

TITLE 13
Land Use Regulations

Chapter1 Zoning Code
Chapter2 Floodplain Zoning
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Zoning Code

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ARTICLE A
Introduction

SEC. 13-1-1 AUTHORITY

This Chapter is adopted under the authority granted by Sections 62.23(7) and 87.30 of the Wisconsin Statutes and amendments thereto.

State Law Reference: Section 62.23(7), Wis. Stats.

SEC. 13-1-2 TITLE

This Chapter shall be known as, referred to and cited as the "Zoning Code, Village of Howards Grove, Wisconsin" and is hereinafter referred to as the "Code" or "Chapter."

SEC. 13-1-3 GENERAL PURPOSE

The purpose of this Chapter is to promote the comfort, health, safety, morals, prosperity, aesthetics and general welfare of the people of the Village of Howards Grove, Wisconsin.

SEC. 13-1-4 INTENT AND PURPOSES IN VIEW

The general intent and purposes in view of this Chapter are to regulate and restrict the use of all structures, lands and waters and to:

- a) Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people;
- b) Divide the Village into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses;
- c) Protect the character and the stability of the residential, business, manufacturing and other districts within the Village and to promote the orderly and beneficial development thereof;
- d) Regulate lot coverage, the intensity of use of lot areas and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage;
- e) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements;
- f) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- g) Secure safety from fire, panic, flooding, pollution, contamination and other dangers;
- h) Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the Village;
- i) Preserve and protect the beauty of the Village of Howards Grove;
- j) To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;
- k) To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
- l) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;
- m) Further the maintenance of safe and healthful water conditions;
- n) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- o) Provide for and protect a variety of suitable commercial and industrial sites;

- p) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- q) Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the Village of Howards Grove;
- r) Provide for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

SEC. 13-1-5 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, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

SEC. 13-1-6 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 now possessed by the Village of Howards Grove.

SEC. 13-1-7 SEVERABILITY AND NON-LIABILITY

- a) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- b) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.
- c) 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, sanitation problems or structural damages that may occur as a result of reliance upon and conformance with this Chapter.

SEC. 13-1-8 REPEAL AND EFFECTIVE DATE

All other ordinances or parts of ordinances of the Village inconsistent or conflicting with this Chapter, to the extent of the inconsistency or conflict only, are hereby repealed.

SEC. 13-1-9 RESERVED FOR FUTURE USE.

ARTICLE B
General Provisions

SEC. 13-1-10 JURISDICTION AND GENERAL PROVISIONS

- a) **Jurisdiction.** The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the Village of Howards Grove.
- b) **Compliance.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and without full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.
- c) **District Regulations to be Complied With.** Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.
- d) **Yard Reduction or Joint Use.**
 1. No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this Chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.
 2. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this Code shall be included as a part of a yard or other open space required for another building.
- e) **One Main Building per Lot.** Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and there shall be no more than one (1) principal structure on one (1) lot or as permitted by conditional use. Structures which abut or are attached to one another shall be treated as separate structures unless their frames are permanently integrated with one another in a way that would prevent their separation without causing damage to one or both structures. Notwithstanding the above, decks, docks, porches and patios that are accessory to the principal use shall be considered a part of the principal structure if they abut within three (3) feet of the principal structure or are attached to it.
- f) **Lots Abutting More Restrictive District.** Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two (2) districts which abut the district boundary line.

SEC. 13-1-11 USE REGULATIONS

Only the following uses and their essential services may be allowed in any district;

- a) **Permitted Uses.** Permitted uses, being the principal uses, specified for a district.
- b) **Accessory Uses.** Accessory uses and structures as specified are permitted in any district but not until their principal structure is present or under construction.
- c) **Conditional Uses.**
 1. Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Village Board in accordance with Article E of this Chapter excepting those existent at time of adoption of the Zoning Code.
 2. Those existing uses which are classified as "conditional uses" for the district(s) in which they are located at the time of adoption, of this Code require no action by the Village Board for them to continue as valid conditional uses, and the same shall be deemed to be "regular" conditional uses.

3. Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Village Board in accordance with Article E of this Chapter.
 4. Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of an previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval by the Village Board in accordance with Article E of this Chapter.
 5. Limited conditional uses authorized by Village Board resolution shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
- d) **Uses Not Specified in Code.**
1. Uses not specified in this Chapter which are found by the Village Board to be sufficiently similar to specified permitted uses for a district shall be allowed.
 2. Uses not specified in this Chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Village Board after approval in accordance with Article E of this Chapter.

SEC. 13-1-12 SITE REGULATIONS

- a) **Street Frontage.** All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of ninety (90) feet; cul-de-sac lots shall measure ninety (90) feet at the front building setback line. However, to be buildable, the lot shall comply with the frontage requirements of the zoning district in which it is located.
- b) **Principal Structures.** All principal structures shall be located on a lot. Only one (1) principal structure shall be located, erected or moved onto a lot. The Village Board may permit as a conditional use more than one (1) principal structure per lot in any district where more than one (1) such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Village Board may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures. Structures which abut or are attached to one another shall be treated as separate structures unless their frames are permanently integrated with one another in a way that would prevent their separation without causing damage to one or both structures. Notwithstanding the above, decks, docks, porches and patios that are accessory to the principal use shall be considered a part of the principal structure if they abut within three (3) feet of the principal structure or are attached to it.
- c) **Dedicated Street.** No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- d) **Lots Abutting More Restrictive Districts.** Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yard setbacks in the less restrictive district shall be modified for a distance of not less than sixty (60) feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.
- e) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Village Board by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Village Board, in applying the provisions of the Section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an

opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Village Board may affirm, modify or withdraw its determination of unsuitability.

- f) **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Village Board, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.
- g) **Decks.** For purposes of this Chapter, decks and porches shall be considered a part of a building or structure if located closer than four (4) feet to the building.

SEC. 13-1-13 HEIGHTS AND AREA EXCEPTIONS

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

- a) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials; microwave radio relay structures; telephone, telegraph and power poles and lines and necessary mechanical appurtenances are hereby excepted from the height regulations of this Code and may be erected in accordance with other regulations or codes of the Village.
- b) Where a lot abuts on two (2) or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of one hundred twenty (120) feet from the line of the higher average established grade.
- c) Buildings on through lots and extending from street to street may have waived the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.
- d) Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than twelve (12) inches.
- e) Open or enclosed fire escapes and fire towers may project into a required yard not more than five (5) feet and into a required court not more than three and one-half (3-1/2) feet, provided it be so located as not to obstruct light and ventilation.

SEC. 13-1-14 REDUCTION OR JOINT USE

No lot, yard, parking area, building area or other space shall be reduced in area or dimensions so as not to meet the provisions of this Chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.

SEC. 13-1-15 HOME OCCUPATIONS

Any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any dwelling unit.

- a) **Standards.** In addition to all of the standards applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following standards:

1. No more than one (1) person other than a member of the immediate family occupying such dwelling unit shall be employed
 2. No stock in trade (except articles produced by the members of the immediate family residing on the premises) shall be displayed or sold on the premises.
 3. No alteration of the principal building shall be made which changes the character thereof as a dwelling.
 4. (4) No more than twenty-five percent (25%) of the area of one (1) story of a single-family dwelling nor more than twenty percent (20%) of the area of any other dwelling unit shall be devoted to the home occupation, provided, however, that rooms let to roomers are not subject to this limitation.
 5. No extensive mechanical equipment other than normal domestic or household equipment shall be used.
 6. The home occupation shall be conducted entirely within the principal residential building, or in a permitted private garage accessory thereto.
 7. There shall be no outside storage of equipment or materials used in the home occupation.
 8. No signs shall be permitted other than those permitted by the applicable regulations in Article H.
- b) **Particular Occupations Permitted.** Customary home occupations include, but are not limited to, the following list of occupations:
1. Dressmakers, seamstresses, tailors.
 2. Music teachers, provided that the instruction shall be limited to one (1) pupil at a time except for occasional groups.
 3. Artists, sculptors, or authors.
 4. Computer, technical and clerical workers.
 5. Lawyers, architects, engineers, realtors, insurance agents, brokers and members of similar professions.
 6. Ministers, rabbis, or priests.
- c) **Particular Occupations Prohibited.** Permitted home occupations shall not in any event be deemed to include:
1. Barber shop, unless specifically permitted by the district regulations.
 2. Beauty parlors, unless specifically permitted by the district regulations.
 3. Dancing schools.
 4. Funeral homes.
 5. Nursery schools.
 6. Restaurants.
 7. Small engine repair shops.
 8. Renting of trailers.
 9. Clinics or hospitals.
 10. Repair shops or service establishments
 11. Animal kennels or hospitals, or stables.

SEC. 13-1-16 CHARGES FOR SERVICES RELATED TO DEVELOPMENT

All persons proposing an action that requires the issuance of a building permit, conditional use permit, map approval, plat approval, or rezoning approval by the Village or any of its Commissions, Committees, Officers or other agent shall pay such reasonable and necessary charges for professional services incurred by the Village for the review, administration, investigation, and processing of the application.

Professional Services shall include, but are not limited to, planning, engineering, legal and related services. Such charges shall be in addition to any other filing, permit, publication or meeting fees, charges or costs otherwise payable by the applicant.

A Schedule of Standard Charges for professional services related to development may be developed, and amended from time to time, by the Village Clerk, Building Inspector and Board within two (2) months after the date of adoption of this ordinance, and subsequently submitted to the Village Board for review and approval. After approval by resolution of the Village Board, the schedule of standard charges shall be maintained by the Village Clerk, and shall provide copies to any person upon reasonable request.

SEC. 13-1-17 THROUGH SEC. 13-1-19 RESERVED FOR FUTURE USE.

ARTICLE C
Zoning Districts

SEC. 13-1-20 ZONING DISTRICTS AND MAP

- a) **Districts.** Eight (8) zoning districts are provided in the Village of Howards Grove as follows:
1. R1 & R2 Single and Two-Family Residence District.
 2. M Multiple Residence District.
 3. B Business and Commercial District.
 4. I Industrial District.
 5. PR Park and Recreation District.
 6. F Flood Plain Overlay District (see the supplementary flood plain zoning ordinance which is entitled "Flood Plain Zoning", found in Title 13, Chapter 2 of this Code. Said supplemental flood plain ordinance is hereby incorporated by reference as part of this Chapter as if fully included herein.)
 7. C Conservancy District.
 8. CO Conservancy Overlay District
- b) **Zoning Maps.** The boundaries of the districts are as indicated on the Zoning Map of the Village, a copy of which is on file in the office of the Village Clerk-Treasurer. Floodland district boundaries have been transferred directly from maps prepared by Wade Engineering dated April 14, 1982, as approved by the Department of Natural Resources under the Foodplain-Shoreland Mapping Grant Program. The Zoning Map, with all notations, references and other matters shown thereon, is as much a part of this Chapter as if specifically set forth herein. No buildings shall be erected or altered nor shall any building or premises be used for any purpose other than those which are permitted in the district in which the building or premises is located, except as specifically permitted in Article F, which relates to nonconforming uses.
- c) **Changes.** Changes thereafter to the general zoning districts shall be entered and attested. Changes in the Floodland Districts shall not become effective until approved by the Wisconsin Department of Natural Resources.
- d) **Boundaries.** If uncertainties exist with respect to the intended boundaries of the zoning districts shown on the zoning map, the following rules shall apply:
1. The district boundaries are the center lines of streets unless otherwise directed, and where the designation of a boundary line on the zoning map coincides with the location of a street, the center line of such street shall be construed to be the boundary of such district.
 2. Where the district boundaries coincide with lot lines, such lot lines shall be construed to be the boundary of such district.
 3. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks with lots, the district boundaries shall be construed to be lot lines, and where the designations on the zoning map are approximately bounded by lot lines, such lot line shall be construed to be the boundary of the district.
 4. In unsubdivided property, the district boundary lines shown on the zoning map are intended to be section lines, quarter section lines and quarter quarter section lines, and where the district boundaries cross the quarter quarter sections, north-south or east-west, the district boundary line shall be the line through the center of the quarter section.
 5. In unplatted areas less than ten (10) acres in area, the district boundaries, where not otherwise designated, shall be determined by the use of the scale shown on the zoning map.
- e) **Annexations.** Any property annexed to the Village shall be placed in the R1 Single-Family Residence District unless the annexation ordinance temporarily places the land in another district.
- f) **Vacation of Streets.** 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.

SEC. 13-1-21 R1 AND R2 SINGLE AND TWO-FAMILY RESIDENCE DISTRICT

- a) **Purpose and Intent.** To establish and preserve quiet, low density neighborhoods providing a suitable environment for family life, free from uses except those which are both compatible and convenient to the residents of such districts.
- b) **Permitted Uses.** The following uses and their customary accessory uses are permitted in R-1 and R-2 unless otherwise designated:
 1. Detached single-family dwellings in R-1 or R-2 zoning.
 2. Home occupations and professional home offices.
 3. Public parks and playgrounds.
 4. Essential services. (See definitions 13-1-200)
 5. Two-family dwellings (Duplex) only in R-2 zoning.
 6. Attached or semi-detached single-family dwellings only in R-2 zoning.
 7. State-licensed community living arrangements servicing eight (8) or fewer residents, unless a conditional use permit is required as provided by Wis. Stats 62.23(7)(i)(9).
- c) **Conditional Uses.** The following uses may be permitted after review and approval by the Plan Commission and Village Board under the procedures of Article E of this Chapter:
 1. R1 Conditional Uses
 - a. Planned residential developments.
 - b. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters and museums.
 - c. Schools or educational facilities.
 - d. Churches or religious institutions.
 - e. Unlighted private parks.
 - f. Bed and breakfast establishments as defined in Article E (13-1-71).
 - g. State-licensed community living arrangements servicing nine (9) or more residents.
 2. R2 Conditional Uses
 - a. Planned residential developments.
 - b. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters and museums.
 - c. Schools or educational facilities.
 - d. Churches or religious institutions.
 - e. Unlighted private parks.
 - f. Bed and breakfast establishments.
 - g. State-licensed community living arrangements servicing nine (9) or more residents.
- d) **Area Requirements.**
 1. Lot Width. Minimum ninety (90) feet abutting a dedicated street.
 - a. Single Family. Minimum ninety (90) feet width abutting a dedicated street
 - b. Two Family. Minimum one hundred twenty (120) feet width at the building setback line abutting a dedicated street for lots created after August 21, 2007
 2. Lot Area. Minimum ten thousand (10,000) square feet.
 3. Setbacks.
 - a. Yard Front. Minimum thirty (30) feet.
 - b. Rear: Minimum thirty (30) feet.
 - c. Side:
 - i. Minimum of ten (10) feet for two-family lots created before August 21, 2007 and all single family zoning
 - ii. Minimum of twenty (20) feet for two-family lots created after August 21, 2007
 4. Maximum Building Height.

- a. Principal Buildings: Thirty-five (35) feet.
 - b. Accessory Structures: Fifteen (15) feet.
- (e) **Building Height and Area – Single Family Principal Building**
1. The total minimum area square footage of a one (1) story single-family principal building shall be one thousand three hundred (1,300) square feet.
 2. The minimum first floor area square footage of a two (2) story principal building shall be seven hundred fifty (750) square feet.
 3. A tri-level dwelling shall have a minimum area square footage of four hundred twenty five (425) square feet per habitable level.
 4. The basement area shall be a minimum of four hundred twenty five (425) square feet and a minimum height of seven (7) feet.
 5. The minimum width between the longest exterior sides of the structure shall be 24 feet.
 6. Porches, garages, breezeways, storage appurtenances, carports, and basements shall not be included in calculating the minimum area square footage. See definitions 13-1-200.
- (f) **Building Height and Area – Two-Family Principal Building**
1. The total minimum area square footage of a one (one) story two-family principal building shall be one thousand (1,000) square feet per unit.
 2. The minimum first floor area square footage of a two (2) story two-family principal building shall be seven hundred fifty (750) square feet per unit.
 3. The basement area shall be a minimum of four hundred twenty five (425) square feet per unit and a minimum height of seven (7) feet.
 4. The minimum width between the longest exterior sides of the structure shall be 24 feet per unit.
 5. Porches, garages, breezeways, storage appurtenances, carports, and basements shall not be included in calculating the minimum area square footage. See definitions 13-1-200.

SEC. 13-1-22 M MULTIPLE RESIDENCE DISTRICT

- a) **Purpose and Intent.** To establish and preserve medium density residential developments in quiet multi-family neighborhoods, providing a suitable environment for family life, free from other uses except those which are both compatible with and convenient to the residents of such district.
- b) **Permitted Uses.**
 1. Three- or Four-unit multiple-family dwellings provided a site plan is approved by the Village Board under the procedures of this Chapter.
 2. Two-family dwellings (duplex).
 3. Home occupations and professional home offices.
 4. Public parks and playgrounds.
 5. Essential services. (See definitions 13-1-200)
 6. State-licensed community living arrangements servicing eight (8) or fewer residents
 7. State-licensed community living arrangements servicing nine (9) to fifteen (15) residents.
- c) **Conditional Uses.** The following uses may be permitted after review and approval of the Plan Commission and Village Board under Article E of this Chapter;
 1. Five-unit or more multiple-family dwellings with approved site plan.
 2. Single-family dwellings.
 3. Planned residential developments.
 4. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters and museums.
 5. Schools or educational facilities.
 6. Churches or religious institutions.
 7. Unlighted private parks, commercial swimming pools and similar commercial recreational facilities provided they are on lots fronting and have principle driveway access to an arterial

street and are located, planned and designed to avoid undue noise or other nuisances and dangers.

8. Private clubs and fraternal or organizations.
9. Utility office buildings and related structures.
10. Rest homes, nursing homes, homes for the aged and child or adult day care centers.
11. Bed and breakfast establishments.
12. State-licensed community living arrangements servicing more than fifteen (15) residents.

d) **Area Requirements.**

1. Lot Width. Minimum one hundred (100) feet abutting a dedicated street.
 - a. Area: Minimum twelve thousand (12,000) square feet.
2. Lot Area Per Unit. Minimum twelve thousand (12,000) square feet.
 - a. Efficiency: Minimum two thousand (2,000) square feet.
 - b. One Bedroom: Minimum two thousand five hundred (2,500) square feet.
 - c. Two and Three Bedroom: Minimum three thousand (3,000) square feet.
3. Maximum Building Area. Forty percent (40%) total lot area.
4. Setbacks.
 - a. Yard Front. Minimum thirty (30) feet.
 - b. Rear: Minimum fifty (50) feet.
 - c. Side: Minimum twenty (20) feet.
5. Maximum Building Height.
 - a. Principal Buildings: Thirty-five (35) feet.
 - b. Accessory Structures: Fifteen (15) feet.

SEC. 13-1-23 B BUSINESS AND COMMERCIAL DISTRICT

- a) **Purpose and Intent.** To provide an opportunity for the consumer population to purchase a wide variety of goods and services which are either centrally located or close in proximity to major thoroughfares which serve the surrounding residential neighborhood.
- b) **Permitted Uses.** The following uses and their customary accessory uses are permitted provided that an initial site plan is approved by the Plan Commission and Village Board under the procedures of Article E of This Chapter. Subsequent operators of the same use type are not required to submit a site plan, unless proposing changes to the physical characteristics of the property.
 1. Business and professional offices.
 2. Any lawful retail store, unless listed below as conditional.
 3. Restaurants or food service businesses.
 4. Banks and financial institutions.
 5. Radio and television broadcasting stations excluding towers and relay equipment.
 6. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters and museums.
 7. Municipal sewage treatment plants.
 8. Public park and recreational facilities.
 9. Tents or tent-like structures used exclusively for the sale of farm produce, flowers or plants, or if erected for less than 7 days within any 30 day period.
 10. Essential services. (See definitions 13-1-200)
- c) **Conditional Uses.** The following uses may be permitted after review and approval by the Plan Commission and Village Board under Article E of this chapter:
 1. Private parks and recreational facilities.
 2. Private clubs and fraternal organizations.

3. Commercial swimming pools and similar commercial recreational facilities provided they are on lots having principle driveway access to arterial streets and are located, planned and designed to avoid undue noise or other nuisances and dangers.
 4. Child or adult day care centers
 5. Rest homes or nursing homes.
 6. State-licensed community living arrangements servicing nine (9) or more residents.
 7. Wholesale establishments confined to indoor storage.
 8. Outdoor storage areas for any permitted or conditional uses.
 9. Repair and service businesses, including auto repair and service stations.
 10. Hotels, motels and resorts.
 11. Churches or religious institutions.
 12. Utility office buildings and related structures.
 13. Living quarters for watch persons or caretakers of any permitted or conditional use facilities.
 14. Tavern and cocktail lounges.
 15. Theatres but not including outdoor drive-in theatres.
 16. Bowling alleys.
 17. Greenhouses
 18. Animal hospitals, kennels, shelters and pet shops.
 19. Clinics.
 20. Tents or tent-like structures, unless (i) used exclusively for the sale of farm produce, flowers or plants, or (ii) if erected for less than 7 days within any 30 day period.
- d) **Area Requirements.**
1. Lot Width. Minimum ninety (90) feet.
 2. Minimum Lot Area. Sufficient to meet setback requirements.
 3. Setbacks.
 - a. Yard Front. Minimum twenty-five (25) feet.
 - b. Rear: Minimum fifteen (15) feet.
 - c. Side: Minimum ten (10) feet.
 4. Maximum Building Height. Forty-five (45) feet.
 5. Plans and Specifications to be Submitted to the Plan Commission and Village Board. Zoning permits shall not be issued without review and approval of the Plan Commission and Village Board. Such review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading and landscape plans.

