling with two (2) levels above lot grade and the third level at least fifty (50%) percent below lot grade; the lowest level may or may not have exterior access.

Turning lanes means an existing or proposed connecting roadway between two arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

Two-family dwelling is a residential structure designed for and occupied exclusively by two families in separate suites of rooms.

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

Use, accessory means a subordinate use on the same lot which is incidental and customary in connection with the principal use.

Warehouse means a building used primarily for the storage of business-generated goods and materials and/or as a distribution center.

Well is a hole that is drilled, driven, bored or dug into the earth for the purpose of finding and extracting liquid or vaporous natural resources, including potable water.

Wholesale trade means establishments or places of business primarily engaged in selling merchandise to retailers', industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Yard means an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. Also, that area of a lot between the minimum building setbacks, as set forth in the district regulations, and the exterior boundaries of the lot. A street yard is measured across the full width of the lot.

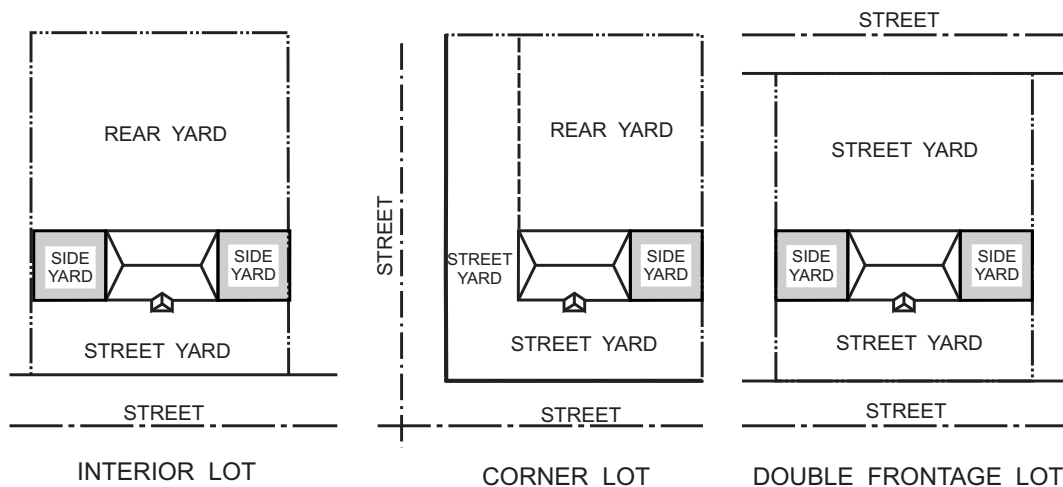
Yard, rear. See Rear yard.

Yard, side. See Side yard.

Yard, street. See Street yard. Also, see illustration below.

ILLUSTRATION

LOCATION OF YARDS ON TYPICAL INTERIOR, CORNER, AND DOUBLE FRONTAGE LOTS



Cross references: Definitions generally, § 1-2. (Last update: Ord. 2016-04, 08/08/16) (Amended; Ordinance 2017-01)

Sec. 118-2. Statutory authority.

This chapter is adopted under the authority granted by Wis. Stat. §§ 61.35, 62.23(7) and 87.30(2) and amendments thereto.
(Ord. of 11-24-94, § 1.1)

Sec. 118-3. Purpose.

The purpose of this chapter is to promote the comfort, health, safety, prosperity, aesthetics, orderly growth and general welfare of the village.
(Ord. of 11-24-94, § 1.2)

Sec. 118-4. Intent.

It is the general intent of this chapter to regulate and restrict the use of all structures, lands, and waters and to:

- (1) Regulate lot coverage and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage;
- (2) Regulate population density distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services and utilities;

- (3) Provide suitable locations for residential housing for all persons without discrimination, as required and delineated in Wis. Stat. § 106.50;
- (4) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- (5) Secure safety from fire, flooding, pollution, contamination, and other dangers;
- (6) Stabilize and protect existing and potential property values;
- (7) Preserve and protect the beauty of the village;
- (8) Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters;
- (9) Further the maintenance of safe and healthful water conditions;
- (10) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- (11) Provide for and protect a variety of suitable commercial and industrial sites;
- (12) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (13) Implement those municipal, watershed, and regional comprehensive plans or plan components adopted by the village;
- (14) Provide for the administration and enforcement of this chapter; and
- (15) Provide penalties for the violation of this chapter.

(Ord. of 11-24-94, § 1.3) (Amended; Ordinance 2017-01)

Sec. 118-5. Abrogation and greater restrictions.

It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. Property owners and users are advised to determine the extent to which privately-created, non-zoning restrictions, such as deed restrictions or restrictive covenants, may encumber a property's use in ways that are more restrictive than village zoning. The village cannot enforce such private restrictions, which may include limitations on primary or accessory uses or structures, or mandatory membership in a property or homeowners' association, but such restrictions may nevertheless be enforceable privately. However, wherever this chapter imposes greater restrictions than any applicable privately-created, non-zoning restriction, the provisions of this chapter shall govern.

(Last update: Ord. 2012-01; 03/26/12)

Sec. 118-6. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the village and shall not be construed to be a limitation or repeal of any other power possessed by the village or powers granted by state law. If any provision could be construed either to regulate the use of property or to exclude such use from regulation, the provision shall be construed as regulating such use.

(Ord. of 11-24-94, §§ 2.4, 27.2)

Sec. 118-7. Jurisdiction.

The jurisdiction of this chapter shall include all structures, land, water and air within the corporate limits of the village.

(Ord. of 11-24-94, § 2.1)

Sec. 118-8. Compliance.

No structure, development, land, water, or air shall be used and no structure or part thereof shall be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit, and without full compliance with this chapter and all other local, county, and state regulations.

(Ord. of 11-24-94, § 2.2)

Sec. 118-9. Severability and nonliability.

If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby. The village does not guarantee, warrant, or represent that only those areas designated as floodlands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the village board, its agencies, or employees for any flood damages that may occur as a result of reliance upon and conformance with this chapter.

(Ord. of 11-24-94, §§ 2.5, 27.3)

Sec. 118-10. Violations and penalties.

(a) *Violations.* It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the sections of this chapter. If any violation occurs, the village board, the zoning administrator, the plan commission or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this chapter or cause a structure to be vacated or removed.

(b) *Nuisances.* Every structure, fill, or development placed or maintained within any floodland area in violation of this chapter is a public nuisance, and the creation thereof may be enjoined and maintenance thereof may be abated by action at suit of the state, the county, the village or any citizen thereof.

(c) *Remedial action.* Whenever an order of the zoning administrator has not been complied with within 30 days after written notice has been mailed to the owner, resident agent or occupant of the premises, the village board, the zoning administrator, or the village attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land or water.

(d) *Penalties.* Any person who fails to comply with this chapter or with any order of the zoning administrator issued in accordance with this chapter or who resists enforcement shall, upon conviction, forfeit not less than \$20.00 or more than \$1,000.00 and costs of prosecution of each violation and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment thereof, but not exceeding six months. Each day a violation exists or continues shall constitute a separate offense. It shall not be necessary to prosecute for forfeiture before resorting to injunction proceedings.
(Ord. of 11-24-94, § 24.0)

Sec. 118-11. Public nuisances.

No section of this chapter shall be construed to bar an action to enjoin or abate the use or occupancy of any land, buildings or other structures as a nuisance under the appropriate state laws.
(Ord. of 11-24-94, § 2.71)

Cross references: Public nuisances generally, § 42-26 et seq.

Sec. 118-12. Public utilities.

No section of this chapter shall be construed to prohibit the customary and necessary construction or maintenance of aboveground or underground public utilities, neighborhood service lines, and mechanical appurtenances thereto, where reasonably necessary for the preservation of the public health, safety, convenience and welfare.
(Ord. of 11-24-94, § 2.72)

Cross references: Utilities generally, ch. 106.

Sec. 118-13. Use regulation.

The use of existing buildings, subject to rights of nonconforming existing uses, the use of buildings erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established in this chapter for the district in which such land or building is located.
(Ord. of 11-24-94, § 2.73)

Sec. 118-14. Location of building on lot.

Every building erected, converted, enlarged or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on a lot.
(Ord. of 11-24-94, § 2.74) (Amended; Ordinance 2017-01)

Sec. 118-15. Existing permits issued.

Nothing contained in this chapter 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 the ordinance from which this chapter derives and the construction of which shall have been started within six months from the date of such permit, or within three months from the date of adoption of the ordinance from which this chapter derives, whichever shall be sooner.

(Ord. of 11-24-94, § 2.75)

Sec. 118-16. Adult-oriented establishments.

(a) Findings.

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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 45 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.
- (6) 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.

(b) Definitions. As used in this section, the following words and phrases shall mean:

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

Operators. Any person, partnership, or corporation operating, conducting, maintaining or owning any adult oriented establishment.

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.

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.

(c) **Uses.** An adult oriented establishment shall be an allowed principal use in Commercial and Industrial Districts subject to 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.

(d) **Regulations applicable to all adult oriented establishments.**

- (1) 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.
- (2) Animals. No animals, except only for service animals, shall be permitted at any time at or in any adult oriented establishment or licensed premises.
- (3) 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.
- (4) 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 Article VII – Signs and Graphics with regard to signs.
- (5) Sign limitations. See Article VII for sign requirements.
- (6) Noise. No loudspeakers or sound equipment audible beyond the adult oriented establishment shall be used at any time.
- (7) 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.

- (8) Adult booths prohibited. Adult booths shall be prohibited in all adult oriented establishments.
- (9) No loitering policy. The adult oriented establishment shall clearly post and strictly enforce a no loitering policy.
- (10) 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."
- (11) 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.
- (12) 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.
- (13) 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.
- (14) 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.
- (15) Location restrictions. No adult oriented establishment may locate within one thousand (1,000) feet of a 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 45 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 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 45 or State Trunk Highway 11, this distance is measured from the outside highway right-of-way line, including frontage road(s).

- (16) Residential quarters not allowed. No residential quarters shall be allowed on a premises with an adult oriented establishment.

(e) 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):

(1) Applicant information.

- a. *Individuals.* Applicant's legal name; all of the applicant's aliases, if any; the applicant's age and business address.
- b. *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.
- c. *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.
- d. *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.

- (2) 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.
- (3) The general character and nature of the applicant's business.
- (4) The length of time that the applicant has been in the business of the character specified in response to subsection (c) above.
- (5) The location (including street address and legal description) and telephone number of the premises for which the adult oriented establishment permit is sought.
- (6) The specific name of the business that is to be operated under the adult oriented establishment permit.
- (7) The identity of each fee simple owner of the licensed premises.
- (8) 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.
- (9) The specific type(s) of adult oriented establishment(s) that the applicant proposes to operate on the licensed premises.
- (10) 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.
- (11) The name of the individual(s) who shall be the day-to-day, on-site manager(s) of the proposed adult oriented establishment.
- (12) The application fee, site plan review fee, and zoning permit fee in the amount as set periodically by resolution of the Village board.
- (13) Any other information the village may reasonably require to apply the requirements of this section.

- (14) 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.
- (15) 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.

(f) 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.

(g) 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.

(h) 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.

(i) Standards for issuance or denial of adult oriented establishment licenses.

- (1) Issuance. The village shall issue an adult oriented establishment license to an applicant if the Village Board finds and determines all of the following:
 - a. All information and documents required by this section for issuance of an adult oriented establishment license has been properly provided.
 - b. 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.
 - c. The adult oriented establishment and the operator comply with all requirements of this section.
 - d. The applicant has signed the permit he or she has received indicating his or her acceptance of the conditions of the permit.

- (2) 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.
- (3) 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.

(j) 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.

(k) 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.

Secs. 118-17--118-40. Reserved.

Article II. Administration and Enforcement*

Division 1. Generally

Secs. 118-41--118-65. Reserved.

Division 2. Zoning Administrator*

***Cross references:** Officers and employees, § 2-101 et seq.

Sec. 118-66. Designated; duties.

(a) The village board shall appoint a zoning administrator as the administrative and enforcement officer for this chapter.

(b) The duty of the zoning administrator shall be to interpret and administer this chapter and to issue or deny all permits required by this chapter. The zoning administrator or his/her designee, with the assistance of the building inspector, shall further:

***Cross references:** Administration, ch. 2.

- (1) Maintain records of all permits issued, inspections made, work approved, and other official actions.

- (2) Record the lowest floor elevations of all structures erected, placed, moved, structurally altered, or improved in the floodland districts.
- (3) Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
- (4) Inspect all structures, lands, and waters as often as necessary to ensure compliance with this chapter.
- (5) With the aid of the local law enforcement authority, building inspector and/or the village attorney, investigate all complaints made relating to the location, 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.
- (6) Assist the village attorney in the prosecution of violations of this chapter.
- (7) Be permitted access to public or private premises, lands, structures or waters during reasonable hours to make those inspections as deemed necessary by him/her to ensure compliance with this chapter. If, however, he/she is refused entry after presentation of identification, the zoning administrator may procure a special inspection warrant in accordance with Wis. Stat. § 66.0119.
- (8) Prohibit the use or erection of any structure, land, or water until he has inspected and approved such use or erection.
- (9) Request assistance and cooperation from the municipal police authority, building inspector and village attorney as deemed necessary.

(Ord. of 11-24-94, §§ 2.2, 22.1) (Amended; Ordinance 2017-01)

Sec. 118-67. Deputies.

The village board may appoint or may authorize the appointment of deputies to the zoning administrator.

(Ord. of 11-24-94, § 22.2)

Secs. 118-68--118-95. Reserved.

Division 3. Board Of Appeals*

*Cross references: Administration, ch. 2.

Sec. 118-96. Established; composition; appointments.

A board of appeals is established. The board of appeals shall consist of five members appointed by the village president and confirmed by the village board. Appointments shall be made in the manner prescribed by Wis. Stat. § 62.23(7)(e).

(Ord. of 11-24-94, § 20.11) (Amended; Ordinance 2017-01)

Sec. 118-97. Alternate members.

The village president may appoint two alternate members for staggered terms of three years, who shall act with full power only when a member of the board of appeals is absent or refuses to vote because of interest.

(Ord. of 11-24-94, § 20.13; Ord. of 11-19-97, § 1) (Amended; Ordinance 2017-01)

Sec. 118-98. Vacancies; removal.

(a) Vacancies in the board of appeals shall be filled for the unexpired terms of members whose terms become vacant.

(b) The members shall be removable by the village president for cause upon written charges and after public hearing.

(Ord. of 11-24-94, §§ 20.12, 20.13)

Sec. 118-99. Rules of procedure.

The board of appeals shall adopt rules and regulations for its government and procedure. Meetings of the board of appeals shall be held at the call of the chairperson and at such other times as the board of appeals may determine. The chairperson or, in the chairperson's absence, the acting chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. However, the board of appeals may convene in closed session in accordance with Wis. Stat. § 19.85.

(Ord. of 11-24-94, § 20.14) (Amended; Ordinance 2017-01)

Sec. 118-100. Minutes.

Minutes of its proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question, the reasons for the Board's determination and its findings of fact. These records shall be immediately filed in the office of the board of appeals and shall be a public record.

(Ord. of 11-24-94, § 20.15) (Amended; Ordinance 2017-01)

Sec. 118-101. Powers.

If a quorum is present, the board of appeals may take action by a majority vote of the members present. The board of appeals shall have the power to:

- (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator.
- (2) Hear and decide special exceptions to the terms of this chapter upon which the board of appeals is required to pass.
- (3) Authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.
- (4) To hear and grant applications for substitution of the same or more restrictive nonconforming uses for existing nonconforming uses.
- (5) To hear and decide application for interpretation of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
- (6) Reverse, affirm wholly or partly, modify the order, decision, determination or requirement appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end, shall have all the powers of the offices from whom the appeal is taken, and may issue or direct the issue of a permit.
- (7) The board of appeals may request assistance from other village officers, departments, commissions and boards.
- (8) Have the powers provided by Wis. Stat. § 62.23(7)(e) or by any ordinance of the village.

(Ord. of 11-24-94, § 20.5) (Amended; Ordinance 2017-01)

Sec. 118-102. Appeals to board.

Appeals to the board of appeals may be taken as provided by Wis. Stat. § 62.23(7)(e) by any person aggrieved or by any officer, department, board or bureau of the village affected by any decision of the zoning administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the board of appeals, by filing with the officer from whom the appeal is taken and with the board of appeals a notice of appeal specifying the grounds thereof.

(Ord. of 11-24-94, § 20.2) (Amended; Ordinance 2017-01)

Sec. 118-103. Application.

(a) Appeals and applications to the board of appeals shall include the following:

- (1) Name and address of the appellant or applicant and all abutting and opposite property owners of record.
- (2) A plat of the survey prepared by a registered land surveyor showing all of the information required under section 118-136 for a zoning permit.
- (3) Additional information required by the plan commission, public works director, board of appeals, or zoning administrator.
- (4) Fee receipt from the village clerk-treasurer in the amount required for board of appeals hearings.

(b) The zoning administrator shall forthwith transmit to the board of appeals all the papers constituting the record upon which the action appealed from was taken.
(Ord. of 11-24-94, § 20.3)

Sec. 118-104. Hearings.

(a) The board of appeals shall fix a reasonable time and place for the hearing of the appeal or application; and shall give public notice thereof by publication at least once during two consecutive weeks, the last publication being no later than one week before the hearing. In addition, the board shall give due notice to the parties in interest, including the officer from whom the appeal is taken.

(b) At the hearing the appellant or applicant may appear in person, by agent, or by attorney.

(c) A copy of all notices of appeals or variances to the floodland provisions of this chapter shall be transmitted to the state department of natural resources (DNR) for review and comment. Final action on floodland appeals and variance requests shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first.

(Ord. of 11-24-94, § 20.4) (Amended; Ordinance 2017-01)

Sec. 118-105. Powers of the Board of Appeals in Floodplain Appeals.

The Board of Appeals shall have the powers and duties in Floodplain appeals as set forth in Sec. 118-1176(c) and shall follow all requirements and procedures set forth in under Sec. 118-1176 as applicable.

(Last update: Ord. 2012-02; 04/09/12)

Sec. 118-106. Variances.

(a) No variance to the provisions of this chapter shall be granted by the board of appeals unless it finds by a preponderance of the evidence that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

- (1) Preservation of Intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated principal, conditional, or accessory use.
- (2) Unnecessary Hardship. Unnecessary hardship exists when enforcement of ordinance requirements would unreasonably prevent an owner from using property for a permitted purpose or would render conformity with such requirements unnecessarily burdensome. Consideration shall be given to the purpose and intent of the zoning ordinance, its effects on the property, and the short-term, long-term, and cumulative effects of granting the variance on the neighborhood, the Village, and on public interests. Self-imposed or self-created hardships shall not be considered as grounds for the granting of a variance. Economic or financial hardship does not justify a variance. The property owner bears the burden of proving unnecessary hardship exists. The Board shall consider the property as a whole rather than a portion of the parcel when determining unnecessary hardship.
- (3) Unique Property Limitations. There are unique physical limitations on the property, such as steep slopes or wetlands, which are not generally shared by other properties in the same zoning district and which prevent compliance with the ordinance. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide a basis for granting a variance.
- (4) No Harm to Public Interests. A variance may not be granted which results in harm to public interests. In applying this test, the Board shall consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the Village, and the general public. These interests include public health, safety, and welfare; water quality; natural scenic beauty; protection of property values; minimizing damage from hazards; provision of efficient public facilities and utilities; and other public interest issues.

(Last update: Ord. 2012-02; 04/09/12)

Sec. 118-107. Decisions.

(a) *Time limits.*

- (1) The board of appeals shall decide all appeals and applications, except appeals and variance requests to the floodland provisions of this chapter, within 30 days after the final hearing and shall transmit a signed copy of the board's decision to the appellant or applicant, the officer from whom the appeal is taken and the plan commission. Decisions on appeals to the floodland provisions of this chapter shall be made as soon as is practicable, but not more than 60 days after the required public hearing.
- (2) Decisions on appeals and variance requests to the floodland provisions of this chapter shall not be made for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions on floodland appeals or variance requests shall be transmitted to the DNR within ten days of their effective date.

(b) *Expiration of variances.* Variances and substitutions granted by the board of appeals shall expire within six months, unless substantial work has commenced pursuant to such grant. An extension, the duration to be determined by the zoning administrator on a case-by-case basis, may be granted by the zoning administrator prior to its expiration. The zoning administrator or applicant may request that the board of appeals review and approve the request for extension.

(c) *Establishment of conditions.* In exercising any of its powers, the board of appeals may, in any finding or decision, establish appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter.
(Ord. of 11-24-94, § 20.8) (Amended; Ordinance 2017-01)

Sec. 118-108. Review of decisions by court.

Any person aggrieved by any decision of the board of appeals or any taxpayer or any officer, department, board or bureau of the village may, within 30 days after the filing of the decision in the office of the board of appeals, but not thereafter, present to a court of competent jurisdiction a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality, whereupon such decision of the board shall be subject to review as provided by law. (Ord. of 11-24-94, § 20.9)

Secs. 118-109--118-135. Reserved.

Division 4. Permits and Certificate of Compliance

Sec. 118-136. Zoning permit.

(a) Applications for a zoning permit shall be made to the zoning administrator on forms furnished by the village and shall include the following where pertinent and necessary for proper review:

- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, and contractor.
- (2) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees, and the zoning district within which the subject site lies.
- (3) Plat of the survey prepared by a land surveyor registered in the state or other map drawn to scale and approved by the zoning administrator showing the location, boundaries, dimensions, uses, and size of the following:
 - a. The site;
 - b. Existing and proposed structures;
 - c. Existing and proposed easements, streets, and other public ways;
 - d. Off-street parking, loading areas, and driveways;
 - e. Existing highway access restrictions;
 - f. High water;
 - g. Channel, floodway, and floodplain boundaries;
 - h. Existing and proposed street, side, and rear yards; and
 - i. The location, elevation and use of any abutting lands and their structures within 40 feet of the subject site.
- (4) Additional information as may be required by the plan commission or zoning administrator.

(b) A zoning permit shall be granted or denied in writing by the zoning administrator within 30 days of application, and the applicant shall post such permit in a conspicuous place at the site.

(c) The permit shall expire within six months unless substantial work has commenced or within 18 months after the issuance of the permit if the structure for which a permit is issued is not substantially completed.

(d) Any permit issued in conflict with this chapter shall be null and void.

(Ord. of 11-24-94, § 23.1) (Amended; Ordinance 2017-01)

Sec. 118-137. Certificate of compliance.

(a) *Required.* No vacant land shall be occupied, used, or developed and no building shall be located, moved, reconstructed, or structurally altered and no floodland shall be filled, excavated, or developed and no nonconforming use shall be maintained, renewed or changed until a certificate of compliance has been issued by the zoning administrator. Such certificate shall show that the structure or premises or use is in conformance with this chapter. Such certificate shall be applied for at the time a person occupies any land or structure or there is a renewal or change in a nonconforming use.

(b) *Application.* Application for a certificate of compliance shall be made in the same manner as for a zoning permit pursuant to section 118-136. Application for a certificate of compliance in the floodland districts shall include a certification by a registered professional engineer or land surveyor of full compliance with the floodland regulations set forth in this chapter.

(c) *Existing uses.* Upon written request from the owner, the zoning administrator shall issue a certificate of compliance for any building or premises existing on the effective date of the ordinance from which this chapter derives, certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to this chapter. (Ord. of 11-24-94, § 23.2)

Sec. 118-138. Conditional use permit.

(a) *Conditions for issuance.* The plan commission may authorize the zoning administrator to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this chapter and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community.

