

## Chapter 55 ZONING CODE

<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 55-1.	Adoption of Racine County Zoning.	2018-04	06/11/18
		2020-06	09/14/20
		2020-08	11/09/20
		2022-08	12/12/22
		2023-02	01/09/23
		2023-05	06/12/23
		2023-13	11/13/23
		2023-14	11/13/23
		2024-09	08/12/24
		2024-14	08/12/24
Sec. 55-2	Village Board of Appeals.		
Sec. 55-3	Zoning Map.	2018-06	06/11/18
		2018-13	10/08/18
		2023-01	01/09/23

### Article I. In General

#### **Sec. 55-1. Adoption of Racine County Zoning.**

- (a) Pursuant to Sections 66.0203(10) and 66.0213(2) of the Wisconsin Statutes, the Zoning Code of Racine County, as such was in effect at the time of the Village's incorporation, shall continue in force in the Village, to the extent not inconsistent with Wis. Stat. Ch. 61 and except as otherwise altered by the Village Code of Ordinances from time-to-time ("Racine County Zoning Code"). Attached at this end of the Chapter as Exhibit A, and incorporated herein by reference, is a copy of the current Racine County Zoning Code which the Village Board hereby adopts as the Zoning Code for the Village of Yorkville. Any amendments to the Racine County Zoning Code by Racine County shall not apply to the Village unless such changes are specifically adopted by the Village as required by Wisconsin Statutes. To the extent any provision of this Chapter or any other ordinance of the Village conflicts with a provision of the Racine County Zoning Code the more restrictive provision shall apply.
- (b) The Racine County Public Works and Development Services Director, or her designee, shall act as Zoning Administrator for the Village, in accordance with the terms and conditions of a separate agreement between the County and Village.

#### **Sec. 55-2. Village Board of Appeals.**

- (a) *Creation and membership.* There is hereby created for the Village a Board of Appeals. Notwithstanding the incorporation of the Racine County Zoning Code, the Board of Appeals shall operate in lieu of the Racine County Board of Adjustment. The Board of Appeals shall consist of five members appointed by the President and subject to confirmation by the Village Board. The terms of the members shall be three (3) years,

except that of those initially appointed, one shall serve for one year, two for two years, and two for three years. The Village President shall appoint, for staggered terms of three years, two alternate members of such board. The Village President shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. There shall be no compensation received by the members for their service on the Board.

- (b) *Jurisdiction.* The Board of Appeals shall have the powers granted in Wis. Stat. §62.23(7)(e), including the following:
- (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator.
  - (2) Hear and decide special exceptions to the terms of this chapter upon which the board of appeals is required to pass.
  - (3) Authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.
    - a. In this subsection, “area variance” means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals under this paragraph. In this subsection, “use variance” means an authorization by the board of appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.
    - b. A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this subdivision, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.
  - (4) To hear and grant applications for substitution of the same or more restrictive nonconforming uses for existing nonconforming uses.

- (5) To hear and decide application for interpretation of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
  - (6) Reverse, affirm wholly or partly, modify the order, decision, determination or requirement appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end, shall have all the powers of the offices from whom the appeal is taken, and may issue or direct the issue of a permit.
  - (7) The board of appeals may request assistance from other village officers, departments, commissions and boards.
  - (8) Have the powers provided by Wis. Stat. §62.23(7)(e) or by any ordinance of the village.
- (c) *Officers.* The Board of Appeals shall choose its own chairperson, vice chairperson, and secretary.
  - (d) *Meetings and rules.* The Board of Appeals shall adopt rules and regulations for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the chairperson and at such other times as the Board may determine. Such chairperson, or in his/her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. However, the Board may convene in closed session in accordance with Wis. Stat. §19.85.
  - (e) *Minutes.* The secretary shall keep minutes of its proceedings, showing the action of the Board and vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The presence of a majority of Board members, or of Board members and alternates, shall constitute a quorum.
  - (f) *Determinations.* If a quorum is present, the Board may take action by a majority vote of the members present.
  - (g) *Hearings.*
    - (1) The board of appeals shall fix a reasonable time and place for the hearing of the appeal or application; and shall give public notice thereof by publication at least once during two consecutive weeks, the last publication being no later than one week before the hearing. In addition, the board shall give due notice to the parties in interest, including the officer from whom the appeal is taken.
    - (2) At the hearing, the appellant or applicant may appear in person, by agent, or by attorney.
    - (3) A copy of all notices of appeals or variances to the floodland provisions of this chapter shall be transmitted to the state department of natural resources (DNR) for review and comment. Final action on floodland appeals and variance requests

shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first.

(h) *Decisions.*

(1) *Time limits.*

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

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

(3) *Establishment of conditions.* In exercising any of its powers, the board of appeals may, in any finding or decision, establish appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter.