SEC. 13-1-24 I INDUSTRIAL DISTRICT

- a) **Purpose and Intent.** To establish and accommodate existing industrial uses and to preserve and protect land designated through land use planning for industrial development and use, from the intrusion of certain incompatible uses which may impede the development and use of lands for industrial purposes.
- b) **Permitted Uses.** The following uses and their customary accessory uses are permitted provided a site plan is approved by the Plan Commission and Village Board under the procedures of Article E of this Chapter:
 1. Wholesale establishments confined to indoor storage.
 2. Repair and service businesses.
 3. Radio and television broadcasting stations excluding towers and relay equipment.
 4. Tents or tent-like structures used exclusively for the sale of farm produce, flowers or plants, or if erected for less than 7 days within any 30 day period.
 5. Municipal sewage treatment plants.
 6. Essential services. (See definitions 13-1-200)

- c) **Conditional Uses.** All uses in this district are conditional uses due to potential neighborhood and environmental concerns. After review and approval of the Plan Commission and Village Board under Article E of this Chapter, the subsequent uses may be permitted but not limited to the following:
1. Any lawful retail store.
 2. Banks and financial institutions.
 3. Public park and recreational facilities.
 4. Automotive upholstery.
 5. Automotive body repairs.
 6. Bottling plants.
 7. Building material sales and storage.
 8. Business and professional offices.
 9. Cleaning, pressing and dyeing.
 10. Commercial bakeries.
 11. Commercial greenhouses.
 12. Distributors.
 13. Food locker plants.
 14. Freight terminals.
 15. Printing.
 16. Publishing.
 17. Trade and contractor's office and/or outside storage area.
 18. Warehousing.
 19. Wholesaling.
 20. Farm machinery plants.
 21. Machine shops.
 22. Painting.
 23. Manufacture, fabrication, compacting, packaging and assembly of products from furs, glass, metals, paper, leather, plaster, plastics, textiles and wood.
 24. Manufacture, fabrication, processing, packing and packaging of confections, cosmetics, electrical appliances, electronic devices, food, instruments, jewelry, pharmaceuticals, tobacco and toiletries.
 25. Storage and sale of machinery and equipment.
 26. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters and museums.
 27. Living quarters for watch persons or caretakers of any permitted or conditional use facilities.
 28. Tents or tent-like structures, unless (i) used exclusively for the sale of farm produce, flowers or plants, or (ii) if erected for less than 7 days within any 30 day period.
- d) **Area Requirements.**
1. Lot Width. Minimum one hundred (100) feet.
 2. Area. Minimum twenty thousand (20,000) square feet.
 3. Setbacks.
 - a. Yard Front. Minimum fifty (50) feet.
 - b. Rear: Minimum twenty-five (25) feet.
 - c. Side: Minimum twenty-five (25) feet.
 4. Maximum Building Height. Forty-five (45) feet.
 5. Plans and Specifications to be Submitted to the Plan Commission and Village Board. Zoning permits shall not be issued without review and approval of the Plan Commission and Village Board. Such review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading and landscape plans.

SEC. 13-1-25 PR PARK AND RECREATION DISTRICT

- a) **Purpose and Intent.** The PR Park and Recreation District is intended to provide for areas where the recreational needs, both public and private, of the populace can be met without undue disturbance of natural resources and adjacent use.
- b) **Permitted Uses.** The following uses and their customary accessory uses are permitted provided an initial site plan is approved by the Plan Commission and Village Board under the procedures of Article E of this Chapter. Subsequent operators of the same use type are not required to submit a site plan, unless proposing changes to the physical characteristics of the property:
 1. Boat access sites.
 2. Forest reserves (wilderness areas).
 3. Historic and monument sites.
 4. Parks, general recreation.
 5. Picnicking areas.
 6. Play lots or tot lots.
 7. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters and museums.
 8. Municipal sewage treatment plants.
 9. Essential services (See definitions 13-1-200)
- c) **Conditional uses**
 1. Tents or tent-like structures, unless (i) used exclusively for the sale of farm produce, flowers or plants, or (ii) if erected for less than 7 days within any 30 day period.
 2. Golf courses
 3. Golf driving ranges.
 4. Miniature golf.
 5. Group or organized camps.
 6. Hunting and fishing clubs.
 7. Playgrounds.
 8. Play fields or athletic fields.
 9. Skating parks, including skateboarding, rollerblading/skating, or ice skating.
 10. Cross-country skiing trails and skiing or tobogganing hills.
 11. Tennis courts.
- d) **Accessory Uses.** Buildings accessory to the permitted recreational use.
- e) **Area Requirements.**
 1. Lot Area and Width. Lots in the PR district shall provide sufficient area for the principal structure and its accessory structures, off-street parking and loading areas as required by this Chapter and all required yards.
 2. Building Height. No building or parts of a building shall exceed thirty-five (35) feet in height.
 3. Setbacks and Yards. No building or structure shall be erected, altered or moved closer than fifty (50) feet to a lot line.
 4. Plans and Specifications to be Submitted to the Plan Commission and Village Board. To encourage and insure that recreational development is environmentally compatible with other uses and the residential nature and character of the Village, zoning permits for permitted uses in the PR District shall not be issued without review and approval of the Village Board. Such review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading and landscape plans.

13-1-26 C CONSERVANCY DISTRICT

- a) **Purpose and Intent.** The primary purpose of the C District is to preserve, protect, and enhance the lakes, streams, swamps, marshes, bogs, other wetlands, woodlands, and related scenic areas in the Village of Howards Grove. The proper regulation of these areas will serve to maintain and improve ground water and surface water quality; prevent flood damage; protect fish and wildlife habitat; prohibit the location of structures on soils which generally are not suitable for such use; protect natural watersheds; control erosion and sedimentation, and promote and maintain the natural beauty of the Village. In addition the C District will seek to assure the preservation and protection of water based recreation and open space resources, areas of significant topography, natural watersheds, ground and surface water, potential recreation sites, wildlife habitat, and other natural resource characteristics that contribute to the environmental quality of the Village. This District recognizes that undisturbed wetlands/ woodlands serve as natural purifiers for surface waters and as protective buffers at the land/water interface.
- b) **Lands Included.** The C District shall include minimally all areas delineated as swamps, marshes, bogs, and other wetlands on the “Shoreland Zoning Map, Sheboygan County, Wisconsin” as described in the SHORELAND-FLOODPLAIN ORDINANCE, SHEBOYGAN COUNTY, WISCONSIN, as well as those shoreland, woodland, wetland and other areas identified as being of local concern.
- c) **Permitted Uses.** The following uses are permitted in the C District provided that such uses are conducted in accordance with sound conservation practices and do not involve dumping; filling; extension of cultivated areas; mineral, soil or peat removal; or any other activity that would substantially disturb or impair the natural fauna, flora, watercourses, water regimen, or topography:
 1. Dugout ponds and level ditches.
 2. Flood overflow and movement of water.
 3. Forestry and game management
 4. Fishing, wildlife preserves, and other historic/scientific areas
 5. Parkland and recreation areas not including the location or erection of buildings or structures.
 6. Wild crop harvesting including marsh hay, moss, ferns, wild rice, berries, fruit, nuts, and seeds.
- d) **Conditional Uses.** The following uses are conditional in the C District:
 1. Hiking trails
 2. Nonresidential buildings used solely in conjunction with the raising of waterfowl, fish, and other lowland animals or crops.
- e) **Area, Height, and Yard Requirements.** None; no buildings or structures permitted except as provided under (d)(2) above, or by special exception.

SEC. 13-1-27 CO CONSERVANCY OVERLAY DISTRICT

- a) **Purpose and Intent.** The purpose of the CO District is identical to that of the C District. The CO District shall be applied rather than the C District in situations in which use of the C District would split a parcel into two zoning classifications, i.e., where the boundary of the C District does not follow the parcel boundary. In such cases, such part of the parcel intended to be subject to conservancy restrictions shall be subject to the CO District, and the underlying zoning classifications shall control permissible uses on the balance of the parcel.
- b) **Lands Included.** See Section 13-1-27 for a description of the land to be included.
- c) **Permitted Uses.** The following uses are permitted in the CO District provided that such uses are conducted in accordance with sound conservation practices and do not involve dumping;

filling extension of cultivated areas; mineral, soil or peat removal; or any other activity that would substantially disturb or impair the natural fauna, flora, watercourses, water regimen, or topography:

1. Dugout ponds and level ditches
2. Flood overflow and movement of water
3. Forestry and game management
4. Fishing, wildlife preserves, and other historic/scientific areas
5. Parkland and recreation areas not including the location or erection of buildings or structures.
6. Wild crop harvesting including marsh hay, moss, ferns, wild rice, berries, fruit, nuts, and seeds.

d) **Conditional Uses.** The following uses are conditional in the C District:

1. Hiking trails
2. Nonresidential buildings used solely in conjunction with the raising of waterfowl, fish, and other lowland animals or crops.

e) **Area, Height, and Yard Requirements.** None; no buildings or structures permitted except as provided under (d)(2) above, or by special exception.

SEC. 13-1-28 THROUGH SEC. 13-1-49 RESERVED FOR FUTURE USE

ARTICLE D
Planned Unit Development (PUD) Conditional Use

SEC. 13-1-50 PLANNED UNIT DEVELOPMENT CONDITIONAL USE - INTENT

- a) The planned unit development conditional use is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and/or 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 developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The planned unit development under this Chapter will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while, at the same time, maintaining insofar as possible, the land use density and other standards or use requirements 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 Chapter 703 of the Wisconsin Statutes (condominiums) may be permitted by the Village upon specific petition under Section 13-1-57 of this Chapter and after public hearing, with such development encompassing one (1) or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this Section of the Chapter have been met.

SEC. 13-1-51 TYPES OF PLANNED UNIT DEVELOPMENTS

This Article contemplates that there may be a Residential, Commercial, Industrial Planned Unit Developments and Mixed Compatible Use Developments.

SEC. 13-1-52 GENERAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENT

A planned unit development shall be consistent in all respects to the expressed intent of this Article and to the spirit and intent of this Chapter; shall be in conformity with the adopted master plan (comprehensive land use and thoroughfare plan), neighborhood plan or any adopted component thereof; and shall not be contrary to the general welfare and economic prosperity of the community.

A planned unit development should meet three requirements:

1. Promote the maximum benefit from coordinated area planning.
2. Diversified location of structures.
3. Mixed compatible uses.

It should also provide a safe and efficient system for pedestrian and vehicular traffic, attractive recreation and landscaped open spaces, economic design and location of public and private utilities and community facilities and insure adequate standards of construction and planning.

SEC. 13-1-53 PHYSICAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS

- a) **Minimum Area Requirements.** Areas designated as planned unit developments shall contain a minimum development area as follows:

Principal Uses
Residential PUD

Minimum Area of PUD
3 acres

Commercial PUD	5 acres
Industrial PUD	10 acres
Mixed Compatible Use	10 acres

- b) **Density Requirements (Lot Area, Width and Yard Requirements).** The district area, width and yard requirements of the basic use district may be modified; however, in no case shall the average density in a residential district exceed the number of dwelling units that would have been permitted if the planned unit development regulations had not been utilized.
- c) **Building Height and Area Requirements.**
 - 1. Buildings in a planned unit development shall not exceed the height permitted in the basic use district.
 - 2. Buildings in a planned unit development shall have a minimum area that is equal to or greater than that required in the basic use district.
- d) **Single Parcel, Lot or Tract.** The planned unit development shall be considered as one (1) tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract and be so recorded with the County Register of Deeds.

SEC. 13-1-54 REQUIREMENTS AS TO PUBLIC SERVICES AND FACILITIES

- a) The development site shall be provided with adequate drainage facilities for surface and storm waters.
- b) The site will be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the development.
- c) No undue constraint or burden shall be imposed on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm drainage, and maintenance of public areas by the developments.
- d) The street and driveways on the site of the development shall be adequate to serve the residents of the development and, in the case of public dedicated streets, will meet the minimum standards of all applicable ordinances or administrative regulations of the Village.
- e) Public water and sewer facilities shall be provided.

SEC. 13-1-55 SUBSEQUENT LAND DIVISION

The division of any land or lands within a planned unit development for the purpose of chance or conveyance of ownership may be accomplished pursuant to the land division subdivision regulations of the Village when such division is contemplated.

SEC. 13-1-56 PROCEDURAL REQUIREMENTS - INTENT

Sections 13-1-50 through 13-1-55 set forth the basic philosophy and intent in providing for Planned Unit Developments, the kinds thereof, the general requirements, physical requirements and requirements as to public services and facilities. The following sections are intended to set forth the procedures and considerations involved leading to possible approval of such developments.

SEC. 13-1-57 PROCEDURAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS

- (a) **Pre-Petition Conference.** Prior to the official submission of the petition for the approval of a planned unit development, the owner or his agent making such petition shall meet with the Plan Commission and Village Board or its staff to discuss the scope and proposed nature of the contemplated development.

- (b) **Petition for Approval.** Following the pre-petition conference, the owner or his agent may file a petition with the Village Clerk-Treasurer for approval of a planned unit development. Such petition shall be accompanied by a review fee which shall be determined from time to time by the Village Board and adopted as part of the rate schedule kept by the Village Clerk, as well as incorporate the following information:
1. **Informational Statement.** A statement which sets forth the relationship of the proposed PUD to the Village's adopted master (comprehensive land use and thoroughfare plan) plan, neighborhood plan, or any adopted component thereof, and the general character of and 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 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 the Village zoning regulations, land subdivision ordinance, 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:**
 - f. A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.
 - g. The location of public and private roads, driveways, sidewalks and parking facilities.
 - h. The size, arrangement and location of any individual building sites and proposed building groups on each individual site.
 - i. The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
 - j. The type, size and location of all structures.
 - k. General landscape treatment and stormwater drainage facilities.
 - l. The existing and proposed location of all private utilities or other easements.
 - m. Existing topography on the site with contours at no greater than two (2) foot intervals.
 - n. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
 - o. If the development is to be staged, a staging plan.
 - p. A plan showing how the entire development can be further subdivided in the future.
- c) **Public Hearing.** The Village Board shall hold public hearing on the petition in the manner provided in Sections 13-1-63 and 13-1-64 for Conditional Uses.

SEC. 13-1-58 BASIS FOR APPROVAL OF THE PETITION FOR PLANNED UNIT DEVELOPMENT

- a) **Requirements.** The Plan Commission and Village Board, in making a determination approving a petition for planned unit development, shall find as follows:
1. That the general requirements made and provided in Section 13-1-52 will be met;
 2. That the applicable physical requirements made and provided in Section 13-1-53 will be met.
 3. That the requirements as to public services and facilities made and provided in Section 13-1-54 will be met.
 4. 13-1-54 will be met.

5. The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious area compatible with and not adversely affecting the property values of the surrounding neighborhood.
- b) **Proposed Construction Schedule.** The Plan Commission and Village Board, in making their respective recommendation and determination, shall consider the reasonableness of the proposed construction schedule and any staging plan for the physical development of the proposed PUD, commencement of the physical development within one (1) year of approval being deemed reasonable.
- c) **Residential PUD, Considerations.** The Plan Commission and Village Board, in making their respective recommendation and determination as to a proposed residential planned unit development, shall further consider whether:
 1. 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.
 2. The total net residential density within the planned unit development will be compatible with the Village master plan (comprehensive land use and thoroughfare plan), neighborhood plan, or components thereof, and shall be compatible with the density of the district wherein located.
 3. Structure types will be generally compatible with other structural types permitted in the underlying basic use district. To this end, structure type shall be limited as follows:
 - a. Planned residential developments in the R District shall not exceed four (4) dwelling units per structure.
 - b. Planned residential developments in the M District shall not exceed sixteen (16) dwelling units per structure.
 4. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities if privately owned.
 5. Provision has been made for adequate, continuing fire and police protection.
 6. The population density of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
 7. Adequate guarantee is provided for permanent reservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.
- d) **Commercial PUD, Considerations.** The Plan Commission and Village Board, in making their development, shall further consider whether respective recommendation and determination as to a proposed commercial planned unit:
 1. The economic practicality of the proposed development can be justified.
 2. The proposed development will be served by off-street parking and truck service facilities in accordance with this Chapter.
 3. 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, water, sanitary sewer and storm water drainage and maintenance of public areas.
 4. The locations of entrances and exists 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 any adverse effect upon the general traffic pattern of the surrounding neighborhood.
- e) **Industrial PUD, Considerations.** The Plan Commission and Village Board, in making their respective recommendations and determination as to a proposed industrial planned unit development, shall further consider whether:

1. The operational character and physical plant arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.
 2. 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, water sanitary sewer and storm water drainage and maintenance of public areas.
 3. The proposed development will include provision for off-street parking and truck service areas in accordance with this Chapter and will be adequately served by easy-access rail and/or arterial highway facilities.
 4. 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.
- f) **Mixed Use PUD, Considerations.** The Plan Commission and Village Board, in making their respective recommendation and determination as to a proposed mixed use planned unit development, shall further consider whether:
1. The proposed mixture of uses produces a unified composite which is compatible with the zoning district and which, as a total development entity, is compatible with the surrounding neighborhood.
 2. The various types of uses conform to the general requirements as hereinbefore set forth, applicable to projects of such use and character.
 3. 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, water, sanitary sewer and storm water drainage and maintenance of public areas.

SEC. 13-1-59 DETERMINATION OF DISPOSITION OF THE PETITION

- a) **General.** The Village Board, following public hearing thereon and after due consideration, shall either deny the petition, approve the petition as submitted or approve the petition subject to any additional conditions and restrictions the Village Board may impose.
- b) **Approval.** The general and detailed approvals of a planned unit development shall be based on and include, as conditions thereto, the building, site and operational plans for the development as approved by the Village Board.
 1. General Approval. The general development plan submitted with the PUD application need not necessarily be completely detailed at the time of petition provided it is in sufficient detail to satisfy the Village Board as to the general character, scope and appearance of the proposed development. Such plan shall designate the pattern of proposed streets and the size and arrangement of individual buildings and building sites. The approval of such general development plan, by way of approval of the petition, shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses.
 2. Detailed Approval. Detail plans must be furnished to the Plan Commission and Village Board for its consideration and the detailed approval by the Plan Commission and Village Board of any part or stage of the proposed development shall be required before construction of such part or stage of the development may be commenced. Before plans submitted for detailed approval within the corporate limits will be approved, the petitioner shall give satisfactory proof that he has contracted to install all improvements or file a performance bond insuring that such improvements will be installed within the time required by the Village Board.

- c) **Changes and Additions.** Any subsequent substantial change or addition to the plans or uses shall be submitted for approval to the Plan Commission and Village Board and if, in the opinion of the Plan Commission and Village Board, such change or addition constitutes a substantial alteration of the original plan, it shall schedule an additional public hearing in which event the Village Board shall schedule a notice of public hearing as for the original petition. Following such public hearing, the Village Board shall deny, approve or approve the same subject to any additional conditions and restrictions it may impose.

ARTICLE E

Conditional Uses and Site Plan Approval

SEC. 13-1-60 STATEMENT OF PURPOSE - CONDITIONAL USES AND SITE PLAN APPROVAL.

The development and execution of this Article is based upon the division of the Village into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, require a site plan or cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses may require a site plan and/or are classified as conditional uses.

SEC. 13-1-61 AUTHORITY OF THE VILLAGE BOARD; REQUIREMENTS

- a) The Village Board may authorize a Designated Representative to issue a building permit or conditional use permit for either regular or limited conditional use after review and public hearing, if necessary, provided that such site plan or conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. In the instance of the granting of limited conditional use, the Plan Commission and Village Board in its findings shall further specify the delimiting reason(s) or factors which resulted in issuing limited rather than regular conditional use. The resulting conditional use permit, when, for limited conditional use, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a building permit or conditional use, the Plan Commission and Village Board shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Plan Commission or Village Board shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.
- c) Conditions such as landscaping, architectural design, type of construction, construction
- d) commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Plan Commission and Village Board upon there finding that these are necessary to fulfill the purpose and intent of this Chapter.
- e) Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses and site plans.

SEC. 13-1-62 INITIATION OF CONDITIONAL USE

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional

use is sought may file an application to use such land for one (1) or more of the conditional uses provided for in this Article in the zoning district in which such land is located.

SEC. 13-1-63 APPLICATION FOR CONDITIONAL USE

An application for a conditional use shall be filed on a form prescribed by the Village. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13-1-66 hereinafter. The Plan Commission and Village Board may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; highwater mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

SEC. 13-1-64 HEARING ON APPLICATION

Upon receipt of the application and statement referred to in Section 13-1-63 above, the Plan Commission and Village Board shall each hold a public hearing on said application for a conditional use at such time and place as shall be established by the respective bodies. The Plan Commission shall hold its hearing and make a recommendation to the Village Board regarding said application prior to the Board hearing. The hearings shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Village Board shall, by rule, prescribe from time to time.

SEC. 13-1-65 NOTICE OF HEARING ON APPLICATION

Notice of the time, place and purpose of such hearings shall be given by publication of a Class 1 Notice under chapter 985 of the Wisconsin Statutes. Said notice shall also be sent to the applicant, members of the Plan Commission and Village Board and the owners of record, as listed in the office of the Village Assessor, of property in whole or in part situated within two hundred (200) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of the Plan Commission's public hearing.

SEC. 13-1-66 STANDARDS - CONDITIONAL USES AND SITE PLANS

No application for a conditional use or a permit requiring a site plan shall be granted by the Village Board unless the Board shall find all of the following conditions are present:

- a) That the establishment, maintenance or operation of the use or conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- b) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the use or conditional use and the proposed use is compatible with the use of adjacent land.
- c) That the establishment of the use or conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- d) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

- e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- f) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
- g) That the proposed use does not violate flood plain regulations governing the site.
- h) That, when applying the above standards to any new construction of a building or an addition to an existing building, the Commission and Board shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
- i) That, in addition to passing upon a Conditional Use Permit, the Commission and Board shall also evaluate the effect of the proposed use upon:
 - 1. The maintenance of safe and healthful conditions.
 - 2. The prevention and control of water pollution including sedimentation.
 - 3. Existing topographic and drainage features and vegetative cover on the site.
 - 4. The location of the site with respect to floodplains and floodways of rivers and streams.
 - 5. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - 6. The location of the site with respect to existing or future access roads.
 - 7. The need of the proposed use for a shoreland location.
 - 8. Its compatibility with uses on adjacent land.
 - 9. The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

SEC. 13-1-67 DENIAL OF APPLICATION FOR CONDITIONAL USE PERMIT

When a denial of a conditional use application is made, the Village Board shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Board has used in determining that each standard was not met.