(b) *Application.* Application for a conditional use permit shall be made to the zoning administrator on forms furnished, in accordance with subdivision II of division 3 of article V of this chapter. (Ord. of 11-24-94, § 23.3)

Sec. 118-139. Other permits.

Under this chapter, it is the responsibility of a permit applicant to secure all other permits required by any federal, state, or local agency. This includes, but is not limited to, a water use permit pursuant to Wis. Stats. ch. 30 or a wetland fill permit pursuant to section 404 of the Federal Water Pollution Control Act, as amended. To this end, the zoning administrator shall satisfactorily determine and the permit applicant shall certify that all necessary federal, state, and local permits have been secured. (Ord. of 11-24-94, § 23.4)

Sec. 118-140. Public utilities exemption.

Under this chapter, no permit shall be required for the necessary and customary construction, reconstruction or maintenance of overground or underground public utility neighborhood service lines and mechanical appurtenances.

(Ord. of 11-24-94, § 23.5)

Sec. 118-141. Plat of survey.

Under this division, all dimensions shown relating to the location and size of the lot shall be based upon an actual survey or recorded plats. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

(Ord. of 11-24-94, § 23.6)

Sec. 118-142. 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 zoning 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 permit fees established by the village building code.

(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.

(Ord. of 11-24-94, §§ 23.7, 23.8)

Sec. 118-143. Payment of village expenses.

In addition to those fees established by the village board in accordance with section 118-142, each petitioner shall pay an additional fee equal to all expenses incurred by the village in the consideration of his 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. 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.

(Ord. of 11-24-94, § 23.9)

Secs. 118-144--118-170. Reserved.

Division 5. Amendments

Sec. 118-171. Authority.

(a) Whenever the public necessity, convenience, general welfare or good zoning practice require, the village board may, by ordinance, change the zoning district boundaries or amend, change or supplement the regulations established by this chapter or amendments thereto.

(b) Such change or amendment shall be subject to the review and recommendation of the plan commission.
(Ord. of 11-24-94, § 26.1)

Sec. 118-172. Initiation.

A change or amendment to any zoning district boundary or this chapter may be initiated by the village board, plan commission, or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.
(Ord. of 11-24-94, § 26.2)

Sec. 118-173. Petitions.

Petitions for any change to the zoning district boundaries or amendments to this chapter shall be filed with the village clerk-treasurer, shall describe the premises to be rezoned or the regulations to be amended, shall list the reasons justifying the petition, shall specify the proposed use and shall have attached the following:

- (1) A plot plan, drawn to a scale of one inch equals 100 feet or at a scale approved by the plan commission, showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 300 feet of the area proposed to be rezoned.
- (2) Owners names and addresses of all properties lying within 200 feet of the area proposed to be rezoned.
- (3) A legal description of the area to be rezoned.
- (4) Additional information required by the plan commission, or village board.

(Ord. of 11-24-94, § 26.3) (Amended; Ordinance 2017-01)

Sec. 118-174. Recommendation of plan commission.

The plan commission shall review all proposed changes and amendments to this chapter within the corporate limits and shall recommend that the petition be granted as requested, modified, or denied.

(Ord. of 11-24-94, § 26.4) (Amended; Ordinance 2017-01)

Sec. 118-175. Hearings.

The village board shall hold a public hearing upon each proposed change or amendment to this chapter recommended by the plan commission, giving notice of the time, place, and the change or amendment proposed by publication of a class two notice, under Wis. Stat. ch. 985. The village board shall also give at least ten days' prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment, and the owners of all lands lying within 200 feet of any parcel included in the petition. Failure to give notice to any property owner shall not invalidate the action taken by the Village.

(Ord. of 11-24-94, § 26.5) (Amended; Ordinance 2017-01)

Sec. 118-176. Village board's action.

Under this division, following the hearing and after careful consideration of the plan commission's recommendations, the village board shall vote on the passage of the proposed change or amendment.

(Ord. of 11-24-94, § 26.6)

Sec. 118-177. Repealed.

Sec. 118-178. Protest.

If a protest against such district change or amendment to the regulations of this chapter occurs, duly signed and acknowledged by the owners of 20 percent or more either of the areas of the land included in such proposed change or by the owners of 20 percent or more of the land immediately adjacent extending 100 feet therefrom or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths of the members of the village board voting on the proposed change.

(Ord. of 11-24-94, § 26.8) (Amended; Ordinance 2017-01)

Secs. 118-179--118-205. Reserved.

Article III. Nonconforming Uses and Structures

Sec. 118-206. Existing nonconforming uses.

(a) The lawful nonconforming use of land, or water; or a lawful nonconforming use in a conforming or nonconforming structure; or a lawful nonconforming use on a conforming or nonconforming lot which existed at the time of the adoption or amendment of this chapter may be continued although the use does not conform with the provisions of this chapter; however:

- (1) Only that portion of the land or water in actual use may be so continued and the use may not be extended, enlarged substituted or moved except when required to do so by law or order or so as to comply with the provisions of this chapter.
- (2) Discontinuance. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to the provisions of this chapter.
- (3) Abolishment or Destruction. When a nonconforming use or a structure with a nonconforming use is damaged by violent wind, fire, flood, or other calamity to the extent of more than 50 percent of its assessed value, it shall not be restored except so as to comply with the use provisions of this chapter.
- (4) Total lifetime structural repair or alterations to a structure containing a nonconforming use shall not exceed 50 percent of the current assessed value of the structure unless it is permanently changed to conform to the use provisions of this ordinance. Figure No. 1 reflects the method by which the zoning administrator shall determine when modifications to nonconforming uses and their structures are equal to 50 percent.
- (5) Substitution of new equipment may be permitted by the board of zoning appeals if such equipment will reduce the incompatibility of the nonconforming use with neighboring uses.

Figure No. 1

IS IT 50 PERCENT YET?

Sample Problem: Let's assume that the owner of a nonconforming house wishes to add a room to the house. If the house had an equalized assessed value of \$60,000, the property owner would be able to make improvements valued at 50 percent of the present equalized assessed value of the house or \$30,000. The improvement would have to be built to zoning standards. Any further additions or structural alterations could not be allowed unless the entire structure was changed to meet the requirements for a new structure.

Additions and modifications which are permitted are based upon a time period over the life of the structure as shown above. Therefore, if, in the example above, the property owner constructed a \$30,000 addition, no further additions could be allowed because the 50 percent improvement limit had been reached. However, let's assume that the addition was valued at \$12,000 or 20 percent of the equalized assessed value of the structure (\$60,000). Five years later, the property owner again comes in wishing to add an attached greenhouse. In the meantime, the present equalized assessed value of the house has increased from \$60,000 to \$80,000. The value of the greenhouse is \$8,000. The property owner has now accumulated \$20,000 of modifications, only 25 percent of the current equalized assessed value.

Finally, three years later, when the equalized assessed value of the house is \$100,000, the property owner again comes in wishing to modify his house to the extent of \$30,000. The cumulative value of the modifications totals \$50,000, or 50 percent of the equalized assessed value. No further modifications would be allowed until and unless the equalized assessed value increases.

This example is further clarified in the following table:

(NOTE – the base for calculation is **not** the **original** value of the home at the time the chapter is enacted, but is the equalized assessed value of the home at each time the home is modified.)

Year	Equalized Assessed Value of Home	Value of Modification	Cumulative Value
1977	\$ 60,000	\$12,000	\$12,000
1982	\$ 80,000	\$ 8,000	\$20,000
1985	\$100,000	\$30,000	\$50,000

Sec. 118-207. Changes and substitutions.

Once a nonconforming use or structure has been changed to conform to the requirements of this chapter, it shall not revert back to a nonconforming use or structure. The Zoning Board of Appeals may permit the substitution of a more restrictive nonconforming use for an existing nonconforming use. Once the Zoning Board of Appeals has permitted the substitution of a more restrictive nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Zoning Board of Appeals.

Sec. 118-208. Conforming structures on nonconforming lots.

(a) The conforming use of a conforming structure existing at the time of the adoption or amendment of this chapter may be continued although the lot area or lot width does not conform to the requirements this chapter.

(b) Additions and enlargements to such structures are permitted provided they conform to the established building setback lines along streets and the yard, height, parking, loading, access provisions, and other development regulations of this chapter.

(c) Existing structures on nonconforming lots which are damaged or destroyed by violent wind, fire, flood, or other calamity may be reconstructed provided they conform to the established building setback lines along streets and the yard, height, parking, loading, access provisions, and other development regulations of this chapter.

(d) Existing substandard structures may be moved and shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this chapter

Sec. 118-209. Nonconforming structures on a conforming or nonconforming lot.

(a) A nonconforming structure with a conforming use existing at the time of the adoption or amendment of this chapter may be continued although the structure's size or location does not conform to the development regulations of this chapter.

(b) Nonconforming structures with a conforming use may be repaired, maintained, renovated, or remodeled subject to building code and other applicable requirements. No limits may be imposed on the costs of the repair, maintenance, or improvement of such structure.

(c) Additions and enlargements to existing nonconforming structures are permitted and shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this chapter insofar as is practicable. Existing buildings and their additions shall not be permitted to encroach further upon established yard and height requirements than the existing encroachment.

(d) Existing nonconforming structures may be moved and, insofar as is practicable, shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this chapter.

(e) A nonconforming structure with a conforming use which is damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold, infestation, or other calamity may be restored or replaced to the size, location, and use that it had immediately before the damage or destruction occurred. No limits may be imposed on the costs of the repair, reconstruction, or improvement of said structure. The size of the structure may be larger than the size immediately before the damage or destruction occurred if necessary for the structure to comply with applicable State or Federal requirements. Any reconstruction shall conform to the development regulations of this chapter to the extent practicable, and shall commence within 24 months of the date of damage or destruction.

Sec. 118-210. Vacant nonconforming lots.

(a) The zoning administrator may issue a building permit for development of a lot which does not contain sufficient area to conform to the dimensional requirements of this chapter

to be used as a building site provided that the use is permitted in the zoning district in which it is located, provided that the lot is of record in the county register of deeds office prior to the effective date of this chapter; and provided that the lot is in separate ownership from abutting lands.

(b) All substandard lots in separate ownership shall comply with all relevant district and shoreland requirements insofar as practicable, and shall comply as nearly as possible with the following:

- (1) *Lots.*
 - a. The minimum width shall be 30 feet.
 - b. The minimum area shall be 4,000 square feet.
- (2) *Buildings.* The building height shall be a maximum of 30 feet.
- (3) *Yards.*
 - a. Street yards shall be a minimum of 25 feet.
 - b. The second street yard on a corner lot shall not be less than 15 feet.

Secs. 118-211--118-240. Reserved.

Article IV. Districts

Division 1. Generally

Sec. 118-241. Established.

For the purpose of this chapter, the village is divided into basic zoning districts as follows:

RS-90	Single-family residence district
RS-80	Single-family residence district
RD-90	Two-family residence district
RD-80	Two-family residence district
RM	Multiple-family residence district
C-1	General commercial district
C-2	Highway commercial district
C-3	Office and professional business district
I-1	Light industrial district
I-2	Heavy industrial district
MH	Mobile/manufactured home district
PC	Park and conservancy district
P-1	Institutional district
A	Agricultural district
PUD	Planned Unit Development Overlay District

(Ord. of 11-24-94, § 3.11) (Amended; Ordinance 2017-01)

Sec. 118-242. Map.

The boundaries of the districts established in section 118-241 are established as shown on the map entitled "Zoning Map for the Village of Union Grove, Racine County, Wisconsin," which map accompanies the ordinance from which this chapter is derived and is made 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 in this section. The official copy of this zoning map, together with a copy of this chapter is on file in the office of the village clerk-treasurer and shall be available for public inspection during office hours. This chapter hereby incorporates any future changes or any later zoning maps or rezonings that may be adopted by ordinance of the Village Board.

(Ord. of 11-24-94, § 3.12) (Amended; Ordinance 2017-01)

Sec. 118-243. District boundaries.

The zoning district boundaries are either streets, lot lines, or streams, unless otherwise shown on the district map. Where the designation on the district map indicates that the various districts are approximately bounded by a street, lot line or stream, such lot line or the centerline of such street or centerline of the main channel of such stream shall be construed to be the district boundary line. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

(Ord. of 11-24-94, § 3.13) (Amended; Ordinance 2017-01)

Sec. 118-244. Use of scale.

In unsubdivided property, the location of the district boundary lines shown on the official zoning district map shall be determined by use of the scale on the map.

(Ord. of 11-24-94, § 3.14)

Sec. 118-245. Overlay zoning districts.

(a) *Intent.* It is the intent of this chapter that the basic character of the village as an attractive, predominately single-family residential community be preserved but that other land uses be permitted where desirable and properly planned and controlled. The basic zoning districts are created to provide the basic uses which are seen as generally consistent with that intent. It is recognized that there are existing uses and possible future uses of lands within the village which are not permitted by the provisions governing the basic zoning districts or which require special regulation. The overlay zoning districts are created to enable specific individual evaluation of all such uses.

(b) *Created.* For the purpose of this chapter, the following special overlay zoning districts are created:

- (1) PUD Planned unit development overlay district.

- (2) Those districts governing floodplains set forth in Article IX of this Chapter and specifically Sections 118-1172, 118-1173 and 118-1174 of this Chapter as applicable.

(c) *Overlay.* The overlay districts created in subsection (b) of this section are districts which may be overlaid on any of the general zoning districts. The requirements of the overlay districts shall override and supersede the requirements of the underlying general zoning districts.

(d) *Boundaries.* The overlay district boundaries shall be determined by legal description or special maps showing such districts as they are established from time to time and placed on the official zoning map.

(Ord. of 11-24-94, § 3.2) (Last updated Ord. 2012-02, 04/09/12)

Sec. 118-246. Effect of annexation.

All territory annexed to the village which is located outside of floodlands shall automatically become a part of the RS-90 single-family residence district or as determined by the plan commission, and all floodlands shall automatically become a part of the general floodplain overlay district, until definite boundaries and regulations are adopted by the village board. However, the village board shall adopt definite boundaries and district regulations within 90 days from the date of the annexation.

(Ord. of 11-24-94, § 25.1)

Secs. 118-247--118-275. Reserved.

Division 2. RS-80, RS-90 Single-Family Residence Districts

Sec. 118-276. Uses.

In the RS-80 and RS-90 single-family residence districts, no building or premises shall be used and no building shall be erected, moved or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:

- (1) *Permitted uses.* Permitted uses in the districts shall be as follows:
- a. Single-family dwellings.
 - b. Accessory buildings.
 - c. Telephone, telegraph and power transmission poles, and lines and necessary mechanical appurtenances.
 - d. Community living arrangements which have a capacity for eight or fewer persons being served by the program.
 - e. Foster family homes.

- f. Family child care homes.
- g. Uses customarily incidental to any of the above uses; provided that no such use generates traffic or noise that would create a public or private nuisance and not involving the conduct of a business, except for home occupations allowed under Section 118-853.

(2) *Conditional uses.* Conditional uses permitted in the districts shall be as follows:

- a. Churches and affiliated uses, all grade schools, libraries, and hospitals, water storage facilities and related structures, cemeteries.
- b. Municipal buildings, except the following: sewage plants, garbage incinerators, warehouses, garages, shops, storage yards, and penal or correctional institutions.
- c. Public parks, playgrounds, recreational community center buildings and grounds.
- d. Telephone buildings, exchanges and transformer stations, except service garages and storage yards, and except microwave radio relay structures unless their location is approved by the plan commission.
- e. Sewerage lift stations.
- f. Independent senior living, assisted living and skilled nursing facilities.

(Ord. of 11-24-94, § 4.1; Ord. of 7-28-97, § 1(B); Ord. of 8-4-97, § 1) (Amended; Ordinance 2017-01)

Sec. 118-277. Area, height, building size and yards in RS-90 district.

In the RS-90 single-family residence district, the size and height of buildings, the minimum dimension of yards and the minimum lot area shall be as follows:

- (1) *Lots.*
 - a. The minimum width shall be 90 feet at the setback line.
 - b. The minimum area shall be 13,000 square feet.
- (2) *Buildings.*
 - a. The maximum height shall be 28 feet.
 - b. The minimum floor area per family shall be as provided in the building code.
- (3) *Yards.*
 - a. *Side yards.*
 - 1. For the principal building, the side yard shall be a minimum of ten feet.
 - 2. Reserved.

- b. *Street yard.* The minimum street yard shall be 30 feet. The maximum street yard shall be 50 feet. Property owners requesting to deviate from the maximum may appeal to the village board.
- c. *Rear yard.* The minimum rear yard shall be 30 feet.
- d. *Corner lots.* For corner lots, the street yards shall be subject to Section 118-277(3)(b). Each side yard shall be a minimum of 10 feet.

(Ord. of 11-24-94, § 4.2; Amd. of 2-24-03, § 1; Amdmt. of 10-13-03(1), § 1; Ord. No. 2009-03(1), § 2, 4-27-09) (Last update Ord. 2013-04, 07/22/13) (Amended; Ordinance 2017-01)

Sec. 118-278. Area, height, building size and yards in RS-80 district.

In the RS-80 single-family residence district, the size and height of buildings, the minimum dimensions of yards and the minimum area shall be as follows:

- (1) *Lots.*
 - a. The minimum width shall be 80 feet at the setback line.
 - b. The minimum area shall be 8,000 square feet.
- (2) *Buildings.*
 - a. The maximum height shall be 28 feet.
 - b. The minimum floor area per family shall be as provided in the building code.
- (3) *Yards.*
 - a. *Side yards.*
 - 1. For the principal building, the side yards shall be a minimum of 15 feet total, with a minimum of six feet on one side.
 - 2. Reserved.
 - b. *Street yard.* The street yard shall be a minimum of 25 feet.
 - c. *Rear yard.* The rear yard shall be a minimum of 30 feet.
 - d. *Corner lots.* For corner lots, the street yards shall be subject to Section 118-278(3)(b). Each side yard shall be a minimum of ten (10) feet.

(Ord. of 11-24-94, § 4.3; Ord. No. 2009-03(1), § 2, 4-27-09) (Amended; Ordinance 2017-01)

Secs. 118-279--118-310. Reserved.

Division 3. RD-80, RD-90 Two-Family Residence Districts

Sec. 118-311. Intent.

The RD-90 two-family residence district is intended to provide essentially the same quality interchange of land uses as the RD-90 district, except that somewhat higher densities are permitted.

(Ord. of 11-24-94, § 5.1)

Sec. 118-312. Uses.

The following uses shall be allowed in the RD-80 and RD-90 two-family residence districts:

- (1) *Permitted uses.* Permitted uses in the districts shall be as follows:
 - a. Two-family dwellings.
 - b. Uses permitted in single-family residence districts.
- (2) *Conditional uses.* The following conditional uses shall be permitted:
 - a. The conditional uses allowed in single-family residence districts.

(Ord. of 11-24-94, § 5.1; Ord. of 7-28-97, § 1(C); Ord. of 8-4-97, § 1, Ord. of 12-27-10)
(Last update Ord. 2010-07, 12/27/10) (Amended; Ordinance 2017-01)

Sec. 118-313. Area, height, building size and yards in RD-90 district.

In the RD-90 two-family residence district, the size and height of buildings, the minimum dimensions of yards and the minimum lot area shall be as follows:

- (1) *Lots.*
 - a. The minimum width shall be 90 feet at the setback line.
 - b. The minimum area shall be 13,000 square feet (6,500/family).
- (2) *Buildings.*
 - a. The maximum height shall be 30 feet.
 - b. The minimum floor area per family shall be as provided in the building code.
- (3) *Yards.*
 - a. *Side yards.*
 1. For the principal building, the side yard shall be a minimum of ten feet.
 2. Reserved.

- b. *Street yard.* The minimum street yard shall be 30 feet. The maximum street yard shall be 50 feet. Property owners requesting to deviate from the maximum may appeal to the village board.
- c. *Rear yard.* The rear yard shall be a minimum of 30 feet.
- d. *Corner lot.* For corner lots, the street yards shall be subject to Section 118-313(3)(b). Each side yard shall be a minimum of ten (10) feet.

(Ord. of 11-24-94, § 5.2; Amdmt. of 10-13-03(2), § 1; Ord. No. 2009-03(1), § 2, 4-27-09) (Amended; Ordinance 2017-01)

Sec. 118-314. Area, height, building size and yards in RD-80 district.

In the RD-80 two-family residence district II, the size and height of buildings, the minimum dimensions of yards and the minimum lot area shall be as follows:

(1) *Lots.*

- a. The minimum width shall be 80 feet at the setback line.
- b. The minimum area shall be 8,000 square feet (4,000/family).

(2) *Buildings.*

- a. The maximum height shall be 28 feet.
- b. The minimum floor area per family shall be as provided in the building code.

(3) *Yards.*

- a. *Side yards.*
 - 1. For the principal building, the side yard shall be a minimum of 15 feet total, with a minimum of six feet on one side.
 - 2. Reserved.
- b. *Street yard.* The street yard shall be a minimum of 25 feet.
- c. *Rear yard.* The rear yard shall be a minimum of 30 feet.
- d. *Corner lots.* For corner lots, the street yards shall be subject to Section 118-314(3)(b). Each side yard shall be a minimum of ten (10) feet.

(Ord. of 11-24-94, § 5.3; Ord. No. 2009-03(1), § 2, 4-27-09) (Amended; Ordinance 2017-01)

Secs. 118-315--118-345. Reserved.

Division 4. RM Multiple-Family Residence District

Sec. 118-346. Intent.

The RM multiple-family residence district is intended to provide a living area which is pleasant, but not as spacious as the R-80 district.
(Ord. of 11-24-94, § 6.1)

Sec. 118-347. Uses.

Permitted uses are subject to Plan Commission review and approval of site plan and architectural plans (see Section 118-821) and Plan of Operation (see Section 118-822). Uses allowed in the RM multiple-family residence district shall be as follows:

- (1) *Permitted uses.* Permitted uses shall be as follows:
 - a. Multiple-family dwellings.
 - b. Accessory buildings.
 - c. Telephone, telegraph and power transmission poles and lines and necessary mechanical appurtenances.
 - d. Community living arrangements which have a capacity for eight or fewer persons being served by the program.
 - e. Foster family homes.
 - f. Family child care homes.
 - g. Uses customarily incidental to any of the uses listed in this subsection, provided that no such use generates traffic or noise that would create a public or private nuisance and not involving the conduct of a business.
- (2) *Conditional uses.* Conditional uses shall be as follows:
 - a. Churches and affiliated uses, all grade schools, libraries, and hospitals, water storage facilities and related structures and cemeteries.
 - b. Municipal buildings, except the following: sewage plants, garbage incinerators, warehouses, garages, shops, storage yards, penal or correctional facilities.
 - c. Public parks, playgrounds, recreational and community center buildings and grounds.

- d. Telephone buildings, exchanges and transformer stations, except service garages and storage yards, and except microwave radio relay structures unless their location is approved by the plan commission.
- e. Sewerage lift stations.
- f. Community living arrangements which have a capacity for nine or more persons.
- g. Independent senior living, assisted living and skilled nursing facilities, day care centers for more than eight children and children's nurseries, provided all principal structures and uses are not less than 50 feet from any lot line.
- h. Clubs, fraternities, lodges, sororities, religious and charitable institutions, where the principal purpose of the facility is to provide lodging and meals for the members of such organization, provided that all principal structures and uses are not less than 25 feet from any lot line.
- i. Hospitals and medical clinics.
- j. Commercial uses that complement uses permitted in RM-Multiple Family Residence District. The determination of whether a proposed commercial use is complementary shall be made by the Plan Commission.

(Ord. of 11-24-94, § 6.1) (Amended; Ordinance 2017-01)

Sec. 118-348. Area, height, building size and yards.