(i) *Finality of decision.* All decisions and findings of the Board of Appeals on any application for a variance, after a public hearing, shall, in all instances, be the final administrative decision and shall be subject to judicial review. No application for a variance which has been denied by the Board may be resubmitted for a period of one year from the date of the order of denial, except under extraordinary circumstances or on the grounds of new evidence discoverable after the hearing or proof of substantially changed conditions found to be valid by the Board.

(j) *Review of decisions by court.* Any person aggrieved by any decision of the board of appeals or any taxpayer or any officer, department, board or bureau of the village may, within 30 days after the filing of the decision in the office of the board of appeals, but not thereafter, commence an action seeking the remedy available by certiorari.

EXHBIT A  
Racine County Zoning Code

<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 20-1.	Definitions.	2020-06 2024-06 2024-14	09/14/20 04/08/24 08/12/24
Sec. 20-2.	Authority.		
Sec. 20-3.	Purpose.		
Sec. 20-4.	Intent.		
Sec. 20-5.	Abrogation and greater restrictions.		
Sec. 20-6.	Interpretation.		
Sec. 20-7.	Limitation of certain liability.		
Sec. 20-8.	Repeal and effective date.		
Sec. 20-9.	Jurisdiction.		
Sec. 20-10.	Compliance.		
Sec. 20-10.5.	Municipalities and state agencies regulated.		
Sec. 20-11.	Violations.		
Sec. 20-12.	Penalties.		
Sec. 20-13.	Enforcement.		
Sec. 20-14.	Forfeiture in lieu of court appearance.		
Sec. 20-15.	Bonds.		
Sec. 20-16.	Severability.		
Sec. 20-17.	Zoning agency.		
Sec. 20-18.	Zoning administrator.		
Sec. 20-19.	Data requirements to analyze floodplain developments.		
Sec. 20-20.	Re-filing following denial; withdrawal; deferral		
Secs. 20-21 – 20-30.	Reserved.		
<b>Article II. Board of Adjustment</b>			
Sec. 20-31.	Establishment.		
Sec. 20-32.	Membership.		
Sec. 20-33.	Officers.		
Sec. 20-34.	Organization.		
Sec. 20-35.	Powers.		
Sec. 20-36.	Appeals and applications.		
Sec. 20-37.	Hearings.		
Sec. 20-38.	Decision.		
Sec. 20-39.	Review by court of record.		
Sec. 20-40.	Mapping disputes.		
Sec. 20-41.	Variances – Generally.		
Sec. 20-42.	Same – additional requirements in floodland districts.		

Sec. 20-43. Same - additional requirements in the airport protection overlay district.  
Sec. 20-44. Same – additional requirements for livestock facility siting.  
Secs. 20-45. – 20-60. Reserved.

### **Article III. Permits**

#### Division 1. Generally

Sec. 20-61. Required permits.  
Secs. 20-62. – 20-80. Reserved.

#### Division 2. Zoning Permits

Sec. 20-81. Contents of application.  
Sec. 20-82. Issuance, denial.  
Sec. 20-83. Expiration.  
Sec. 20-84. Noncompliance  
Sec. 20-85. Minor revision.  
Secs. 20-86. – 20-100. Reserved.

#### Division 3. Occupancy Permit

Sec. 20-101. Required.  
Sec. 20-102. Effect of issuance.  
Sec. 20-103. Issuance restricted.  
Sec. 20-104. Issuance for existing structures.  
Secs. 20-105. – 20-120. Reserved.

### **Article IV. Change or Amendment**

#### Division 1. Generally

Sec. 20-121. Authority.  
Sec. 20-122. Effective date of amendment of text or rezoning.  
Secs. 20-123. – 20-140. Reserved.

#### Division 2. Administration

Sec. 20-141. Initiation.  
Sec. 20-142. Petitions to change boundaries or amend regulations.  
Sec. 20-143. Recommendations.  
Sec. 20-144. Hearings.  
Sec. 20-145. Board action.  
Secs. 20-146. – 20-165. Reserved.

#### Division 3. Restrictions and Regulations

Sec. 20-166. Reserved.  
Sec. 20-167. Amendments to text and rezoning of lands

	in the SWO shoreland-wetland overlay district.
Sec. 20-168.	Protest.
Sec. 20-169.	Warning and disclaimer of liability.
Sec. 20-170.	Annexed areas for cities and villages.
Sec. 20-171.	Reserved.
Secs. 20-172. – 20-185.	Reserved.

**Article V.  
Nonconforming Uses and Premises**

Sec. 20-186.	Existing nonconforming uses.
Sec. 20-187.	Abolishment of replacement.
Sec. 20-188.	Continuance of preexisting nonconforming uses.
Sec. 20-189.	Changes and substitutions.
Sec. 20-190.	Reserved.
Sec. 20-191.	Substandard nonconforming lots.
Sec. 20-192.	Airport protection overlay nonconforming uses and structures.
Secs. 20-193. – 20-210.	Reserved.