SEC. 13-1-68 CONDITIONS AND GUARANTEES

The following conditions shall apply to all conditional uses and site plans:

- a) **Conditions.** Prior to the granting of any conditional use or permit requiring a site plan, the Plan Commission and Village Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-66 above. In all cases in which conditional uses are granted, the Plan Commission and Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:
 - 1. Landscaping;
 - 2. Type of construction;
 - 3. Construction commencement and completion dates;
 - 4. Sureties;
 - 5. Lighting;
 - 6. Fencing;
 - 7. Operational control;
 - 8. Hours of operation;
 - 9. Traffic circulation;
 - 10. Deed restrictions;

11. Access restrictions;
 12. Setbacks and yards;
 13. Type of shore cover;
 14. Specified sewage disposal and water supply systems;
 15. Planting screens;
 16. Piers and docks;
 17. Increased parking; or
 18. Any other requirements necessary to fulfill the purpose and intent of this Chapter.
- b) **Site Review.** The Plan Commission and Village Board shall evaluate each application and may request assistance from any source which can provide technical assistance. The Commission and Board may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.
- c) **Alteration of Conditional Use or Site Plan.** No alteration of a conditional use or site plan shall be permitted unless approved by the Plan Commission and Village Board.
- d) **Architectural Treatment.** Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Plan Commission and Village Board may require the use of certain general types of exterior construction materials and/or architectural treatment.
- e) **Sloped Sites; Unsuitable Soils.** Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils which are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided which clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.
- f) **Conditional Uses and Site Plans to Comply with Other Requirements.** Conditional uses and site plans shall comply with all other provisions of this Chapter such as lot width and area, yards, height, parking and loading.

SEC. 13-1-69 VALIDITY OF CONDITIONAL USE PERMIT AND SITE PLAN

Where the Plan Commission and Village Board has approved or conditionally approved a site plan or application for a conditional use, such approval shall become null and void within twelve (12) months of the date of the Board's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Designated Village Representative shall notify the holder by certified mail of such revocation. The Board may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Plan Commission and Village Board at least thirty (30) days before the expiration of said permit. Conditional use permits and their conditions may be transferred to a new owner of the property.

SEC. 13-1-70 COMPLAINTS REGARDING CONDITIONAL USES AND SITE PLANS

The Village Board shall retain continuing jurisdiction over all site plans conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Building Inspector to order the removal or discontinuance of any unauthorized alterations of an approved site plan or conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any

other provision of this Code. Upon written complaint by any citizen or official, the Village Board shall initially determine whether said complaint indicates a reasonable probability that the subject site plan or conditional use is in violation of either one (1) or more of the standards set forth in Section 13-1-66 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 13-1-65 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Village Board may, in order to bring the subject site plan or conditional use into compliance with the standards set forth in Section 13-1-66 or conditions previously imposed by the Village Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject site plan or conditional use. In the event that no reasonable modification of such site plan or conditional use can be made in order to assure that Standards (a) and (b) in Section 13-1-66 will be met, the Village Board may revoke the subject site plan or conditional approval and direct the Building Inspector and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Village Board shall be furnished to the current owner of the site plan or conditional use in writing stating the reasons therefore.

SEC. 13-1-71 BED AND BREAKFAST ESTABLISHMENTS

- a) **As Conditional Use.** Bed and breakfast establishments shall be considered conditional uses and may be permitted in Residence Districts pursuant to this Article.
- b) **Definition.** “Bed and Breakfast Establishment” means any place of lodging that provides four (4) or fewer rooms for rent for more than ten (10) nights in a twelve (12) month period, is the owner’s personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.
- c) **State Standards.** Bed and breakfast establishments shall comply with the standards of Chapter HSS 197, Wis. Adm. Code.

SEC. 13-1-72 THROUGH SEC. 13-1-79 RESERVED FOR FUTURE USE.

ARTICLE F
Nonconforming Uses, Structures and Lots

SEC. 13-1-80 EXISTING NONCONFORMING USES

The purpose of this section is to provide for the gradual elimination of nonconforming uses by allowing short-term maintenance and improvement of nonconformities.

- (a) The lawful nonconforming use of a structure or land existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter. However, only that portion of the land in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered except when required to do so by law or order, to comply with the provisions of this Chapter.
- (b) **Change in tenancy, ownership or management.** There may be a change in tenancy, ownership or management of a nonconforming use of a building or structure provided there is no change in the historically allowed nonconforming use.
- (c) **Enlargements.** The nonconforming use of a building or structure shall not be enlarged or increased, nor extended to occupy a greater area of lot, parcel, site, building or structure than was occupied at the time of the effective date of this chapter.
- (d) **Relocation.** No nonconforming use of a building or structure shall be moved in whole or in part to any other portion of the lot, parcel or site than was occupied by such use at the time of the effective date of this chapter.
- (e) **Ordinary maintenance and repairs** made to a building or structure which contains a nonconforming use may be allowed provided that ordinary maintenance and repair conforms with the requirements of the district in which it is located, there is not an identifiable change in the historically allowed nonconforming use and such nonconforming use continues and all other provisions of this chapter, including, but not limited to, maximum lot coverage, off-street parking, loading, and landscaping standards are complied with. Ordinary maintenance and repairs are defined as follows:
 1. Internal and external painting, decorating.
 2. The repair or replacement of doors, windows, nonbearing walls, fixtures, heating components, wiring, plumbing, siding, roofing or other nonstructural components.
- (f) **Total lifetime repairs or alterations**, other than ordinary maintenance and repair defined in section 13-1-80 (e), shall not exceed 50% of the Village's assessed fair market value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this chapter.
- (g) **Establishing the existence of a nonconforming use.** The burden of proof that a legally permitted (historically allowed) nonconforming use of structure, building or land existed at the time of the adoption of this chapter shall be the responsibility of the property owner.

SEC 13-1-81 ABOLISHMENT OR REPLACEMENT OF NONCONFORMING USES

- a) **Termination.** If such nonconforming use of structure or land is discontinued or terminated for a period of twelve (12) consecutive months, it shall be deemed abandoned and any future proposed use of the building or structure shall be in conformity with the use requirements of the zoning district in which it is located.
- b) **Building Destroyed less than 50%.** If any structure with a nonconforming use requires repair to the extent of not more than fifty percent (50%) of its present assessed value (which is cumulative over the life of the structure), the same may be rebuilt and the structure and/or use continued within its original footprint unless the damage is from flood water [see Sec. 13-1-81(e)].
- c) **Building Destroyed more than 50%.** Where such a structure is destroyed or damaged to the extent of more than fifty percent (50%) of the structure's present assessed value, it must be

permanently changed to conform to the use provisions of the district in which it is located except any public utility located in a restricted district shall be permitted to rebuild, alter or enlarge as the interest of the public demands.

- d) **Determination of Repair Costs.** The total cost of repairs includes the fair market value of labor, structural repairs, and finish materials. Labor costs must be included, even if the owner elects to do their own repairs.
- e) **Flood Damaged Structures.** If any structure with a nonconforming use is substantially damaged, no repair can be authorized until the Village has determined if the requirements of the floodplain zoning ordinance can be met. The total cost of repairs must be calculated by assuming the building will be fully repaired to its pre-damaged condition, even if the owner elects to do less. All costs to elevate a floodplain structure may be excluded from the cap provided that the lowest floor of the structure is elevated to or above the flood protection elevation, which is two feet above the base flood elevation, as shown on the floodplain map.

SEC. 13-1-82 EXISTING NONCONFORMING STRUCTURES

The purpose of this section is to provide for the regulation of nonconforming structures so that non-conformities are not increased or extended, except when required by law.

- a) The lawful nonconforming structure existing at the time of the adoption or amendment of this Chapter may be continued although its size or location does not conform with the lot setbacks, lot area, yard, height, parking and loading, and access provisions of this Chapter. However, the structure shall not be extended, enlarged, moved or structurally altered so as to increase or extend the nature of the non-conformity, except when required to do so by law or order or to reduce or remove the non-conformity so as to comply with the provisions of this Chapter.
- b) When nonconforming structures are damaged or destroyed (after March 2, 2006) due to violent wind, vandalism, fire, flood, ice, snow, mold, or infestation, the structure may be repaired or rebuilt to the size, location and use that it had immediately before the damage or destruction occurred. In addition, the structure may be rebuilt to be larger than the size it was, if needed to comply with applicable state or federal requirements, except that such enlargement shall not increase or extend the nature of the non-conformity.
- c) When nonconforming structures require reconstruction in excess of fifty percent (50%) of the structures present assessed value due to lack of maintenance or other reasons not covered by (b) above, the structure shall not be reconstructed, except when required to do so by law or order, unless such reconstruction complies with the provisions of this Chapter.

SEC. 13-1-83 CHANGES AND SUBSTITUTIONS

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Board of Zoning appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions of the district in which it is located and any applicable code sections.

SEC. 13-1-84 REDUCED BUILDING SETBACKS

- a) A front-yard setback less than the setback required will need to be approved, at the discretion of the Building Inspector, where there are existing principal buildings within two hundred (200) feet of the proposed building site that are built to less than the required setback. In such cases, the setback shall be no less than the average of the setbacks of the nearest principal building on each side of the proposed site or, if there is no principal building within two hundred (200) feet on one (1) side, the average of the setback for the principal building on the one (1) side and the

setback required in the applicable zoning district. The average is **not** to include any building within ten (10) feet of the road right-of-way.

- b) Any modification of other setbacks, including water line setback, may only be permitted by variance from the Board of Appeals.

SEC. 13-1-85 THROUGH SEC. 13-1-89 RESERVED FOR FUTURE USE

ARTICLE G
 Traffic Visibility, Loading, Parking and Access

SEC. 13-1-90 TRAFFIC VISIBILITY

- a) On a corner lot in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining the points along said street lines twenty-five (25) feet from the point of intersection.
- b) In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

SEC. 13-1-91 LOADING REQUIREMENTS

- a) Loading Space Requirements. On every lot on which a new business, trade or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way:

Use	Floor Area (sq. ft.)	Loading Space
Retail, wholesale	2,000 -10,000	1
warehouse, service	10,000- 20,000	2
manufacturing, and	20,000- 40,000	3
industrial establishments	40,000- 60,000	4
	Each additional 50,000	1
Hotels, offices	5,000 - 10,000	1
hospitals, places of	10,000 - 50,000	2
public assembly	50,000 - 100,000	3
	Each additional 25,000	1
Funeral homes	2,500 - 4,000	1
	4,000 - 6,000	2
	Each additional 10,000	1

- b) **Multiple or Mixed Uses.** Where a building is devoted to more than one (1) use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.
- c) **Location.** Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within thirty (30) feet of the nearest point of intersection of two (2) streets or require any vehicle to back into a public street.
- d) **Design Standards.** Each off-street loading space shall have a width of at least twelve (12) feet, a length of at least forty-five (45) feet, and a vertical clearance of at least fourteen (14) feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to ten (10) feet in width, twenty-five (25) feet in length, and eight (8) feet in vertical clearance. Every loading space shall be sufficiently screened in the form of a solid fence or shrubbery to protect neighboring residences.

- e) **Surfacing.** All open off-street loading berths shall be improved with a compacted gravel base, not less than six (6) inches thick, surfaced with not less than two (2) inches of asphalt or treated with some comparable all-weather dustless material.
- f) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any Residence District.
- g) **Utilization.** Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- h) **Central loading.** Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:
 - 1. Each zoning lot served shall have direct access to the Central Loading Area without crossing streets or alleys at grade.
 - 2. Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.)
 - 3. No zoning lot served shall be more than three hundred (300) feet removed from the Central Loading Area.
 - 4. The tunnel or ramp connecting the Central Loading Area with the zoning lot served shall be not less than seven (7) feet in width and have a clearance of not less than seven (7) feet.

SEC. 13-1-92 PARKING REQUIREMENTS

All new parking lots and all alterations of existing lots shall be subject to the approval of the Plan Commission and Village Board. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- a) **Access.** Adequate access to a public street shall be provided for each parking space.
- b) **Location**
 - 1. Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.
 - 2. Off-street parking is permitted in all yards of all districts but shall not be closer than five (5) feet to a side lot line, right-of-way line or rear lot line. Exception: the front yards of single-family and two-family residence districts see 13-1-92(b)(3)
 - 3. Off-street parking in the single-family resident and two-family residence districts is permitted in the front yard in the driveway, even though closer than five (5) feet to a side lot line providing the driveway conforms to the requirements in Section 6-3-2 and 13-1-93.
- c) **Use Restrictions.**
 - 1. Repair and Service. No motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in Residence Districts.
 - 2. Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) footcandles measured at the lot line.
 - 3. Street Setback Area. No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.
- d) **Number of Stalls.** Number of parking stalls required for newly created parking lots are shown in the following table:

<u>Use</u>	<u>Minimum Parking Required</u>
Dwellings: Single-family, two-family	2 stalls for each dwelling unit

and mobile homes	
Dwellings: Multi-family	2 stalls for each dwelling unit
Housing for the elderly	0.75 space for each dwelling with one-half of these spaces to be built before occupancy and the balance of which spaces shall be reserved until such time as the Village Board may order them installed
Hotels, motels	1 stall for each guest room plus 1 stall for each 3 employees
Sororities, dormitories, rooming and boarding houses	1 stall for each bed
Retirement homes, orphanages	1 stall per 2,000 feet of principal floor area
Hospitals, sanitariums, rest and nursing homes	1 stall for each 3 beds plus 1 stall for each 3 employees
Medical and dental clinics	5 stalls for each doctor
Churches, community centers, vocational and night schools, and other places of public assembly	1 stall for each 4 seats
Secondary and elementary schools	1 stall for each 2 employees plus 1 stall for each 5 students of 16 years of age or more
Restaurants, bars, clubs and lodges, places of entertainment	1 stall for each 3 seats and 1 space for each 2 employees
Manufacturing and processing plants (including meat and food processing), laboratories and warehouses	1 stall for every 2 employees; number of employees shall be construed to mean the maximum number on the premises at one time
Financial institutions, business, government and professional offices, retail and service establishments	1 stall for each 250 square feet of floor area and 1 stall for each 2 employees
Motor vehicle sales (new and used)	1 space for each 500 square feet of floor area used plus one space for each 300 square feet of outdoor display area for each motor vehicle to be displayed. (This requirement does not include service garages -- see above.)
Repair shops, retail and service stores	1 space for each 150 square feet of net floor space
Automobile repair garages and service stations	1 space for each employee plus 1 space for each 250 square feet of floor area used for repair work
Bowling alleys	5 spaces for each alley

- e) **Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.
- f) **Handicapped Parking Requirements.** In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.
- g) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of fifty percent (50%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- h) **Off-Lot Parking.**
 - 1. Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located off-lot provided the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the Village Attorney.
 - 2. Off-lot parking spaces for residential uses shall be within two hundred fifty (250) feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within three hundred (300) feet of the entrance of the establishment.
 - 3. Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial, business or industrial zoning district.
 - 4. (4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10 feet from an interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

SEC. 13-1-93 HIGHWAY ACCESS

No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes nor to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes (such as exit and entrance ramps). No driveway openings shall be permitted within one hundred (100) feet of the intersection of an arterial street right-of-way line.

Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.

Temporary access to the above rights-of-way may be granted by a Designated Village Representative after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

SEC. 13-1-94 THROUGH 13-1-99 RESERVED FOR FUTURE USE.

ARTICLE H
Signs and Billboards

SEC. 13-1-100 PURPOSE OF SIGN AND BILLBOARD REGULATIONS

- a) The purpose of this Article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs and billboards.
- b) No person shall erect, enlarge, locate, move, reconstruct, extend, convert or structurally alter any sign in the Village of Howards Grove without first securing a sign permit from the Building Inspector. The fee for such permits shall be determined from time to time by the Village Board and adopted as part of the rate schedule kept by the Village Clerk. Exceptions to the sign regulations are listed in 13-1-104.

SEC. 13-1-101 SIGNS AND BILLBOARDS - DEFINITIONS

The following definitions are used in this Article:

- a) **Awning.** A temporary hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure. Decorative awnings without lettering or imagery are not considered signs.
- b) **Banner.** A banner is a temporary sign generally constructed of flexible non-rigid material (i.e. canvas, cloth, plastic, etc.) upon which a sign, logo, advertising, events or goods has been placed.
- c) **Billboard.** A sign which advertises goods, products or facilities, or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.
- d) **Blanketing.** The unreasonable obstruction of view of a sign caused by the placement of another sign.
- e) **Sign.** A sign shall include anything that promotes, calls attention or invites patronage (or anything similar to the aforementioned) to a business, location or product.
- f) **Directly Illuminated Sign.** 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.
- g) **Directory Sign.** Shall mean any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories.
- h) **Electronic Message Unit Sign.** Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.
- i) **Flashing Sign.** Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.
- j) **Ground and/or Pole Sign.** Any sign which is supported by structures or supports in or upon the ground and independent of support from any building. (Also referred to as "Free Standing Sign".)
- k) **Identification Sign.** Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.
- l) **Indirectly Illuminated Sign.** Shall mean a sign that is illuminated from a source outside of the actual sign.
- m) **Marquee Sign.** Shall mean any sign attached to and made part of a marquee. A marquee is
- n) defined as a permanent roof-like structure projecting beyond a building's 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.

- o) **Nonconforming Sign.** Any sign which does not conform to the regulations of this Article.
- p) **Portable Sign.** Any sign not permanently attached to the ground which is designed to be easily moved from one location to another.
- q) **Projecting Sign.** Any sign extending more than twelve (12) inches, but less than five (5) feet from the face of a wall or building.
- r) **Real Estate Sign.** Any sign that which is used to offer for sale, lease or rent the property upon which the sign is placed.
- s) **Roof Sign.** Any sign erected upon or over the roof or parapet of any building
- t) **Temporary Sign.** Any sign intended to be displayed for a short period of time, including real estate, political or construction site signs, and banners, decorative-type displays or anything similar to the aforementioned.
- u) **Wall Sign.** Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more twelve (12) inches from such wall.
- v) **Window Sign.** Any sign located completely within an enclosed building and visible from a public way.

SEC. 13-1-102 APPLICATION PROCESS

- a) **Required Information.** Application for a sign permit shall be made in writing upon forms furnished by the Village which contain the following information about the sign: dimensions, including display surface; materials; illumination; wiring; height above grade; distance from lot lines; and the person, firm or corporation erecting or altering the sign. Applicant must attach to the application a scale drawing of the design of the sign.
- b) **Fees.** The fee for such permits shall be determined from time to time by the Village Board and adopted as part of the fee schedule kept by the Village Clerk.

SEC. 13-1-103 PERMITTED SIGNS

- a) **Signs in Residential, Multi-Family, and Parks and Recreation Districts.** All signs are prohibited except the following signs are permitted when located outside of the public right of way, and which comply with all side and rear yard setback requirements, except as otherwise provided in this Article:
 - 1. Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two (2) feet in height and ten (10) feet in length.
 - 2. Real estate signs not to exceed eight (8) square feet in area which advertise the sale, rental or lease of the premises upon which signs are temporarily located.
 - 3. Name, occupation and warning signs not to exceed two (2) square feet located on the premises.
 - 4. Bulletin boards and signs for public, charitable or religious institutions located on the premises and not to exceed sixty (60) square feet in area per side.
 - 5. Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
 - 6. Temporary banners in accordance with 13-1-109
 - 7. Temporary portable non-flashing signs in accordance with 13-1-109
 - 8. Subdivision entrance and development signs may be permitted as a conditional use with Village Board approval. A development or subdivision may have one freestanding sign on each street which the development abuts. Each sign may not exceed forty-eight (48) sq. ft. in area or eight (8) feet in height and may be single or double-faced. Signs permitted by this section may be exempt from the setback requirements of the district upon approval by the Village Board.

9. Parks and Recreation areas and Multi-family buildings of twelve (12) or more units may have a ground sign as herein regulated.
- b) **Signs in Commercial and Industrial Districts.** Any sign permitted in a residential district is permitted in commercial and industrial districts and are exempt from setback requirements unless otherwise noted. No signs may extend into any public right-of-way or easement. Identifying sign(s) for the principal building of the commercial or industrial enterprise advertising a business or activity conducted on the premises are permitted in accordance with the following provisions:
 1. Wall signs placed against the exterior walls of buildings shall not extend more than one (1) foot from the wall surface or extend above or beyond the wall itself. The maximum allowable coverage of permanently mounted signs to the street side(s) wall shall not exceed a total of three hundred (300) square feet in total area, or twenty-five per cent (25%) of the vertical surface of the wall, exclusive of the window and door opening square footage. If signs are placed in or on windows and doors, the actual sign area used in the windows and doors will also be included in the aggregate signs' square footage.
 2. Projecting signs fastened to, suspended from or supported by attached structures shall not exceed forty (40) square feet in area on a side, shall not be less than (10) feet from all side lot lines, shall not be less than (10) feet above the sidewalk. Only one projecting sign is permitted per lot. Projecting signs are allowed only when a pole or ground sign cannot be constructed to code.
 3. Ground signs shall not extend into any public right-of-way or easement and shall not exceed one hundred (100) square feet on a side and two hundred (200) square feet on all sides and shall not exceed eight (8) feet in height above the main road grade measured at its highest point. Only one ground sign is permitted per lot. All ground signs shall have a minimum landscaped area of sixteen (16) square feet around the base of the sign.
 4. Pole signs shall not exceed twenty-five (25) feet in height above the main road grade. The sign shall be completely within the property on which it is located and may not extend into any public right-of-way or easement. The total signage area per premises may not exceed six (6) square feet for each ten (10) feet or fraction of frontage. No sign shall have an area exceeding one hundred fifty (150) square feet on a side or three hundred square feet on all sides. One pole sign per street frontage is permitted. All pole signs shall have a minimum landscaped area of sixteen (16) square feet around the base of the pole.
 5. In Commercial districts, temporary window signs advertising a sale or special event at an individual commercial establishment shall be exempt from the sign regulations.
 6. A temporary sign for the purpose or designating a new building or development, announcement of a special event, or for similar special informational purposes may be permitted for limited period of time with the approval of the Village Board.
 7. Roof signs shall not exceed ten (10) feet in height above the roof and shall be considered part of the structure in meeting all height requirements and setbacks for the district in which it is located, and shall not exceed one hundred (100) square feet on all sides for any one premises. Only one roof sign per frontage is permitted. Permanent window signs shall be placed only on the inside of commercial buildings and shall not exceed twenty-five (25) percent of the total window area in aggregate/per side.

SEC. 13-1-104 EXCEPTIONS TO SIGN REGULATIONS

The following signs and related items shall not be included in the application of the regulations contained in this Article:

- a) Signs not exceeding one (1) square feet in area and bearing only property numbers, post box numbers or names of occupants or premises.