In the RM multiple-family residence district, the size and height of buildings, the minimum dimensions of yards, and the minimum lot area shall be as follows:

(1) *Lots.*

- a. The minimum width shall be 700 feet at the setback line.
- b. The minimum area per dwelling unit shall be as follows:
 - 1. One-bedroom or less, 2,400 square feet.
 - 2. Two-bedroom units, 3,000 square feet.
 - 3. Three-bedroom units, 4,000 square feet.
 - 4. Four-bedroom or greater units, 5,000 square feet.

(2) *Buildings.*

- a. The maximum height shall be 45 feet.
- b. The minimum floor area per family shall be as provided in the building code.

(3) *Yards.*

a. *Side yards.*

1. For the principal building, the side yard shall be a minimum of 20 feet.

2. Reserved.

b. *Street yard.* The street yard shall be a minimum of 25 feet.

c. *Rear yard.* The rear yard shall be a minimum of 30 feet.

(Ord. of 11-24-94, § 6.2; Ord. No. 2009-03(1), § 2, 4-27-09) (Amended; Ordinance 2017-01)

Secs. 118-349--118-380. Reserved.

Division 5. C-1 General Commercial District

Sec. 118-381. Intent.

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

(Ord. of 11-24-94, § 7.1)

Sec. 118-382. Uses.

(a) *Generally.* The uses in this section are permitted in the C-1 general commercial district, provided that they shall be retail establishments selling and storing merchandise.

(b) *Permitted uses.* Permitted uses for all commercial districts are subject to Plan Commission review and approval of site plan and architectural plans (see Section 118-821) and Plan of Operation (see Section 118-822). Permitted uses shall be as follows:

- (1) Antique and collectors' stores.
- (2) Appliance stores.
- (3) Bakeries.
- (4) Banks, savings and loan associations, and other financial institutions (drive-in facilities for such uses are conditional uses).
- (5) Barbershops.
- (6) Beauty shops.
- (7) Bookstores.
- (8) Bowling alleys.
- (9) Business offices.
- (10) Camera and photographic supply stores.
- (11) Clinics.
- (12) Clothing and dry goods store.

- (13) Commercial child care facilities.
 - (14) Confectioneries.
 - (15) Delicatessens.
 - (16) Dental clinics.
 - (17) Department stores.
 - (18) Drugstores.
 - (19) Electronic equipment sales, services and repairs.
 - (20) Fish markets.
 - (21) Florists.
 - (22) Fruit stores.
 - (23) Funeral homes.
 - (24) Furniture stores.
 - (25) Furriers and fur apparel.
 - (26) Gift stores.
 - (27) Grocery stores.
 - (28) Hardware stores.
 - (29) Hobby and craft stores.
 - (30) Jewelry stores.
 - (31) Lunchrooms and cafes.
 - (32) Meat markets.
 - (33) Medical and Dental clinics.
 - (34) Music stores.
 - (35) Newspaper and magazine stores.
 - (36) Optical stores.
 - (37) Packaged beverage stores.
 - (38) Paint, glass, and wallpaper stores.
 - (39) Pet grooming, not including boarding.
 - (40) Photography studios.
 - (41) Physical fitness centers.
 - (42) Professional offices.
 - (43) Public utility offices.
 - (44) Publishing houses.
 - (45) Restaurants (drive-in facilities for such uses are conditional uses).
 - (46) Self-service laundries and dry cleaning establishments.
 - (47) Shoe stores and leather goods stores.
 - (48) Sporting goods stores.
 - (49) Stationery stores.
 - (50) Supermarkets.
 - (51) Tailor or dressmaking shops.
 - (51) Theaters (site plan review of parking).
 - (52) Tobacco stores.
 - (53) Travel agency.
 - (54) Variety stores (site plan review of parking).
 - (55) Vegetable stores.
 - (56) Other uses similar to or customarily incidental to any of such uses.
- Existing residences may be expanded and repaired in compliance with the applicable requirements of the R-80 single-family residential district but no new residence may be built.

(c) *Permitted accessory uses.* Permitted accessory uses shall be as follows:

- (1) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.
- (2) Off-street parking areas.
- (3) Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business above the first floor level subject to the approval of the plan commission; rental of efficiency and one-bedroom apartments on a nonground level, provided there shall be a minimum floor area of 350 square feet for a one-bedroom apartment, and 650 square feet for a two-bedroom apartment, subject to the approval of the plan commission.
- (4) Essential services.

(d) *Conditional uses.* Conditional uses shall be as follows:

- (1) Drive-in establishments for restaurants serving food and beverages normally consumed on premises.
- (2) Crematory service.
- (3) Gasoline service stations, automobile and truck rental services, and automobile washing.
- (4) Veterinary clinics, provided that no service, including the boarding of animals, is offered outside of an enclosed building.
- (5) Bars and taverns.
- (6) Utilities.
- (7) New and used automobile, aircraft, and marine craft sales and the sale of tires, batteries, and other automotive, marine, and aircraft accessories.
- (8) Radio and television transmitting and receiving stations.
- (9) Printing.
- (10) Automotive sales and service.
- (11) Lawn, garden and recreational vehicle sales and service.
- (12) Motels and hotels.
- (13) Building supply stores.
- (14) Construction services, including general building contractors, carpentry, wood flooring, concrete services, masonry, stonework, tile setting, plastering services, roofing, sheetmetal services, and water well drilling services.
- (15) Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities, or studios.
- (16) Freight forwarding services, packing and crating services, and petroleum bulk stations.
- (17) 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.
- (18) Cemeteries.
- (19) Fuel oil, bottled gas, and ice dealers.
- (20) Gun stores.
- (21) Clubs.
- (22) Dancehalls.
- (23) Fraternities.
- (24) Lodges.

- (25) 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.

(e) *Restricted conditional uses.* The following uses are permitted as conditional uses, provided all principal structures and uses are not less than 100 feet from any residential district lot line:

- (1) Bus depots.
- (2) Rail depots.

(Ord. of 11-24-94, § 7.1; Amdmt. of 12-13-99(3), § 1; Amdmt. of 11-27-06, § 1) (Last update Ord. 2015-05, 12/14/15) (Amended; Ordinance 2017-01)

Sec. 118-383. Area, height and yards.

In the C-1 general commercial district, the height, the minimum dimension of yards, and the minimum area shall be as follows:

- (1) *Lots.*
 - a. *Width.*
 - 1. The minimum yard width for fireproof construction shall be 50 feet.
 - 2. The minimum yard width for nonfireproof construction shall be 75 feet.
 - b. *Area.* The lot area shall be the minimum required to meet all setback and parking requirements.
- (2) *Buildings.*
 - a. The maximum height of buildings shall be 45 feet.
 - b. There shall be no maximum height of buildings with fireproof construction.
- (3) *Yards.*
 - a. *Side yards.*
 - 1. There shall be a minimum nine-foot side yard on every business building property where the commercial district is adjacent to a residential district.
 - 2. The minimum side yard for nonfireproof construction shall be ten feet.
 - b. *Street yard.* The minimum street yard shall be five feet.
 - c. *Rear yard.* The minimum rear yard shall be 15 feet.

(Ord. of 11-24-94, § 7.2) (Amended; Ordinance 2017-01)

Secs. 118-384--118-415. Reserved.

Division 6. C-2 Highway Commercial District

Sec. 118-416. Intent.

The C-2 highway commercial district is intended to provide for specialized commercial activities along major highways.
(Ord. of 11-24-94, § 8.1)

Sec. 118-417. Uses.

Uses allowed in the C-2 highway commercial district shall be as follows:

- (1) *Permitted uses.* Permitted uses shall be all uses permitted in the C-1 General Commercial District, with the exception of residential uses.
- (2) *Conditional uses.* Conditional uses shall be as follows:
 - a. Conditional uses listed in the C-1 General Commercial District.
 - b. Recreational establishments, including drive-in theaters, golf or baseball driving ranges, indoor archery ranges, miniature golf courses, and similar uses.
 - c. Truck and bus terminals for the parking, repair, and servicing of vehicles, provided no trans-shipment or warehousing facilities are provided.
 - d. Drive-in banks.

(Ord. of 11-24-94, § 8.1) (Amended; Ordinance 2017-01)

Sec. 118-418. Area, height and yards.

In the C-2 highway commercial district, the height, the minimum dimension of yards and the minimum area shall be as follows:

- (1) *Lots.*
 - a. The minimum width shall be 150 feet.
 - b. The area shall be the minimum required to meet all setback and parking requirements.
- (2) *Buildings.* The maximum building height shall be 35 feet.
- (3) *Yards.*

- a. *Side yards.* There shall be a nine-foot side yard on every business building property where the commercial district is adjacent to a residential district.
 - 1. The minimum side yards for principal buildings shall be five feet.
 - 2. Reserved.
- b. *Street yard.*
 - 1. The minimum street yard shall be 25 feet.
 - 2. If parking is permitted in the street yard, the minimum street yard shall be 50 feet.
- c. *Rear yard.* The minimum rear yard shall be 30 feet.

(Ord. of 11-24-94, § 8.2; Ord. No. 2009-03(1), § 2, 4-27-09) (Amended; Ordinance 2017-01)

Secs. 118-419--118-450. Reserved.

Division 7. C-3 Office and Professional Business District

Sec. 118-451. Intent.

The C-3 office and professional business district is intended to provide for the conversion of improvements of special character or special historical interest or value to low intensity commercial uses compatible with the former residential character of the improvement. These conversions would be limited to office, professional and special service uses where the office use would be compatible with other neighborhood uses and not exhibit the intense activity of other commercial districts.

(Ord. of 11-24-94, § 9.1)

Sec. 118-452. Uses.

Uses allowed in the C-3 office and professional business district shall be as follows:

- (1) *Permitted uses.* Permitted uses shall be as follows:
 - a. Administrative and public service offices.
 - b. Professional office of an architect, engineer, landscape architect, lawyer, accountant, doctor, Christian Science practitioner, dentist, optometrist, clergy, or other similarly recognized profession.
 - c. Studios for photography, painting, music, sculpture, dance, or other recognized fine art.
 - d. Banks, savings and loan, and other financial institutions.
 - e. Barbershops and beauty shops.
 - f. Interior decorators.

- g. Medical clinics.
- h. Parking lots and structures.
- i. Real estate and insurance sales offices.
- j. Single-family residences.

(2) *Conditional uses.* Conditional uses permitted shall be as follows:

- a. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
- b. Utility substations, wells, pumping stations, water towers.
- c. Public parochial and private elementary and secondary schools, provided the lot area is not less than two acres and all principal structures and uses are not less than 50 feet from any lot line.
- d. Funeral homes, provided all principal structures and uses are not less than 25 feet from any lot line.
- e. Rental efficiency, one-bedroom and two-bedroom apartments located in the rear of a business establishment located on the first floor, provided that the resident of the efficiency or apartment and the operator of the business establishment are one and the same; or a rental, efficiency, one-bedroom apartment or two-bedroom apartment on a non-ground-floor level, provided that in either case there shall be a minimum floor area of 350 square feet for an efficiency apartment, 500 square feet for a one-bedroom apartment, and 600 square feet for a two-bedroom apartment. Any apartment in this district shall be above ground level and basement apartments are specifically prohibited.
- f. Other uses similar to or customarily incidental to any permitted use or conditional use in this section.
- g. Commercial uses that complement uses permitted in C-3 Office and Professional Business District. The determination of whether a proposed commercial use is complementary shall be made by the Plan Commission.

(Ord. of 11-24-94, § 9.1; Ord. of 3-8-99(2), § 1) (Amended; Ordinance 2017-01)

Sec. 118-453. Area, height and yards.

In the C-3 office and professional business district, the height, the minimum dimensions of yards, and the minimum area shall be as follows:

- (1) *Lots.*
 - a. The minimum width shall be 80 feet.
 - b. The minimum area shall be 8,000 square feet.

- (2) *Buildings.* The maximum building height shall be 35 feet.
- (3) *Yards.*
 - a. *Side yards.*
 - 1. For the principal building, the minimum side yards shall be 15 feet total, with a minimum of six feet on one side.
 - 2. Reserved.
 - b. *Street yard.* The minimum street yard shall be 25 feet.
 - c. *Rear yard.* The minimum rear yard shall be 30 feet.

(Ord. of 11-24-94, § 9.2; Ord. No. 2009-03(1), § 2, 4-27-09) (Amended; Ordinance 2017-01)

Sec. 118-454. Submission of plans and specifications to plan commission.

To encourage a business environment that is compatible with the residential character of the village, building permits for permitted uses in the C-3 office and professional business district shall not be issued without review and approval of the plan commission in accordance with the guidelines set forth in this chapter. The review and approval shall be concerned with general layout, building plans, ingress, egress, parking, landscaping, and open space utilization.
(Ord. of 11-24-94, § 9.3)

Secs. 118-455--118-485. Reserved.

Division 8. I-1 Light Industrial District

Sec. 118-486. Intent.

The I-1 light industrial district is intended to provide for industrial, commercial, and manufacturing uses which, on the basis of physical and operational characteristics, would not be detrimental to the immediate surrounding area or to the Village as a whole by reason of smoke, odor, noise, dust, liquid, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably ensure compatibility within the surrounding areas in these respects..
(Ord. of 11-24-94, § 10.1; Amd. of 3-10-03, § 1) (Amended; Ordinance 2017-01)

Sec. 118-487. Uses.

- (a) Permitted uses. Permitted uses shall be any use permitted to the commercial districts.
- (b) Conditional uses allowed in the I-1 light industrial district shall be as follows:
 - (1) All uses involving the manufacture of goods within the confines of a permanent building and in which any smoke, noise, dust, flash, liquid, or odor produced in the manufacturing process is either not produced or is confined within the building.

- (2) All uses involving the fabrication of materials within the confines of a permanent building and in which any smoke, dust, flash, liquid, noise, or odor produced in the fabrication process is either not produced or is confined within the building.
- (3) All uses involving the provision of an office or service which is either manufacturing or fabrication-related and not permitted in business/commercial districts, confined within a permanent building, and in which any smoke, dust, flash, heat, noise, liquid or odor produced by such service uses is either not produced or is confined within the building.
- (4) Commercial Kennels.
- (5) Enclosed as well as screened areas for the storage of materials, other than explosive or flammable materials or substances, used in the manufacturing or fabrication process.
- (6) Offices normally auxiliary to the principal uses.
- (7) Garages for the storage of licensed vehicles used in conjunction with the operation of the industrial uses.
- (8) Auxiliary power generators.
- (9) Screened off-street parking and loading areas.
- (10) Non-flashing signs.
- (11) The storage of not more than 2,000 gallons of fuel and petroleum products for use incidental to the principal use, and upon specific approval of the Plan Commission.
- (12) Residential quarters for the owner or hired caretaker provided that such quarters are in the principal building, not more than 750 square feet in area, no more than two (2) bedrooms, and not for rent, lease or separate sale.

Sec. 118-488. Standards and Plan Commission review.

The above permitted and conditional uses are subject to Plan Commission review and approval of site plan and architectural review (see Section 118-821) and Plan of Operation (See Section 118-822). In addition, the permitted uses are subject to the following:

- (1) No merchandise shall be handled for sale or service rendered on the premises except such as is incidental or accessory to the principal permissible use of the premises, except for sales or service to industrial, commercial, or manufacturing customers or sales primarily by Internet or telephone.

- (2) All operations and activities of all uses within this district shall be conducted wholly inside a building unless granted exception by the plan commission. Outdoor storage areas shall be screened from view.
- (3) No continuous or intermittent noise from operations greater than the volume and range of noise emanating from vehicular traffic or its equivalent in noise shall be detectable at the boundary line of any residential district.
- (4) No toxic matter, noxious matter, smoke or gas, and no odorous or particulate matter detectable beyond the lot lines shall be emitted.
- (5) No vibrations shall be detectable beyond the lot lines.
- (6) No glare or heat shall be detectable beyond the lot lines.
- (7) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any residence district or into public streets or parks.
- (8) The storage or use of chemicals, either solid, liquid or gas, shall be subject to the following conditions:
 - a. The storage, utilization, or manufacturing of materials or products ranging from incombustible to moderate burning is permitted.
 - b. The storage, utilization or manufacturing of materials or products ranging from free to active burning is permitted, provided the materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.
 - c. The manufacture of flammable materials which produce explosive vapors or gases is prohibited.

(Ord. of 11-24-94, § 10.1; Amd. of 3-10-03, § 1) (Amended; Ordinance 2017-01)

Sec. 118-489. Area, height and yards.

In the I-1 light industrial district, the height, the minimum dimensions of yards, and the minimum area shall be as follows:

- (1) *Lots.*
 - a. The minimum width shall be 100 feet.
 - b. The area shall be the minimum required to meet all setbacks and parking and loading requirements.
- (2) *Buildings.* The maximum building height shall be 35 feet.

(3) *Yards.*

a. Side yards. There shall be a 50-foot side yard on every industrial property where the industrial district is adjacent to a residential district.

1. For a principal building, the minimum side yard shall be 20 feet.
2. Reserved.

b. Street yard. The minimum street yard shall be 25 feet.

c. Rear yard. The minimum rear yard shall be 40 feet.

d. Any commercial or manufacturing entity located within the I-1 zone will conform to all I-1 dimensions as set out above.

(Ord. of 11-24-94, § 10.2; Amd. of 3-10-03, § 1; Ord. No. 2009-03(1), § 2, 4-27-09) (Amended; Ordinance 2017-01)

Secs. 118-490.--118-518. Reserved.

Division 9. I-2 Heavy Industrial District

Sec. 118-519. Intent.

The I-2 Heavy Industrial District is intended to provide for the same type of manufacturing and fabricating operations and uses as in the I-1 Light Industrial District plus more intensive uses but within those areas where the relationships to surrounding land use would create fewer problems of compatibility.

Sec. 118-520. Uses.

(a) *Permitted Uses.*

- (1) All uses as permitted in the I-1 District.

(b) *Conditional Uses.*

- (1) All other manufacturing, fabricating, and industrial uses not permitted in the I-1 District (except the manufacture or fabrication of explosives, flammable liquids, chemicals, and gaseous or vaporous substances) as long as such permitted uses are conducted within an enclosed permanent structure.
- (2) Enclosed as well as screened open storage of industrial materials other than explosive or flammable materials or substances used in the manufacturing or fabrication process.
- (3) Offices normally auxiliary to the principal use.

- (4) Garages for the storage of vehicles used in conjunction with the operation of the industrial use.
- (5) Auxiliary power generators.
- (6) Screened off-street parking and loading areas.
- (7) Non-flashing signs.
- (8) The storage of not more than 10,000 gallons of fuel and petroleum products for use incidental to the principal use, upon specific approval of the Plan Commission.
- (9) Residential quarters for the owner or hired caretaker provided that such quarters are in the principal building, not more than 750 square feet in area, no more than two (2) bedrooms, and not for rent, lease or separate sale.
- (10) Storage, manufacture, or fabrication of chemicals, explosives, flammable liquids, and gaseous or vaporous substances, other than permitted accessory uses, with volumes and quantities, and time of operation to be set by the Plan Commission and approved by the Fire Chief.
- (11) Landfills, solid and other waste disposal and recovery uses.
- (12) Animal reduction facilities, slaughter houses, stockyards, and tanneries.
- (13) Asphalt batch plants and concrete ready-mix plants.
- (14) Composting sites and related operations, such as wood shaving or brush collection.
- (15) Concrete product production, such as concrete blocks.
- (16) Forges and foundries.
- (17) Incinerators, salvage yards and sewage disposal plants, provided that such uses are located not less than 500 feet from any residential district boundary.
- (18) Lumber yards and building supply yards.
- (19) Manufacturing or processing of ammonia, asbestos, asphalt, cement, chlorine, coal tar, creosote, explosives, fertilizer, glue, gypsum, insecticide, lampblack, poison, pulp, pyroxylin, and radium.
- (20) Outdoor furnace or boiler.
- (21) Processing of cabbage, fish, meat, offal, or seafood, or production of fats, grease, oils, vinegar, or yeast.

- (22) Storage of animal feed, bulk fertilizer, explosives, gasoline in excess of 50,000 gallons, grain, and grease.

Sec. 118-521. Standards and Plan Commission review.

The above permitted uses are subject to Plan Commission review and approval of site plan and architectural review (See section 118-821) and Plan of Operation (see section 118-822), as well as the following: Outdoor storage area for raw materials or finished products, or construction vehicle storage shall be enclosed by a suitable screening fence. All such uses are subject to the approval of the plan commission, after public hearing, as to location and operation. Such uses shall not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or traffic congestion or otherwise endanger the public health or safety or substantially diminish or impair property values within the neighborhood. (Ord. of 11-24-94, § 11.1) (Amended; Ordinance 2017-01)

Sec. 118-522. Area, height and yards.

In the I-2 heavy industrial district, the height, the minimum dimensions of yards, and the minimum area shall be as follows:

- (1) *Lots.*
 - a. The minimum width shall be 150 feet.
 - b. The area shall be the minimum required to meet all setbacks and parking and loading requirements.
- (2) *Buildings.* The maximum building height shall be 45 feet.
- (3) *Yards.*
 - a. *Side yards.* There shall be a 50-foot side yard on every industrial property where the industrial district is adjacent to a residential district, and no yard adjacent to a residential district shall be used for parking, operations or storage.
 - 1. For a principal building, the minimum side yard shall be 30 feet.
 - 2. Reserved.
 - b. *Street yard.* The minimum street yard shall be 50 feet.
 - c. *Rear yard.* The minimum rear yard shall be 40 feet.

(Ord. of 11-24-94, § 11.2; Ord. No. 2009-03(1), § 2, 4-27-09)

Secs. 118-523--118-555. Reserved. (Amended; Ordinance 2017-01)

Division 10. MH Mobile/Manufactured Home District

Sec. 118-556. Intent.

The MH Mobile/Manufactured Home District is intended to provide for the location of mobile/manufactured home parks in a residential setting that is compatible with adjacent land uses.

(Ord. of 11-24-94, § 12.0) (Amended; Ordinance 2017-01)

Sec. 118-557. Uses.

In the MH Mobile/Manufactured Home District, uses allowed shall be as follows:

- (1) *Permitted uses.* No permitted uses are allowed.
- (2) *Permitted accessory uses to approved conditional uses.* Permitted accessory uses to approved conditional uses shall be allowed as follows:
 - a. Carports and garages (private).
 - b. Gardening, tool, and storage sheds incidental to the residential use.
 - c. Ground-mounted and building-mounted earth station dish and terrestrial antennas.
 - d. Home occupations.
 - e. Solar collectors attached to the principal structure.
- (3) *Conditional uses.* Conditional uses permitted shall be as follows:
 - a. Mobile/manufactured home parks provided that:
 1. The minimum mobile/manufactured home park size shall be five acres.
 2. The minimum mobile/manufactured home park width shall be 300 feet at the street right-of-way line.
 3. The maximum number of mobile/manufactured home sites within a mobile home park shall be 7.2 per net acre.
 4. A minimum of ten percent of the mobile/manufactured home park development area, exclusive of streets, shall be devoted to common recreational uses.
 5. The minimum lot area for a mobile/manufactured home shall be 6,000 square feet. The minimum lot width shall be 50 feet with corner lots being not less than 60 feet.
 6. No mobile/manufactured home unit shall be located closer than 25 feet to a mobile home park exterior lot line.