**Article VI.  
District Regulations**

Division 1. Generally

Sec. 20-211.	District designations.
Sec. 20-212.	District boundaries – Generally.
Sec. 20-213.	Reserved.
Sec. 20-213.5.	Reserved.
Sec. 20-214.	Same – Airport protection.
Sec. 20-215.	Same - Shoreland-wetland areas.
Sec. 20-216.	Same – Vacation of streets, alleys.
Sec. 20-217.	Same – Setback overlay districts.
Sec. 20-218.	Zoning map.
Secs. 20-219. – 20-235.	Reserved.

Division 2.  
R-1 Country Estate District

Sec. 20-236.	Uses.
Sec. 20-237.	Area requirements.
Sec. 20-238.	Yard setback requirements.
Secs. 20-239 – 20-255.	Reserved.

Division 3.  
R-2 Suburban Residential District  
(unsewered)

Sec. 20-256.	Uses.
Sec. 20-257.	Area requirements.
Sec. 20-258.	Yard setback requirements.
Secs. 20-259. – 20-275.	Reserved.

Division 4.  
Suburban Residential District  
(sewered – Large Lot)

Sec. 20-276.	Uses.
Sec. 20-277.	Area requirements.
Sec. 20-278.	Yard setback requirements.
Secs. 20-279. – 20-295.	Reserved.

Division 5.  
R-3 Suburban Residential District  
(sewered)

Sec. 20-296.	Uses.
Sec. 20-297.	Area requirements.
Sec. 20-298.	Yard setback requirements.
Secs. 20-299 – 20-315.	Reserved.

Division 6.  
R-3A Suburban Residential District  
(sewered)

Sec. 20-316.	Uses.
Sec. 20-317.	Area requirements.
Sec. 20-318.	Yard setback requirements.
Secs. 20-319. – 20-335.	Reserved.

Division 7.  
R-4 Urban Residential District I

Sec. 20-336.	Uses.
Sec. 20-337.	Area requirements.
Sec. 20-338.	Yard setback requirements.
Secs. 20-339 – 20-355.	Reserved.

Division 8.  
R-5 Urban Residential District II

Sec. 20-356.	Uses.
Sec. 20-357.	Area requirements.
Sec. 20-358.	Yard setback requirements.
Secs. 20-359. – 20-375.	Reserved.

Division 9.  
R-5A Urban Residential District III

Sec. 20-376.	Uses.
Sec. 20-377.	Area requirements.
Sec. 20-378.	Yard setback requirements.
Secs. 20-379- 20-395.	Reserved.

Division 10.  
R-6 Two-Family Residential District

Sec. 20-396.	Uses.
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Sec. 20-397. Area requirements.  
Sec. 20-398. Yard setback requirements.  
Secs. 20-399. – 20-405. Reserved.

Division 10.5  
R-6 Two-Family Residential District II

Sec. 20-406. Uses.  
Sec. 20-407. Area requirements.  
Sec. 20-408. Yard setback requirements.  
Secs. 20-409. – 20-415. Reserved.

Division 11  
R-7 Multifamily Residential District

Sec. 20-416. Uses.  
Sec. 20-417. Area requirements.  
Sec. 20-418. Yard setback requirements.  
Secs. 20-419. – 20-435. Reserved.

Division 12  
R-8 Planned Residential District

Sec. 20-436. Uses.  
Sec. 20-437. Area requirements.  
Sec. 20-438. Yard setback requirements.  
Secs. 20-439. – 20-455. Reserved.

Division 13  
P-1 Institutional Park District

Sec. 20-456. Uses.  
Sec. 20-457. Area requirements.  
Sec. 20-458. Yard setback requirements.  
Secs. 20-459. – 20-475. Reserved.

Division 14  
P-2 Recreational Park District

Sec. 20-476. Uses.  
Sec. 20-477. Area requirements.  
Sec. 20-478. Yard setback requirements.  
Secs. 20-479. – 20-495. Reserved.

Division 15  
C-1 Resource Conservation District

Sec. 20-496. Uses.  
Sec. 20-497. Structures restricted.  
Secs. 20-498. – 20-505. Reserved.

Division 15.5  
C-2 Upland Resource Conservation District

Sec. 20-506. Uses.  
Sec. 20-507. Structures restricted.

Sec. 20-508. Yard setback requirements.  
Secs. 20-509. Tree cutting and shrubbery clearing limited.  
Secs. 20-510. – 20-515. Reserved.

Division 16.  
B-1 Neighborhood Business District

Sec. 20-516. Uses.  
Sec. 20-517. Area requirements.  
Sec. 20-518. Yard setback requirements.  
Secs. 20-519. – 20-535. Reserved.