- b) Flags and insignia of any government, except when displays in connection with commercial promotion.
- c) Legal notices, identification information or directional signs erected by governmental bodies.
- d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
- e) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter, and not exceeding eight (8) square feet in size.
- f) Signs erected by National, State, County or Municipal Governmental Agencies, including traffic and informational signs.
- g) Real estate signs not to exceed eight (8) square feet in area which advertise the sale, rental or lease of the premises upon which signs are temporarily located.
- h) Temporary banners.

SEC. 13-1-105 PROHIBITED SIGNS

- a) No sign will be permitted that resembles the size, shape, form or color of official traffic control signs, signals or devices.
- b)
 - 1. No persons shall park any vehicle or trailer on a public right-of way or public property or on private property so as to be seen from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business activity located on the same or nearby property or any other premises.
 - 2. This Subsection shall not prohibit "For Sale" signs on vehicles for sale provided the vehicle is not parked on a public right-of-way.
- c) No sign in a conspicuous state of disrepair shall be permitted to exist. The Village Board may order removal on a twenty (20) day public notice or immediately if public danger exists.
- d) No billboard signs shall be permitted.
- e) Moving or Flashing Signs. No sign shall be erected which has any flashing, brilliant intermittent parts or lights, or bare reflecting-type bulbs, except those giving public service information such as time, date, temperature, weather or similar information. This prohibition shall apply to all signs, including portable and temporary.

SEC. 13-1-106 DANGEROUS AND ABANDONED SIGNS; VIOLATIONS

- a) **Removal.** All signs shall be removed by the owner or lessee of the premises upon which the sign is located when a business which it advertises has not been conducted for a period or six (6) months or when, in the judgment of the Building Inspector or Village Board, such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the Village Board may remove the sign at cost of the owner, following adequate written notice. The owner may appeal the Village Board's decision to the Board of Appeals.
- b) **Alterations.** Any sign which was erected before the adoption of this sign Article shall not be rebuilt or relocated without conforming to all of the requirements of this Article.
- c) **Violations.** All signs constructed or maintained in violation of any of the provisions of this Article are hereby declared public nuisances within the meaning of this Code of Ordinances. In addition to the above penalty provisions for violation of this Chapter, the Village Board may bring an action to abate the nuisance in the manner set forth in the Wisconsin State Statutes.

SEC. 13-1-107 VARIANCES OR EXCEPTIONS

Variations or exceptions to these sign regulations may be granted by the Board of Appeals and decisions by the Village Board may be appealed to the Board of Appeals.

SEC. 13-1-108 CONSTRUCTION AND MAINTENANCE REGULATION FOR SIGNS

- a) **Installation.** All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed or such material and with such workmanship as to be safe and satisfactory to the Village Board and Building Inspector.
- b) **Prohibitions.**
 - 1. No sign shall be erected so that any portion of the sign or its supports attached to or interfere with the free use of any fire escape, exit, any required stairway, door, ventilator or window.
 - 2. No sign shall be erected that will interfere with, obstruct, confuse or mislead traffic.
 - 3. At no time shall signs be permitted within a vision clearance triangle in such a manner as to restrict vision or impair safety.
 - 4. No sign located within one hundred fifty (150) feet of a highway or street right-of-way shall contain, include or be illuminated by a rotating beam of light.
- c) **Signs on Public Right-of-ways.** Signs shall not be permitted on public right-of-ways except for traffic control, parking and directional signs and as otherwise specified in this Chapter.
- d) **General Requirements.**
 - 1. Awnings. Lowest part of any awning shall be a minimum of ten (10) feet above the sidewalk. Signs are allowed directly on the awning or hanging on the frame but not below ten (10) feet.
 - 2. Animated Signs. Signs with any moving parts, beacon lights or moving lights shall not be permitted, except revolving-type signs are permitted.
 - 3. Illuminated Signs. Any illuminated signs shall not interfere with surrounding properties or traffic. Bare reflecting type bulbs of any kind are not allowed for non-flashing signs unless they are properly shaded so as not to interfere with surrounding properties.
 - 4. Projection. Signs including supports shall not project beyond five (5) feet of the face of the wall to which attached.
 - 5. Blanketing. Blanketing of signs shall not be allowed.
 - 6. Maintenance. All signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean.

SEC. 13-1-109 SPECIFIC REQUIREMENTS

- a) **Temporary Sign Limitation.**
 - 1. All temporary signs such as real estate, construction site and political signs shall be removed within ten (10) days after their use has discontinued.
 - 2. Temporary signs may be placed on a property, but shall not be located on a right-of-way terrace, and shall not interfere with driveway vision clearance.
- b) **Portable Signs.**
 - 1. Such signs shall be limited in use to thirty (30) days at a time, and not more frequently than three (3) times per year at any one (1) property location.
 - 2. The maximum size shall be thirty-two (32) square feet on each face, back-to-back.

SEC. 13-1-110 NONCONFORMING SIGNS

- a) **Signs Eligible For Characterization as Legal Nonconforming.** Any sign located within the Village of Howards Grove limits of the date of adoption of this Chapter or located in an area

annexed to the Village of Howards Grove hereafter which does not conform with the provisions of this Article is eligible for characterization as a legal nonconforming sign and is permitted.

- b) **Loss of Legal Nonconforming Status.** A sign loses its nonconforming status if one (1) or more of the following occurs:
1. The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this Article than it was before alteration;
 2. The sign is relocated;
 3. The sign fails to conform to the Village requirements regarding maintenance and repair, abandonment or dangerous or defective signs;
 4. On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Article or shall be removed.
- c) **Legal Nonconforming Sign Maintenance and Repair.** Nothing in this Article shall relieve the owner of use of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this Article regarding safety, maintenance and repair of signs.

SEC. 13-1-111 WIND PRESSURE AND DEAD LOAD REQUIREMENTS

All signs and other advertising structures shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area and shall be constructed to receive dead loads as required in the Building Code or other Ordinances of the Village of Howards Grove.

SEC. 13-1-112 ABANDONED SIGNS

Except as otherwise herein provided, all sign messages shall be removed by the owner or lessee of the premises upon which an off-premise sign is located when the business it advertises is no longer conducted where advertised. If the owner or lessee fails to remove the sign, the Village Board shall give the owner sixty (60) days' written notice to remove said sign and thereafter, upon the owner's or lessee's failure to comply, may remove such sign, any costs of which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the Village Board may take any other appropriate legal action necessary to attain compliance.

SEC. 13-1-113 THROUGH SEC. 13-1-119 RESERVED FOR FUTURE USE

ARTICLE I

Performance Standards -- Industrial Developments

SEC. 13-1-120 ARTICLE INTENT

It is the intent of this Article to use performance standards for the regulation of industrial uses to facilitate a more objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects.

SEC. 13-1-121 NOISE

No operation or activity shall transmit any noise exceeding 75 dBA from 7:00 a.m. to 11:00 p.m. and 65 dBA from 11:00 p.m. to 7:00 a.m. beyond the property line. The following noises are exempt from the regulations:

- a) Noises not directly under the control of the property owner.
- b) Noises from temporary construction or maintenance activities during daylight hours.
- c) Noises from emergency, safety or warning devices.

SEC. 13-1-122 VIBRATION

- a) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
- b) Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

SEC. 13-1-123 EXTERNAL LIGHTING

No operation or activity shall produce any intense glare or lighting with the source directly visible beyond an Industrial District's boundaries.

SEC. 13-1-124 ODOR

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Chapter NR 154.18, Wisconsin Administrative Code.

SEC. 13-1-125 PARTICULATE EMISSIONS

No operation or activity shall emit into the ambient air from any direct or portable source an matter that will affect visibility in excess of the limitations established in Chapter NR 154.11, Wisconsin Administrative Code.

SEC. 13-1-126 VISIBLE EMISSIONS

No operation or activity shall emit into the ambient air from any direct or portable source an matter that will affect visibility in excess of the limitations established in Chapter NR 154.11(6), Wisconsin Administrative Code.

SEC. 13-1-127 HAZARDOUS POLLUTANTS

No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Chapter NR 154.19, Wisconsin Administrative Code.

SEC. 13-1-128 AND SEC. 13-1-129 RESERVED FOR FUTURE USE.

ARTICLE J

Signal Receiving Antennas; Wind Energy Systems

SEC. 13-1-130 SIGNAL RECEIVING ANTENNAS

- a) **Purpose.** This Section regulating the placement of signal receiving antennas is adopted to:
1. Provide uniform regulation of all signal receiving antenna devices;
 2. Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals;
 3. Protect the public from injury from antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the antenna; and
 4. Provide for placement of such antennas in locations that preserve access to rear property areas by firefighting apparatus and emergency personnel.
- b) **Permit Required.** No owner shall, within the Village of Howards Grove, build, construct, use or place any type of signal receiving antenna with a diameter greater than two (2) feet until a building permit shall have first been obtained from the Zoning Administrator. Exception: Residential UHF, VHR and AM, FM that do not exceed installation standard in (e) are exempt from the permit requirements of this Article.
- c) **Definitions.**
1. For purposes of this Section, a "signal receiving antenna" is defined as any apparatus capable of receiving communications from a transmitter, or a transmitter relay located in a planetary orbit. This definition includes all types of signal receiving antennas, including, without limitation, parabolic antennas, home earth stations, satellite television disks, ham and short-wave radio antennas, regardless of the method of mounting.
 2. "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of at least one (1) owner shall be considered an owner.
- d) **Application**
1. Application for a signal receiving antenna permit shall be made in writing to the Zoning Administrator. With such application, there shall be submitted a fee as set by the Village Board on the adopted rate schedule and a sufficient set of mounting plans and specifications, including a general plot plan showing the location of the proposed signal receiving antenna with respect to streets, lot lines and buildings.
 2.
 - a. Prior to the issuance of a permit for the installation of a satellite television antenna, all owners of property adjoining that of the applicant shall be notified of the application together with copies of any plans or other material filed with the application deemed appropriate. Each property owner shall have ten (10) days to object to the installation of said antenna.
 - b. If any adjoining property owner objects to the installation of said antenna, no permit shall be issued, and the application, plans and any objection thereto shall be referred to the Board of Appeals under Article M of this Chapter.
- e) **Installation Standards.** Signal receiving antennas installed in any zoning district within the Village shall comply with the following provisions:
1. **Setbacks.**
 - a. Any signal receiving antenna and its mounting post shall comply with the setback requirements for accessory buildings for that zoning district. Only one satellite television dish is allowed per residential lot.

- b. Subject to the provisions herein, signal receiving antennas shall only be located in the rear yard of any lot. If reasonable reception of signals is not possible with a rear yard placement due to the physical characteristics of the lot and area, the signal receiving antenna shall be placed in the side yard of the lot. In the event that reasonable reception of signals is not possible by locating the signal receiving antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of structures on the property. For corner lots, a side yard is only a yard that does not face a street.
 - c. If side yard, front yard or roof mounting is requested, the Zoning Administrator shall determine where reasonable reception is possible, based on evidence provided by the person seeking to erect or construct the antenna.
2. Mounting. Signal receiving antennas attached to the wall or roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all imposed loading and complies with applicable state and local building code requirements. The Zoning Administrator may require engineering calculations.
3. Diameter. The diameter of the signal receiving antenna shall not exceed fifteen (15) feet in diameter, except for systems used to provide community antenna television services.
4. Height.
 - a. A ground-mounted signal receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may not exceed eighteen (18) feet in height, as measured from the ground to the highest point of the dish.
 - b. A roof-mounted antenna may not exceed fifteen (15) feet in height above the surrounding roof line as measured from the lowest point of the existing roof line.
5. Wind Pressure. All signal receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.
6. Electrical Installations. Electrical installations in connection with signal receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the signal receiving antenna to the receivers shall be installed underground unless installation site conditions preclude underground. If a signal receiving antenna is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All signal receiving antennas shall be grounded against direct lightning strikes.
7. Temporary Placement. No portable or trailer-mounted signal receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all provisions of this Section. Failure to comply shall result in a citation being issued for violation of this Section. Any person making such temporary placement shall first give written notice to the Village Clerk-Treasurer of the date when such placement shall begin and end.
8. Advertising. No form of advertising or identification, sign or mural is allowed on the signal receiving antenna other than the customary manufacturer's identification plates.
9. Interference with Broadcasting. Signal receiving antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio an/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the signal receiving antenna shall promptly take steps to eliminate

the harmful interference in accordance with Federal Communications Commission regulations.

10. Compliance with Federal Regulations. The installation and use of every signal receiving antenna shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder.

11. Aesthetic Considerations. Signal receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.

f) **Enforcement.**

1. It shall be unlawful to construct, use, build or locate any signal receiving antenna in violation of any provisions of this Section. In the event of any violation, the Village Board or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.

2. Any person, firm or corporation who fails to comply with the provisions of this section shall, upon conviction, be subject to the general penalty found in Section 1-1-6.

SEC. 13-1-131 SPECIAL USE PERMITS REQUIRED - WIND ENERGY SYSTEMS

- a) **Approval Required.** No owner shall, within the Village, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- b) **Separate Permit Required for each System.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.
- c) **Basis of Approval.** The Village Board shall base its determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the Village and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.
- d) **Definitions.** "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

SEC. 13-1-132 PERMIT PROCEDURE - WIND ENERGY SYSTEMS

- a) **Application.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the Village. The application shall include the following information:
 - 1. The name and address of the applicant.
 - 2. The address of the property on which the system will be located.
 - 3. Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system.
 - 4. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.

5. An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
 6. Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
 7. Any other information which the Village Board or Zoning Administrator may deem to be necessary to the proper review of the application.
 8. The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Village Board.
- b) **Hearing.** Upon referral of the application, the Village Board shall schedule a public hearing thereof as soon as practical and the Village Board shall notice said hearing as deemed appropriate.
 - c) **Determination.** Following public hearing and necessary study and investigation, the Village Board shall, as soon as practical, render its decision and a copy be made a permanent part of the Board's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The Village Board may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.
 - d) **Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Village Board following a public hearing thereon.
 - e) **Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Village Board and if, in the opinion of the Board, such change or addition constitutes a substantial alteration, a public hearing before the Village Board shall be required and notice thereof be given.
 - f) **Approval Does Not Waive Permit Requirements.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

SEC. 13-1-133 SPECIFIC REQUIREMENTS REGARDING WIND ENERGY SYSTEMS

- a) **Additional Standards.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.
- b) **Application.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat of survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- c) **Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.
- d) **Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.

- e) **Electro-magnetic Interference.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the Operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- f) **Location and Height.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter, however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- g) **Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- h) **Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

SEC. 13-1-134 THROUGH SEC. 13-1-139 RESERVED FOR FUTURE USE.

ARTICLE K

Accessory Uses and Structures; Fences and Hedges

SEC. 13-1-140 ACCESSORY USES OR STRUCTURES

- a) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- b) **Placement Restrictions - Residential District.** An accessory use or structure in a residential district may be established subject to the following regulations:
1. Accessory Building Number Limits.
 - a. In a R1 district, in addition to the principal building, a detached garage or attached garage and one (1) additional accessory building may be placed on a lot providing all code restrictions and setbacks are met.
 - b. In a R2 district, in addition to the principal building, a detached garage or attached garage and one (1) additional accessory building per unit may be placed on a lot providing all code restrictions and setbacks are met.
 2. Accessory Building Size Limits. Garages and other detached accessory buildings shall be less than fifteen (15) feet in height.
 3. Attached Accessory Buildings. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.
 4. Detached Accessory Buildings.
 - a. No detached accessory building shall be located within three (3) feet of any other accessory building.
 - b. When located completely behind the principal building, no detached accessory building shall be located closer than four (4) feet from any lot line or within any easement (whichever is greater), or if the accessory building size is greater than six hundred (600) square feet, be located closer than ten (10) feet from any lot line or within any easement.
 - c. When located on the side of the principal building, no detached accessory building shall be located closer than ten (10) feet from any side lot line or within any easement (whichever is greater).
 - d. An accessory building shall not be nearer than ten (10) feet from the principal structure unless the applicable building code regulations in regard to one (1) hour fire-resistive construction are complied with.
 - e. In no event can the accessory uses or structures be forward of the front line of the principal structure.
 - f. In the R1 district, the total for all accessory buildings, including detached garages, shall not exceed two thousand (2000) square feet or use more than 15% of the rear yard, whichever is more restrictive. In addition, no single accessory building shall exceed twelve hundred (1200) square feet.
 - g. For each unit in the R2 district under separate ownership, the total for all accessory buildings, including detached garages, shall not exceed one thousand (1000) square feet or use more than 7.5% of the rear yard, whichever is more restrictive. In addition, no single accessory building shall exceed six hundred (600) square feet.
 - h. For R2 district property, if units are under common ownership, the owner may elect to utilize the restrictions applicable to R1 or R2, but may not use a combination of both.
- c) **Use Restrictions - Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined herein and shall not be occupied as a dwelling unit.

- d) **Placement Restrictions - Nonresidential Districts.** An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard and shall not be nearer than four (4) feet to any side or rear lot line.
- e) **Reversed Corner Lots.** When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than four (4) feet to the side line of the adjacent structure.
- f) **Landscaping and Decorative Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs, flowers and gardens.
- g) **Temporary Uses.** Temporary accessory uses such as real estate sale field offices or shelters for material and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.
- h) **Garages in Embankments in Front Yards.** Where the mean natural grade of a front yard is more than eight (8) feet above the curb level, a private garage may be erected within the front yard, provided as follows:
 - 1. That such private garage shall be located not less than five (5) feet from the front lot line;
 - 2. That the floor level of such private garage shall be not more than one (1) foot above the curb level; and
 - 3. That at least one-half (1/2) the height of such private garage shall be below the mean grade of the front yard.
- i) **Outdoor Lighting.** Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
- j) **Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., shall be permitted in setback areas but not closer than three (3) feet to an abutting property line other than a street line.
- k) **Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed six (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls and provided further that along a street frontage no such wall shall be closer than three (3) feet to the property line.
- l) **Landscape Decorative Ponds.** Any man-made body of water with a water depth of less than twenty-four (24) inches and a surface area of less than two-hundred fifty (250) square feet located within the R1, R2, and Multi-family districts are permitted provided they comply with the setback and other requirements of section 13-1-143 (d) except this type of pond may be located in the front yard. Alternative size and depth of landscape decorative ponds located in Commercial, Industrial and Parks & Recreation districts may be allowed upon approval of a site plan for the property by the Plan Commission. See section 13-1-144 for requirements.

SEC. 13-1-141 OUTSIDE STORAGE OF FIREWOOD

- a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.
- b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.
- c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of within fifteen (15) days and shall not be allowed to remain on the premises.

- d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.
- e) Not more than twenty percent (20%) of the side and rear yard may be used for storage of firewood at any one (1) time.

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SEC. 13-1-142 FENCES AND HEDGES

- a) **Fences Defined.** For the purpose of this Section, a “fence” is herein defined as an enclosed barrier consisting of vegetation, wood, stone or metal intended to prevent ingress or egress. For the purpose of this Section, the term “fence” shall include plantings, such as hedges and shrubbery. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.
- b) **Fences Categorized.** Fences shall be categorized into five (5) classifications:
 - 1. Boundary Fence. A fence placed on or within three (3) feet of the property lines of adjacent properties.
 - 2. Protective Fence. A fence constructed to enclose a hazard to the public health, safety and welfare.
 - 3. Architectural or Aesthetic Fence. A fence constructed to enhance the appearance of the structure or the landscape.
 - 4. Hedge. A row of bushes or small trees planted close together which may form a barrier, enclosure or boundary.
 - 5. Picket Fence. A fence having a pointed post, stake, pale or peg laced vertically with the point or sharp part pointing upward to form a part of the fence.
- c) **Height of Fences Regulated.**
 - 1. A fence, wall, hedge or shrubbery may be erected, placed, maintained or grown along a lot line on residentially zoned property or adjacent thereto to a height not exceeding six (6) feet above the ground level and be no closer than three (3) feet to a public right-of-way, except that no such fence, wall, hedge or shrubbery which is located in a required front or corner side yard shall exceed a height of four (4) feet. Where such lot line is adjacent to a non-residentially zoned property, there shall be an eight (8) foot limit on the height of a fence, wall, hedge or shrubbery along such lot line.
 - 2. No fence, wall, hedge or shrubbery shall be erected, placed, maintained or grown along a lot line on any non-residentially zoned property, adjacent to a residentially zoned property, to a height exceeding eight (8) feet.
 - 3. In any residence district, no fence, wall, hedge or shrubbery shall be erected, constructed, maintained or grown to a height exceeding three (3) feet above the street grade nearest thereto, within twenty-five (25) feet of the intersection of any street lines or of street lines projected.
- d) **Setback for Residential Fences; Approval.**
 - 1. Fences in residential areas may be constructed on lot lines. Fences may be constructed parallel to lot lines but shall not extend into the front setback area as extended to the side lot lines.
 - 2. Residential fences may only be constructed following issuance of a fence permit by the Zoning Administrator, such permit application to be accompanied by a description and/or sketch of the proposed fence.
- e) **Security Fences.** Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

- f) **Prohibited Fences.** No fence shall be constructed which is a picket fence or which is of an otherwise dangerous condition, or which conducts electricity or is designed to electrically shock or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground or height and project toward the fenced property and away from any public area.
- g) **Fences to be Repaired.** All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.
- h) **Temporary Fences.** Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days unless approved by the Village Board.
- i) **Nonconforming Fences and Hedges.** Any fence or hedge existing on the effective date of this Municipal Code and not in conformance with this Section may be maintained, but any alteration, modification or improvement of said fence shall comply with this Section.

SEC. 13-1-143 SWIMMING POOLS

- a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than eighteen (18) inches located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.
- b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of eighteen (18) inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Section.
- c) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Building Inspector, the Building Inspector shall not issue a permit for construction unless the following construction requirements are observed:
 - 1. All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and code and with any and all Ordinances of the Village now in effect or hereafter enacted.
 - 2. All plumbing work shall be in accordance with all applicable Ordinances of the Village and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method and, in no case, shall waters from any pool be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located on in the general vicinity.
 - 3. All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state laws (State Electrical Code) and Village Ordinances regulating electrical installations.
- d) **Setbacks and Other Requirements.**
 - 1. Private swimming pools shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.