7. The minimum setback between a mobile/manufactured home unit and a service road shall be 15 feet.
8. The minimum distance between mobile/manufactured home units shall be 12 feet.
9. All drives and service roads shall be a minimum of 20 feet wide.
10. All drives, service roads, parking areas, and walkways shall be surfaced with concrete or asphalt.
11. There shall be a minimum of two parking spaces per mobile/manufactured home unit located on each lot. Each parking area on each lot shall be at least 400 square feet in area, shall be well drained, and shall be surfaced with concrete or asphalt.
12. Visitor parking shall be provided in the mobile/manufactured home park at the rate of one space per mobile/manufactured home site. Supplemental parking areas shall be provided in each mobile/manufactured home park for boats, camping trailers, and utility trailers. No such equipment shall be parked on any mobile/manufactured home site.
13. Each mobile/manufactured home shall either be placed on a foundation or on a concrete pad. If it is to be placed on a foundation, the foundation shall be of a type recommended by the unit manufacturer and approved by the building inspector. If it is to be placed on a pad, the pad shall be at least four inches thick over an approved gravel base, and shall be at least equal in width and length to the mobile home unit being placed on the pad.
14. The space between the unit and the pad shall be enclosed, but with the use of noncombustible materials such as aluminum or fiberglass. Such skirting materials shall be of a type compatible with the material and color scheme of the mobile/manufactured home unit. No person occupying or owning a mobile/manufactured home or a licensee of a mobile/manufactured home park shall build or cause to be erected any lean-to, shed, or addition to a mobile/manufactured home without the approval of the building inspector. Nothing contained in this subsection shall prohibit the use of stabilization measures, nor shall this subsection prohibit attachment to a mobile/manufactured home of a shelter roof, provided that such roof does not extend more than eight feet into a side yard or extend more than 20 feet in length, or extend beyond the length of the mobile/manufactured home. Such

roof and its supporting members shall be constructed entirely of noncombustible materials, and the roof section together with its framing shall not be less than six feet above the grade immediately beneath any point of the roof section.

15. Each mobile/manufactured home site may contain a freestanding accessory building or garage not exceeding 280 square feet in area. However, a particular site would be allowed to have one of each, if its lot area is at least 8,000 square feet.
16. All mobile/manufactured homes shall be provided with village water, sanitary sewer, and storm sewer facilities.
17. Where portable fuel tanks are utilized, they shall be placed at the rear or side of the mobile home in as close proximity to the rear of the unit as possible.
18. All electric, telephone, and cable TV lines shall be installed underground, except where determined unfeasible or otherwise undesirable by the plan commission.
19. Every mobile/manufactured home park shall submit a solid waste disposal plan. Garbage and rubbish shall be collected weekly and disposed of by the park owner in accordance with the approved plan.
20. No business or commercial use, except permitted home occupations, shall be located on the mobile/manufactured home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage, and a manager's office are permitted.
21. Each mobile/manufactured home park shall be completely enclosed, except for permitted entrances and exits, by either:
 - i. A grassed earthen berm of at least six feet in height.
 - ii. A fence of uniform material that is at least six feet in height and provides an effective visual screen.
 - iii. A densely planted line of coniferous plants that will grow to a height of at least six feet within three years of planting.
 - iv. Any combination of those mentioned in subsections (3)a.21.i through (3)a.21.iii of this section that provides a visual screen and is at least six feet in height.

- 22. The total minimum floor area of the mobile/manufactured home shall be 980 square feet.
- 23. The sum total of the floor area of the mobile/manufactured home and all accessory buildings shall not exceed 30 percent of the lot area.
- 24. All mobile/manufactured homes shall meet the construction standards of the Department of Housing and Urban Development (42 USC 5403).
- b. Licensed community living arrangements which have a capacity for eight or fewer persons, subject to the limitations set forth in Wis. Stats. § 62.23(7)(i).
- c. Licensed family foster homes subject to the regulations set forth in Wis. Stats. § 48.62.
- d. Licensed family day care homes subject to the regulations set forth in Wis. Stats. § 48.65.
- e. Essential services.

(Ord. of 11-24-94, § 12.0) (Amended; Ordinance 2017-01)

Secs. 118-558--118-590. Reserved.

Division 11. PC Park and Conservancy District*

Sec. 118-591. Intent.

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

(Ord. of 11-24-94, § 13.1)

Sec. 118-592. Uses.

Uses allowed in the PC park and conservancy district shall be as follows:

- (1) *Permitted uses.* Permitted uses shall be as follows:
 - a. Management of forestry, wildlife and fish.
 - b. Harvesting of wild crops such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.
 - c. Fishing.
 - d. Flood overflow and floodwater storage.

- e. Water retention ponds.
- f. Pedestrian or nature trails.
- g. Preservation of scenic, historic and scientific areas.
- h. Uses similar and customarily incidental to any of the uses listed in this subsection.

(2) *Conditional uses.* Conditional uses shall be permitted as follows:

- a. Parks and general recreation areas.
- b. Dams, power stations and transmission lines and water storage facilities.
- c. Seasonal public camping grounds.
- d. Private recreational uses.
- e. Golf courses.
- f. Sewage disposal plants.
- g. Water storage and pumping facilities.

(Ord. of 11-24-94, § 13.1)

Sec. 118-593. Setbacks and dimensional requirements; approval of use.

There are no setback, lot size or other dimensional requirements applicable to the PC park and conservancy district. The final use of the parcel and any facility to be constructed must first be reviewed and approved by the plan commission and the village board.

(Ord. of 11-24-94, § 13.2)

Secs. 118-594--118-625. Reserved.

Division 12. P-1 Institutional Park District

Sec. 118-626. Uses.

The following uses are permitted in the P-1 institutional park district:

(1) *Permitted uses.*

- a. Public or private schools, colleges, and universities.
- b. Churches, synagogues, and other places of worship.
- c. Funeral homes.
- d. Hospitals, sanatoriums, nursing homes, and clinics.
- e. Libraries, community centers, museums, and public art galleries.
- f. Public administrative offices, public parks, and public service buildings, including post offices and fire and police stations.

- g. Public utility offices.
 - h. Residential quarters for caretakers or clergy.
 - i. Garages for storage of vehicles.
 - j. Service buildings and facilities.
 - k. Dish antennas located in the side or rear yard or mounted on a roof.
- (2) *Conditional uses.* The location and site plans of all structures and improvements which serve the principal use.
- a. Airports, airstrips, and landing fields provided that the site is not less than 20 acres in area.
 - b. Cemeteries and crematories.
 - c. Clubs, fraternities, lodges, and meeting places of a noncommercial nature.
 - d. Penal and correctional institutions provided that the site area is not less than five (5) acres in area and does not abut a residential district.
 - e. Public passenger transportation terminals, such as bus and rail depots, and heliports.
 - f. Utility substations, municipal wells, pumping stations, and water towers provided that the use is not less than 50 feet from any lot line.
 - g. Wind energy conversion systems.
 - h. Commercial uses that complement uses permitted in P-1 Institutional Park District. The determination of whether a proposed commercial use is complementary shall be made by the Plan Commission.

Sec. 118-627. Area requirements.

The area requirements for the P-1 institutional park district are as follows:

- (1) The development area shall be a minimum of 2.5 acres unless otherwise approved by the Plan Commission.
- (2) The maximum structure height shall be 50 feet.

- (3) The above area requirements do not apply to publicly owned buildings, structures and utilities.

(Ord. of 11-24-94, § 14.2) (Amended; Ordinance 2017-01)

Sec. 118-628. Yard setback requirements.

The minimum yard setback requirements for the P-1 institutional park district are as follows:

- (1) Street, 50 feet.
- (2) Rear, 50 feet.
- (3) Side (on each side), 50 feet.
- (4) The above setback requirements do not apply to publicly owned buildings, structures and utilities.

(Ord. of 11-24-94, § 14.3) (Amended; Ordinance 2017-01)

Secs. 118-629--118-660. Reserved.

Division 13. A Agricultural District

Sec. 118-661. Intent.

The A agricultural district provides exclusively for agricultural uses. The intent is to help conserve good farming areas and prevent uncontrolled, uneconomical spread of residential development or premature provision of essential public improvements and services such as sewer and water lines.

(Ord. of 11-24-94, § 15.1)

Sec. 118-662. Uses.

Uses allowed in the A agricultural district shall be as follows:

- (1) *Permitted uses.* Permitted uses shall be as follows:
 - a. Farming, provided that buildings in which farm animals are kept shall be at least 100 feet from the nearest residential or commercial district.
 - b. Forestry, horticulture, floriculture, apiculture, plant nurseries, orchards, and truck farming.
 - c. Livestock raising, grazing or pasturing on parcels or contiguous parcels under common ownership of 35 acres or larger.

- d. In-season roadside stands for the sale of farm products produced on the premises, and up to two unlighted signs, each not larger than eight square feet, advertising such sale.
- e. Farm dwellings for those resident owners and workers actually engaged in the principal permitted use.
- f. Uses customarily incidental to any of the uses listed in this subsection, including residential use incidental to any of such uses.

(2) *Conditional uses.* Conditional uses shall be permitted as follows:

- a. Grazing, animal husbandry, paddocks, and private stables.
- b. Commercial raising, propagation, or butchering of farm animals or fur-bearing animals.
- c. Greenhouses, and other agricultural uses that might cause noxious odors or noise or create health or sanitation hazards.
- d. Churches, schools, cemeteries, community parks and recreation areas, public buildings, water storage and sewage disposal facilities and power stations, provided that such power stations are enclosed by an eight-foot-high or more protective, screened fence.
- e. Operation of motorized off-road vehicles.
- f. Outdoor furnace or boiler.

(Ord. of 11-24-94, § 15.1) (Amended; Ordinance 2017-01)

Sec. 118-663. Area, height and yards.

In the A agricultural district, the minimum dimension of yards, and the minimum area shall be as follows:

- (1) *Area.*
 - a. A farm shall be a minimum of 35 acres.
 - b. The minimum lot shall be five acres.
- (2) *Width.* The width shall have a minimum of 100 feet of frontage on a public road.
- (3) *Building height.* Maximum building height shall be as follows:
 - a. For residential structures, 28 feet.
 - b. For accessory structures, 15 feet.
 - c. For agriculture structures, twice their distance from the nearest lot line.
 - d. For other buildings, 35 feet.

- (4) *Yards.*
 - a. *Side yards.*
 - 1. For the principal building, the minimum side yard shall be 20 feet.
 - 2. For any accessory building, the minimum side yard shall be five feet.
 - b. *Street yard.* The minimum front yard shall be 50 feet.
 - c. *Rear yard.* The minimum rear yard shall be 50 feet.

(Ord. of 11-24-94, § 15.2) (Amended; Ordinance 2017-01)

Secs. 118-664--118-695. Reserved.

Division 14. PUD Planned Unit Development Overlay District

Sec. 118-696. Intent.

(a) The PUD planned unit development overlay district is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures, and mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic, to provide attractive recreation and open spaces as integral parts of the development, to enable economic design in the location of public and private utilities and community facilities, and to ensure adequate standards of construction and planning. The PUD overlay district under this chapter will allow for flexibility of overall development design with benefits from design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements as set forth in the underlying basic zoning district.

(b) The unified and planned development of a site in a single partnership or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Wis. Stats. ch. 703, pertaining to condominiums, may be permitted by the village upon specific petition under this division and after public hearing, with such development encompassing one or more principal uses or structures and related accessory uses or structures when all regulations and standards and related accessory uses or structures as set forth in this division have been met.

(Ord. of 11-24-94, § 16.1)

Sec. 118-697. Uses.

(a) *Permitted uses.* Permitted uses in the PUD planned unit development overlay district shall be any use permitted in the underlying basic use district.

(b) *Permitted accessory uses.* Permitted accessory uses shall be any accessory use permitted in the underlying basic use district.

(Ord. of 11-24-94, § 16.2)

Sec. 118-698. Minimum requirements.

An area designated as a PUD planned unit development overlay district shall be under single or corporate ownership or control, and shall contain a minimum development area as follows:

<i>Principal Uses</i>	<i>Minimum Area PUD (in acres)</i>
Residential PUD	4
Commercial PUD	5
Industrial PUD	20
Mixed compatible use	10

Sec. 118-699. Lot area, width and yard requirements.

In a PUD planned unit development overlay district, the district area, width, and yard requirements of the underlying basic use district may be modified. However, in no case shall the average density in the district exceed the number of dwelling units that would have been permitted if the planned unit development overlay district regulations had not been utilized.
(Ord. of 11-24-94, § 16.3)

Sec. 118-700. Road width.

Road width in a PUD planned unit development overlay district shall be approved by the fire department and the village board.
(Ord. of 11-24-94, § 16.3)

Sec. 118-701. Waste collection.

Waste pickup in the PUD planned unit development overlay district will be determined by village policy.
(Ord. of 11-24-94, § 16.3)

Sec. 118-702. Building height and area.

(a) Buildings in a PUD planned unit development overlay district shall not exceed the height permitted in the underlying basic use district, without Plan Commission approval.

(b) Buildings in a planned unit development overlay district shall provide a minimum area that is equal to or greater than that required in the underlying basic use district, unless otherwise approved by the Plan Commission.

(Ord. of 11-24-94, § 16.3) (Amended; Ordinance 2017-01)

Sec. 118-703. Procedural requirements.

(a) *Prepetition conference.* Prior to the official submission of the petition for the approval of a planned unit development overlay district, the owner or his agent making such petition shall meet with the village plan commission or its staff to discuss the scope and proposed nature of the contemplated development.

(b) *Petition.* Following the prepetition conference, the owner or his agent may file a petition with the village clerk-treasurer for approval of a planned unit development overlay district. Such petition shall be accompanied with the following information:

- (1) A statement which sets forth the relationship of the proposed PUD to the village's adopted master plan, neighborhood plan, or any adopted component thereof, and the general character of the uses to be included in the proposed PUD, including the following information:
 - a. Total area to be included in the PUD area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
 - b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
 - c. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.
 - d. Any proposed departures from the standards of development as set forth in this chapter, chapter 94, other village regulations or administrative rules, or other universal guidelines.
 - e. The expected date of commencement of physical development as set forth in the proposal and, also, an outline of any development staging which is planned.
- (2) A general development plan including the following:
 - a. A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.
 - b. The location of public and private roads, driveways, sidewalks, and parking facilities.
 - c. The size, arrangement, and location of any individual building sites and proposed building groups on each individual site.

- d. The location of institutional, recreational, and open space areas and areas reserved or dedicated for public uses, including schools, parks, and drainageways.
- e. The type, size, and location of all structures.
- f. General landscape treatment.
- g. The existing and proposed location of public sanitary sewers, water supply facilities, and stormwater drainage facilities.
- h. The existing and proposed location of all private utilities or other easements.
- i. Characteristics of soils related to contemplated specific uses.
- j. Existing topography on the site with contours at no greater than two-foot intervals.
- k. Anticipated uses of adjoining lands in regard to surface water drainage, and compatibility with existing adjacent land uses.
- l. If the development is to be staged, a staging plan.
- m. Designation of central waste removal sites.

(c) *Referral to plan commission.* The petition for a planned unit development overlay district shall be referred to the village plan commission for its review and recommendation, including any additional conditions or restrictions which it may deem necessary or appropriate.

(d) *Public hearing.* The village board, after receiving a recommendation from the village plan commission shall hold a public hearing in accordance with this chapter. Notice for such hearings shall include reference to the development plans filed in conjunction with the requested planned unit development overlay district.

(Ord. of 11-24-94, § 16.4) (Amended; Ordinance 2017-01)

Sec. 118-704. Basis for approval of petition.

Under this division, the plan commission, in making its recommendation and the village board in making its determination, shall consider the following:

- (1) The petitioners for the proposed planned unit development overlay district have indicated that they intend to begin the physical development of the PUD within nine months following the approval of the petition and that the development will be carried out according to a reasonable construction schedule and staging plan satisfactory to the village board.
- (2) The proposed planned unit development overlay district is consistent in all respects to the purpose of this division and to the spirit and intent of this chapter; is in conformity with the adopted master plan, neighborhood plan,

or any adopted component thereof; and that the development would not be contrary to the general welfare and economic prosperity of the community.

- (3) The proposed site shall be provided with adequate drainage facilities for surface waters and stormwaters.
- (4) The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
- (5) No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas by the proposed development.
- (6) The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances or administrative regulations of the village.
- (7) Centralized public water and sewer facilities shall be provided.
- (8) The entire tract or parcel of land to be included in a planned unit development overlay district shall be held under single ownership or, if there is more than one owner, the petition for such planned unit development overlay district shall be considered as one tract, lot or parcel, and the legal description must define the PUD as a single parcel, lot or tract and be so recorded with the register of deeds for the county.
- (9) For a proposed residential planned unit development overlay district:
 - a. Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space, and coordination with overall plans for the community.
 - b. The total net residential density within the planned unit development overlay district will be compatible with the village master plan, neighborhood plan, or components thereof.
 - c. Structure types shall be generally compatible with other structural types permitted in the underlying basic use district. To this end, structure type shall be limited as follows: Planned residential developments in the R-1 district shall be limited to cluster developments, townhouses, and condominiums not to exceed four dwelling units per structure.
 - d. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.

- e. Provision has been made for adequate, continuing fire and police protection.
- f. The population composition of the development will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
- g. An adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan, either by private reservation and maintenance or by dedication to the public.

(10) For a proposed commercial planned unit development overlay district:

- a. The economic practicality of the proposed development can be justified, for the greater good of the adjacent area and the community.
- b. The proposed development will be adequately served by off-street parking and truck service facilities.
- c. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities such as fire and police protection, street maintenance, and maintenance of public areas.
- d. The locations of entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.
- e. The landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.

(11) For a proposed industrial planned unit development overlay district:

- a. The operational character and physical plant arrangement of buildings will be compatible with and will not result in adverse effect upon the property values of the surrounding neighborhood.
- b. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas.
- c. The proposed development will include adequate provision for off-street parking and truck service areas and will be adequately served by rail and arterial highway facilities.

- d. The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

(12) For a mixed use planned unit development overlay district:

- a. The proposed mixture of uses produces a unified composite which is compatible within the underlying districts and which, as a total development entity, is compatible with the surrounding neighborhood.
- b. The various types of uses conform to the general requirements, as set forth in this section, applicable to projects of such use and character.
- c. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas.

(Ord. of 11-24-94, § 16.5)

Sec. 118-705. Determination of disposition of application.

(a) *Generally.* The village board, after due consideration of the application for a PUD planned unit development overlay district, shall either deny the application, approve the application as submitted, or approve the application subject to additional conditions and restrictions.

(b) *Conditions for approval.* The general and detailed approval of a planned unit development overlay district shall be based on and include the conditions thereto, the building site, and operational plans for the development as approved by the village board.

(Ord. of 11-24-94, § 16.6)

Sec. 118-706. Approval.

(a) *Preliminary approval.* Plans submitted with the PUD planned unit development overlay district application need not necessarily be completely detailed at the time of rezoning, provided they are of sufficient detail to satisfy the village board as to the general character, scope, and appearance of the proposed development. Such preliminary plan shall designate the pattern of proposed streets, and the size and arrangement of individual buildings and building sites. The approval of such preliminary plan shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses.

(b) *Detailed approval.* Plans submitted for detailed approval shall be sufficiently precise and all items that are required to be identified by the village board are presented. A letter of credit for all improvements shall be submitted before final approval is given.

(c) *Changes and additions.* Any subsequent change or addition to the plans or uses shall first be submitted for approval to the plan commission, and if, in the opinion of the plan

commission, such change or addition constitutes a substantial alteration of the original plan, a public hearing before the plan commission shall be required and notice thereof be given pursuant to division 5 of article II of this chapter, and the proposed alterations shall be submitted to the village board for approval.

(d) *Subsequent land division.*

- (1) The division of any land within a planned unit development overlay district for the purpose of change or conveyance of ownership shall be accomplished pursuant to the land division regulations of the village, and when such division is contemplated, a preliminary plat of the lands to be divided shall accompany this petition for PUD approval
- (2) Chapter 94 shall apply to this zoning district. Letters of credit and performance bonds shall be provided as required by the village board.

(Ord. of 11-24-94, § 16.7)

Secs. 118-707--118-740. Reserved.

Division 15. Reserved for Future Use.

Secs. 118-741--118-750. Reserved.

Division 16. Design Guidelines Area Overlay District

Sec. 118-751. Purpose and intent.

It is the general intent of this division to control and regulate the development and appearance of property within the design guidelines area in order to:

- (1) Encourage urban design excellence.
- (2) Integrate urban design and preservation of the village's heritage into the process of downtown development and redevelopment.
- (3) Enhance the character of the design guidelines area.
- (4) Promote the development of diversity and areas of special character within the design guidelines area.
- (5) Provide pedestrians with a pleasant, rich and diverse visual experience.

(Amdmt. of 9-10-07, § 1)

Sec. 118-752. Definitions.

For purposes of this division the following phrases have the meaning indicated:

Design guidelines area means that area, centered on the intersection of Main Street and Mill Street, which is more particularly described in the downtown design guidelines, and which is comprised of the Downtown Core District and the Extended Core District, as they are defined in Sec. 118-753 of this division.

Downtown design guidelines means the "November 2006 Downtown Design Guidelines-Village of Union Grove," as approved by the village board on February 26, 2007, and as may be amended from time to time.

Maintenance activities means those activities directed at keeping a property in proper condition and that do not alter the property's exterior design features. Examples of maintenance activities include tuck pointing and the repainting of surfaces that have previously been painted, provided the surfaces are repainted substantially the same color.

Repair activities means those activities directed at restoring a property to its original condition and that do not alter the property's exterior design features.

Required guidelines means the required guidelines set forth in part 1 of chapter 2 of the downtown design guidelines. The required guidelines may be amended only as provided in article II, division 5.

(Amdmt. of 9-10-07, § 1)

Sec. 118-753. Mapped district.

(a) The design guidelines area shall be implemented through the imposition of this division's regulation as an overlay district, supplementing the existing underlying zoning districts within the design guidelines area.

(b) The design guidelines area shall be comprised of two sub-districts, the Downtown Core District and the Extended Core District, both as defined and depicted in the downtown design guidelines.

(Amdmt. of 9-10-07, § 1)

Sec. 118-754. Land uses.

All permitted uses and conditional uses as allowed by the underlying zoning districts shall likewise be allowed in the design guidelines area.

(Amdmt. of 9-10-07, § 1)

Sec. 118-755. Scope.

This division shall apply to all buildings, structures, landscaping and exterior fixtures within the design guideline area, including, without limitation, all free-standing signs, all awnings and canopies, and all exterior lighting fixtures.

(Amdmt. of 9-10-07, § 1)

Sec. 118-756. Applicability.

(a) All activities, excluding maintenance and repair activities which will change the exterior appearance of any building, structure, landscaping or exterior fixture shall comply with all required guidelines. All activities not subject to any required guidelines are nonetheless encouraged to incorporate the downtown design guidelines to the maximum extent possible.

(b) No person shall undertake any new exterior construction activity, any building expansion, or any exterior renovation or rehabilitation activity having a project cost of \$5,000.00 or more, in the aggregate, without undertaking the design review set forth in section 118-757.

(c) No person shall install new or replacement signs, regardless of value without undertaking the design review set forth in section 118-757.

(d) Maintenance and repair activities, as defined in section 118-752 are exempt from the requirements of this division.

(Amdmt. of 9-10-07, § 1) (Amended; Ordinance 2017-01)

Sec. 118-757. Design review.

(a) Persons contemplating any project within the design guidelines area are strongly encouraged to review the downtown design guidelines as an aid in understanding the purpose, scope and intent of this division.

(b) All new exterior construction activities, all building expansions, all new and replacement signs (except as provided in subsection 118-756(c)), and all exterior renovation or rehabilitation activities having a project cost of \$5,000.00 or more, in the aggregate, must complete design review as provided in this section.

(c) Application for design review shall be made to the village clerk.

(d) The community development authority shall consider applications for design review during open meetings. Reviews shall be conducted within 60 days after a completed application is filed with the village clerk or the activity shall be deemed approved.

(e) The community development authority may obtain the services of a professional planner, or other qualified professional, to assist it with its responsibilities under this section as it deems necessary. The applicant shall be responsible for the costs of any such professional review.