2. No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building, and in no case shall the water line of any pool be less than six(6) feet from any lot line.
- e) **Fence.**
1. Pools within the scope of this Section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool. Such fence or wall shall not be less than four (4) feet in height and so constructed as not to have voids, holes or openings larger than four (4) inches in one (1) dimension. Gates or doors shall be kept latched while the pool is not in actual use.
 2. The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing a minimum of thirty-six (36) inches high on the top, or if the sidewalls are unobstructed and a minimum of thirty-six (36) inches high. Stair access shall be controlled by a self-latching, self-closing gate which shall not be left in any open position when not in actual use. A raisable ladder shall be in the raised position when the pool is not in use. If a pool is not equipped with a raisable safety ladder and is not enclosed by a fence, the ladder shall be detachable so that it can be removed from the pool and placed out of reach of small children when the pool is not in use.
- f) **Compliance.** All swimming pools existing at the time of passage of this Code of Ordinances not satisfactorily fenced are not required to comply with the fencing requirements of this Section.

SEC. 13-1-144 PONDS, LANDSCAPE DECORATIVE PONDS, FOUNTAINS, DETENTION/RETENTION PONDS.

- a) **Permit Required.** No person shall construct or make improvements to any pond located within the Village of Howards Grove without first obtaining a permit from the Village Building Inspector. Except as set forth below, these provisions apply to all ponds including, but not limited to, those ponds utilized for drainage, recreation, aesthetics, and sediment control.
- b) **Exceptions.** The following ponds are excluded from the provisions of this ordinance: Ponds with a depth of 24 inches or less and an area 250 square feet or less, storm water drainage ponds created by or for the Village with Village approval, and ponds which have been reviewed and approved as part of an erosion control plan provided they comply with the setback and other requirements of section 13-1-143 (d) except this type of pond may be located in the front yard. Existing ponds are also excluded from the provisions of this ordinance, but any enlargement, dredging or modifications to such ponds makes them subject to this Section.
- c) **Site Plan Required.** Before a permit may be issued, the applicant shall provide the Village with a detailed site plan of the proposed pond excavation showing cross-section, depth, area and location of the pond as well as addressing disposition and storage of spoils from the excavation. The plan shall contain measures to protect against overflow and shall address drainage into and surrounding the pond area. The plan shall detail the flow of drainage in the event of overflow and demonstrate that adjacent properties will be adequately protected in the event of overflow. Additional information shall be supplied to the Village, as requested by the Village Engineer.
- d) **Guide Required.** To erect, construct, or place any pond or pool of any size, permanent or temporary, the landowner must obtain a pond and swimming pool guide from the Village of Howards Grove, which outlines the Village of Howards Grove codes, ordinances and requirements/limitations of these structures.
- e) **Areas Zoned Residential or Multi-Family.** Ponds, whose intended purpose is other than that of landscaping or aesthetics, as determined by the Village Building Inspector, are prohibited. In no instance will a pond be permitted if it is not authorized, for whatever reason, by the Department of Natural Resources. DNR should be consulted for any retention/detention structure. A conditional use permit is required for any pond that would exceed the Standards

For Construction General Requirements in any way unless the pond is totally and completely fenced as indicated in the Swimming Pool Ordinance, SEC 13-1-143.

- f) **Commercial, Industrial, Parks & Recreational Zoning and Municipal Owned Land.** Alternative size and depth of landscape decorative ponds located in Commercial, Industrial, Parks & Recreation districts and Village owned land may be allowed upon approval of a site plan for the property by the Plan Commission.
- g) **Standards for Construction.**
1. General Requirements. General requirements for all ponds and fountains, may not exceed the following unless the provisions of this ordinance are met:
 - a. A water depth of 24 inches.
 - b. A diameter of 17-3/4 feet, or a surface area of 250 square feet.
 - c. Dug Ponds: A side slope steeper than a 4:1 ratio.
 - d. Pre-formed ponds: A water depth of 12 inches.
 - e. The waterline of the pond must be set back from all property lines 15 feet.
 - f. Limit 2 ponds per lot.
 2. Conditions to Permit. The Village Plan Commission and Board may attach conditions to the issuance of a pond permit to address such things (without limitation) as maintenance, weed control, depth of pond, landscaping and aesthetics, and measures to secure the pond to avoid personal injury to trespassers.
 3. Additional Permits. Before proceeding with excavation, the applicant, in addition to obtaining a permit from the Village, must secure all necessary permits from pertinent county, state and federal government agencies.
 4. Permit Fee. There shall be a fee to cover the cost of site plan review, inspection and enforcement by the building inspector as set forth in the Village Rate Schedule. This fee is in addition to any conditional use permit fee when such a permit is required.

SEC. 13-1-145 THROUGH SEC. 13-1-169 RESERVED FOR FUTURE USE.

ARTICLE L

Administration

SEC. 13-1-170 GENERAL ADMINISTRATIVE SYSTEM

This Chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional, uses, planned unit development conditional uses, changes in zoning districts and zoning map, and amending the text of this Zoning Chapter require review and action by the Village Board. A Zoning Board of Appeals is provided to assure proper administration of the Chapter and to avoid arbitrariness.

SEC. 13-1-171 ZONING ADMINISTRATOR

The Village Board shall designate a Village official to serve as the Zoning Administrator and as the administrative enforcement officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter. The Zoning Administrator shall further:

- a) Maintain records of all permits issued, inspections made, work approved and other official actions.
- b) Record the lowest floor elevations of all structures erected, moved, altered or improved in the floodland districts.
- c) Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
- d) Inspect all structures, lands and waters as often as necessary to assure compliance with this Chapter.
- e) Investigate all complaints made relating to the location of structures and the use of structures, lands and waters, give notice of all violations of this Chapter to the owner, resident, agent or occupant of the premises and report uncorrected violations to the Village Attorney in a manner specified by him.
- f) Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
- g) Request assistance and cooperation from the Police Department, Village Clerk-Treasurer, Building Inspector and Village Attorney as deemed necessary.

SEC. 13-1-172 ROLE OF SPECIFIC VILLAGE OFFICIALS IN ZONING ADMINISTRATION

- a) **Village Board.** The Village Board, the governing body of the Village, subject to the holding of public hearings by said Board, has ultimate authority to grant permitted conditional uses, planned unit development conditional uses, make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map and to amend the text of this Chapter.
- b) **Zoning Board of Appeals.** A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter. See Article 0 of this Chapter for detail provisions.

SEC. 13-1-173 ZONING PERMIT

- a) **Zoning Permit Required.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter

be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit.

- b) **Application.** Applications for a zoning permit shall be made to the Zoning Administrator 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 survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and showing such of the following as may be required by the Zoning Administrator: the location, boundaries dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; public utilities; off-street parking, loading areas and driveways; existing highway access restrictions; high water; channel, floodway and floodplain boundaries; and existing and proposed street, side and rear yards.
 4. Additional information as may be required by the Zoning Administrator or Village Board.
- c) **Action.**
1. A zoning permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days of application and the applicant shall post such permit in a conspicuous place at the site.
 2. The permit shall expire within six (6) months unless substantial work has commenced or within eighteen (18) months after the issuance the permit if the structure for which a permit is issued is not substantially completed, in which case of expiration, the applicant shall reapply for a zoning permit before commencing work on the structure.
 3. Any permit issued in conflict with the provisions of this Chapter shall be null and void.

SEC. 13-1-174 SITE PLAN APPROVAL

- a) **Site Plan Approval.** All applications for zoning/occupancy permits for any construction, reconstruction, expansion or conversion, except for one (1) and two (2) family residences in Residential Districts, shall require site plan approval by the Village Board in accordance with the requirements of this Section.
- b) **Application.** The applicant for a zoning permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Village Board or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.
- c) **Administration.** The Zoning Administrator shall make a preliminary review of the application and plans and refer them, along with a report of his findings, to the Village Board within ten (10) days. The Village Board shall review the application and may refer the application and plans to any expert consultants selected by the Village Board and/or Village Engineer to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within thirty (30) days of its receipt of the application, the Village Board shall authorize the Zoning Administrator to issue or refuse a zoning/occupancy permit.
- d) **Requirements.** In acting on any site plan, the Village Board shall consider the following:
1. The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
 2. The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the

- traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
3. The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
 4. The landscaping and appearance of the completed site. The Village Board may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this Section.
 - e) **Effect on Municipal Services.** Before granting any site approval, the Village Board may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Village Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Village Board shall not issue final approval until the Village Board has entered into an agreement with the applicant regarding the development of such facilities.

SEC. 13-1-175 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 provisions of this Chapter. In case of any violation, the Village Board, the Zoning Administrator or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.
- b) **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (10) days, or such time as the Village Board may give, 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.
- c) **Penalties.** Any person, firm or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Section 1-1-6 of this Code of Ordinances.

SEC. 13-1-176 THROUGH SEC. 13-1-179 RESERVED FOR FUTURE USE

ARTICLE M
Changes and Amendments to the Zoning Code

SEC. 13-1-180 AUTHORITY

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Village Board may, by ordinance, change the district boundaries established by this Chapter and the Zoning Map incorporated herein and/or the Supplementary Floodland Zoning Map incorporated herein, or amend, change or supplement the text of the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review of the Village Board.

SEC 13-1-181 INITIATION OF CHANGES OR AMENDMENTS

The Village Board, the Zoning Board of Appeals and other government bodies and any private petitioners may apply for an amendment to the text of this Chapter to the District boundaries hereby established or by amendments hereto in the accompanying zoning map made a part of this Chapter and/or the Supplementary Floodland Zoning Map to be made a part of this Chapter by reference.

SEC. 13-1-182 PROCEDURE FOR CHANGES OR AMENDMENTS

- a) **Application.** Petitions for any change to the district boundaries and map(s), or amendments to the text regulations, shall be filed with the Zoning Administrator, describe the premises to be rezoned or the portions of text or regulations to be amended, list the reasons justifying the petition, specify the proposed use, if applicable, and have attached the following, if petition be for change of district boundaries:
 1. Plot plan, drawn to a scale of one (1) inch equals one hundred (100) feet 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 three hundred (300) feet of the area proposed to be rezoned.
 2. Owners' names and addresses of all properties lying within two hundred (200) feet of the area proposed to be rezoned.
 3. Any additional information as may be required by the Plan Commission or Village Board.
- b) **Hearings.** The Plan Commission and Village Board shall hold public hearings at a time established by the respective bodies upon each proposed change or amendment. The Plan Commission shall hold its hearing and make a recommendation to the Village Board regarding said application prior to the Board hearing. Notice of the time, place and the change or amendment proposed shall be made by publication of a Class 2 notice, under Chapter 985 of the Wisconsin Statutes. Notice shall also be sent to the applicant, members of the Plan Commission and Village Board and the owners of record, as listed in the office of the Village Assessor, of property in whole or in part situated within two hundred (200) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of the Plan Commission's public hearing. At least ten (10) days' prior, written notice shall also be given to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment.
- c) **Village Board's Action.** Following such hearings and the recommendation of the Plan Commission, the Village Board shall vote on the proposed ordinance effecting the proposed change or amendment.

SEC. 13-1-183 PROTEST

- a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending two hundred (200) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending two hundred (200) 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 (3/4) of the full Village Board membership.
- b) In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Village Board membership to adopt such amendment.

SEC. 13-1-184 THROUGH SEC. 13-1-189 RESERVED FOR FUTURE USE

ARTICLE N
Appeals

SEC. 13-1-190 APPEALS TO THE ZONING BOARD OF APPEALS

- a) **Scope of Appeals.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the administrative officer. Such appeal shall be taken within reasonable thirty (30) days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Village Board. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appeals from was taken.
- b) **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- c) **Powers of Zoning Board of Appeals.** In addition to these powers enumerated elsewhere in this Code of Ordinances, the Board of Appeals shall have the following powers:
 1. **Errors.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Building Inspector.
 2. **Variances.** To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
 3. **Interpretations.** To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Village Board has made a review and recommendation.
 4. **Substitutions.** To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Village Board as made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
 5. **Unclassified Uses.** To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Village Board has made a review and recommendation.
 6. **Temporary Uses.** To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Village Board has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required the Board of Zoning Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required.
 7. **Permits.** The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.

SEC. 13-1-191 HEARING ON APPEALS

The Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper not less than ten (10) days prior thereto, cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than ten (10) days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five (5) days prior to the hearing of the fee owners of records all land within two hundred (200) feet of any part of the subject building or premises involved in the appeal.

SEC. 13-1-192 DECISIONS OF BOARD OF APPEALS

- a) **Timeframe.** The Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator.
- b) **Conditions.** Conditions may be placed upon any zoning permit ordered or authorized by this Board.
- c) **Validity.** Variances, substitutions or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

SEC. 13-1-193 VARIATIONS

- a) **Purpose.**
 1. A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.
 2. The Village Board may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.
 3. For the purposes of this Section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.
- b) **Application for Variation.** The application for variation shall be filed with the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:
 1. Name and address of applicant and all abutting and opposite property owners of record.
 2. Statement that the applicant is the owner or the authorized agent of the owner of the property.
 3. Address and description of the property.
 4. A site plan showing an accurate depiction of the property.
 5. Additional information required by the Village Engineer, Village Board, Zoning Board of Appeals or Zoning Administrator.

6. Fee receipt as indicated on the Village Rate Schedule for application and notice/ publication costs.
- c) **Public Hearing of Application.** The Zoning Board shall conduct at least one (1) public hearing on the proposed variation. Notice of such hearing shall be given not more than thirty (30) days and not less than ten (10) days before the hearing in one (1) or more of the newspapers in general circulation in the Village, and shall give due notice to the parties in interest, the Zoning Administrator and the Village Board. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Board shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant.
- d) **Action of the Board.** For the Board to grant a variance, it must find that:
1. Denial of variation may result in hardship to the property owner due to physiological consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.
 2. The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 3. The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.
 4. The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
 5. The proposed variation will not undermine the spirit and general and specific purposes of the Zoning Code.
- e) **Board of Appeals Action.** Parties may appeal decisions of the Village Board under this Section to the Board of Appeals; the Board of Appeals shall follow the procedures applicable to the Village Board under this Section.
- f) **Conditions.** The Village Board or the Board of Appeals on appeal may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

SEC. 13-1-194 REVIEW BY COURT OF RECORD

Any person or persons aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the offices of the Board of Appeals.

SEC. 13-1-195 THROUGH SEC. 13-1- 199 RESERVED FOR FUTURE USE

ARTICLE O
Definitions

SEC. 13-1-200 DEFINITIONS

For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for a section. 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 permissive.

1. Abutting. Have a common property line or district line.
2. Accessory Use or Structure. A use or detached structure subordinate to the principal use of a structure, parcel of land or water and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure.
3. Acre, Net. The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within 43,560 square feet.
4. Alley. A public way not more than twenty-one (21) feet wide which affords only a secondary means of access to abutting property.
5. Apartment. A room or suite of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.
6. Arterial Street. A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall include freeways and expressways as well as arterial streets, highways and parkways.
7. A Zones. Areas of potential flooding shown on the Village's "Flood Insurance Rate Map" which would be inundated by the regional flood as defined herein. These zones may be numbered as AO, AI to A99, or be 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.
8. Basement. That portion of any structure located partly below the average adjoining lot grade which is not designed or used primarily for year-around living accommodations. Space partly below grade which is designed and finished as habitable space is not defined as basement space.
9. Block. A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.
10. Boarding House. A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for three (3) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.
11. Buildable Lot Area. The portion of a lot remaining after required yards have been provided.
12. Building. Any structure used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.
13. Building, Detached. A building surrounded by open space on the same lot.
14. Building, Heights of. The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.
15. Building Setback Line. A line parallel to the lot line at a distance parallel to it, regulated by the yard requirements set up in this Code.
16. Building, Principal. A building in which the principal use of the lot on which it is located is conducted.

17. Business. An occupation, employment or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.
18. Channel. Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.
19. Community Living Arrangement. The following facilities licensed or operated or permitted under the authority of the Wisconsin State Statutes: Child welfare agencies under Section 48.60, group foster homes for children under Section 48.02(6 & 7) and community-based residential facilities under Section 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 applicable Sections of the Wisconsin State Statutes, including Sections 46.03(22), 69.97(15)?, 62.23(7)(i) and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.
20. Conditional Uses. Uses of a special nature as to make impractical their predetermination as a principal use in a district.
21. Controlled Access Arterial Street. The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.
22. Corner Lot. On corner lots, the setback shall be measured from the street line on which the lot fronts. Said corner lots shall be consisting of a parcel of property abutting on two (2) or more streets at their intersection providing that the interior angle of such intersection is less than one hundred thirty-five degrees (135°). Corner lots shall have front yard setbacks on the sides that abut the streets.
23. Conservation Standards. Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide, prepared by the USDA Soil Conservation Service for Sheboygan County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation.
24. Development. Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.
25. District, Basic. A part or parts of the Village for which the regulations of this Chapter governing the use and location of land and building are uniform.
26. District, Overlay. Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.
27. Dwelling. A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.
28. Dwelling Unit. A group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one (1) family.
29. Dwelling, Efficiency. A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.
30. Dwelling, Single-Family. A detached building designed for or occupied by one (1) family.
31. Dwelling, Two-Family. A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.
32. Dwelling, Multiple-Family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not to exceed the number of dwelling units provided.

33. Equal Degree of Hydraulic Encroachment. The effect of any encroachment into the floodway is to be computed by assuming an equal degree of hydraulic encroachment on the opposite side of a river or stream for a significant hydraulic reach, in order to compute the effect of the encroachment upon hydraulic conveyance. This computation assures that the property owners up, down or across the river or stream will have the same rights of hydraulic encroachment.
34. Essential Services. 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, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.
35. Family. One (1) or more persons immediately related by blood, marriage or adoption and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family. A family may include in addition thereto two (2) but not more than two (2) persons not related by blood, marriage or adoption. A person shall be considered to be related for the purpose of this Section if he is dwelling for the purpose of adoption or for a foster care program. Exceptions: Nothing in this Chapter shall prohibit, under the definition of "Family," priests, laybrothers, nurses or such other collective body of persons living together in one (1) house under the same management and care, subsisting in common, and directing their attention to a common object or the promotion of their mutual interest and social happiness as set forth by the Wisconsin Supreme Court in Missionaries of Our Lady of LaSalette vs. Village of Whitefish Bay Board of Zoning Appeals, 267 Wis. 609, which is hereby incorporated by reference.
36. Flood. A temporary rise in stream flow or stage in lake level that results in water overtopping the banks and inundating the areas adjacent to the stream channel or lake bed.
37. Flood Insurance Study. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mudslide (i.e., mud flow) and/or floor-related erosion hazards. Such studies shall result in the publication of a Flood Insurance Rate Map showing the intensity of flood hazards in either numbered or unnumbered A Zones.
38. Flood Profile. A graph showing the relationship of the floodwater surface elevation of a flood event of a specified recurrence interval to the stream bed and other significant natural and man-made features along a stream.
39. Flood Protection Elevation. A point two (2) feet above the water surface elevation of the 100-year recurrence interval flood. This safety factor, also called "freeboard," is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris accumulation, wave action and obstructions of bridge openings.
40. Flood Stage. The elevation of the floodwater surface above an officially established datum plane, which is Mean Sea Level, 1929 Adjustment, on the Supplementary Floodland Zoning Map.
41. Floodlands. For the purpose of this Code, the floodlands are all lands contained in the "regional flood" or 100-year recurrence interval flood. For the purpose of zoning regulation, the floodlands are divided into the floodway district, the floodplain conservancy district and the floodplain fringe overlay district.
42. Floodplain Fringe. Those floodlands, outside the floodway, subject to inundation by the 100-year recurrence interval flood. For the purpose of this Code, the floodplain fringe includes the floodplain conservancy district and the floodplain fringe overlay district.

43. Flood proofing. Measures designed to prevent and reduce flood damage for those uses which cannot be removed from, or which, of necessity, must be erected in the floodplain, ranging from structural modifications through installation of special equipment or materials, to operation and management safeguards, such as the following: reinforcing the basement walls; underpinning of floors; permanent sealing of all exterior openings; use of masonry construction; erection of permanent watertight bulkheads, shutters and doors; treatment of exposed timbers; elevation of flood-vulnerable utilities; use of waterproof cement; adequate fuse protection; sealing of basement walls; installation of sump pumps; placement of automatic swing check valves; installation of seal-tight windows and doors; installation of wire reinforced glass; location and elevation of valuable items; waterproofing, disconnecting, elevation or removal of all electric equipment; avoidance of the use of flood-vulnerable areas; temporary removal of waterproofing of merchandise; operation of emergency pump equipment; closing of backwater sewer valve; placement of plugs and food drain pipes; placement of movable watertight bulkheads; erection of sand bag levees; and the shoring of weak walls or structures. Flood proofing of structures shall be extended at least to a point two (2) feet above the elevation of the regional flood. Any structure that is located entirely or partially below the flood protection elevation shall be anchored to protect it from larger floods.
44. Floodway. A designated portion of the 100-year flood area that will safely convey the regulatory flood discharge with small, acceptable upstream and downstream stage increases, limited in Wisconsin to 0.1 foot unless special legal measures are provided. The floodway, which includes the channel, is that portion of the floodplain not suited for human habitation. All fill, structures and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.
45. Floor Area -- Business and Manufacturing Buildings. For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.
46. Foster Family Home. The primary domicile of a foster parent which is four (4) or fewer foster children and which is licensed under Section 48.62 of the Wisconsin State Statutes and amendments thereto.
47. Frontage. All the property butting on one (1) side of a street between two (2) intersecting streets or all of the property abutting on one (1) side of a street between an intersecting street and the dead end of a street.
48. Garage -- Private. A detached accessory building or portion of the principal building, designed, arranged, used or intended to be used for storage of automobiles of the occupant of the premises.
49. Garage -- Public. 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.
50. Group Foster Home. Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.
51. Home Occupation. Any business or profession carried on only by a member of the immediate family residing on the premises, carried on wholly within the principal building or

accessory building thereto, in connection with which there are no signs or exterior display or storage other than a sign permitted by this Chapter, and no activity that will indicate from the exterior that the building(s) is being used in whole or in part for any purpose other than that of a dwelling. The use is to be clearly incidental to the use of the dwelling unit for residential purposes and shall not endanger the public health or safety. No articles shall be sold or offered for sale on the premises except such as is produced by the occupation on the premises, and no mechanical or electrical equipment shall be installed or maintained other than such as is customarily incidental to domestic use. Persons operating a home occupation shall employ no more than one (1) nonresident employee. No business such as a shop or store shall be conducted upon the premises. No material or equipment shall be stored outside the confines of the home. No mechanical equipment may be used which creates a disturbance such as noise, dust, odor or electrical disturbance. The home may not be altered to attract business. No motors shall be utilized which exceed one (1) horse power each and not exceeding five (5) horsepower in total, such activity being deemed a public nuisance. Repairing of motor bicycles, motorcycles and motor driven cycles, other than those licensed and owned by the occupants of a home in a residential area is strictly prohibited. For the purpose of this Subsection, the definitions of the above-mentioned vehicles shall be as set forth in Chapter 340 of the Vehicle Code of the Wisconsin State Statutes. Such repairing is deemed a public nuisance. It is immaterial for the purpose of this Subsection whether or not such repairing is done in return for remuneration.