(f) The community development authority shall issue written findings to the village plan commission and the applicant within 21 days after design review is completed. The written findings shall indicate whether the proposed activity meets all required guidelines, conditionally meets all required guidelines (further indicating the conditions that need to be fulfilled), or fails to satisfy all required guidelines. The findings shall also contain such advisory design guidance as the community development authority deems appropriate and in keeping with the spirit of the downtown design guidelines, although such guidance need not be followed. If an applicant's proposed design is rejected or conditionally approved, the applicant may file revised plans for review by the community development authority addressing any deficiencies.

(g) The building inspector may issue building and/or occupancy permits within the design guidelines area for projects requiring review by the community development authority only after receiving the written approval of the community development authority and approval of the village plan commission, or after receiving a conditional approval from the community development authority and village plan commission if all approval conditions therein have been satisfied.

(h) The downtown design review set forth herein is in addition to, and does not take the place of, the site plan and architectural review provisions of section 118-821.

(i) The written findings of the community development authority shall be forwarded to the village plan commission as a recommendation. Upon receipt of the written findings, the village plan commission shall review the site plan as set forth in section 118-821.

(Amdmt. of 9-10-07, § 1)

Secs. 118-758--118-790. Reserved.

Article V. Supplementary District Regulations

Division 1. Generally

Secs. 118-791--118-815. Reserved.

Division 2. Site Restrictions

Sec. 118-816. Unsuitable site.

No land shall be used or structure erected where the land is held unsuitable for such use or structure by the plan commission because of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this village. Aesthetics may only constitute grounds for prohibiting the use if such use will substantially depreciate the value of property in the

neighborhood or impose a visual effect upon neighbors or passersby which is clearly obnoxious to the prevailing taste of the community. The plan commission, in applying the provisions of this division, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter the plan commission may affirm, modify, or withdraw its determination of unsuitability.

(Ord. of 11-24-94, § 2.131)

Sec. 118-817. Lot requirements.

(a) All lots shall abut upon a public street, and each lot shall have a minimum frontage of 33 feet. All lots shall also have a minimum width at the required minimum street yard setback line as prescribed for the particular zoning district in which the lot is located. All principal structures shall be located on a lot, and only one principal structure shall be located, erected, or moved onto a lot.

(b) No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width.

(c) Where a lot abuts a more restrictive district, the street yards on the less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.

(Ord. of 11-24-94, § 2.132)

Sec. 118-818. Floodland.

No river or stream shall be altered or relocated until a floodland zoning map change has been applied for and granted in accordance with the requirements of Article IX of this chapter.

(Ord. of 11-24-94, § 2.133)

Sec. 118-819. Area regulations.

No lot area shall be so reduced that the yards and open spaces shall be smaller than are required by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations established for the district in which a building or premises is located.

(Ord. of 11-24-94, § 2.8)

Sec. 118-820. Reduction or joint use.

No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as to meet the requirements of this chapter. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

(Ord. of 11-24-94, § 2.12)

Sec. 118-821. Site plan and architectural review.

(a) *Purpose; site plan review requirements.* For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use, or erect, construct, alter, or enlarge any structure nor shall any substantial changes be made to any site improvements in any district except any single family or two-family dwelling or their accessory structures in any other zoning district, without first obtaining the review and approval of detailed site and architectural plans as set forth in this section.

(b) *Plan commission review.* The plan commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewerage and water systems, other utilities, utilization of landscaping and open space, and the proposed operation. The plan commission may impose conditions relating to landscaping, architectural design, type of construction, flood-proofing, anchoring of structures, constructions commencement and completion dates, sureties, lighting, fencing, landscape screening, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements, as may be required by the plan commission upon its finding that such regulation or restrictions are necessary to fulfill the purpose and intent of this section.

(c) *Standard of review.* In determining whether to approve site and architectural plans for all new structures, uses and changes or additions to existing structures and uses, the plan commission shall consider the following:

- (1) Whether the design or exterior appearance of the structure is compatible with its surroundings or is of such unorthodox or abnormal character in relationship to its surroundings as to be unsightly or offensive with the surrounding area.
- (2) Whether the design or exterior appearance of the structure is identical with those adjoining as to create excessive monotony or drabness.
- (3) Whether any exposed facade of the structure is constructed or faced with a finished material which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
- (4) Whether the structure or use would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
- (5) Whether the structure and use would have a negative impact on the maintenance of safe and healthful conditions in the village.
- (6) Whether the structure and use will maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. The plan commission may require that drainage easements be executed. Property

owners shall comply with existing subdivision or development grading plans.

- (7) Whether there are adequate provisions for safe traffic circulation and safe driveway locations.
- (8) Whether there are adequate provisions for parking and loading areas in accordance with any applicable ordinance.
- (9) Whether lighting must be installed in accordance with any applicable ordinance.
- (10) Whether there will be adequate provision for public services as approved by the department of public works and water utility.
- (11) Whether the structure and uses make appropriate use of open spaces and provide appropriate landscaping and planting screens.
- (12) Appropriate erosion control measures as required by ordinance, the Wisconsin Uniform Dwelling Code and any other applicable law or administrative rule.
- (13) The architectural guidelines and design standards recommended or required by the village community development authority or any other village redevelopment authority.
- (14) Whether there is compliance with all other provisions of the zoning code or applicable municipal ordinances.

(d) *Sureties.* The plan commission may impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The plan commission may require appropriate sureties to guarantee that improvements will be completed on schedule.

(e) *Review and findings.* The plan commission shall review the site plans at a regularly scheduled plan commission meeting. The plan commission shall not approve any plans unless they find after viewing the application that the structure, as planned, will meet all regulations and standards set forth by the village and will not violate the intent and/or use and purpose of this section. The plan commission will approve said plans only after determining that the proposed building will not impair an adequate supply of light or air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety. Any approval by the plan commission will become null and void if the structure, site development, or planned use is not commenced within 12 months from the date of approval.

(f) *Appeals.* Any person or persons aggrieved by any decision of the plan commission or building inspector related to site plan and architectural review may appeal the decision to the board of zoning appeals. Such appeal shall be filed with the zoning administrator within 20 days after the decision.

(Amdmt. of 2-12-07, § 1) (Amended; Ordinance 2017-01)

Editor's note: An amendment of February 12, 2007, § 1, enacted provisions intended for use as subsections (1)--(6). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (a)--(f).

Sec. 118-822. Plans of operation.

(a) *Plan of operation review and approval requirements.* No person shall operate a commercial enterprise, industry, church, school, non profit organization, other nonresidential use, or a multi-family use, without first obtaining the approval of a plan of operation from the plan commission as set forth in this section, and no nonresidential activity shall be engaged in or carried on, except as approved in the plan of operation permit. As businesses or institutions requiring a plan of operation add additional employees, change the nature of the product or service, or extend hours of operation beyond those shown on the plan of approval, an amended plan of operation shall be required.

(b) *Plan of operation permits exemptions.* The following public uses are exempt from plans of operation permit requirements:

- (1) Municipal buildings, and
- (2) Public schools.

(c) *Required information for a plan of operation permit.* All plans of operations shall be submitted to the village administrator on forms supplied by the village. The applications for plan of operations permits shall show the following information:

- (1) Name, type, and address of the business or institution;
- (2) Name and address of property owner;
- (3) Name and address of manager, if other than the owner;
- (4) Proposed hours of operation;
- (5) The number of full-time and part-time employees;
- (6) Plot plan for multi-tenant buildings.

(d) *Criteria for plan of operation approval.* The following criteria will be used by the plan commission in reviewing applications for plan of operation permits:

- (1) Proximity to residential neighborhoods and the potential for disturbing and disrupting residential uses.
- (2) Adequacy of the principal building and other structures on the site for the proposed activity. Plan of operation permits will only be issued to businesses to be conducted in permanent structures.
- (3) Availability of adequate parking to meet the needs of the employees and customers.
- (4) Adequacy of street parking.

(e) *Hours of operation.* Based upon the impact on residential area in proximity to commercial uses and the cost of police protection and other public services necessary to

adequately serve businesses, the plan commission may regulate the hours of operation of any business which requires a plan of operation permit.

(Amdmt. of 2-12-07, § 1) (Amended; Ordinance 2017-01)

Editor's note: An amendment of February 12, 2007, § 1, enacted provisions intended for use as subsections (1)--(5). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (a)--(e).

Secs. 118-823--118-845. Reserved.

Division 3. Uses

Subdivision I. In General

Sec. 118-846. Applicability.

The restrictions and regulations in this subdivision shall apply to uses in zoning districts.
(Ord. of 11-24-94, § 2.14)

Sec. 118-847. Principal uses.

Only those principal uses specified for a zoning district, their essential services, and the uses specified in this subdivision on the conditions specified in each section shall be permitted in that district.
(Ord. of 11-24-94, § 2.141)

Sec. 118-848. Accessory uses and structures.

Accessory uses and structures are permitted in any zoning district, but not until their principal structure is present or under construction and if they meet the requirements of Sec. 118-989. Residential accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include the following:

- (1) Incidental repairs;
- (2) Incidental storage;
- (3) Parking facilities;
- (4) Gardening;
- (5) Private swimming pools; and
- (6) Private emergency shelters.

(Ord. of 11-24-94, § 2.142) (Amended; Ordinance 2017-01)

Sec. 118-849. Conditional uses and their accessory uses.

Under this chapter, conditional uses and their accessory uses are considered as special uses which require approval and a public hearing if there is approval, all in accordance with subdivision II of this division. Any development within 50 feet of any existing or mapped state or county trunk highway or within 150 feet of an existing or mapped centerline of an intersection with any other road shall be deemed to be a conditional use. Such development shall be specifically reviewed in accordance with article III of this chapter.
(Ord. of 11-24-94, § 2.143)

Sec. 118-850. Unclassified or unspecified uses.

Under this chapter, unclassified or unspecified uses may be permitted after the plan commission has made a review and recommendation, provided that such uses are similar in character to the principal uses permitted in the district.
(Ord. of 11-24-94, § 2.144)

Sec. 118-851. Temporary uses.

Under this chapter, temporary uses, such as real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the plan commission.
(Ord. of 11-24-94, § 2.145)

Sec. 118-852. Parking of vehicles accessory to residential use.

(a) Under this chapter, parking of vehicles accessory to a residential use shall be limited to those actually used by the residents or for temporary parking for guests. Vans or pickup trucks used for private and recreational use or a motor home (recreational vehicle) or a van or pickup truck used in a business or trade and used for transportation to and from a place of employment of the occupant may be parked on a residential property. Vans used in a business or trade, for purposes of this chapter, are limited to those which are less than 227.0 inches in total body length, bumper to bumper, and have an interior height of less than 60 inches.

(b) Recreational vehicles shall be parked in the rear and side yards only. For the purpose of this chapter, recreational vehicles shall include boats and trailers, snowmobiles and their trailers, minibikes or trailbikes and their trailers and unoccupied tent-campers, motor homes and travel trailers. No other vehicular equipment of a commercial or industrial nature, except as stated in this subsection, shall be parked or stored for more than two consecutive hours and four accumulated hours during any 24-hour period on any lot in any zoning district, except business and industrial districts.

(c) Agricultural equipment used in a farm operation, such as farm tractors, plows, farm plows, seeders, combines, cultivators, trucks owned and used by the farmer in the operation of the farm, etc., may be parked or stored outdoors in the A-1 district. The village board may by ordinance establish standards to allow seasonal or other temporary exceptions to this subsection.

Sec. 118-853. 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, as well as applicable state and federal certification or licensing provisions. 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 118-276.
 - 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. Real estate services and appraisal.
 - t. Tailoring (e.g., dressmaking and alterations) services.
 - u. Teaching of crafts and incidental sale of supplies to students.
 - v. Tutoring.
 - w. 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) Contractors shops.
 - (8) Mortuaries.
 - (9) Medical procedures.
 - (10) 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) Less than 50% of the gross floor area of the principal dwelling structure shall be utilized for the home occupation, not to exceed 400 square feet.
 - (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 utilized in conjunction with the home occupation 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 without the permission of the Plan Commission.
 - (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.

Sec. 118-854. Solar energy systems.

(a) The use of solar energy systems, including solar collectors, storage facilities, and distribution components for space heating and cooling and domestic hot water heating, is a permitted use within residential, agricultural, institutional, and business zoning districts, whether as part of a structure or accessory to a principal structure or group of structures, subject to site plan review and approval by the plan commission. The use of solar energy systems is subject to the restraints imposed by the diversity of topography within the village plus the zoning and setback limitations contained in this chapter and existing trees. No guarantee is given that all property within the corporate limits of the village can use solar energy systems. However, as a general policy, reasonable care should be taken to protect the opportunity for the utilization of solar systems at all of the locations available. Installation of a solar collector on a property shall create no right to object to permitted uses on neighboring property because such use does, will, or may impair the use of such collector, except as such rights are granted by state law.

Sec. 118-855. Tourist Rooming Houses.

Tourist rooming houses may be allowed as annually-permitted conditional uses in any existing conforming dwelling or dwelling unit, other than a watchman's quarters. It is the intent of this section to allow for the operation of tourist rooming houses if such a use can be undertaken without changing the residential character of the proposed location and also such that, from the perspective of neighboring residents, the tourist rooming house operation is no different than if the operator were hosting out-of-town guests for a limited period of time. In addition to any other conditions that may be imposed by an approved conditional use permit, all tourist rooming houses shall comply with the following:

- (a) The operator shall obtain and maintain a current tourist rooming house license issued by the state of Wisconsin or the Village health department and shall pay all fees required by the Village, by the health department, and/or by state law.
- (b) All tourist rooming houses shall be the operator's primary residence.
- (c) Only the owner of the property may operate a tourist rooming house.
- (d) A tourist rooming house, or any part thereof, may not be rented out for more than a total of 30 days per license year (July 1 to June 30).
- (e) The tourist rooming house operator must, at all times, keep the Village apprised of the operator's current address, phone number and/or email contact information, and must agree to respond within 24 hours of any contact by any representative of the Village.

- (f) The tourist rooming house operator must provide all renters with written information containing the operator's 24/7 contact information, local emergency and non-emergency numbers, and a listing of any special restrictions, limitation or considerations with respect to the property and/or the neighboring properties so as to minimize the likelihood of any conflict between renters and neighboring residents.
- (g) The maximum number of renters at time may not exceed twice the number of bedrooms being rented, plus 1. For example, a rental of one bedroom would allow a maximum of three renters and a rental of two bedrooms would allow a maximum of five renters.
- (h) A tourist rooming house must have adequate off-street parking sufficient to accommodate at least one car per bedroom being rented.

Each tourist rooming house shall have a renter registry available for inspection, indicating the identity of all guests, dates of stay, whether operator also stayed at the tourist rooming house during the stay, and lengths of stay. The registry shall include information from the current license year and the prior license year.

(Last update Ord. 2016-04, 08/08/16)

Sec. 118-856. Wind energy collection, storage and electric production devices.

(a) Any wind energy collection, reflection, conversion generation, transmission, or storage system and device external to the principal use structure, or proposed to be placed as an accessory or principal use on property within the Village of Union Grove shall be required to obtain approval by the Plan Commission as well as securing a permit for the erection of such system or device from the Building Inspector prior to such erection or placing.

- (1) Wind Energy. Any wind energy/electricity producing system proposed to be located within the Village of Union Grove requires a Village Conditional Use Permit and must also comply with the rules and regulations set forth in this ordinance, ss. 66.0401, 66.0403 and 196.378 of Wisconsin statutes and Wisconsin Public Service Commission (PSC) chapters 114, 118 and 128 of the Wisconsin Administrative Code. A conditional use permit application or request to locate such system within the Village shall be accompanied by detail system construction drawings, including: a site plan showing property boundaries, location of system structure(s), existing and proposed easements, permanent pools or ponds, property ingress/egress and dimensions of all structures and setbacks. In addition, the applicant shall provide the findings of investigations of vista intrusion, noise, 'shadow flicker', stray voltage, signal interference, other studies conducted as required, the detail plans for decommissioning any such facility and the names and addresses of persons, companies or corporations involved with the proposed installation. The applicant must show evidence that all county, state and federal regulations have been met as well as all regulations of any affected electric utility company. Proposed wind energy systems shall meet the following requirements:

- a. Individual systems producing more than 100 kW of electricity shall only be constructed within an A-1, Agriculture zoning district and shall meet all the state regulations regarding the placement and operation of such systems; and,
- b. No individual system proposed to be located outside an A-1 zoned property shall produce more than 100 kW of electricity and such systems must meet the following Village requirements:
 - 1. There shall be no more than three such systems on an individual property, unless otherwise approved by the Plan Commission;
 - 2. No individual system shall be more than 125 feet in height from ground to blade tip;
 - 3. The setback from the system to a building on the host property, a property boundary, another wind system or overhead transmission cable/wires shall be no less than 1.1 times the ground to blade tip height of the system;
 - 4. The setback from the system to any occupied institutional building such as a religious institution, a community building, day care facility or school shall be no less than 3.1 times the ground to blade tip height of the system;
 - 5. No such system shall be visible from the first or second floor of a residence located within 1,500 feet;
 - 6. The system structure shall consist of a monopole (or other structure that requires no secondary support), blades and electric generator. There shall be no other sign or devices attached to or suspended from such system and the entire system shall be painted in a single tone that renders the system the most visually unobtrusive;
 - 7. There shall be no steady or intermittent whine, whistle, screech, hum or other such noise emitted from a system and the decibel level of the system shall be no greater than 45 dBA measured at a distance of 125 feet from the system and the Village Plan Commission may require pre and post construction noise level studies conducted;
 - 8. There shall be no 'shadow flicker' on the windows of any building within a distance of 250 feet from a system;
 - 9. There shall be no interference with public or quasi-public communication facilities and such systems shall not be constructed in line-of-sight of an existing communication system; and

10. The owner/operator of the system shall furnish a report to the Village by July 31 and January 31 each year setting forth the amount of electricity generated during the first and last halves of each calendar year the system is in service and if the system generates no electricity for a continuous period of 360 days the system must be decommissioned and removed pursuant to PSC regulation.
- c. The Village may require a cash bond or irrevocable letter of credit in the amount of 120 percent of the estimated cost of completing the proposed system decommissioning.

If the Conditional Use Permit is approved by the Village Board the applicant may then apply for a building permit.

Sec. 118-857. Regulation on rummage/garage sales.

(a) Definitions.

- (1) Rummage/Garage Sale. Rummage/Garage Sale shall mean any sale of personal property conducted on any residentially zoned property within the Village, irrespective of what the sale is designated as by the seller.
- (2) Personal Property. Personal Property shall mean and include any property, other than real estate, which is acquired in the course of living in or maintaining a dwelling unit.
- (3) Residentially Zoned Property. Residentially zoned property shall mean any property zoned as RS-90, RS-80, RD-90, RD-80, RM, MH and C-3.

(b) Application. The purpose of this ordinance is to restrict the frequency of rummage/garage sales at a residential property. This ordinance does not affect or impact the applicability of health ordinances, nuisance ordinances, zoning ordinances, business and licensing ordinances or any other ordinance of the Village.

(c) Restrictions.

- (1) It shall be unlawful for any person or party to sell other than personal property at a Rummage/Garage Sale.
- (2) It shall be unlawful for any person or party to hold or permit to be held a Rummage/Garage Sale on more than nine (9) calendar days, whether or not consecutive, within any calendar year.
- (3) It shall be unlawful for any person or party to hold or permit to be held a Rummage/Garage Sale during the hours of 8:00 p.m. to 8:00 a.m. on any day.

(d) Exceptions.

- (1) Farm produce. The sale of farm produce on property zoned residential shall not constitute a Rummage/Garage Sale.
- (2) Juvenile Beverage Stands. The sale of beverages and/or snacks by a juvenile shall not constitute a Rummage/Garage Sale.
- (3) Single Article Sales. The offering for sale of not more than one article of personal property, such as the sale of a single car, boat, snowmobile, bicycle, snow blower, etc., shall not be regulated by this section.

Secs. 118-858--118-880. Reserved.

Subdivision II. Conditional Uses

Sec. 118-881. Right to conditional uses.

(a) A conditional use, as provided for in this chapter, is a use which may be permitted in a particular zoning district. It is not permitted until approved in the manner provided in this chapter.

(b) If a use or structure is not specifically permitted or prohibited and is of a character that could be compatible with the principal use or structure, such use may be allowed as a conditional use.
(Ord. of 11-24-94, § 18.1)

Sec. 118-882. Application.

(a) An application for a conditional use shall be made in duplicate to the zoning administrator and shall include the following:

- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record.
- (2) A description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- (3) A plat of the survey prepared by a registered land surveyor showing all of the information required under section 118-136 for a zoning permit and, in addition, the mean and historic high water lines on or within 40 feet of the subject premises, and existing and proposed landscaping.
- (4) Fee receipt from the zoning administrator.

(Ord. of 11-24-94, § 18.2)

Sec. 118-883. Referral to plan commission.

Each application for a conditional use shall be referred to the plan commission, which shall review it pursuant to section 118-885.

(Ord. of 11-24-94, § 18.3)

Sec. 118-884. Public hearing.

The plan commission shall fix a reasonable time and place for a public hearing on the application for a conditional use and shall give public notice thereof in the same manner as for an amendment to this chapter. A copy of all notices for public hearing on applications for conditional uses in the floodland districts, including a copy of the application, shall be transmitted to the state 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.

(Ord. of 11-24-94, § 18.4)

Sec. 118-885. Standards for review.

In reviewing the proposed conditional uses, the plan commission shall be guided by the following standards and requirements:

- (1) All conditional uses must 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.
- (2) A review of the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation, and improvement upon flood damage protection, water quality, shoreland cover, natural beauty, and wildlife habitat.
- (3) 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 protection, planting screens, operational control, hours of operations, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or additional parking may be required by the plan commission 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 state's floodplain, shoreland and wetland management programs.

- (4) Compliance with all other sections 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.

(Ord. of 11-24-94, § 18.5)

Sec. 118-886. Decisions.

The plan commission shall decide all applications for conditional uses, except applications for floodland conditional uses, within 30 days after the public hearing and shall transmit a signed copy of its decision to the applicant and to the village clerk-treasurer. Decisions on floodland district applications shall be made as soon as is practicable, but not more than 60 days after the required public hearing. Decisions on floodland district applications shall not be made for 30 days or until the state department of natural resources has made its recommendation, whichever comes first. A copy of all floodland conditional use decisions shall be transmitted to the department of natural resources within ten days of their effective date.

(Ord. of 11-24-94, § 18.6)

Sec. 118-887. Report to village board.

Each decision of the plan commission made under this subdivision shall be reported to the village board at its next regular meeting.

(Ord. of 11-24-94, § 18.7)

Sec. 118-888. Written decisions.

All conditional uses shall be approved in writing. Such writing shall state all conditions which are imposed, all variations if any from underlying zoning requirements and all agreements made by owners.

(Ord. of 11-24-94, § 18.8)

Sec. 118-889. Expiration.

All conditional uses or temporary uses granted pursuant to this subdivision shall expire within six months of the date of the written approval unless substantial work has commenced pursuant to such grant. A copy of all decisions granting or denying applications for a conditional use or a temporary use for property located in a floodland shall be transmitted by the plan commission to the state department of natural resources within ten days.

(Ord. of 11-24-94, § 18.9)

Secs. 118-890--118-915. Reserved.

Division 4. Performance Standards*

Sec. 118-916. Compliance.

This chapter permits specific uses in specific districts, and the performance standards in this division are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. All structures, lands, air, and waters shall, in addition to their use, site, and sanitary regulations, comply with the performance standards in this division.

(Ord. of 11-24-94, § 28.1)

Sec. 118-917. Air pollution.

No person or activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities so as to substantially contribute to exceeding established state or federal air pollution standards.

(Ord. of 11-24-94, § 28.2)

Sec. 118-918. Fire and explosive hazards.

All activities involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall comply with Chapter 46 of the Village's Code of Ordinances entitled "Fire and Rescue Protection."

Sec. 118-919. Glare and heat.

No activity shall emit glare or heat that is visible or measurable outside its premises, except activities which may emit in direct or sky reflected glare which shall not be visible outside the zoning district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside the premises.

(Ord. of 11-24-94, § 28.4)

Sec. 118-920. Water quality protection.

(a) No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to animal, plant, or aquatic life.

(b) In addition, no activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward the exceeding of the minimum standards and those other standards and the application of those standards set forth in the Wisconsin Administrative Code for the Root and Des Plaines Rivers and their uses.

(Ord. of 11-24-94, § 28.5) **Cross references:** Water service, § 106-26 et seq.

Sec. 118-921. Noise.

(a) No activity in an I-2 manufacturing district shall produce a sound level outside the district boundary that exceeds the following sound level measured by a sound level meter and associated octave band filter:

<i>Octave Band Frequency (Cycles Per Second)</i>	<i>Sound Level (Decibels)</i>
0 to 75	79
75 to 150	74
150 to 300	66
300 to 600	59
600 to 1,200	53
1,200 to 2,400	47
2,400 to 4,800	41
Above 4,800	39

(b) No other activity in any other district shall produce a sound level outside its premises that exceeds the following:

<i>Octave Band Frequency (Cycles Per Second)</i>	<i>Sound Level (Decibels)</i>
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1,200	46
1,200 to 2,400	40
2,400 to 4,800	34
Above 4,800	32

(c) All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.
(Ord. of 11-24-94, § 28.6)

Sec. 118-922. Odors.

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside the premises. The guide for determining odor measurement and control shall be ch. 429, Wis. Admin. Code and amendments thereto.
(Ord. of 11-24-94, § 28.7)

Sec. 118-923. Radioactivity and electrical disturbances.

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.
(Ord. of 11-24-94, § 28.8)

Sec. 118-924. Vibration.

No activity in any district shall emit vibrations which are discernable without instruments outside its premises. No activity shall emit vibrations which exceed the following displacement, measured with a three-component measuring system:

<i>Frequency (Cycles Per Second)</i>	<i>Displacement (Inches)</i>	
	<i>Outside Premises</i>	<i>Outside District</i>
0 to 10	0.0020	0.0004
10 to 20	0.0010	0.0002
20 to 30	0.0006	0.0001
30 to 40	0.0004	0.0001
40 to 50	0.0003	0.0001
50 and over	0.0002	0.0001

(Ord. of 11-24-94, § 28.9)

Secs. 118-925--118-950. Reserved.

Division 5. Height of Structures

Sec. 118-951. Applicability of division.

The district height limitations stipulated in this chapter may be exceeded, but such modification shall be in accord with this division.

(Ord. of 11-24-94, § 2.9)

Sec. 118-952. Architectural projections.

Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues, chimneys, antennas (not to include satellite dishes), solar energy collectors, and equipment used for the mounting and operation of such collectors are exempt from the height limitations of this chapter, except that any such structure which exceeds the height limitation by more than ten feet shall be a conditional use.

(Ord. of 11-24-94, § 2.91)

Sec. 118-953. Special structures.

Special structures, such as water towers, cooling towers, fire towers, monuments, elevator penthouses, scenery lofts, radio and television antennas, are exempt from the height limitations of this chapter, except that any such structure which exceeds the height limitation by more than ten feet shall be a conditional use. Any such structure, aerial or tower, if located within three miles of the boundary line of an airport, may not exceed the height limitations of the district in which it is located without the prior approval of the board of appeals. Such approval shall be

granted only if the board finds that such excess height will not be likely to endanger aircraft, property or human life.
(Ord. of 11-24-94, § 2.92)

Sec. 118-954. Agricultural structures.

Agricultural structures shall not exceed in height twice their distance from the nearest lot line.
(Ord. of 11-24-94, § 2.93)

Sec. 118-955. Solar access.

Although the structures identified in sections 118-952 through 118-955 are exempt or are subject to modification from structural height limitations, these structures should not significantly impair solar access of buildings or solar collection locations.
(Ord. of 11-24-94, § 2.95)

Sec. 118-956. Differing grades.

Where a lot abuts upon two or more streets or alleys which have different average established grades for purposes of height measurement, the higher of such average grades shall control for a distance of 120 feet measured perpendicular to the street line of the street with the higher average established grade.
(Ord. of 11-24-94, § 2.96)

Sec. 118-957. Through lots.

On through lots which extend from street to street, the height of the main building may be measured from the mean elevation of the finished grade along the end of the building facing either street.
(Ord. of 11-24-94, § 2.97)

Sec. 118-958. Basements.

A basement shall be counted as a story for purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or is used for dwelling purposes.
(Ord. of 11-24-94, § 2.98)

Secs. 118-959--118-985. Reserved.

Division 6. Yards

Sec. 118-986. Use for only one building.

No part of a yard or other open space provided about any building for the purposes of complying with this chapter shall be included as a part of a yard or other open space required for another building.

(Ord. of 11-24-94, § 2.101)

Sec. 118-987. Abutment on district boundary.

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

(Ord. of 11-24-94, § 2.102)

Sec. 118-988. Fences, walls and hedges.

(a) Definition.

- (1) Fence. A fence is an artificial structure of posts and boards, wire, pickets, panels, rails or similar materials used as an enclosure or serving as a barrier. For the purpose of this ordinance, the sections below addressing vision clearance requirements shall also apply to vegetation, including without limitation, hedges, bushes and trees.

(b) Permit.

- (1) No fence shall be constructed in the Village without first obtaining a permit from the Building Inspector. The application for such permit shall be on a form prescribed by the Village and shall be accompanied by a survey or site plan, in a form approved by the Building Inspector, showing the lot and the proposed location of the fence.
- (2) 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 Union Grove shall be paid at the time of the filing of the application for a permit hereunder.
- (3) 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.
- (4) The Village Building Inspector or his/her 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.
- (5) As a condition of receiving a permit under this section, the owner agrees to defend, indemnify and hold the Village of Union Grove 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.

(c) Design.

(1) Height.

a. Residential and non-residential properties.

1. A fence within a street yard may not exceed three and one-half (3½) feet in height, must be located at least one (1) foot from the street yard lot line, and may not exceed any vision clearance requirements established by any applicable ordinance. Corner lot side yard fences may be increased in height to a maximum of six (6) feet, but must be set back a minimum of ten (10) feet from the lot line, unless otherwise approved by the plan commission.
2. A fence within a rear or side yard may not exceed six (6) feet in height and may not exceed any vision clearance requirements established by any applicable ordinance.
3. A supporting fence post that is set into the ground may exceed the heights specified above by six (6) inches.
4. Fences shall not exceed two and one-half (2½) feet in height when located within a vision clearance triangle unless approved by plan commission, and shall further comply with the location requirements set forth below in subsection (5).
5. 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) Prohibited Materials.

- a. No person shall construct or cause to be constructed, in whole or in part, a fence with barbed wire, creosote-covered materials, electrified wire (except for underground dog containment electrical fences), or other injurious materials within a residentially zoned district.
- b. 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 (except for underground dog containment electrical fences) or other injurious materials in a non-residential district unless so provided in a Conditional Use Permit/Site Plan Review under the applicable zoning ordinance.

- (3) Maintenance. Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning, missing sections, broken supports, non-uniform heights, and non-removal of noxious weeds or similar vegetation.
- (4) Aesthetics.
- a. The “good”, finished 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. Fences may be located on the lot line.
 - b. The Building Inspector shall determine which side of a fence is the “good”, finished side and shall provide property owners with his/her determination upon request. The Building Inspector may require the property owner to provide sufficient evidence to make said determination. The determination of the Building Inspector may be appealed to the Plan Commission, whose determination shall be final.
- (5) Location.
- a. A fence may not be located within a public drainage easement or within a public right-of-way unless authorized elsewhere in this chapter.
 - b. A fence may be located within the setbacks established by applicable zoning ordinances for street, side, rear, and shore yards, unless otherwise prohibited or restricted herein or unless prohibited or restricted by a Conditional Use Permit/Site Plan Review or variance.
 - c. Fences abutting alleys shall be set back a minimum of two and one-half (2 1/2) feet from the lot line extending along the alley.
 - d. Notwithstanding the foregoing provisions, to provide adequate vision clearance for persons using the public highways, no fence, screening, structure, bush, tree, branches or mound shall be erected, grown, placed or maintained in the Village which shall obstruct the vision between 2 and ½ (2 ½) feet above the curb level or, if none, the street grade at the location, within a triangle formed by the intersecting street lines and a line connecting such street lines from points 15’ from the intersection of the street lines.
 - e. Retaining Walls that exceed twelve (12) inches in height above grade shall be located a minimum of five (5) feet from all lot lines unless otherwise approved by the plan commission. Retaining wall submittals shall include drainage and landscaping plans.

(d) General Provisions.

- (1) Fences located within a public right-of-way shall not be permitted and shall be removed.
- (2) A fence currently located within a public drainage easement in the Village of Union Grove shall be permitted to remain unless in the opinion of the Building Inspector the fence 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 Building Inspector as to the existence of an obstruction may be appealed as set forth below.
- (3) The Building Inspector may order any fence located within the Village of Union Grove 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 to the last known owner of the property where the fence is located, either delivered in person or by certified mail addressed to the last known address of the owner, directing the work or action which is required to be taken. The work or action shall be completed within thirty (30) days after receipt of the notice in the case of personal delivery or after the mailing of the notice in the case of mailing. 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.
- (4) Any person shall have a right to request a review of the determination of the Building Inspector 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 Union Grove to enter upon the premises and complete such action. Any cost to the Village of Union Grove shall be charged as a special charge against the property as provided in Wis. Stat. Section 66.0627.
- (5) 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.
- (6) As an exception to any notice requirements set forth above, the Building Inspector and/or Director of Public Works may order the emergency removal of a fence, or a portion thereof, where there is an immediate danger to persons or property, or a significant maintenance concern.
- (7) Temporary fences such as construction security fences are permitted provided they are at least one (1) foot from the street, side and rear yard lot line unless a revised setback is otherwise approved by the Building Inspector and/or Director of Public Works and shall not exceed 180 days in any calendar year unless specifically approved by the Plan Commission.

Sec. 118-989. Accessory uses.

a. Requirements. Accessory uses and detached accessory structures in residential zoning districts are permitted in the rear and side yards and must comply with the following:

1. Accessory uses and detached accessory structures shall only be located in a rear yard or a side yard;
2. Accessory uses and detached accessory structures shall not be closer than ten feet to the principal structure;
3. Accessory uses and detached accessory structures shall not exceed 16 feet in building height, without approval by the plan commission. The plan commission may authorize a higher height depending on site conditions such as screening, topography and landscaping upon application as provided under subsection (e) below);
4. Accessory uses and detached accessory structures shall not exceed 1500 square feet (footprint), without the approval of the plan commission. The plan commission may authorize up to 3000 square feet (footprint) upon application as provided under subsection (e) below; and
5. Accessory uses and detached accessory structures shall not occupy, in total, more than 30 percent of the rear yard area, and shall comply with the following setbacks to any rear or side yard lot line, or within any easement area:
 - (a) <1200 sq. ft. (footprint) shall require a minimum of 5 foot setback;
 - (b) Between 1200 sq. ft. and <1500 sq. ft. (footprint) shall require a minimum of 10 foot setback;
 - (c) Between 1500 sq. ft. and ≤3000 sq. ft. (footprint) shall require a site plan review by the plan commission to determine whether a minimum of 10 foot setback or greater should apply depending on site conditions, such as screening, landscaping and topography.

b. Low Profile Accessory Structures. Attached accessory structures less than six inches high shall be setback no less than five feet from the nearest lot line.

c. No Residential Living Space; Deed Restriction. Detached accessory structures shall not be utilized for residential living space. A permanent deed restriction shall be recorded with the Racine County Register of Deeds at the property owner's cost reflecting this requirement prior to issuance of building and zoning permits for accessory structures that receive a special approval by the plan commission under this Section.

d. Types. An accessory structure with a roof shall constitute an accessory building. Accessory buildings with footprints equal to or greater than 240 square feet shall constitute detached garages. Accessory buildings with footprints less than 240 square feet shall constitute a shed. Subject to the 30 percent limitation and regardless of the other requirements in sub. a, no lot may have more than two detached garages and one shed.

e. Application to the Plan Commission; Approval. In addition to requirements under Section 118-136, any application to the plan commission for a special approval under this section shall be accompanied by a site plan drawn to scale and the names and addresses of record of all abutting and adjacent property owners. The Clerk shall provide at least 10 days written notice to the abutting property owners prior to a meeting at which the plan commission will consider any special approvals under this section. The plan commission may impose conditions upon any special approval under this section to address the site, including but not limited to topography, screening and landscaping.

Sec. 118-990. Parking.

Off-street parking is permitted in all yards of the C-1 business district, but shall not encroach on any sidewalk.

(Ord. of 11-24-94, § 2.105)

Cross references: Stopping, standing and parking generally, § 102-36 et seq.

Sec. 118-991. Utilities.

Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this chapter.

(Ord. of 11-24-94, § 2.106)

Cross references: Utilities generally, ch. 106.

Sec. 118-992. Landscaping.

Landscaping and vegetation are exempt from the yard requirements of this chapter, except as they violate section 118-996.

(Ord. of 11-24-94, § 2.107)

Cross references: Vegetation, ch. 110.

Sec. 118-993. Street yards.

Additions in a street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.

(Ord. of 11-24-94, § 2.108)

Sec. 118-994. Obstructions.

Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard and side yard; architectural projections such as eaves, sills, belt courses, cornices, chimneys and flues; ornamental features projecting not more than 36 inches; and apparatus needed for the operation of active and passive solar energy systems, including but not limited to, overhangs, movable insulating walls and roofs, detached solar collectors, reflectors and piping, provided that no such solar energy apparatus shall project into any yard more than 36 inches.

(Ord. of 11-24-94, § 2.109)

Sec. 118-995. Projections into yard.

Open or enclosed fire escapes, fire towers, decks, and uncovered stairs and landings may project into a required yard not more than five feet and into a required court not more than 3 1/2 feet, provided they are so located as not to obstruct light and ventilation. In commercial zoning districts a permanent awning and its accessory columns or struts may project not more than five feet into a required front or side yard.

(Ord. of 11-24-94, § 2.1010)

Sec. 118-996. Vision triangles.

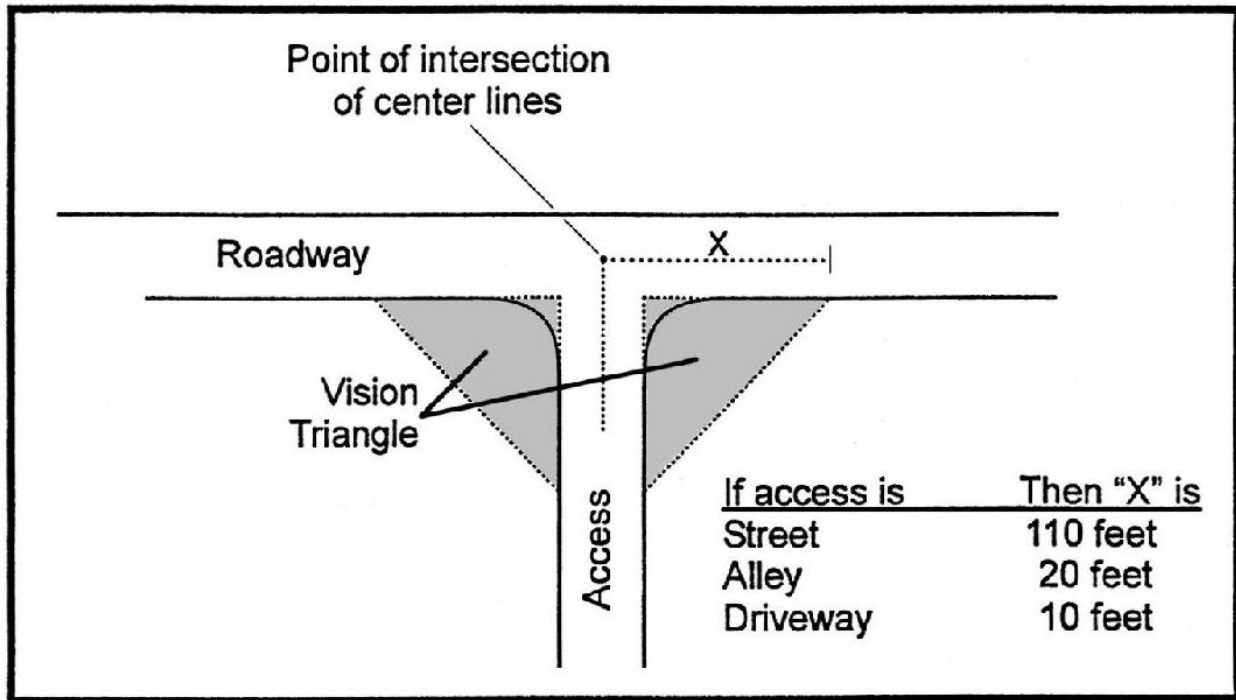
(a) Street Vision Triangles. The street vision triangle is defined by the most recent edition of the American Association of State Highway and Transportation Officials Highways and Streets Policy and Design Manual, on file with the Village Engineer.

(b) Alley Vision Triangles. The alley vision triangle is a triangular area formed by extending the two curb lines (or edges of pavement) a distance of 20 feet from their point of intersection, and connecting these points with an imaginary line, thereby creating a triangle.

(c) Driveway Vision Triangles. The driveway vision triangle is a triangular area formed by extending the two curb lines (or edges of pavement) a distance of ten feet from their point of intersection, and connecting these points with an imaginary line, thereby creating a triangle.

(d) Prohibitions. No fence, wall, screen, sign, structure, or foliage shall be erected, planted or maintained in such a manner as to obstruct or interfere with a clear line of sight for the drivers of approaching vehicles within the vision triangle between two and one-half feet and eight feet above the average grade of the curb. This shall not be interpreted to prohibit traffic sign posts, utility poles or tree trunks within the vision triangle.

The figure below illustrates the vision triangle concepts discussed above.



Secs. 118-997--118-1025. Reserved.

Division 7. Traffic and Parking*

Sec. 118-1026. Definitions.

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

Net leasable area means present or potentially habitable space designed for an owner's or tenant's occupancy and exclusive use.

(Ord. of 11-24-94, § 2.111(1))

Cross references: Definitions generally, § 1-2.

Sec. 118-1027. General requirements for off-street parking.

(a) When the intensity of use of any building, structure or premises is increased through the addition of dwelling units, gross floor area, seating capacity or other units of measurement specified in this chapter for required off-street parking or loading facilities, off-street parking spaces shall be supplemented to accommodate the intensified use.

(b) When the existing use of any building, structure or premises is changed to a new use, off-street parking and loading facilities shall be provided as required for such new use; provided, however, a special exception may be considered by the board of appeals.

(c) Where uses are in combination in the same structure or in separate structures on the same premises, the number of spaces required shall be the sum of the spaces required for each use separately.

(d) Parking required for adjacent uses in commercial and industrial districts may be provided on a joint basis, provided that within such joint parking areas the spaces required for each of the participating uses shall be marked on the parking plan and maintained as allocated to the individual use.

(e) There are no off-street parking requirements for utility substations.

(f) All partial space requirements shall be rounded to the next nearest number of useable parking spaces.

(g) No parking space shall be located within the right-of-way of any street, roadway or public alley.

***Cross references:** Traffic and vehicles, ch. 102; stopping, standing and parking generally, § 102-36 et seq.

(h) Cumulative parking space requirements for mixed-use occupancies may be reduced where it can be demonstrated that the peak requirements of the several occupancies occur at different times, such as midday for office uses and evening for residential uses. Special exceptions to the total number of spaces required by the addition of all uses as specified in this chapter shall be considered by the board of appeals, if supported by a parking demand study.

(i) Where an applicant is authorized two or more shared uses for computing the number of off-street parking spaces, no use shall be considered as individually having provided off-street parking facilities when such use is shared with one or more other uses which conflict at times of peak parking needs.

(j) Adequate access to a public street shall be provided for each parking space, and driveways shall be at least ten feet wide for one- and two-family dwellings and a minimum of 24 feet for all other uses.

(k) Each parking space shall be not less than nine feet in width and not less than 180 square feet in area, exclusive of the space required for ingress and egress.

(l) Location shall be on the same lot as the principal use or not over 400 feet from the principal use. The equivalent improved space may be donated to the village for a municipal parking lot subject to the approval of the village board. No parking stall or driveway, except in residential districts, shall be closer than 25 feet to a residential district lot line or a street line opposite a residential district.

(m) All off-street parking areas shall be graded and hard surfaced so as to be dust free and properly drained. Any parking area for more than five vehicles shall have the aisles and spaces clearly marked.

(n) Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines.

(o) All open, off-street parking areas providing more than 25 spaces, except parking areas restricted to use by employees only, should provide parking spaces for use by motor vehicles which transport physically disabled persons in accordance with the requirements of Wis. Stats. §§ 346.50 and 346.503.

(Ord. of 11-24-94, § 2.111(2)--(16))

Sec. 118-1028. Minimum number of off-street parking spaces.

(a) The following minimum number of off-street parking spaces are required in areas of the following uses:

- | | | |
|------|---|---|
| (1) | Single-family | 2 spaces per dwelling |
| (2) | Two-family | 2 spaces per dwelling |
| (3) | Multiple-family | 2 spaces per dwelling |
| (4) | Boardinghouses | 1 space per living unit |
| (5) | Public and semipublic education and institutional uses, elementary and junior high school | 1 space for each classroom, workshop laboratory or office plus one space per 200 square feet of auditorium gymnasium and cafeteria |
| (6) | Senior high school | 4 spaces for each classroom, workshop, laboratory or office plus 1 space per 200 square feet of auditorium, gymnasium and cafeteria |
| (7) | Municipal neighborhood community buildings | 1 space per 250 square feet of net leasable area |
| (8) | Libraries, museums (not for profit) | 1 space per 250 square feet of net leasable area |
| (9) | Churches | 1 space for four seats |
| (10) | Auditoriums | 1 space per 100 square feet of net leasable area |
| (11) | Day care facilities | 2 spaces plus 1 additional space for each 10 children |
| (12) | Public buildings other than elementary and high schools | Public buildings other than elementary and high schools |

(13)	Recreational and entertainment theater	1 space per each 3 seats
(14)	Bowling alleys	5 spaces per lane
(15)	Parks, athletic fields, tennis and pool facilities, golf courses, etc.	As determined by the plan commission
(16)	Recreational and community centers, building, recreation clubs, related uses	Spaces equal to 30% of total permitted occupancy or as determined by the village plan commission
(17)	Enclosed recreational buildings, specialized facilities and related uses	As determined by the village plan commission
(18)	Gymnasiums, stadiums, field houses, grandstands, and related facilities	1 per each seats or spectator spaces equal to 30% of total permitted occupancy
(19)	Medical offices	1 space per 200 square feet of net leasable area
(20)	Nursing homes, sanitariums, convalescent homes, institutions for care of aged, children, etc.	1 space per 2 beds
(21)	Hospital, medical center, other treatment facility	1 space per 2 beds, plus the number required, based on square foot measurement for office, clinic, testing, research, administrative, teaching and similar activities associated with the principal use, at 1 space per each 350 square feet of net leasable area, except for teaching facilities which shall be 1 per each 4 seats
(22)	Uses for general public gatherings for uses involving public assembly of groups of people for whatever reason	1 per each 4 seats, based on total capacity
(23)	Commercial uses, general	1 per 200 square feet of net leasable area
(24)	Commercial uses; specific requirements for office uses	1 per 360 square feet of net leasable area
(25)	Home occupation, e.g., cabinet shops, jewelry	1 per 200 square feet for area used for home area occupation purposes
(26)	Neighborhood groceries and laundromat	1 space per 400 square feet of net leasable area

(27)	Hotels and motels	1 space per rental unit
(28)	Auto sales, new and used	1 space per 200 square feet of building area including repair shop, minus area used for displaying cars
(29)	Eating and drinking establishments	1 space per 50 square feet of serving area
(30)	Drive-in eating and drinking establishments	1 space per 30 square feet with a 10-space minimum
(31)	Drive-in banks	1 per 350 square feet of net leasable area plus 1 space per 30 square feet of drive-in teller space, plus customer drive-in spaces as determined by the village plan commission
(32)	Shopping center	5 spaces per 1,000 square feet of net leasable area
(33)	Industrial use; specific warehouse and distribution	500 square feet of net leasable area
(34)	Auto yards and junkyards	1 per 1,700 square feet of land and building area
(35)	Miniwarehouses	1 per 10 storage areas
(36)	Other industrial uses and industrial parks	As determined by the village plan commission

(b) For structures or uses not mentioned in subsection (a) of this section, the provision for a use which is similar shall apply.