52. Hotel. A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.
53. Loading Area. 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.
54. Lodging House. A building where lodging only is provided for compensation for not more than three (3) persons not members of the family.
55. Lot. A parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this Code as pertaining to the district wherein located.
56. Lot, Corner. A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five degrees (135°) or less, measured on the lot side.
57. Lot, Interior. A lot situated on a single street which is bounded by adjacent lots along each of its other lines and is not a corner lot.
58. Lot, Through. A lot which has a pair of opposite lot lines along two (2) substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.
59. Lot, Substandard. A parcel of land held in separate ownership having frontage on a public street, or other approved means of access, occupied or intended to be occupied by a principal building or structure, together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas or other open space provisions of this Code as pertaining to the district wherein located.
60. Lot Coverage (residential). The area of a lot occupied by the principal building or buildings and accessory building.
61. Lot Coverage (except residential). The area of a lot occupied by the principal building or buildings and accessory buildings including any driveways, parking areas, loading areas, storage areas and walkways.

62. Lot Line. A property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the abutting street or alley right-of-way line.
63. Lot Lines and Area. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
64. Lot Width. The horizontal distance between the side lot lines measured at the building setback line.
65. Minimum Area Square Footage. Are made from the outside face of exterior wall construction and including all walls. Window, fireplace and room projections are included only when the floor joists are extended under those areas. Areas not included are decks, porches, garages, carports, attics, space labeled "optional" or "bonus", breezeways, sunrooms or similar additions. No floor area below finished yard grade shall be considered living area. Exposed level living areas in the basement of a dwelling and private garages shall not be considered in determining minimum area square footage.
66. Minor Structures. Any small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four (4) feet in height.
67. Mobile Home. A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof), built on a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.
68. Mobile Home Lot. A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
69. Mobile Home Park. A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park are rented to individual mobile home users.
70. Mobile Home Subdivision. A land subdivision, as defined by Chapter 236 of the Wisconsin Statutes and any Village Land Division Ordinance, with lots intended for the placement of individual mobile home units. Individual homesites are in separate ownership as opposed to the rental arrangements in mobile home parks.
71. Modular Unit. A modular unit is a factor 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.
72. Nonconforming Uses. Any structure, use of land, use of land and structure in combination or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Code or amendments thereto and which is not in conformance with this Code. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall not be considered a nonconforming use, but shall be considered nonconforming with respect to those characteristics.
73. Official Letter of Map Amendment. Official notification from the Federal Emergency Management Agency (FEMA) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.
74. Parking Lot. A structure or premises containing five (5) or more parking spaces open to the public.
75. Parking Space. A graded and surfaced area of not less than one hundred eighty (180) square feet in area, either enclosed or open, for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

76. Parties in Interest. Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.
77. Professional Office. The office of a doctor, practitioner, dentist, minister, architect, landscape architect, engineer, lawyer, author, musician or other recognized trade. When established in a residential district, a professional office shall be incidental to the residential occupation, not more than twenty-five percent (25%) of the floor area of one (1) story of a dwelling unit shall be occupied by such office and only one (1) unlighted nameplate, not exceeding one (1) square foot in area, containing the name and profession of the occupant of the premises shall be exhibited.
78. Public Airport. Any airport which complies with the definition contained in Section 114.002(7), Wisconsin Statutes, or any airport which serves or offers to serve common carriers engaged in air transport.
79. Rear Yard. 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 (1) of the street yards on a corner lot.
80. Regional Flood. This regional flood is a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every one hundred (100) years; this means that in any given year, there is a one percent (1%) chance that the regional flood may occur or be exceeded. During a typical thirty (30) year mortgage period, the regional flood has a twenty-six percent (26%) chance of occurrence.
81. Retail. The sale of goods or merchandise in small quantities to the consumer.
82. Setback. The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed twenty-four (24) inches. Any overhang of the cornice in excess of twenty-four (24) inches shall be compensated by increasing the setback by an amount equal to the excess of cornice over twenty-four (24) inches. Uncovered steps shall not be included in measuring the setback.
83. Side Yard. 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.
84. Signs. Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.
85. Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. A basement having one-half (1/2) or more of its height above grade shall be deemed a story for purposes of height regulation.
86. Story, Half. That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than four and one-half (4-1/2) feet above the finished floor of such story. In the case of one (1) family dwellings, two (2) family dwellings and multi-family dwellings less than three (3) stories in height, a half (1/2) story in a sloping roof shall not be counted as a story for the purposes of this Code.

87. Street. Property other than an alley or private thoroughfare or travelway which is subject to public easement or right-of-way for use as a thoroughfare and which is twenty-one (21) feet or more in width.
88. Street Yard. A yard extending across the full width of the lot, the depot of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) street yards.
89. Structure. Anything constructed, manufactured, fabricated, or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, or which is in fact used for the shelter or enclosure of persons, animals, equipment, machinery or materials, regardless of whether it was designed for some other use, including but not limited to the transportation of persons or property.
90. Structural Alterations. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.
91. Temporary Structure. A movable structure not designed for human occupancy nor for the protection of goods or property and not forming an enclosure, such as billboards.
92. Use. The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.
93. Use, Accessory. A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.
94. Use, Principal. The main use of land or building as distinguished from subordinate or accessory use.
95. Utilities. Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.
96. Vision Clearance. An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.
97. Yard. An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except the vegetation. The street and rear yards extend the full width of the lot.
98. Zero Lot Line. The concept whereby two (2) respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.
99. Zoning Permit. A permit issued by the Zoning Administrator to certify that the use of lands, structures, air and waters subject to this Chapter are or shall be used in accordance with the provisions of said Chapter.

CHAPTER 2
Floodplain Zoning

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ARTICLE A
Introduction

SEC. 13-2-1 STATUTORY AUTHORIZATION

This Chapter for floodplain protection is adopted pursuant to the authorization contained in Sections 61.35, 62.23 and 87.30, Wis. Stats.

SEC. 13-2-2 FINDING OF FACT

Uncontrolled development and use of the floodplains, rivers or streams of the Village of Howards Grove, Wisconsin, would adversely affect the public health, safety, convenience and general welfare and impair its tax base.

SEC. 13-2-3 STATEMENT OF PURPOSE

The purpose of this Chapter is to provide a uniform basis for the preparation, implementation and administration of sound floodplain regulations for all floodplains within the Village of Howards Grove to:

- a) Protect life, health and property;
- b) Minimize expenditures of public monies for costly flood control projects;
- c) Minimize rescue and relief efforts, generally undertaken at the expense of the taxpaying public;
- d) Minimize business interruptions which usually result in the loss of local incomes;
- e) Minimize damage to public facilities on the floodplains such as water mains, sewer lines, streets and bridges;
- f) Minimize the occurrence of future flood blight areas on floodplains;
- g) Discourage the victimization of unwary land and home buyers; and
- h) Prevent increases in regional flood heights that could increase flood damage and may result in conflicts or litigation between property owners.

SEC. 13-2-4 TITLE

This Chapter shall be known as the Floodplain Zoning Ordinance for the Village of Howards Grove, Wisconsin.

SEC. 13-2-5 THROUGH SEC. 13-2-9 RESERVED

ARTICLE B
General Provisions

SEC. 13-2-10 AREAS TO BE REGULATED

Areas regulated by this Chapter include all lands within the corporate limits of the Village of Howards Grove that would be covered by the "regional flood" defined in the Definitions, Section 13-2-90(a) of this Chapter, and include "floodplain islands" designated on the official map where emergency rescue and relief routes would be inundated by the regional flood.

SEC. 13-2-11 DISTRICT BOUNDARIES

- a) **Official Map.** The boundary of the floodplain districts, including the floodway, flood fringe districts, and other floodplain districts, are those areas designated as floodplains or A-zones on the Flood Insurance Survey Map. The most current Village zoning map is the official floodplain zoning map for the community. In addition to the Village zoning map are flood profile maps prepared by Wade Engineering in 1982 with the Pigeon River profiles revised by Ayres and Associates in 1994 due to construction of a vehicular bridge over the Pigeon River. These maps have been approved by the Department of Natural Resources, and are on file in the office of the Clerk-Treasurer. If more than one map is referenced, the regional flood profiles govern boundary discrepancies according to Section 13-2-12 below.
- b) **Districts.** The regional floodplain areas are hereby divided into three districts defined as follows:
 1. The Floodway District (FW) consists of the channel of a river or stream and those portions of the floodplain adjoining the channel that are required to carry the regional flood waters.
 2. The Flood Fringe District (FF) consists of that portion of the floodplain between the regional flood limits and the floodway.
 3. The General Floodplain District (GFP) consists of all areas which have been or may be hereafter covered by flood water during the regional flood. It includes both the Floodway and Flood Fringe Districts.

SEC. 13-2-12 LOCATING FLOODPLAIN BOUNDARIES

- a) Where an apparent discrepancy exists between the location of the outermost boundary of the Flood Fringe District or General Floodplain District shown on the official floodplain zoning map and actual field conditions, the location of the district boundary line shall be initially determined by the Zoning Administrator using the criteria set forth in Subsections (b) or (c) below. Where the Zoning Administrator finds that there is a significant difference between the district boundary shown on the map and the actual field conditions, the map shall be amended using the procedures established in Article H. Disputes between the Zoning Administrator and an applicant on the location of the district boundary line shall be settled according to Section 13-2-63.
- b) Where flood profiles exist, the location of the district boundary line shall be determined by the Zoning Administrator using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the map and the location indicated by the regional flood elevations and actual field conditions, the regional flood elevations shall govern. A map amendment is required where there is a significant discrepancy between the map and actual field conditions. The Zoning Administrator shall have the authority to immediately grant or deny a land use permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or

not a map amendment is required. The Zoning Administrator shall be responsible for initiating any map amendments required under this Section within a reasonable period of time.

- c) Where flood profiles do not exist, the location of the district boundary line shall be determined by the Zoning Administrator using the scale appearing on the map, visual on-site inspection and any available information provided by the Department. Where there is a significant difference between the district boundary line shown on the map and actual field conditions, the map shall be amended. Where a map amendment has been approved by both the Village Board and the Department, the Zoning Administrator shall have the authority to grant or deny a land use permit.

SEC. 13-2-13 REMOVAL OF LANDS FROM FLOODPLAIN

Compliance with the provisions of this Chapter shall not be grounds for removing lands from the floodplain district, unless they are removed by filling to a height of at least two (2) feet above the regional flood elevation, the fill is contiguous to land lying outside the floodplain district and the map is amended pursuant to Article H. To remove the land from flood insurance requirements, FEMA must first revise the flood insurance rate map or issue a letter of map amendment or revision.

SEC. 13-2-14 COMPLIANCE WITH CHAPTER

- a) **Compliance.** The development, as defined in Sec. 13-2-90(a), or use within the areas to be regulated by this Chapter shall be in compliance with the terms of this Chapter and other applicable local, state and federal regulations.
- b) **Municipalities and State Agencies Regulated.** Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if Sec. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Sec. 30.12, Wis. Stats., applies.

SEC. 13-2-15 ABROGATION AND GREATER RESTRICTIONS; INTERPRETATION OF CHAPTER

- a) **Greater Restrictions.** This Chapter supersedes all the provisions of any municipal zoning ordinance enacted under Sections 61.35, 62.23 or 87.30, Wis. Stats., which relate to floodplains except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- b) **Abrogation** It is not otherwise intended by this Chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions; however, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.
- c) **Interpretation.** In their interpretation and application, the provisions of this Chapter shall be held to minimum requirements liberally construed in favor of the governing body and shall not be deemed a limitation on or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 116, Wisconsin Administrative Code, and where the meaning of the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 116 standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

SEC. 13-2-16 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection provided by this Chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Larger floods may occur or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside of the delineated floodplain, or permitted land uses within the floodplain, will be totally free from flooding and associated flood damages. Nor does this Chapter create a liability on the part of, or a cause of action against the Village or any officer or employee thereof for any flood damage that may result from reliance on this Chapter.

SEC. 13-2-17 SEVERABILITY

Should any portion of this Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.

SEC. 13-2-18 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

- a) **Hydraulic and Hydrologic Analyses.**
 1. No development, except as provided in Subsection (a)(2) below, shall be allowed in floodplain areas which will:
 - a. Cause an obstruction to flow, defined in Sec. 13-2-90(a) as any development which physically blocks the conveyance of floodwaters by itself or in conjunction with future similar development causing an increase in regional flood height; or
 - b. Cause an increase in regional flood height due to floodplain storage area lost, which is equal to or exceeding 0.01 foot.
 2. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this Chapter, the official floodplain zoning maps, including floodway lines and water surface profiles, in accordance with Article H, and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than 1.0 foot for the affected hydraulic reach of the stream unless a waiver is secured from FEMA for the 1.0 foot maximum increase.
 3. The Zoning Administrator shall deny permits where it is determined the proposed development will cause an obstruction to flow or increase in regional flood height of 0.01 foot or greater.
- b) **Watercourse Alterations.** Prior to any alteration or relocation of a watercourse, and prior to the issuance of any land use permit which may be required for the alteration or relocation of a watercourse, the Zoning Administrator shall notify, in writing, adjacent municipalities, the appropriate district office of the Department of Natural Resources and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.
- c) **Chapters 30, 31, Wis. Stats., Development.** Development which requires a permit from the Department of Natural Resources, under Chapters 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids may be allowed provided the necessary local permits are obtained and necessary amendments to the official floodway lines, water surface profiles, floodplain zoning maps or floodplain zoning ordinance are made according to Article H.

SEC. 13-2-19 ANNEXED AREA

The Sheboygan County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the Village for all areas annexed by the Village until the Village adopts and enforces an ordinance which meets the requirements of Ch. NR 116, Wis. Adm. Code. These annexed lands are described on the Village's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this Section and are on file in the Office of the Zoning Administrator.

ARTICLE C
Floodway District (FW)

SEC. 13-2-20 APPLICABILITY

The provisions of this Article apply to all areas mapped as floodway on the official floodplain zoning maps, and to those portions of the General Floodplain District determined to be floodway according to the procedures in Section 13-2-43.

SEC. 13-2-21 PERMITTED USES

The following open space uses are permitted within the Floodway District and in the floodway portion of the General Floodplain District, provided that they are not prohibited by any other ordinance, that they meet all of the standards contained in Section 13-2-22, and all permits or certificates have been issued according to Article G.

- a) Agricultural uses, such as: general farming, pasturing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
- b) Nonstructural industrial and commercial uses, such as: loading areas, parking areas and airport landing strips.
- c) Nonstructural private and public recreational uses, such as: golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails, according to Section 13-2-22(d).
- d) Uses or structures accessory to open space uses, or those classified as historic structures, that are not in conflict with the provisions of Sections 13-2-22 and 13-2-23(d).
- e) Extraction of sand, gravel or other materials pursuant to Section 13-2-22(d).
- f) Functionally water-dependent uses, such as: docks, piers or wharves, including docks, piers or wharves used as part of a marina, and other water-related uses, such as dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines, according to Chapters 30 and 31, Wis. Stats.
- g) Public utilities, streets and bridges, according to Section 13-2-22(c).

SEC. 13-2-22 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS

- a) **General Requirements.**
 1. Any development in floodway areas shall:
 - a. Meet all of the provisions of Section 13-2-18; and
 - b. Have a low flood damage potential.
 2. Applicants shall provide the following data for the Zoning Administrator to determine the effects of the proposal according to Section 13-2-18(a):
 - a. A cross-section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow; or
 - b. An analysis calculating the effects of this proposal on regional flood height.
 3. The Zoning Administrator shall deny the permit application where there is determined the project will increase flood elevations upstream or down stream 0.01 foot or more, based on the data submitted for Subsection 13-2-22(a) above.
- b) **Structures.** In, or over floodway areas, only structures which are accessory to permanent open space uses, those classified as historical structures, or which are functionally dependent on a waterfront location, may be allowed by permit, providing the structures meet all of the following criteria:

1. The structures are not designed for human habitation, or associated with high flood damage potential;
 2. The structures are constructed and placed on the building site so as to cause an increase less than 0.01 foot in flood height and offer minimum obstruction to the flow of flood waters. Structures shall be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and approximately on the same line as those of adjoining structures;
 3. The structures are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
 4. The structures have all service facilities, such as electrical and heating equipment at or above the flood protection elevation for that particular area.
- c) **Utilities.** Public utilities, streets and bridges may be allowed by permit, provided that:
1. Adequate flood-proofing measures are provided to the flood protection elevation;
 2. Construction does not cause an increase in the regional flood height according to Section 13-2-18(a), except where the water surface profiles, floodplain zoning maps and floodplain zoning ordinance are amended as needed, to reflect any changes resulted from such construction.
- d) **Fills.** Fills or deposition of materials may be allowed by permit, provided that:
1. The requirements of Section 13-2-18(a) are met;
 2. The fill or deposition of materials does not encroach on the channel area between the ordinary high-water mark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Chapter 30, Wis. Stats., and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334, has been issued, if applicable, and the other requirements of this Section are met;
 3. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling and/or bulkheading sufficient to prevent erosion; and provided that
 4. Such fills are not associated with private or public solid waste disposal.

SEC. 13-2-23 PROHIBITED USES

All uses not listed as permitted uses in Section 13-2-21 are prohibited within the Floodway District and in the floodway portion of the General Floodplain District including the following uses which are always prohibited in the floodway:

- a) Structures in, on or over floodway areas which are designed for human habitation, associated with high flood damage potential, or not associated with permanent open-space uses;
- b) Storage of any materials that are capable of floating, flammable, explosive or injurious to property water quality or human, animal, plant, fish or other aquatic life;
- c) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts;
- d) Any private or public sewage systems, except portable latrines that are removed prior to flooding, and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Chapter ILHR 83, Wisconsin Administrative Code;
- e) Any public or private wells which are used to obtain water for ultimate human consumption, except those for recreational areas that meet the requirements of local ordinances and Chapters NR 111 and NR 112, Wis. Adm. Code.
- f) Any solid and hazardous waste disposal sites, whether public or private.
- g) Any wastewater treatment ponds or facilities except those permitted under Sec. NR 110.15(3)(b), Wis. Adm. Code.

- h) Any sanitary sewer or water supply lines except those to service existing or proposed development outside floodway which complies with the regulations for the floodplain area occupied.

SEC. 13-2-24 THROUGH SEC. 13-2-29 RESERVED FOR FUTURE USE

ARTICLE D
Flood Fringe District (FF)

SEC. 13-2-30 APPLICABILITY

The provisions of this Article shall apply to all areas within the Flood Fringe District, as shown on the official floodplain zoning maps, and to those portions of the General Floodplain District that are determined to be in the flood fringe area pursuant to Section 13-2-64 of this Chapter.

SEC. 13-2-31 PERMITTED USES

Any structures, land use or development, including accessory structures and uses, are allowed within the Flood Fringe District and flood fringe portions of the General Floodplain District, provided that the standards contained in Section 13-2-32 are met, that the use is not prohibited by this or any other ordinance or any other local, state or federal regulation and that all permits or certificates required by Article G have been issued.

SEC. 13-2-32 STANDARDS FOR DEVELOPMENT IN FLOOD FRINGE AREAS

- a) **Standards.** All of the provisions of Section 13-2-18 shall apply in addition to the following requirements of this Section, according to the use requested.
- b) **Residential Uses.** Any structure or building used for human habitation, including mobile/manufactured homes, which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet or exceed the following standards:
 1. The elevation of the lowest floor excluding the basement or crawlway shall be at or above the flood protection elevation (which is a point two [2] feet above the regional flood elevation) except where Subsection (2) below is applicable. The fill elevation shall be one (1) foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure. The Department may authorize other flood proofing measures where existing streets or sewer lines are at elevations which make compliance impractical provided the Board of Appeals grants a variance due to dimensional restrictions.
 2. The basement or crawlway floor may be placed at the regional flood elevation providing it is flood proofed to the flood protection elevation. No permit or variance shall allow any floor, basement or crawlway below the regional flood elevation.
 3. Contiguous dryland access, defined in Section 13-2-90, as a vehicle access route above regional flood elevation shall be provided from a structure or building to land which is outside of the floodplain, except as provided in Subsection (4) below.
 4. In existing developments where existing streets or sewer lines are at elevations which make compliance with Subsection (b)(3) impractical, the Village may permit new development and substantial improvements where access roads are at or below the regional flood elevation, provided:
 - a. The Village has written assurance from the appropriate local units of police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles, considering the anticipated depth, duration and velocity of the regional flood event; or
 - b. The Village has an adequate natural disaster plan concurred with the Division of Emergency Government and approved by the Department.

- c) **Accessory Structures or Uses.** An accessory structure or use (not connected to a principal structure, including nonresidential agricultural structures), shall meet all the applicable provisions of Section 13-2-22(a), (b) and (d) and 13-2-23. A lesser degree of protection, compatible with these criteria and the criteria in Subsection (d) may be permissible for an accessory structure or use providing that the site is not inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second upon the occurrence of the regional flood.
- d) **Commercial Uses.** Any commercial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet the requirements of Section 13-2-32(b) above. Storage yards, parking lots and other accessory land uses may be at lower elevations, subject to the requirements of Subsection (f). However, no such area in general use by the public shall be inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second upon the occurrence of the regional flood. Inundation of such yards or parking areas exceeding two (2) feet may be allowed provided an adequate warning system exists to protect life and property.
- e) **Manufacturing, Agricultural and Industrial Uses.** Any manufacturing, agricultural or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall be protected to the flood protection elevation utilizing fill, levees, floodwalls, adequate flood proofing measures in accordance with Section 13-2-65, or any combination thereof. On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with the criteria in Subsections (d) and (f) may be permissible for storage yards, parking lots and accessory structures or uses.
- f) **Storage of Materials.** The storage of materials that are buoyant, flammable, explosive or which, in times of flooding, could be injurious to property, water quality or human, animal, fish, plant or aquatic life shall be at or above the flood protection elevation for the particular area or flood proofed in compliance with Section 13-2-65. Adequate measures shall be taken to assure that said materials will not enter the river or stream during flooding.
- g) **Public Utilities, Streets and Bridges.** All utilities, streets and bridges should be designed to be compatible with the local comprehensive floodplain development plans; and
 1. When failure or interruption of public utilities, streets and bridges would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, construction of and substantial improvements to such facilities may only be permitted if they are flood proofed in compliance with Section 13-2-65 to the flood protection elevation;
 2. Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations providing they withstand flood forces to the regional flood elevation.
- h) **Sewage Systems.** All on-site sewage disposal systems shall be flood proofed to the flood protection elevation and shall meet the applicable provisions of all local ordinances and Chapter ILHR 83, Wisconsin Administrative Code.
- i) **Wells.** All public or private wells shall be flood proofed to the flood protection elevation, pursuant to Section 13-2-65, and shall meet the applicable provisions of Chapters NR 111 and NR 112, Wis. Adm Code.
- j) **Solid Waste Disposal Sites.** All public or private solid or hazardous waste disposal sites are prohibited in flood fringe areas.
- k) **Deposition of Materials.** Any materials deposited for any purpose may only be allowed if all the provisions of this Chapter are met.
- l) **Mobile Homes and Manufactured Homes.**
 1. Owners or operators of all mobile manufactured home parks and subdivisions located in the regional floodplain shall provide for adequate surface drainage to minimize flood damage

- and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with the appropriate local emergency management authorities.
2. In existing mobile home parks, all new homes with new pads, replacement units on existing pads, and substantially improved mobile/manufactured homes and recreational vehicles that remain on-site in excess of one hundred eighty (180) days, or are unlicensed or not ready for highway use and which are placed or improved on a site located in the regional floodplain shall:
 - a. Have the lowest floor elevated to the regional flood elevation; and
 - b. Be anchored so they do not float, collapse or move laterally during a flood.
 3. New mobile home parks, all single units outside of existing parks, all new, replacement and substantially improved mobile/manufactured homes, and recreational vehicles that remain on-site more than one hundred eighty (180) days, which are unlicensed or are not ready for highway use, shall meet the residential development standards for the floodfringe in Section 13-2-32(b)

SEC. 13-2-33 THROUGH SEC. 13-2-39 RESERVED FOR FUTURE USE.

ARTICLE E
General Floodplain District (GFP)

SEC. 13-2-40 APPLICABILITY

The provisions for this district shall apply to all floodplains in the Village for which "regional flood" data, as defined in the Definitions, Section 13-2-90(a), is not available, or where regional flood data is available but floodways have not been delineated. As adequate regional flood data becomes available and floodways are delineated for portions of this district, such portions shall be placed in the Flood Fringe or Floodway District, as appropriate.

SEC. 13-2-41 PERMITTED USES

The General Floodplain District encompasses both floodway and flood fringe areas. Therefore, a determination shall be made pursuant to Section 13-2-43 to determine whether the proposed use is located within a floodway or flood fringe area. Those uses permitted in floodways and flood fringe areas are allowed within the general floodplain district according to the standards of Section 13-2-42 and provided that all permits or certificates required under Section 13-2-61 have been issued.

SEC. 13-2-42 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

Once it is determined according to Section 13-2-43 that a proposed use is located within a floodway, the provisions of Article C shall apply. Once determined that the proposed use is located within the flood fringe, the provisions of Article D shall apply. All provisions of the remainder of this Chapter apply to either district.

SEC. 13-2-43 DETERMINING FLOODWAY AND FLOOD FRINGE LIMITS

Upon receiving an application for development within the general floodplain district, the Zoning Administrator shall:

- a) Require the applicant to submit, at the time of application, two (2) copies of an aerial photograph or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures.
- b) Require the applicant to furnish any of the following additional information as is deemed necessary by the Department for evaluation of the effects of the proposal upon flood height and flood flows, the regional flood elevation and where applicable to determine the boundaries of the floodway:
 1. A typical valley cross-section showing the channel of the stream, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development and all historic high-water information.
 2. Plan (surface view) showing: elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
 3. Profile showing the slope of the bottom of the channel or flow line of the stream.
 4. Specifications for building construction and materials, flood proofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.
- c) Transmit one (1) copy of the information described in Subsections (a) and (b) to the Department District office along with a written request for technical assistance to establish regional flood

elevations and, where applicable, floodway data. Where the provisions of Sec. 13-2-61(a)(3) apply, the applicant shall provide all required information and computations, to delineate floodway boundaries and the effects of the project on flood elevations.

SEC. 13-2-44 THROUGH SEC. 13-2-49 RESERVED FOR FUTURE USE

ARTICLE F
Nonconforming Uses

SEC. 13-2-50 GENERAL

- a) Insofar as the standards in this Article are not inconsistent with the provisions of Section 62.23(7)(h), Wis. Stats., they shall apply to all nonconforming structures and nonconforming uses. These regulations apply to the modification of, or addition to, any structure and to the use of any structure or premises which was lawful before passage of this Chapter or any amendment thereto.
- b) The existing lawful use of a structure or building or its accessory use which is not in conformity from the provisions of this Chapter may be continued subject to the following conditions:
 1. No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this Chapter for the area of floodplain occupied. The words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered modifications or additions; these include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities.
 2. If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon shall be made to conform to the applicable requirements of this Chapter.
 3. As requests are received by the municipality for modifications or additions to nonconforming uses or nonconforming structures in the floodway, a record shall be kept which lists the nonconforming uses and nonconforming structures, their present equalized assessed value and the cost of those additions or modifications which have been permitted, and the percentage of the structure's total current value those modifications represent.
 4. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this Chapter. Contiguous dry land access must be provided in compliance with Section 13-2-32(b).
 5. If any nonconforming structure or any structure with a nonconforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the requirements of this Chapter. For the purpose of this Subsection, restoration is deemed impractical where the total cost of such restoration would exceed fifty percent (50%) of the present equalized assessed value of the structure.

SEC. 13-2-51 FLOODWAY AREAS

- a) No modifications or additions shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area unless such modification or addition:
 1. Has been granted a permit or variance which meets the floodway requirements of this Chapter; and
 2. Meets the requirements of Section 13-2-50; and
 3. Will not increase the obstruction to flood flows or regional flood height; and

4. Any addition to the existing structure shall be flood proofed, pursuant to Section 13-2-65, by means other than the use of fill, to the flood protection elevation.
- b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable provisions of local ordinances and Chapter ILHR 83, Wis. Adm. Code.
- c) No new well or modification to an existing well, used to obtain water for ultimate human consumption, or modifications to an existing well, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable provisions of all municipal ordinances and Chapters NR 111 and NR 112, Wis. Adm. Code.

SEC. 13-2-52 FLOOD FRINGE AREAS

- a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the flood fringe area unless such modification or addition has been granted a permit or variance and, in addition, the modification or addition shall be placed on fill or flood proofed to the flood protection elevation in compliance with the applicable regulations for that particular use in Section 13-2-32, except where Subsection (b) is applicable.
- b) Where compliance with the provisions of Subsection (a) above would result in unnecessary hardship and only where the structure will not be either used for human habitation or to be associated with a high flood damage potential, the Board of Appeals, using the procedure in Section 13-2-63, may grant a variance from those provisions of Subsection (a) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 1. No floor is allowed below the regional flood elevation for residential or commercial structures; and
 2. Human lives are not endangered;
 3. Public facilities, such as water or sewer, will not be installed;
 4. Flood depths will not exceed two (2) feet;
 5. Flood velocities will not exceed two (2) feet per second; and
 6. The structure will not be used for storage of materials described in Section 13-2-32(f).
- c) If neither the provisions of Subsections (a) nor (b) above can be met, an addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood fringe on a one (1) time basis only, if the addition:
 1. Meets all other regulations and will not be granted by permit or variance;
 2. Does not exceed existing (60) square feet in area; and
 3. In combination with other previous modifications or additions to the building, does not exceed fifty percent (50%) of the present equalized assessed value of the building.
- d) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and Chapter ILHR 83, Wis. Adm. Code.
- e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this Chapter and Ch. NR III and NR 112, Wis. Adm. Code.

SEC. 13-2-53 THROUGH SEC. 13-2-59 RESERVED FOR FUTURE USE

ARTICLE G
Administration

(NOTE: This Article provides for the appointment of appropriate boards and staff and the development of necessary policies and procedures to administer the floodplain zoning ordinance in accordance with this Article. Where a zoning administrator, planning agency or a board of appeals has already been appointed to administer a zoning ordinance adopted under Section 62.23(7), Wis. Stats., these officials shall also administer the floodplain zoning ordinance.)

SEC. 13-2-60 ZONING ADMINISTRATOR

The Village Zoning Administrator is hereby authorized to administer the provisions of this Chapter. The Zoning Administrator shall have the following duties and powers:

- a) Advise applicants of the provisions of this Chapter, assist them 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 this Chapter and issue Certificates of Compliance where appropriate.
- c) Keep records of all official actions such as:
 1. All permits issued.
 2. Inspections made.
 3. Work approved.
 4. Documentation of certified lowest floor and regional flood elevations for floodplain development.
 5. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
- d) Submit copies of the following items to the Department district office:
 1. Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 2. Copies of any case-by-case analyses and any other information required by the Department, including an annual summary of the number and types of floodplain zoning actions taken.
- e) Investigate, prepare reports and report violations of this Chapter to the appropriate Village committee and to the municipal attorney for prosecution. Copies of the violation reports shall also be sent to the appropriate district office of the Department of Natural Resources.
- f) Submit copies of map and text amendments and biennial reports to the Regional Office of FEMA.

SEC. 13-2-61 ADMINISTRATIVE PROCEDURES

- a) **Land Use Permit.** A land use permit shall be obtained from the Zoning Administrator before any new "development," as defined in Section 13-2-90(a), or any change in the use of an existing building or structure, including sewage disposal systems and water supply facilities, may be initiated. Application for a land use permit shall be made to the Zoning Administrator upon furnished application forms and shall include the following data:
 1. General Information:
 - a. Name and address of the applicant, property owner and contractor-builder;
 - b. Legal description of the property, type of proposed use and an indication as to whether new construction or a modification to an existing structure is involved;
 2. Site Development Plan: The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
 - a. Location, dimensions, area and elevation of the lot;
 - b. Location of the ordinary high-water mark of any abutting navigable waterways;

- c. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
- d. Location of any existing or proposed on-site sewage systems or private water supply systems;
- e. Location and elevation of existing or future access roads;
- f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps;
- g. The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD);
- h. Data sufficient to determine the regional flood elevation at the location of the development and to determine whether or not the requirements of Article C or Article D of this Chapter are met.
- i. Data sufficient to determine if the proposed development will cause either an obstruction to flow or an increase in regional flood height or discharge according to Section 13-2-18(a). This may include any of the information noted in Sec. 13-2-22(a).

3. Data Requirements to Analyze Developments:

- a. The applicant shall provide all computations and survey data required to show the effects of the project on flood heights, velocities and floodplain storage for all subdivision proposals, as "subdivision" is defined in Sec. 236.02(12), Wis. Stats., and other proposed developments exceeding five (5) acres in area or where the estimated cost exceeds One Hundred Twenty-Five Thousand Dollars (\$125,000.00). The applicant shall provide:
 - i. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity.
 - ii. A map showing location and details of vehicular access to lands outside the floodplain.
 - iii. A surface drainage plan with adequate details showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping improvements, access and road development, electrical and plumbing and similar items reasonably applied to the overall development costs, but need not include land costs.

- b. The Department will determine elevations and evaluate the proposal where the applicant is not required to provide computations as above and inadequate data exists. The municipality may transmit additional information, such as the data in Section 13-2-43(b) where appropriate, to the Department with the request for analysis.
4. Expiration: All permits issued under the authority of this Chapter shall expire one (1) year from the date of issuance.

b) Certificate of Compliance. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:

1. The certificate of compliance shall show that the building or premises or part thereof and the proposed use conform to the provisions of this Chapter.
2. Application of such certificate shall be concurrent with the application for a permit.
3. The certificate of compliance shall be issued within ten (10) days after notification of completion of the work specified in the permit, provided the building or premises or proposed use conforms with all the provisions of this Chapter.
4. The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill, lowest floor and flood proofing elevations are in compliance with the permit issued. Flood proofing measures also require certification by a

registered professional architect or registered engineer that flood proofing adequacy meets the requirements of Section 13-2-65.

- c) **Other Permits.** It is the responsibility of the applicant to secure all other necessary permits from all appropriate Federal, State and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.

SEC. 13-2-62 ZONING AGENCY

- a) The Village Board shall have the following duties and powers to:
1. Oversee the functions of the office of the Zoning Administrator;
 2. Review all proposed amendments to the floodplain zoning ordinance map and text;
 3. Maintain a complete public record of all its proceedings.
- b) The Village Board shall not grant variances to the terms of this Chapter in place of official action by the Board of Appeals.

SEC. 13-2-63 BOARD OF APPEALS

- a) **Statutory Authorization.** The appropriate board created by Chapter 62.23(7)(e), Wis. Stats., for cities or villages is hereby authorized to act as Board of Appeals for the purposes of this Chapter. The Board of Appeals shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator may not be the Secretary of the Board.
- b) **Powers and Duties.** The Board of Appeals shall:
1. Appeals. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.
 2. Boundary Disputes. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
 3. Variances. Hear and decide, upon appeal, variances from the dimensional standards of this Chapter.
- c) **Appeals to the Board.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within thirty (30) days, as provided by the rules of the Board, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the reasons for appeal. The official whose decision is in question shall transmit to the Board all the papers constituting the record concerning the matter appealed.
- d) **Notice and Hearing for Appeals Including Variances.**
1. Notice. The Board shall:
 - a. Fix a reasonable time for the hearing;
 - b. Publish adequate Class 1 or 2 notice pursuant to the Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
 - c. Assure that notice shall be mailed to the parties in interest and the district office of the Department at least ten (10) days in advance of the hearing.
 2. Hearing. Any party may appear in person or by an agent or attorney. The Board shall:
 - a. Resolve boundary disputes according to Subsection (e);
 - b. Decide variance applications according to Subsection (f);
 - c. Decide appeals of permit denials according to Section 13-2-64.
 3. Decision. The final decision regarding the appeal or variance application shall:
 - a. Be made within a reasonable time;
 - b. Be sent to the district office of the Department within ten (10) days of the decision;

- c. Be a written determination signed by the chairperson or secretary of the Board;
 - d. State the specific facts which are the basis for the Board's decision;
 - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the application for a variance;
 - f. Include the reasons or justifications or granting an appeal, with a description of the hardship or practical difficulty demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.
- e) **Boundary Disputes.** The following procedure shall be used by the Board of Appeals in hearing disputes concerning the district boundaries shown on the official floodplain zoning map:
1. Where a floodplain district boundary is established by approximate or detailed floodplain studies the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the Board, other available evidence may be examined.
 2. In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the Board of Appeals.
 3. Where it is determined that the district boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the location of the boundary to petition the governing body for a map amendment according to Article H.
- f) **Variance.**
1. The Board of Appeals may, upon appeal, grant a variance from the dimensional standards of this Chapter where an applicant convincingly demonstrates that:
 - a. Literal enforcement of the provisions of the Chapter will result in unnecessary hardship on the applicant.
 - b. The hardship is due to adoption of the floodplain ordinance and special conditions unique to the property, not common to a group of adjacent lots or premises (in such case the Chapter or map must be amended);
 - c. Such variance is not contrary to the public interest;
 - d. Such variance is consistent with the purpose of this Chapter as stated in Section 13-2-3.
 2. A variance shall not:
 - a. Grant, extend or increase any use of property prohibited in the zoning district;
 - b. Be granted for a hardship based solely on an economic gain or loss;
 - c. Be granted for a hardship which is self-created;
 - d. Damage the rights or property values of other persons in the area;
 - e. Permit a lower degree of flood protection in the floodplain than the flood protection elevation;
 - f. Allow any floor, basement or crawlway below the regional flood elevation or residential or commercial structures;
 - g. Allow actions without the requirement amendment to this Chapter or map(s) described in Section 13-2-70.
 3. When a variance is granted in a floodplain area, the Board shall notify the applicant in writing that increased flood insurance premiums and risks to life and property may result. A copy of this notification shall be maintained with the variance appeal record.

SEC. 13-2-64 REVIEW APPEALS OF PERMIT DENIALS

- a) The Board of Appeals shall review all data constituting the basis for the appeal of permit denial. This data may include (where appropriate):
 1. Permit application data listed in Section 13-2-61(a);
 2. Floodway/flood fringe determination data in Section 13-2-43;

3. Data listed in Section 13-2-22(a)(2)b where the applicant has not submitted this information to the Zoning Administrator.
 4. Other data submitted to the Zoning Administrator with the permit application or submitted to the Board with the appeal.
- b) For appeals of all denied permits, the Board shall:
1. Follow the procedures of Section 13-2-63;
 2. Consider Zoning Agency recommendations;
 3. Either uphold the denial or grant the appeal.
- c) For appeals concerning increases in regional flood elevation, the Board shall:
1. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and any appropriate legal arrangements are made with all adversely affected property owners.
 2. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

SEC. 13-2-65 FLOODPROOFING

- a) No permit or variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect that the flood proofing measures are adequately designed to protect the structure or development to the flood protection elevation.
- b) Where flood proofing measures, as defined in Section 13-2-90(a) are required, they shall be designed to:
1. Withstand the flood pressures, depths, velocities, uplift and impact forces and other factors associated with the regional flood;
 2. Assure protection to the flood protection elevation;
 3. Provide anchorage of structures to foundations to resist flotation and lateral movement;
 4. Insure that the structural walls and floors are watertight to the flood protection elevation and the interior remains completely dry during flooding without human intervention.
- c) (c) Flood proofing measures could include:
1. Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris;
 2. Addition of mass or weight to structures to prevent flotation;
 3. Placement of essential utilities above the flood protection elevation;
 4. Surface or subsurface drainage systems, including pumping facilities to relieve external foundation wall and basement floor pressures;
 5. Construction of water supply wells and waste treatment systems to prevent the entrance of flood waters into the systems;
 6. Cutoff valves on sewer lines or elimination of gravity flow basement drains.

SEC. 13-2-66 PUBLIC INFORMATION

- a) Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.
- b) All available information in the form of maps, engineering data and regulations shall be readily available and should be widely distributed.
- c) All legal descriptions of property in the floodplain should include information relative to the floodplain zoning classification when such property is transferred.

SEC. 13-2-67 THROUGH SEC. 13-2-69 RESERVED FOR FUTURE USE

ARTICLE H
Amendments

SEC. 13-2-70 AMENDMENTS GENERALLY

The Village Board may supplement or change the boundaries of the floodplain zoning districts and the regulations contained in this Chapter in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- a) Any change to the official floodplain zoning map including the floodway line or boundary of any floodplain area;
- b) Correction of significant discrepancies between the water surface profiles and floodplain zoning maps;
- c) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- d) Any fill or encroachment into the floodplain that will obstruct flow causing an increase of 0.01 foot or more in regional flood height;
- e) Any upgrading of floodplain zoning ordinances required by Section NR 116.05, Wisconsin Administrative Code, or otherwise required by law, or for changes by the Village.

SEC. 13-2-71 AMENDMENT PROCEDURES

- a) Amendments to this Chapter may be made upon petition of any interested party in accordance with the provisions of Section 62.23, Wis. Stats. Such petitions shall include any necessary data required by Sections 13-2-43 and 13-2-61(a).
- b) Copies of any amendment proposed to the Village Board shall be referred to the Zoning Agency, described in Section 13-2-62, for a public hearing and recommendation to the Village Board. Copies of the proposed amendment and notice of the public hearing shall be submitted to the appropriate District office of the Department of Natural Resources for review prior to the meeting. The amendment procedure shall comply with the provisions of Section 62.23, Wis. Stats.
- c) No amendment to the maps or text of this Chapter shall become effective until reviewed and approved by the Department of Natural Resources.
- d) All persons petitioning for a map amendment which involves an obstruction to flow causing an increase of 0.01 foot or more in the height of the regional flood shall obtain flooding easements, or other appropriate legal arrangements, from all adversely affected property owners and local units of government before the amendment can be approved by a governing body.
- e) When considering amendments to the official floodplain zoning map, in areas where no water surface profiles exist, the zoning agency shall consider data submitted by the Department, the Zoning Administrator's visual on-site inspections and other available information.

SEC. 13-2-72 THROUGH SEC. 13-2-79 RESERVED FOR FUTURE USE

ARTICLE I
Enforcement and Penalties

SEC. 13-2-80 ENFORCEMENT AND PENALTIES

Any violations of the provisions of this Chapter by any person shall be unlawful and shall be forwarded to the Village Attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the Village a forfeiture which shall be subject to the penalties as set forth in Section 1-1-6. Each day during within such violation exists shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the Village, the State or any citizen thereof pursuant to Section 87.30, Wis. Stats.

SEC. 13-2-81 THROUGH SEC. 13-2-89 RESERVED FOR FUTURE USE

ARTICLE J
Definitions

SEC. 13-2-90 DEFINITIONS

Unless specifically defined below, words or phrases used in this Chapter shall have the same meaning as they have at common law and to give this Chapter its most reasonable application. Words used in the present tense include the future. Words used in the singular number include the plural and words in the plural number include the singular. The word “may” is permissive. The word “shall” is mandatory and not discretionary.