(Ord. of 11-24-94, § 2.112) (Amended; Ordinance 2017-01)

Sec. 118-1029. Driveways.

(a) No direct access shall be permitted to the existing or proposed rights-of-way of expressways, freeways, or interstate highways, nor to any other road, street, or highway without permission of the authority maintaining the facility.

(b) Vehicle entrances and exits to drive-in theaters, banks, and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or place of public assembly. Adjacent residential uses may agree to establish a common driveway with the

approval of the village. In such cases, the driveway midpoint should be the property line between the two parcels; however, the precise location of such driveway will be determined by the jurisdictional highway authority. The driveway must meet standard specifications, and the landowner shall record access agreements to ensure continued use, upkeep and maintenance of the combined access points.

(c) Sharing of access to state and county trunk highways by commercial or industrial land uses may also be permitted by the village. Such shared access shall be shown on an adopted neighborhood or similar plan as may be determined by the plan commission. Such shared access shall have the approval of the county highway department or state department of transportation, depending upon jurisdiction. A cross access agreement shall be recorded by all landowners utilizing such shared access. Such shared access must meet standard specifications.

(Ord. of 11-24-94, § 2.113)

Sec. 118-1030. Loading requirements.

In all zoning districts, adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

(Ord. of 11-24-94, § 2.114)

Secs. 118-1031--118-1065. Reserved.

Article VI. Reserved*

Secs. 118-1066--118-1109. Reserved.

Article VII. Signs and Graphics**

Sec. 118-1110. Intent and purpose.

(a) Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article must be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding must not affect the validity of other provisions of this article which can be given effect without the invalid provision.

(b) A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein must be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in subsection (a) of this section.

(c) These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

(d) These regulations do not regulate every form and instance of visual communication that may be displayed anywhere within the jurisdictional limits of the Village. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.

(e) These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

Sec. 118-1111. General prohibition.

It shall be unlawful for any person to locate, erect, move, reconstruct, extend, enlarge, convert, or structurally alter any sign without first complying with the requirements of this section or applicable state or federal requirements. Any person who shall violate any provision of this article or any order, rule or regulation made under this article, or applicable state or federal requirement, shall be subject to a penalty as provided in section 118-10, as well as any applicable statutory penalties. Where any provision of this section imposes restrictions different from those imposed by any other provision of law, the provision which is more restrictive or imposes higher standards shall control.

Sec. 118-1112. Signs – Definitions.

The following definitions are used in this article:

Awning. A hood or cover which projects from the wall of the building. Some may be retractable, folded, or collapsed against the face of a supporting structure.

Banner. Any sign or attractant made of non-structural materials such as cloth or flexible plastics.

Billboard. A sign which may pertain to the premises where the sign is located or directs persons to a different location from where the sign is located.

Blanketing. The unreasonable obstruction of view of a sign caused by the placement of another sign.

Directly illuminated. Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

Electronic message unit. Any message on a sign that may be changed by electronic process.

Flashing. Any directly or indirectly illumination of a sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.

Government Sign. A government sign is a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government.

Ground and/or pole supports. A support structure or supports in or upon the ground and independent of support from any building designed to carry a sign.

Identification. Any name or logo of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.

Indirect illumination. Shall mean a source of illumination outside of the actual sign.

Marquee area Is defined as a permanent roof-like area to mount a sign where for projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather.

Nonconforming sign. Any sign that does not conform to the regulations of this article.

Obsolete sign. A sign is considered obsolete when the advertised use, place or thing no longer exists at the site to which the sign relates.

Portable Sign Structure. Any structure without a permanent foundation or otherwise permanently attached to a fixed location, which can be carried, towed, hauled or driven and is primarily designed to be moved rather than be limited to a fixed location regardless of modifications that limit its movability.

Premises. A house or building, together with its land and outbuildings, occupied by a business or considered in an official context: business premises supplying alcoholic liquor for consumption on the premises.

Projecting Sign Structure. Any structure extending more than 18 inches, but less than 60 inches from the face of a wall or building and not to exceed 36 inches into the road right-of-way designed to carry a sign.

Sandwich Board Sign Structure. An outdoor freestanding structure designed with an A-Frame construction no larger than 25 inches wide by 45 inches tall capable of holding signage on both sides with a signage area typically 24 inches by 36 inches.

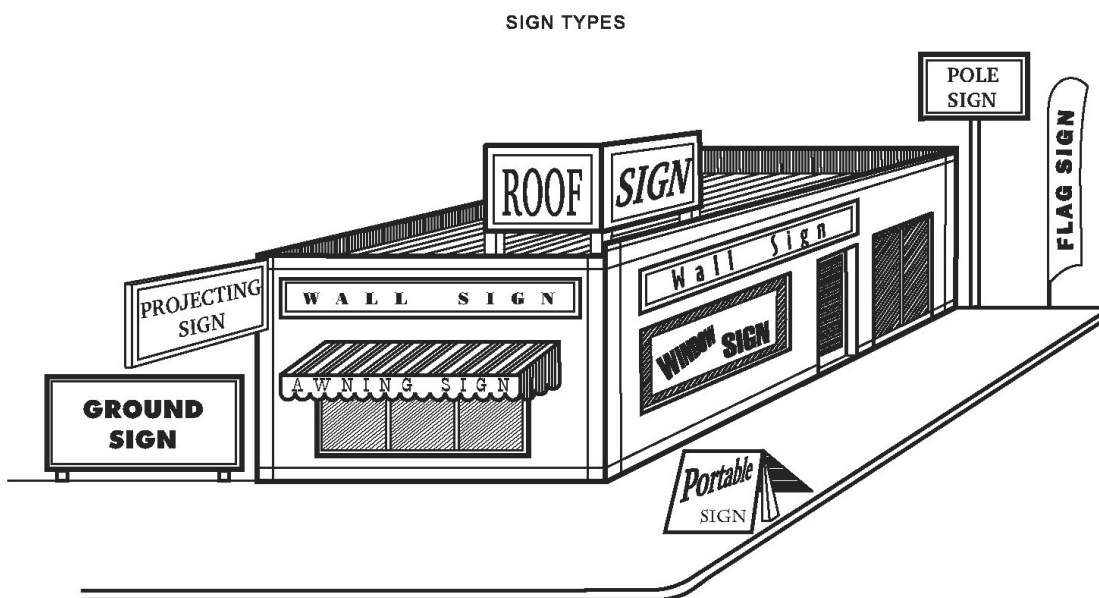
Sign. Any object, device, display, structure or part thereof, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.

Temporary sign structure. Any sign structure intended to display a sign for a short period of time.

Translucent. Any sign structure that allows the visibility of an internal light source, but not detailed images, to pass through.

Wall Sign Structure. Structure attached to, erected on or painted on the wall of a building that support or permit the mounting of signage, such as letters, pictures and symbols, and which projects not more than 12 inches from the wall.

Window sign area. Any sign area located within an enclosed building and visible from a public way, also including signage mounted onto window surfaces. See illustration below.



(Amended; Ordinance 2017-01)

Sec. 118-1113. Signs permitted in all zoning districts without a permit.

The signs set forth below are permitted on private property in all zoning districts without a permit as may be set forth in the individual district regulations. No sign, however, may be located within a vision triangle of two or more intersecting streets, public right-of-way or on public lands without written permission of the public body having jurisdiction. Signs erected in violation of the regulations in this section may be removed without notice (see section 118- 1119).

(a) Temporary Signs.

(1) Temporary signs, generally. Temporary signs allowed at any time:

- a. A property owner may place one sign with a sign face no larger than four (4) square feet on the property at any time.
 - b. A property owner may place a sign no larger than 8.5 inches by 11 inches in one window on the property at any time.
 - c. Such signs are limited to no more than seven (7) days, whether or not consecutive, within any calendar month.
- (2) One temporary sign may be located on a property when:
- a. The owner consents and that property is being offered for sale through a licensed real estate agent;
 - b. If not offered for sale through a real estate agent, when the sign is owned by the property owner and that property is offered for sale by the owner through advertising in a local newspaper of general circulation; and
 - c. For a period of 15 days following the date on which a contract of sale has been executed by a person purchasing the property.
- (3) A person exercising the right to place temporary signs on a property as described in this subsection (a)(1) above must limit the number of signs on the property per 0.25 acre at any one time to 2 plus a sign allowed in subsection (a)(2) above or if the property is smaller than 0.25 acres then no more than 2 signs plus a sign allowed in subsection (a)(2) above per principal building on the property.
- (4) Except as otherwise provided in the Wisconsin Statutes, the sign face of any temporary sign, unless otherwise limited in this subsection (a) above must not be larger than four (4) square feet.
- (5) Election campaign signs. Election campaign signs may be allowed in any district without a permit provided that permission shall be obtained from the property owner, renter, or lessee; and provided that such sign shall not be erected for more than the election campaign period set forth in Wis. Stat. §12.04, and removed within seven days following the election. Such signs in residential zoning districts shall not exceed 11 square feet on each sign face per sign, unless located on a county or state trunk highway or village designated arterial street, in which case the maximum sign area may be increased to 16 square feet; may not exceed six feet in height; and, may not exceed a total of 16 square feet per lot. To avoid sign clutter and visual distraction, individual signs more than four square feet in area should be spaced apart from other signs on the property at least 30 feet. No such sign shall be placed on public lands, within public rights-of-way or within the designated vision triangle of two intersecting streets. If a sign is placed without such permission, it will be subject to removal without notice. Fees for short-term temporary signs shall be waived. In the event that Wis. Stat. Section 12.04 would permit a sign that is larger than the size limitations set forth above, such sign,

regardless of sign content, is allowed only for the period described in Section 12.04.

- (6) Rummage, garage or estate sales permitted when under Section 118-858 shall comply with the temporary sign requirements set forth above.

(b) Government Signs. Signs erected, maintained or otherwise posted, owned or leased by this State, the federal government, Racine County or this Village, as well as a special purpose unit of government such as utility districts, sanitary districts or public school districts. The inclusion of "government" in describing some signs does not intend to subject the government to regulation, but instead helps illuminate the type of sign that falls within the immunities of the government from regulation.

(c) Required Signs. Where a federal, state or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner must comply with the applicable law by posting a sign on the property.

(d) Building Monument Signs. Signs carved into or affixed flat to a building in such a way that they are not directly illuminated, are not made of a reflecting material, do not contrast sharply in color with the building and do not exceed two inches in thickness.

- (e) Signs not visible from any public street, highway, sidewalk or bicycle path.

Sec. 118-1114. Signs permitted in individual zoning districts with a permit.

The following signs may be permitted in any specific zoning district after application and issuance of a permit by the building inspector or zoning administrator. No sign, however, may be located within a public right-of-way or on public lands without written permission of the public body having jurisdiction and if so erected or placed in violation of the regulations may be removed without notice.

(a) Temporary sign or banner, other than those allowed under subsection 118-1113(b) for purposes of this section a temporary sign or banner is one which will be used for no more than 60 days in a six calendar month measured from the date the sign is erected. In order to avoid visual clutter of multiple signs only one such sign or banner may be placed on a property street frontage. Such signs shall not exceed 16 square feet in area in residential districts or 32 square feet in sign area in all other districts; shall be attached to the principal building or be erected as a free standing ground sign no more than six feet in height in an aesthetic and structurally sound manner and shall meet all setback regulations as set forth in this section. Portable structures that contain sign area with or without wheels that contain signage and sign structures that contain sign area on trucks, trailers or other vehicles that are parked on public or private property with the intent to be used for temporary or permanent advertisement purposes are not in keeping with the aesthetic requirements of this article and are, therefore, not allowed.

Sec. 118-1115. Signs permitted in residential districts with a permit.

The following signs are permitted in residential districts upon the issuance of a permit by the building inspector or zoning administrator and subject to the following regulations:

(a) Permanent structures used to identify a subdivision/development. The structure with the identification sign shall be no more than ten feet in height above surrounding grade; constructed of wood, metal and/or masonry; and, of a design which will be compatible with the landscape and shall state only the name and address of the subdivision. Such signs and their location, height and size shall be reviewed and approved by the plan commission prior to issuance of a permit.

Sec. 118-1116. Signs permitted in business, industrial, park and institutional districts with a permit.

The following signs are permitted in all commercial, industrial, park and institutional districts upon the issuance of a permit by the building inspector or zoning administrator and subject to the following restrictions:

(a) Permanent wall sign structures placed on or against the exterior wall(s) of buildings shall not extend more than twelve (12) inches outside of a building's wall surface; shall not exceed in sign area the equivalent of two square feet for each linear one foot of building (store frontage), not to exceed 200 square feet, and any ancillary lighting shall be shielded to avoid glare. Wall sign structures shall not extend above the ceiling level of the top floor of the building upon which they are located and shall not block window, door or vent openings. Such signs may not be used as off premise advertising such as "for sale" or "for lease/rent" except for the property on which the sign is located. The sign, if in the downtown district, must comply with the site and building standards set forth in the downtown district design guidelines.

(b) Permanent projecting sign structures fastened to, suspended from or supported by structures on buildings shall not exceed 25 square feet in sign area for any one tenant; shall not exceed 150 square feet for any one premises; multiple signs on one premises serving multiple tenants shall be designed similar in nature in design, spaced equal distance and be same in area or as approved by the plan commission; shall not project more than 36 inches into any public right-of-way; shall not extend above the lowest point on the roof; shall not be less than ten feet from all side lot lines, or beyond the building wall, whichever is less; shall not exceed a height of 20 feet above the adjacent center line street grade and shall not be less than ten feet above the level of the primary access, nor less than 15 feet above a driveway and shall not be located within 150 feet from any ground sign. Such sign, if located in the downtown district, must comply with the site and building standards set forth in the downtown district design guidelines. As part of the permit for any sign that projects into a road right-of-way, the permittee shall indemnify and hold the Village harmless for any claim related to the projecting sign structures.

(c) Permanent ground signage structures, other than billboards, as defined herein, shall not exceed 15 feet in height above the mean centerline grade of the nearest street unless approved by the plan commission; shall not exceed in sign area, 25 square feet on one side at the street property line but may be increased in sign area size one square foot for each one foot the sign is set back from the street property line to a maximum of 150 square feet

on one side. Only one ground sign structure shall be allowed on a street frontage of a single (individual) property and no ground sign structure shall be placed closer than 150 feet from another ground sign structure, projecting sign or billboard. Any such sign shall not be illuminated during the seven-hour period beginning at 11:00 p.m. and ending at 6:00 a.m., except during the normal hours of operation. No such structure shall have exposed flashing, digital or electrically movable lighting or images of any kind, except when approved by the plan commission, with the exception that such signs may have movable words and numbers if required by local, state or federal law. Such signs, when located in the downtown district, must comply with the site and building standards set forth in the downtown district design guidelines. Permanent ground sign structures on parcels of more than five acres in area, over 75 feet in sign area, and any subsequent changes to such signs must be approved by the plan commission (also see section 118-1119).

(d) Off-premise directional/sales sign as defined herein, other than billboards when permitted by the plan commission, shall meet the requirements of the type of sign as set forth in this section; shall not exceed two in number within the village per business, resort or commercial recreation facility as well as the principal merchandise sold; shall not exceed in sign area 25 square feet on one side at the street property line but may be increased in size one square foot for each one foot the sign is set back from the street property line to a maximum of 50 square feet on one side; and, shall be a maximum five miles distant from the designated business being advertised. Such sign may be placed only in a retail business or industrial zoning district. The permit for such sign shall expire on June 30th each year but may be extended for one year upon issuance of a new permit by the zoning administrator or building inspector (also see section 118-1119).

(e) Permanent window signage area shall be placed only on the inside of the window and shall not exceed 25 percent of the glass area of the window upon which the sign is displayed. Illuminated signs in windows shall not be illuminated after the business is closed for the day.

(f) Billboard structures for sign purposes as defined herein is considered a commercial use and as such may only be permitted in retail business or industrial zoned areas and when permitted by the plan commission shall not exceed 25 feet in height; shall be set back from a property line the same distance as set forth for principal buildings in the zoning district regulations; shall be located not closer than 1,320 feet from another billboard, ground sign structure or off-premises sign structure and no such sign structure shall have exposed, flashing, digital or electrically movable lighting, or images of any kind. A billboard located within 660 feet of a residential zoning district boundary shall not be illuminated during the seven-hour period beginning at 11:00 p.m. and ending at 6:00 a.m.

(g) Combinations of any sign structure signage area in this section shall meet all the requirements for the individual sign. See subsections 118-1116(b) and (c).

(h) Roof with sign structures as defined herein shall not be allowed, except as permitted in section 118-1119.

(i) Portable sandwich board signs shall require a permit unless they adhere to the following requirements:

(1) One portable sandwich board sign is allowed per business.

- (2) Such signs shall be located adjacent to the business premises, and only displayed during business hours of operation.
 - (3) Portable business signs shall not exceed four (4) feet in height and two (2) feet in width.
- (j) All signs with no current permit must be removed immediately.

Sec. 118-1117. Obsolete signs.

An obsolete sign shall be removed or painted out by the owner, agent, or person having the beneficial use of the building or structure upon which such copy or message may be found within 30 days after written notification from the zoning administrator. Upon failure to comply with such notice within the time specified in such notice, the zoning administrator is authorized to cause removal of such copy or message, and any expense incident thereto shall be paid by the owner of the building, sign, or structure upon which such copy or message is displayed. Upon vacating a commercial establishment, the proprietor shall be responsible for the removal of all signs used in conjunction with the business.

Sec. 118-1118. Signs permitted in conservancy and floodplain zoning districts with a permit.

Signs as permitted in subsections 118-1114(a) shall be permitted in the upland and lowland conservancy and floodplain zoning districts upon the issuance of a permit by the building inspector or zoning administrator.

Sec. 118-1119. Special restrictive provisions.

Following are special restrictive provisions that relate, generally, to all signs or premises in the village:

- (a) The following signs shall be prohibited except as provided in section 118-1116:
 - (1) Signs on roof tops;
 - (2) Flashing, blinking or electronically movable copy (scrolling) signs;
 - (3) Portable and other movable signs, as well as any sign within a public street or highway right-of-way.
- (b) Signs facing on federal interstate or federal aid primary highways shall meet all the requirements and regulations set forth in Wisconsin statutes and federal regulations as well as the regulations for the type and location of signs set forth herein, whichever is more restrictive.

(c) The plan commission or zoning administrator may require a cash bond or irrevocable letter of credit of the applicant for a permanent sign permit to ensure that the sign is erected as required by these regulations and the plan commission's directions.

Sec. 118-1120. Searchlights/balloons.

The village board may permit the temporary use of a searchlight or balloons for advertising purposes in any district except residential districts provided that the searchlight or balloon will not be located in any public right-of-way; will not be located closer than ten feet to an adjacent property; and, will not be a vision or audio nuisance or cause a hazard to traffic or adjoining properties. Searchlight and balloon permits shall be granted for a period of not more than five days in any six-month period and the searchlight shall not be illuminated during the period beginning at 10:00 p.m. and ending at dawn.

Sec. 118-1121. Illumination, design and color.

Signs may not use unshielded lighting, including exposed incandescent lights that are hung or strung on poles, wires or any other type of support, to intentionally light a sign. All signs must not have exposed electrical wiring. In no case shall the lighting intensity of any sign, whether resulting from internal or external illumination, exceed sixty (60) foot candles when measured with a standard light meter held perpendicular to the sign face at a distance of ten inches. Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window or fire escape and no sign shall be attached to a standpipe or fire escape. Signs shall be placed so as not to obstruct or interfere with traffic visibility and neighboring property and shall not be lighted in a way that causes glare or impairs driver visibility upon public ways. Signs must also meet the following criteria:

(a) Signs using internal illuminated messages must be constructed from a material that is not transparent. The message incorporated into the sign must be cut out and replaced with a translucent material with the light source contained inside the sign.

(b) Internal illuminated signs may have translucency on the face of the sign with an internal light source.

(c) Signs with backlighting must have a message that is raised beyond the sign's background and the source of lighting must illuminate the sign from the behind in the form of backlighting.

(d) Signs with spotlights shall be designed, located and shielded to prevent direct sunlight and glare upon neighboring properties, roadways, and the sky with direct light or glare.

(e) Electronic signs meeting the requirements of the subsection below are permitted as approved by the plan commission:

(1) Electronic signs that display or alternated between time and/or temperature are permitted to be attached to buildings according to the requirements of this chapter.

- (2) Electronic signs displaying messages in addition to or other than the time and/or temperature must be self-supporting, unattached to any building structure and must meet the requirements of this chapter. Each sign must have a non-electronic, set portion that is at least fifty (50) percent of the size of the electronic portion.
- (3) Electronic sign displays shall meet the following requirements:
 - a. The sign's background must be dark or shaded with only the message of the sign having light illumination qualities.
 - b. Ambient light monitors must be included in all electronic signs and must automatically modify the illumination level of the sign reliant on external ambient lighting conditions.
 - c. Illumination of the sign shall not surpass two (2) foot candles (two lumens per square feet), as measured from any point along the property line. Illumination brightness may not be obtrusive to any neighboring properties and may not exceed manufacturers recommended levels.
 - d. Sign displays may not be altered at a rate any faster than ten (10) seconds. Signs must display all messages in full for a minimum of a ten-second time limit.
 - e. Apparent movement or animations such as flashing, blinking, pulsing, etc., shall not be displayed on any sign unless approved by the plan commission.

(f) Neon signs or exterior neon displays are permitted only when they are custom designed to complement the architectural design and character as approved by the plan commission.

(g) Internal or external illuminated between the hours of 11:00 p.m. and sunrise is not permitted unless the property to which it belongs is open for business during that time. Signs located in residential districts shall not be illuminated.

(h) Facing of illuminated signs, except those permitted in residential zoning districts, shall not be permitted to be toward an adjoining residence and no sign-related illuminating device shall be directed toward neighboring property lines in all districts.

Sec. 118-1122. Existing signs.