1. A Zones. Those areas shown on the “Official Floodplain Zoning Map” which would be inundated by the “regional flood” as defined herein. 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. Accessory Structure or Use. A detached subordinate structure or a use which is clearly incidental to and customarily found in connection with the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.
3. Basement. Any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.
4. Bulkhead Line. A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this Chapter.
5. Certificate of Compliance. A certification issued by the Zoning Administrator stating that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this Chapter.
6. Channel. A natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.
7. Crawlways or Crawl Space. An enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for limited access to plumbing and electrical utilities.
8. Department. The Wisconsin Department of Natural Resources.
9. Development. Any artificial change to improved or unimproved real estate, including but not limited to construction of buildings, structure or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; and the storage, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities.
10. 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.
11. Encroachment. Any fill, structure, building, use or development in the floodway.
12. Existing Manufactured or Mobile Home Park or Mobile Home Subdivision. A parcel (or contiguous parcels) or land divided into two (2) or more mobile home lots for rent or sale for which the construction of facilities for servicing the lots (including, as a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Chapter.
13. Expansion to Existing Mobile/Manufactured Home Park. The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be

- placed. This includes installation of utilities, either final site grading, pouring pads, or construction of streets.
14. Federal Emergency Management Agency (FEMA). The federal agency that administers the National Flood Insurance Program. This agency was previously known as the Federal Insurance Administration (FIA) or the Department of Housing and Urban Development (HUD).
 15. Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas caused by:
 - a. The overflow or rise of inland waters;
 - b. The rapid accumulation or runoff of surface waters from any source;
 - c. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; and
 - d. 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.
 16. Flood Frequency. The probability of a flood occurrence. A flood frequency is generally 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.
 17. Flood Fringe. That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood, and generally associated with standing water rather than flowing water.
 18. Flood Hazard Boundary Map. A map prepared by FEMA, designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program.
 19. Flood Insurance Study. A technical engineering examination, evaluation and determination of the municipal flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and regional flood elevations and may provide floodway lines. The flood hazard areas are designated as unnumbered and numbered A-Zones. Flood insurance study maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
 20. Floodplain. That land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe and may include other designated floodplain areas for regulatory purposes.
 21. Floodplain Island. A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
 22. Floodplain Management. The full range of public policy and action for insuring wise use of floodplains. It includes everything from the collection and dissemination of flood data to the acquisition of floodplain lands and the enactment and administration of codes, ordinances and statutes for land use in the floodplain.
 23. 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.
 24. Flood proofing. 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.
 25. Flood Protection Elevation. An elevation two (2) feet of freeboard above the water surface profile associated with the regional flood. (Also see: Freeboard.)
 26. Floodway. The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

27. Flood Storage. Those floodplain areas where storage of floodwaters has been taken into account in reducing the regional flood discharge.
28. Freeboard. A flood protection elevation requirement designed as a safety factor which is usually expressed in terms of a specified amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggregation of the river or stream bed.
29. Habitable Buildings. Any building, or portion thereof, used for human habitation.
30. Hearing Notice. Publication or posting meeting the requirements of Ch. 985, Wis. Stats., Class 1 notice is the minimum required for appeals: Published once at least one (1) week (seven days) before the hearing. Class 2 notice is the minimum required for all zoning ordinances and amendments including map amendments, 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.
31. 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.
32. Historic Structure. Any structure that is:
 - a. 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;
 - b. 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;
 - c. 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
 - d. 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 directly by the Secretary of the Interior in states without approved programs.
33. Human Habitation. A human residence or dwelling.
34. Increase in Regional Flood Height. A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, resulting 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.
35. Land Use. Any nonstructural use made of unimproved or improved real estate. (Also see Development.)
36. Mobile Home or Manufactured Home. A structure transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For the purpose of this Chapter, it does not include recreational vehicles or travel trailers which remain licensed and ready for highway use and remain on-site less than one hundred eighty (180) days.
37. Municipality or Municipal. The Village governmental units enacting, administering and enforcing this floodplain zoning Chapter.
38. NGVD or National Geodetic Vertical Datum. Elevations referenced to mean sea level datum, 1929 adjustment.
39. Nonconforming Structure. An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this Chapter for the area of floodplain

- which it occupies. (For example, an existing residential structure in the flood fringe district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.)
40. Nonconforming Use. A nonconforming use is an existing lawful use or accessory use of a structure, building which is not in conformity with the provisions of this Chapter for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
 41. Obstruction to Flow. Any development which physically blocks the conveyance of floodwaters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.
 42. Official Floodplain Zoning Map. That map, adopted and made part of this Chapter, which has been approved by the Village Board.
 43. Open Space Use. Those uses having a relatively low flood damage potential and not involving structures.
 44. Ordinary High-Water Mark. The point on the bank or shore up to which the presence and action or 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.
 45. Person. An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
 46. Private Sewage System. A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the Department of Industry, Labor and Human Relations including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one (1) structure or a system located on a different parcel than the structure.
 47. 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.
 48. Regional Flood. A flood determined to be representative of large floods known to have occurred in Wisconsin or which may be expected to occur on a particular lake, river or stream once in every one hundred (100) years.
 49. Structure. Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, which includes, but is not limited to, such objects as roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
 50. Substantial Improvements. Any structural repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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:
 1. 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
 2. Any alteration of a designated historical structure or site documented as deserving preservation by the Wisconsin State Historical Society, or listed on the National Register of Historic Places provided the alteration will not preclude the structure's continued designation as an historical structure.
 3. Ordinary maintenance repairs are not considered structural repairs, modifications or additions. Such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components. "Substantial improvement" begins when the first alteration of any wall,

ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

51. Unnecessary Hardship. Those circumstances which are special conditions affecting a particular property, which are 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 Chapter.
52. Variance. An authorization by the Board of Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with the dimensional standards (not uses) contained in this Chapter.
53. Watershed. The entire region or area contributing runoff or surface water to a particular watercourse or body of water.
54. 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.
55. Well. An excavation opening in the ground made by digging, boring, drilling, driving or other methods for the purpose of obtaining groundwater regardless of its intended use.

CHAPTER 3
Shoreland-Wetland Zoning

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ARTICLE A

Statutory Authorization, Findings of Fact, Statement of Purpose and Title

SEC. 13-3-1 STATUTORY AUTHORIZATION

This Chapter is adopted pursuant to the authorization in Sections 61.351, 87.30 and 281.31, Wis. Stats.

SEC. 13-3-2 FINDINGS OF FACT

- a) **Findings of Fact.** Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters of the Village of Howards Grove would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and preserve shore cover and natural beauty.
- b) **Purpose.** To promote the public health, safety, convenience and general welfare, this Chapter has been established to:
 - 1. Maintain the storm and flood water storage capacity of wetlands;
 - 2. Prevent and control water pollution by filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters and to maintain storm and flood water capacity;
 - 3. Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other fish and aquatic habitat;
 - 4. Prohibit certain uses detrimental to the shoreland-wetland area; and
 - 5. Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

SEC. 13-3-3 TITLE OF CHAPTER

Shoreland-Wetland Zoning Ordinance/Chapter for the Village of Howards Grove, Wisconsin.

SEC. 13-3-4 THROUGH SEC. 13-3-9 RESERVED FOR FUTURE USE

ARTICLE B
General Provisions

SEC. 13-3-10 COMPLIANCE

The use of wetlands and the alteration of wetlands within the shoreland area of the Village of Howards Grove shall be in full compliance with the terms of this Chapter and other applicable local, state or federal regulations. (However, see Section 13-3-25 of this Chapter for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this Chapter.

SEC. 13-3-11 MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, town and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if Section 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Section 30.1235, Wis. Stats., applies.

SEC. 13-3-12 ABROGATION AND GREATER RESTRICTIONS

- a) This Chapter supersedes all the provisions of any municipal zoning ordinance enacted under Section 61.35, 62.23 or 87.30, Wis. Stats., which relates to floodplains and shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- b) This Chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

SEC. 13-3-13 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 municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 117, Wis. Adm. Code, and where the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 117 standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

SEC. 13-3-14 SEVERABILITY

Should any portion of this Chapter be declared invalid or unconstitutional for any reason by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.

SEC. 13-3-15 ANNEXED AREAS

The Sheboygan County shoreland zoning provisions in effect on the date of annexation remain in effect administered by the municipality for all areas annexed by the municipality after May 7, 1982. These annexed lands are described on the municipality's official zoning map. The Sheboygan County

shoreland zoning provisions are incorporated by reference for the purpose of administering this Chapter and are on file in the office of the municipal zoning administrator.

All annexation maps prepared for annexation approval should reference the Sheboygan County Coordinates.

SEC. 13-3-16 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection based upon a once per one hundred (100) year flood frequency and a once per five hundred (500) year flood frequency for Critical Use Facilities as defined in NR 116, Wis. Adm. Code, and erosion hazard protection (based on a fifty (50) year period) intended to be provided by this ordinance is considered reasonable for regulatory purposes and is based on rare occasions, larger floods may occur or the flood height may be increased by manmade or natural causes such as ice jams or bridge openings restricted by debris. Therefore, this Chapter does not imply that areas outside of the delineated floodplain or erosion hazard areas or land uses permitted within the floodplain will be totally free from flooding or erosion and associated damages. Nor shall this Chapter create a liability on the part of or be totally free from flooding or erosion and associated damages. Nor shall this action against the Village of Howards Grove or any officer or employee thereof for any flood, erosion, or other water-related damages that may result from reliance on this Chapter.

SEC. 13-3-17 THROUGH SEC. 13-3-19 RESERVED FOR FUTURE USE

ARTICLE C
Shoreland-Wetland Zoning District

SEC. 13-3-20 PURPOSE OF SHORELAND-WETLAND ZONING

This Chapter is adopted to maintain safe and healthful conditions, to prevent and control water pollution, to protect fish spawning grounds, fish and aquatic life and wildlife habitation, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner which minimizes adverse impacts upon the wetland.

SEC. 13-3-21 OFFICIAL SHORELAND-WETLAND ZONING MAPS

The following maps are hereby adopted and made a part of this Chapter and are on file in the office of the Village Clerk-Treasurer:

- a) Wisconsin Wetland Inventory map stamped "Final" on November 30, 1989.
- b) Floodplain zoning map titled Zoning Map and dated July, 1998.
- c) United States Geological Survey maps dated 1973.

SEC. 13-3-22 DISTRICT BOUNDARIES

- a) **Boundaries.** The shoreland-wetland zoning district includes all wetlands in the Village of Howards Grove, Wisconsin, which are shown on the final Wetland Inventory Map that has been adopted and made a part of this Chapter in Section 13-3-21 and which are:
 1. Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the Village of Howards Grove shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-3-2 1 of this Chapter.
 2. Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-3-21. Floodplain Zoning Maps shall be used to determine the extent of floodplain areas in the Village.
- b) **Determinations of Navigability.** Determinations of navigability and ordinary high-water mark shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for the final determination of navigability or ordinary high-water mark.
- c) **Discrepancies.** When an apparent discrepancy exists between the shoreland/wetland district boundary shown on the official shoreland-wetland zoning maps and the actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If the Department staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official shoreland-wetland zoning maps, the Zoning Administrator shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period.

- d) **Filled Wetlands.** Wetlands which are filled prior to November 30, 1989, the date on which the municipality received final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this Chapter.

SEC. 13-3-23 PERMITTED USES

The following uses are permitted subject to the provisions of Chapters 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable:

- a) Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
1. Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
 2. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 3. The practice of silviculture, including the planting, thinning and harvesting of timber;
 4. The pasturing of livestock;
 5. The cultivation of agricultural crops; and
 6. The construction and maintenance of duck blinds.
- b) Uses which do not require the issuance of a (zoning) permit and which may involve wetland alterations only to the extent specifically provided below:
1. The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
 2. The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
 3. The maintenance and repair of existing drainage ditches, where permissible under Section 30.20, Wis. Stats., or of other existing drainage systems (such as tiling) to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Chapter 30, Wis. Stats., and that dredged spoil is placed on existing spoil banks where possible;
 4. The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 5. The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
 6. The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the shoreland-wetland listed in Section 13-3-37(c) of this Chapter; and
 7. The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- c) Uses which are allowed upon the issuance of a conditional use permit and which may include wetland alterations only to the extent specifically provided below:
1. The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted in this Section, provided that:
 - a. The road cannot, as a practical matter, be located outside the wetland;
 - b. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-3-37(c) of this Chapter;

- c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - d. Road construction activities are carried out in the immediate area of the roadbed only; and
 - e. Any wetland alteration must be necessary for the construction or maintenance of the road.
2. The construction and maintenance of nonresidential buildings provided that:
 - a. The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
 - b. The building cannot, as a practical matter, be located outside the wetland;
 - c. The building does not exceed five hundred (500) square feet in floor area; and
 - d. Only limited filling and excavating necessary to provide structural support for the building is allowed.
 3. The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
 - a. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
 - b. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
 - c. The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Subsection (c)(1) of this Section; and
 - d. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
 4. The construction and maintenance of electric and telephone transmission lines and water, gas and sewer distribution lines, and related facilities and the construction and maintenance of railroad lines provided that:
 - a. The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - b. Only limited filling or excavating necessary for such construction or maintenance is allowed; and
 - c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-3-37(c) of this Chapter.

SEC. 13-3-24 PROHIBITED USES

- a) Any use not listed in Section 13-3-23 of this Chapter is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Chapter in accordance with Section 13-3-37 of this Chapter.
- b) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

SEC. 13-3-25 NONCONFORMING STRUCTURES AND USES

- a) The lawful use of a building, structure or property which existed at the time this Chapter, or an applicable amendment to this Chapter, took effect and which is not in conformity with the

provisions of the Chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions.

- b) The shoreland-wetland provisions of this ordinance authorized by Sec. 61.351, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland wetland provisions. All other modifications to nonconforming structures are subject to Sec. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to fifty percent (50%) of current fair market value.
- c) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this Chapter.
- d) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this Chapter adopted under Sections 62.231 or 61.351, Wis. Stats., may be continued although such use does not conform with the provisions of this Chapter. However, such nonconforming use may not be extended.
- e) Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

SEC. 13-3-26 THROUGH SEC. 13-3-29 RESERVED FOR FUTURE USE

ARTICLE D
Administrative Provisions

SEC. 13-3-30 ZONING ADMINISTRATOR

The Zoning Administrator shall have the following duties and powers:

- a) The General Operations Supervisor is appointed zoning administrator for the purpose of administering and enforcing this Chapter.
 1. Advise applications as to the provisions of this Chapter and assist them in preparing permit applications and appeal forms.
 2. Issue permits and inspect properties for compliance with this Chapter.
 3. Keep records of all permits issued, inspections made, work approved and other official actions.
 4. Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.
 5. Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation and map or text amendments within ten (10) days after they are granted or denied to the appropriate district office of the Department.
 6. Investigate and report violations of this Chapter to the appropriate Village planning agency and the District Attorney, corporation counsel or Village Attorney.

SEC. 13-3-31 ZONING PERMITS

- a) **When Required.** Unless another Section of this Chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 13-3-41(b)(4) of this Chapter, or any change in the use of an existing building or structure is initiated.
- b) **Application.** An application for a permit shall be made to the Zoning Administrator upon forms furnished by the Village and shall include, for the purpose of proper enforcement of these regulations, the following information:
 1. General Information.
 - a. Name, address and telephone number of applicant, property owner and contractor, where applicable.
 - b. Legal description of the property and a general description of the proposed use or development.
 - c. Whether or not a private water or sewage system is to be installed.
 2. Site Development Plan. The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
 - a. Dimensions and area of the lot;
 - b. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
 - c. Description of any existing or proposed on-site sewage systems or private water supply systems;
 - d. Location of the ordinary high-water mark of any abutting navigable waterways;
 - e. Boundaries of all wetlands;
 - f. Existing and proposed topographic and drainage features and vegetative cover;
 - g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate floodplain areas;
 - h. Location of existing or future access roads; and
 - i. Specifications and dimensions for areas of proposed wetland alteration.

- c) **Expiration.** All permits issued under the authority of this Chapter shall expire one (1) year from the date of issuance.

SEC. 13-3-32 CONDITIONAL USE PERMITS FOR WETLAND AREAS

- a) **Application.** Any use listed as a conditional use in this Chapter shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been approved by the Plan Commission, following the procedures in Sections 13-3-36(c), (d) and (e) for hearing and deciding appeals.
- b) **Conditions.** Upon consideration of the permit application and the standards applicable to the permitted uses in Section 13-3-23(c) of the Chapter, the Plan Commission shall attach such conditions to a conditional use permit in addition to those required elsewhere in this Chapter, as are necessary to further the purposes of this Chapter as listed in Section 13-3-2 of this Chapter. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion potential; increased side yard setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Plan Commission may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this Chapter.

SEC. 13-3-33 FEES

The Village Board, by resolution, shall establish fees for the following (See Village Rate Schedule):

- a) Zoning permits.
- b) Public hearings.
- c) Legal notice publications.
- d) Conditional use permits.
- e) Rezoning petitions.

SEC. 13-3-34 RECORDING

Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the Zoning Administrator of the land use and structures permitted.

SEC. 13-3-35 REVOCATION

Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the Plan Commission.

SEC. 13-3-36 BOARD OF APPEALS

- a) **Appointment.** The Village President shall appoint a Board of Appeals under Title 2, Chapter 4 of this Code of Ordinances and Section 62.23(7)(e), Wis. Stats., consisting of five (5) members subject to confirmation by the Village Board. The Board of Appeals shall adopt rules for the conduct of the business of the Board of Appeals as required by Section 62.23(7)(e)3, Wis. Stats.
- b) **Powers and Duties.** The Board of Appeals shall:
1. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.

2. May authorize, upon appeal, a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates:
 - a. That literal enforcement of the terms of the ordinance will result in unnecessary hardship for the applicant.
 - b. That the hardship is due to special conditions unique to the property; and is no self-created or based solely on economic gain or loss.
 - c. That such variance is not contrary to the public interest as expressed by the purpose of this Chapter.
 - d. That such variance will not grant or increase any use of property which is prohibited in the zoning district.
- c) **Appeals to the Board.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision or determination of the Zoning Administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the official from whom the appeal is taken and with the Board of Appeals, a notice of appeal specifying the reasons therefor. The Zoning Administrator or other official from whom the appeal is taken shall transmit to the Board all the papers constituting the record on which the appeal action was taken.
- d) **Public Hearings.**
 1. Before making a decision on an appeal, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may appear in person, by agent or by attorney and present testimony.
 2. A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least ten (10) days prior to all public hearings on issues involving shoreland-wetland zoning.
- e) **Decisions.**
 1. The final disposition of an appeal to the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing, signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or persecution.
 2. A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within ten (10) days after the decision is issued.

SEC. 13-3-37 AMENDING SHORELAND-WETLAND ZONING REGULATIONS

The Village Board may, from time to time, alter, supplement or change the district boundaries and the regulations contained in this Chapter in accordance with the requirements of Section 62.23(7)(d)2, Wis. Stats., Ch. NR 117, Wis. Adm. Code, and the following:

- a) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five (5) days of the submission of the proposed amendment to the Village planning agency.
- b) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the municipal planning agency, and a public hearing shall be held as required by Section 62.23(7)(d)2, Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least ten (10) days prior to such hearing.
- c) In order to insure that the shoreland protection objectives in Section 281.31, Wis. Stats., will be accomplished by the amendment, the Village Board may not rezone a wetland in a shoreland-

wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:

1. Storm and flood water storage capacity;
 2. Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 3. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 4. Shoreline protection against soil erosion;
 5. Fish spawning, breeding, nursery or feeding grounds;
 6. Wildlife habitat; or
 7. Areas of special recreational scenic or scientific interest, including scarce wetland types and habitat of endangered species.
- d) Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, the Department shall so notify the Village of its determination either prior to or during the public hearing held on the proposed amendment.
- e) The appropriate district office of the Department shall be provided with:
1. A copy of the recommendations and report, if any, of the municipal planning agency on the proposed text or map amendment within ten (10) days after the submission of those recommendations to the Village Board; and
 2. Written notice of the Village Board's action on the proposed text or map amendment within ten (10) days after the action is taken.
- f) If the Department notifies the municipal planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, that proposed amendment, if approved by the Village Board, may not become effective until more than thirty (30) days have elapsed since written notice of the Village Board approval was mailed to the Department, as required by Subsection (e) of this Section. If, within the thirty (30) day period, the Department notifies the Village Board that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the Village under Section 62.231(6) and 61.351(6), Wis. Stats., the proposed amendment may not become effective until the ordinance adoption procedure under Section 62.231(6) and 61.351(6), Wis. Stats., is completed or otherwise terminated.

SEC. 13-3-38 AND 13-3-39 RESERVED FOR FUTURE USE

ARTICLE E
Penalties; Definitions

SEC. 13-3-40 ENFORCEMENT AND PENALTIES

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced, or any use or accessory use established after the effective date of this Chapter in violation of the provisions of this Chapter, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the Village Board and the Village Attorney who shall prosecute such violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this Chapter shall be subject to a forfeiture as specified in Section 1-1-6, "General Penalties," of this Code of Ordinances, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the Village, the State or any citizen thereof pursuant to Section 87.30(2), Wis. Stats.

SEC. 13-3-41 DEFINITIONS

- a) For the purpose of administering and enforcing this Chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.
- b) The following terms used in this Chapter mean:
 1. Accessory Structure or Use. A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.
 2. Boathouse. As defined in Section 30.01(1d), Wis. Stats., a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.
 3. Class 2 Public Notice. Publication of a public hearing notice under Chapter 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is required on two (2) consecutive weeks, the last at least seven (7) days prior to the hearing.
 4. Conditional Use. A use which is permitted by this Chapter provided that certain conditions specified in the ordinance are met and that a permit is recommended by the Plan Commission or, where appropriate, the planning agency designated by the municipal governing body.
 5. Department. The Wisconsin Department of Natural Resources.
 6. Development. Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.
 7. Drainage System. One (1) or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
 8. Environmental Control Facility. Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

9. Fixed Houseboat. As defined in Section 30.01(1r), Wis. Stats., a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.
10. Navigable Waters. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. Under Section 281.31(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Sections 62.351 (?) and 62.221 (?), Wis. Stats., and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
 - a. Such lands are not adjacent to a natural navigable stream or river;
 - b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - c. Such lands are maintained in nonstructural agricultural use.
11. Ordinary High-Water Mark. The point on the bank or shore up to which the presence and action of surface water is so continuous so 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.
12. Planning Agency. The Plan Commission created under Section 62.23(1), Wis. Stats.
13. Shorelands. Lands within the following distances from the ordinary high-water mark of navigable waters; one thousand (1,000) feet from a lake, pond or flowage; and three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
14. Shoreland-Wetland District. The zoning district, created in this shoreland-wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this Chapter as described in Section 13-3-11 of this Chapter.
15. Unnecessary Hardship. That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this Chapter.
16. Variance. An authorization granted by the Board of Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Chapter.
17. Wetlands. Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
18. Wetland Alteration. Any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.