Signs lawfully existing at the time of the adoption of or related amendment to this section may be continued although the size or location does not conform to this section provided that the owners of such signs shall, within three months of the effective date of this section or any amendment thereto, fill out a permit application for the building inspector's records. Upon the filing of such application, the building inspector shall issue an initial permit to the sign owner without fee. Said signs are deemed a nonconforming use or structure, and are subject to

applicable statutory provisions as to the same. Certain existing signs are of a type that requires a permit that is valid for a specific time period and are subject to the regulation of such signs as set forth herein. Nonconforming permanent signs shall be kept in good repair, but the cost of maintenance shall not be considered grounds for their continued use. If not kept in good repair to the satisfaction of the building inspector, the building inspector may require removal of the sign within a 60-day period. The owners of signs which are not repaired, painted, or maintained pursuant to written notification and orders by the building inspector shall also be subject to enforcement action (see section 118-1125).

Sec. 118-1123. Administration.

Applications for permits for the erection of signs requiring a permit shall be filed with the building inspector, who shall review the application for its completeness, accuracy and adherence to this article and approve or deny the application within a reasonable period from the date of receipt unless the time is extended by written agreement with the applicant. A sign permit shall become null and void if work authorized under the permit has not been completed within six months from the date of issuance. Applications shall be made on forms provided by the building inspector and shall contain or have attached thereto at least the following information:

- (a) Name, address, and telephone number of the applicant, and location of building, structure, lot or property to which or upon which the sign is to be attached or erected.
- (b) Name of person, firm, corporation, or association erecting the sign.
- (c) Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed or erected.
- (d) A scale drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.
- (e) Copies of any other permit required and issued for said sign, including the written approval by the Electrical inspector in the case of illuminated signs. The building inspector shall examine the plans and specifications, inspecting all wiring and connections to determine if the same complies with this Code.
- (f) Copies of any other permit required and issued for said sign, including the written approval by the Electrical inspector in the case of illuminated signs. The building inspector shall examine the plans and specifications, inspecting all wiring and connections to determine if the same complies with this Code.
- (g) Additional information such as photographs or colored renderings.
- (h) Payment of a fee as set forth herein. The building inspector may direct that the applicant for a sign permit meet with the plan commission to review the request and provide guidance in the issuance of the permit or interpretation of the standards.

Sec. 118-1124. Inspection and removal of signs.

From time to time the zoning administrator or building inspector may inspect signs within the village for compliance with the provisions of this section and if such provisions are not being met, such fact shall be reported to the sign owner with a request that the sign be made to comply with this section. If, within a reasonable period of time set by the building inspector (see sections 118-1122 and 118-1123), the sign is not made to comply with this section, the building inspector may direct that the sign be removed by the owner, and if not so removed shall cause the sign to be removed and the cost of such removal assessed to the sign owner or the owner of the property from which the sign is removed.

Sec. 118-1125. Maintenance of signs.

All signs shall be maintained and kept in good repair. Signs intended to be permanent must be structurally affixed to a building, structure or a ground mounting and constructed of materials that are permanent in nature.

The owner of a permanent sign and/or the owner of the land on which the sign is located shall maintain such sign in good and safe condition which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition, and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass. Failure to do so after notice from the building inspector shall be cause for the removal of such signs under section 118-1124. Whenever the building inspector determines that the cost to repair a sign will exceed 50 percent of its replacement cost, or is a public nuisance and unsafe, such sign shall be deemed a hazard and the building inspector shall order its removal as set forth in section 118-1124. This section shall apply to both new and legal nonconforming signs.

Sec. 118-1126. Sign structure construction standards.

Sign structures shall meet the following requirements:

(a) Wind pressure and dead load requirements. All permanent sign structures, temporary sign structures and other advertising structures shall be designed and constructed to withstand wind pressure of not less than 40 pounds per square foot of area, and shall be constructed to receive dead loads as required in the village building code, other ordinances, state or federal law.

(b) Protection of the public. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration, or maintenance of a sign structure is permitted provided the space occupied is roped off, fenced off, or otherwise isolated to prevent hazard to pedestrians and property.

(c) Supporting members or braces of all sign structures shall be constructed of galvanized iron, properly treated wood, stainless steel, or other non-corrosive, non-combustible material. All projecting sign structures, if placed at an angle to the wall of any building, shall be attached by such non-corrosive metal bolts, anchors, cable, or other metal attachments as shall ensure permanent and safe construction and shall be maintained free from defects, rust or other

deterioration. Every means or device used for attaching any signage structure shall extend through the walls of the building should the building inspector determine that the safe and permanent support of such sign structure so requires it and shall be securely anchored by wall plates and listed fasteners to the inside of the walls or to bearings on the underside of two or more building structural members in accordance with instruction given by the building inspector, engineer, architect or manufacturer. Small, flat signs containing less than ten square feet of area may be attached to a building by the use of approved fasteners or other means to the satisfaction of the building inspector. Structural engineering and attachment details prepared by a registered architect or engineer may be required.

(d) No sign structure, or any part thereof, or anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or stand pipe, and no such sign structure or any part of any such sign or any anchor, brace, or guide rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through a door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against a building by the fire department as necessity therefore may require.

(e) Exceptions to area, height and setback requirements may be granted as approved by plan commission. The sign structures located in the setback area as permitted shall not interfere with reasonable vision clearance. The plan commission may permit signs to deviate from required area, height and setback requirements upon review of detailed site plans and sign and sign structure details.

(f) Signage along with sign structures within downtown districts shall meet all requirements within that district as approved by the CDA and plan commission and shall comply with the downtown design guidelines.

(g) Aesthetic appearance, lighting and landscaping of permanent signs must be accomplished to the satisfaction of the plan commission, and when located within the downtown district, shall be reviewed and approved by both the CDA and plan commission.

Sec. 118-1127. Permit fees.

Initial application for a sign permit and extension of such permits as required herein. Each application for a required permit or extension of a permit shall be accompanied by a fee as set forth in the village approved fee schedule. Each individual sign requires a permit unless specifically stated otherwise in these regulations. All permits for temporary signs expire on June 30th each year unless stated otherwise herein. The fees have been established by the village board as a part of the village's comprehensive fee schedule and are subject to periodic review and change by action of the village board. The village herein shall not deem the acceptance of fees as provided an assumption of liability. (Ord. No. 2010-03, § 1(Exh. A), 6-28-10)

Secs. 118-1128--118-1150. Reserved.

Article VIII. Mobile Tower Siting

Sec. 118-1151. Definitions.

The following definitions shall apply to this Chapter:

Class 1 Collocation means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free-standing support structure for the facility or engage in substantial modification.

Class 2 Collocation means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free-standing support structure for the facility or engage in substantial modification.

Mobile Service Facility means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.

Mobile Service Provider means a person who provides mobile service as defined by federal law.

Support Structure means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

Utility Pole means a structure owned or operated by an alternative telecommunications utility, public utility, telecommunications utility, county, municipality, or cooperative associate, all as defined under current law or under the proposal, and that is specifically for and used to carry lines, cables, or wires for telecommunications service, video service, or for electricity or to provide light.

Antenna means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

Mobile Service Support Structure means free-standing structure that is designed to support a mobile service facility.

Search Ring means shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and demographics of the service area.

Substantial Modification means the modification of a mobile service support structure, including the mounting of an antenna on such a structure that does any of the following:

- (1) for structures with an overall height of two hundred (200) feet or less, increases the overall height of the structure by more than twenty (20) feet;

- (2) for structures with an overall height of more than two hundred (200) feet, increases the overall height of the structure by 10% or more;
- (3) measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by more than twenty (20) feet or more, unless a larger area is needed for collocation;
- (4) increases the square footage of an existing equipment compound to a total area of more than 2500 square feet.

Equipment Compound means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

Existing Structure means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with the Village.

Fall Zone means the area over which a mobile support structure is designed to collapse.

Sec. 118-1152. Purpose.

The purpose of this section is to regulate by zoning permit, site plan review, or conditional use the siting and construction of any new mobile service support structures and/or facilities.

Mobile service support structures or other supporting buildings or structures that are used to elevate an antenna, or which act as an antenna, and are intended for wireless telecommunications, are subject to the regulations and site development standards set forth in this Chapter.

Sec. 118-1153. Amateur and citizen band towers.

Amateur and citizen band towers and antennas where the structure is fifty (50) feet or more in height are exempt from the provisions of this Chapter except for the following:

- (1) The installation or construction of such structure must require a site plan review and approval in accordance with the procedure set forth in Section 118-821. The Plan Commission may request a hearing following a site plan review if it is determined that such a hearing is in the public interest.
- (2) Such structures must be considered an accessory structure and may only be permitted in the side yard and rear yard. A minimum ten (10) foot side-yard and rear-yard setback must be maintained.

Sec. 118-1154. Application submittal requirements – new mobile service support structures.

The siting and construction of any new mobile service support structures will require a conditional use permit. All structures should be camouflaged to the greatest extent possible, including compatible building materials, colors, and screening. Per Wisconsin State Statute

Section 66.0404(4)(g), an application may not be denied based solely on aesthetics concerns. A zoning permit application must be completed by the applicant and submitted to the Village Clerk. The application must contain the following information:

- (1) Applicant name, business address, and phone number of all known occupants of the proposed mobile service support structure, including contact individual(s) for the applicant(s). The proposed structure must be designed structurally, electronically, and in all respects to accommodate collocation of both the applicant's antennas and antennas for at least two (2) additional users. The equipment compound must also be able to accommodate multiple users.
- (2) The location of the proposed mobile service support facility.
- (3) If the applicant does not own the site or the tower, the applicant must provide a lease agreement or binding lease memorandum which shows on its face:
 - a. that it does not preclude the site owner from entering into leases on the site with other provider(s);
 - b. that it does not preclude the tower owner from entering into leases on the tower with other provider(s);
 - c. the legal descriptions and amount of property leased;
 - d. in the event of abandonment, the Village reserves the right to remove the tower at the property owner's expense.
- (4) A scaled site plan which shows property lines, location of mobile service support structure, setback distances, mobile service facility, and fencing.
- (5) A sketch, concept, or rendition of the site as proposed.
- (6) An explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who is responsible over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is not technically feasible; or is economically burdensome to the mobile service provider.
- (7) A construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
- (8) A tabular and/or map inventory of all of the applicant's existing towers and antennas which are located within the county. The inventory must specify the location, antennae height, and structure type of each of the applicant's existing mobile service support facilities. The inventory must also specify whether such towers are currently in operation and indicate the ability of the existing structures to accommodate additional collocation antennas.

- (9) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.
- (10) Evidence that the applicant has informed local airport owners and operators about any permit application for structures above two hundred (200) feet tall or within a three-mile radius of any existing public or private airport, including all landing strips.

Sec. 118-1155. Application process – new mobile service support structures.

- (1) If an applicant submits to the Village an application to engage in an activity described in this section, which contains all of the information required under this Chapter, the Village must consider the application complete. If the Village does not believe that the application is complete, the Village must notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. The applicant may resubmit an application as often as necessary until it is complete.
- (2) Within ninety (90) days of its receipt of a completed application, the Village must complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the ninety (90) day period:
 - a. Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this Chapter;
 - b. The Village Board must make a final decision whether to approve or deny the application, after receiving a recommendation of the Plan Commission;
 - c. The Village must notify the applicant in writing of the final decision;
 - d. If the application is approved, the Zoning Administrator will issue the applicant a zoning permit;
 - e. written notification substantial evidence which supports that decision.
- (3) The Village may deny an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and does not provide the sworn statement described in Section 16-9-4(f)).
- (4) If an applicant provides the Village with an engineering certification showing that the proposed mobile service support structure is designed to collapse within a smaller area than the setback or fall zone area required in the specified zoning district, that zoning setback does not apply to the proposed structure unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.

Sec. 118-1156. 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, excluding travel expenses, associated with such consultation shall be borne by the applicant. Failure to pay such costs and expenses or to provide information requested by the 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 believed by the applicant to be qualified to assist in resolving the issues before the Plan Commission.

Sec. 118-1157. Abandonment.

- (1) Any mobile service support structure and facilities not in operation for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the owner of the mobile service support structure and facility of the property where the structure and facility are located must remove the support structure and all supporting equipment, buildings, and foundations to a depth of five (5) feet, and must restore the location to its natural condition (except any grading may remain in the after-condition as determined by the zoning administrator) within ninety (90) days of receipt of notice from the zoning administrator. If removal and restoration to the satisfaction of the zoning administrator does not occur within the said ninety (90) days, the zoning administrator may remove and salvage said mobile service support structure and facility and restore the site at the expense of the mobile service provider or property owner.
- (2) The applicant must submit a copy of a signed agreement, which may be the lease agreement, between the property owner and the owner of the mobile service facility detailing requirements for abandonment and subsequent removal based on the provisions of Section 16-9-7(a). Said agreement must also identify that the agreement must be binding on future property owner(s) and future owner(s) of the mobile service support structure and facility.
- (3) The mobile service support structure and facility must be recorded in the Register of Deed's Office and a copy of the deed must be filed with the Zoning Administrator.

Sec. 118-1158. Security for removal.

The applicant shall provide to the Village, prior to the issuance of the permit, a performance bond in the amount of twenty thousand dollars (\$20,000.00) to guarantee that the tower and all supporting equipment, buildings and foundations will be removed when no longer in operation. The 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 Village reserves the right to require a corresponding increase in the bond amount.

Sec. 118-1159. 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 permits. Failure to establish compliance with all conditions placed upon the conditional use will be grounds for revocation of the permit.

Sec. 118-1160. Use of existing structures.

A mobile service facility may locate on alternative support structures, such as clock towers, steeples, silos, light poles, buildings, water towers or similar structures, provided that the placement of the antenna will not extend more than six (6) feet from the structure. Mobile service facilities located on roofs must not occupy more than fifty (50) percent of the roof surface of a building and must be secured from the remaining area to prevent unauthorized access. The mobile service facility must be painted or otherwise treated to match the exterior of the structure. Such mobile service facility installation will be classified as either a class 1 or class 2 collocation and will require a site plan review.

Sec. 118-1161. Application submittal requirements – Class 1 Collocations.

A collocation will be classified as a class 1 collocation if the following substantial modifications are added to the exiting mobile service support structure:

- (1) an increase in the overall height of the structure by more than twenty (20) feet, for structures with an overall height of two hundred (200) feet or less;
- (2) an increase in the overall height of the structure by 10% or more, for structures with an overall height of more than two hundred (200) feet;
- (3) an increase in width of the support structure by twenty (20) feet or more, measured at the level of the appurtenance added to the structure as a result of the modification;
- (4) an increase in the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

A zoning application must be completed by the applicant and submitted to the Village Clerk. The application must contain the following information:

- (1) Applicant name, business address, and phone number of the contact individual(s) for the applicant(s).
- (2) The location of the existing mobile service support structure, including legal description, amount of property leased, and the height of the proposed and existing mounted antennas and/or equipment.
- (3) A construction plan which describes the proposed modifications to the mobile support structure and the equipment and network components, including

antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

- (4) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.

Sec. 118-1162. Application Process – Class 1 Collocation.

- (1) If an applicant submits to the Village an application to engage in an activity described in this section, which contains all of the information required under this Chapter, the Village must consider the application complete. If the Village does not believe that the application is complete, the Village must notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (2) Within ninety (90) days of its receipt of a completed application, the Village must complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the ninety (90) day period:
 - a. Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this Chapter;
 - b. The Village Board must make a final decision whether to approve or deny the application, after recommendation of the Plan Commission;
 - c. Notify the applicant in writing of the Village Board's final decision;
 - d. If the application is approved, issue the applicant a zoning permit;
 - e. If the decision is to deny the application, include with the written notification substantial evidence which supports that decision.

Sec. 118-1163. Application submittal requirements – Class 2 Collocation.

A collocation will be classified as a class 2 collocation if the substantial modifications described in Section 16-9-11 are not required for service.

A zoning application must be completed by the applicant and submitted to the Zoning Administrator. The application must contain the following information:

- (1) Applicant name, business address, and phone number of the contact individual(s) for the applicant(s);

- (2) The location of the existing support structure; including legal description, amount of property leased, and the height of the proposed and existing mounted antennas and/or equipment;
- (3) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.

Sec. 118-1164. Application process – Class 2 Collocation.

- (1) If an applicant submits to the Village an application to engage in an activity described in this section, which contains all of the information required under this Chapter, the Village must consider the application complete. If the Village does not believe that the application is complete, the Village must notify the applicant in writing, within five (5) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (2) Within forty-five (45) days of its receipt of a completed application, the Village must complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the forty-five (45) day period:
 - a. Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this Chapter;
 - b. The Village Board must make a final decision whether to approve or deny the application, after recommendation of the Plan Commission;
 - c. Notify the applicant in writing of the Village Board's final decision;
 - d. If the application is approved, issue the applicant a zoning permit;
 - e. If the decision is to deny the application, include with the written notification substantial evidence which supports that decision.

Sec. 118-1165. Application process – liability.

The Village does not warrant any mobile service support structure 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.

Sec. 118-1166. Site specifics.

- (1) As with commercial-scale wind energy facilities, mobile service support structures setbacks must not be less than the height of the tower above grade

between the base of the tower and property line. The setback may be reduced if the requirements of Section 118-1155(4) are met.

- (2) When more than one (1) tower is placed on a site, all setback and design requirements must be met by each tower.
- (3) A site with a guyed mobile support structure must 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 setback required for the adjoining property where the adjoining property is not a public property or street, nor in a residential district.
 - c. A guy anchor may be located on an adjoining property when:
 - i. Written authorization from the adjoining property owner is provided at the time of application for conditional use approval; and
 - ii. The guy anchor meets the requirement of subsections (1) and (2) above, as to all other adjoining property lines.
- (4) Mobile service facility accessory structures must be limited to fifteen (15) feet in height.
- (5) Mobile service support structures must not be illuminated except as required by the Wisconsin Division of Aeronautics or the Federal Aviation Administration.

Sec. 118-1167. Severability.

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

Sec. 118-1168. Fees.

Application fees for new mobile service support structures, and class 1 and 2 collocations, shall be in accordance with a fee schedule set by resolution of the Village Board from time-to-time.

Sec. 118-1169. Reserved.

Article IX. Floodplain Regulations

Sec. 118-1170 Statutory authorization, finding of fact, statement of purpose, title and general provisions.

(a) *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, Stat.

(b) *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.

(c) *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.

(d) *Title.* This ordinance shall be known as the Floodplain Zoning Ordinance for the Village of Union Grove, Wisconsin.

(e) *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.118-1177 *Amendments*) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Village Clerk. If more than one map or revision is referenced, the most restrictive information shall apply.

a. *Official Maps:* Based on the FIS:

1. Flood Insurance Rate Map (FIRM), panel numbers 55101C0179D, 55101C0183D, 55101C0187D, 55101C0191D, dated May 2, 2012, with corresponding profiles that are based on the Flood Insurance Study (FIS) dated May 2, 2012, volume numbers 55101CV001A and 55101CV002A.

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. 118-1177 *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. 118-1176(c)(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. 118-1177 *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.118-1177 *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.

Sec. 118-1171 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. 118-1176(a)(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.

(a) *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. 118-1177 *Amendments* are met.

(b) *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. 118-1171(a) must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 118-1177 *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.

(c) *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. 118-1177 *Amendments*.

(d) *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) above - 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. 118-1172, 118-1173 or 118-1174 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.

Sec. 118-1172. Floodway District (FW).

(a) *Applicability.* This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 118-1174(d).

(b) *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. 118-1172(c) and 118-1172(d); and
 - all permits or certificates have been issued according to s. 118-1176(a).
- (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. 118-1172(c)(4).
 - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss.118-1172(c) and 118-1172(d).
 - (5) Extraction of sand, gravel or other materials that comply with s. 118-1172(c)(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. 118-1172(c)(3).

(c) *Standards For Developments In The Floodway.*

- (1) *General.*
 - a. Any development in the floodway shall comply with s. 118-1171 and have a low flood damage potential.
 - b. Applicants shall provide the following data to determine the effects of the proposal according to s. 118-1171(a):
 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.118-1171(a).
- (4) *Fills Or Deposition Of Materials.* Fills or deposition of materials may be allowed by permit, if:
 - a. The requirements of s. 118-1171(a) 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.

(d) *Prohibited Uses.* All uses not listed as permitted uses in s. 118-1173(b) 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.

Sec. 118-1173 Floodfringe District (FF).

(a) *Applicability.* This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 118-1174(d).

(b) *Permitted Uses.* Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 118-1173(c) are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 118-1176(a) have been issued.

(c) *Standards For Development In The Floodfringe.* Sec. 118-1171(a) 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. 118-1175 *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. 118-1175 *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 118-1173(c)(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. 118-1173(c)(1). Subject to the requirements of s. 118-1173(c)(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 118-1176(e). Subject to the requirements of s. 118-1173(c)(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. 118-1176(e). 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. 118-1176(e).
 - 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. 118-1176(e)(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. 118-1176(e)(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. 118-1173(c)(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. 118-1173(c)(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.

Sec. 118-1174 General Floodplain District (GFP).

(a) *Applicability.* The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

(b) *Permitted Uses.* Pursuant to s. 118-1174(d), it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the Floodway (s. 118-1172(b)) and Floodfringe (s.118-1173(b)) Districts are allowed within the General Floodplain District, according to the standards of s.118-1174(c), provided that all permits or certificates required under s. 118-1176(a) have been issued.

(c) *Standards For Development In The General Floodplain District.* S. 118-1172 applies to floodway areas, s. 118-1173 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.

(d) *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. 118-1176(a)(2)(c).
 - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

Sec. 118-1175 Nonconforming uses.

(a) *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. 118-1173(c)(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. 118-1173(c)(1).
- f. If on a per event basis the total value of the work being done under (d) and (e) above 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. 118-1173(c)(1).
- g. Except as provided in subd. (h) below, 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. 118-1176(e)(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. 118-1174(c)(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. 118-1175(a)(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. 118-1176(e)(1) or (2).
 - c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 118-1174(c)(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. 118-1172(c)(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 118-1176(e) are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 118-1175(a)(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.

(b) *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. 118-1175(a);
 - 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. 118-1176(e), 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. 118-1176(e)(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. 118-1176(e)(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

(c) *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. 118-1173(c) except where s. 118-1175(c)(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. 118-1176(c), 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. 118-1173(c)(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, 118-1176(e)(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. 118-1176(e)(3) and ch. NR 811 and NR 812, Wis. Adm. Code.

Sec. 118-1176 Administration.

Where a zoning administrator, planning agency or a board of appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

(a) *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. 118-1172 or 118-1173 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.118-1171(a). This may include any of the information noted in s.118-1172(c)(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.* 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 top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
- 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. 118-1176(e) 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.

(b) *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.

- (c) *Board Of Appeals.* The Board of Appeals, created under s. 62.23(7)(e), Stats., for villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.

- (1) *Powers And Duties.* The Board of 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. 118-1176(c)(3);
 - b. Decide variance applications according to s. 118-1176(c)(4); and
 - c. Decide appeals of permit denials according to s. 118-1176(d).

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. 118-1177 *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. 118-1170(c).
- b. In addition to the criteria in subd. (a) above, 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. 118-1177 *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.

(d) *To Review Appeals Of Permit Denials.*

- (1) The Zoning Agency (s. 118-1176(b)) or Board shall review all data related to the appeal. This may include:
 - a. Permit application data listed in s. 118-1176(a)(2);
 - b. Floodway/floodfringe determination data in s. 118-1174(d);
 - c. Data listed in s. 118-1172(c)(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. 118-1176(c);
 - 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. 118-1177 *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.

(e) *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.
- (f) *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.

Sec. 118-1177 Amendments.

(a) *When Allowed.* 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. 118-1177(b).

- (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. 118-1177(b). 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.118-1177(b).

(b) *General.* The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 118.1177(c) 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 118-1170(e)(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.

(c) *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. 118-1174(d) and 118-1176(a)(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.

Sec. 118-1178 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 \$50.00 (Fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

Sec. 118-1179 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). For nonconforming structures, 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 performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- 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.

Sec. 118-1180 to 1189 Reserved.