Division 17  
B-2 Community Business District

Sec. 20-536. Uses.  
Sec. 20-537. Area requirements.  
Sec. 20-538. Yard setback requirements.  
Secs. 20-539. – 20-555. Reserved.

Division 18.  
B-3 Commercial Service District

Sec. 20-556. Uses.  
Sec. 20-557. Area requirements.  
Sec. 20-558. Yard setback requirements.  
Secs. 20-559. – 20-575. Reserved.

Division 19.  
B-4 Planned Business District

Sec. 20-576. Uses.  
Sec. 20-577. Area requirements.  
Sec. 20-578. Yard setback requirements.  
Secs. 20-579. – 20-595. Reserved.

Division 20.  
B-5 Highway Business District

Sec. 20-596. Uses.  
Sec. 20-597. Area requirements.  
Sec. 20-598. Yard setback requirements.  
Secs. 20-599. – 20-615. Reserved.

Division 21.  
B-6 Water Oriented Business District

Sec. 20-616. Uses.  
Sec. 20-617. Area requirements.  
Sec. 20-618. Yard setback requirements.  
Secs. 20-619. – 20-635. Reserved.

Division 22.  
Adult Establishment Uses

2023-05 06/12/23

Sec. 20-636.	Intent and findings of fact.	2023-05	06/12/23
Sec. 20-637.	Uses.	2023-05	06/12/23
Sec. 20-638.	Regulations applicable to all adult establishments.	2023-05	06/12/23
Sec. 20-639.	Required information and documents.	2023-05	06/12/23
Sec. 20-640.	Incomplete applications returned.	2023-05	06/12/23
Sec. 20-641.	Applicant cooperation required.	2023-05	06/12/23
Sec. 20-642.	Time for issuance or denial.	2023-05	06/12/23
Sec. 20-643.	Standards for issuance or denial of permit.	2023-05	06/12/23
Sec. 20-644.	Enforcement.	2023-05	06/12/23
Sec. 20-645.	Continued conforming status.	2023-05	06/12/23
Secs. 20-646.	Severability.	2023-05	06/12/23
Secs. 20-647. – 20-655.	Reserved.	2023-05	06/12/23

#### Division 23

##### A-2 - Farmland Preservation District

Sec. 20-656.	Purpose.
Sec. 20-657.	Definitions.
Sec. 20-658.	Uses.
Sec. 20-659.	Area and setback requirements.
Secs. 20-660 – 20-675.	Reserved.

#### Division 24

##### A-2 General Farming and Residential District II

Sec. 20-676.	Uses.
Sec. 20-677.	Area requirements.
Sec. 20-678.	Yard setback requirements.
Secs. 20-679. – 20-695.	Reserved.

#### Division 25

##### A-3 General Farming District III

Sec. 20-696.	Purpose.
Sec. 20-697.	Uses.
Sec. 20-698.	Area, yard requirements.
Secs. 20-699. – 20-715.	Reserved.

#### Division 26

##### A-4 Truck Farming District

Sec. 20-716.	Uses.
Sec. 20-717.	Area requirements.
Secs. 20-718. – 20-735.	Reserved.

#### Division 27

##### M-1 Light Industrial and Office District

Sec. 20-736.	Uses.
Sec. 20-737.	Area requirements.
Sec. 20-738.	Yard setback requirements.
Secs. 20-739. – 20-755.	Reserved.

Division 28  
M-2 General Industrial District

Sec. 20-756.	Uses.
Sec. 20-757.	Height requirements.
Sec. 20-758.	Yard setback requirements.
Secs. 20-759. – 20-775.	Reserved.

Division 29  
M-3 Heavy Industrial District

Sec. 20-776.	Uses.
Sec. 20-777.	Height requirements.
Sec. 20-778.	Yard setback requirements.
Secs. 20-779. – 20-795.	Reserved.

Division 30  
M-4 Quarrying District

Sec. 20-796.	Uses.
Sec. 20-797.	Yard setback requirements.
Sec. 20-798.	Height requirements.
Secs. 20-799. – 20-815.	Reserved.

Division 31 - Reserved

Secs. 20-816. – 20-835.	Reserved.
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Division 32 - Reserved

Secs. 20-836 – 20-855.	Reserved.
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Division 33 - Reserved

Secs. 20-856. – 20-875.	Reserved.
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Division 34 - Reserved

Secs. 20-876. – 20-895.	Reserved.
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Division 35  
APO Airport Protection Overlay District

Sec. 20-896.	Purpose.
Sec. 20-897.	Prohibited uses.
Sec. 20-898.	Protected surfaces.
Secs. 20-899. – 20-915.	Reserved.

Division 36  
SSO Structural Set Overlay District

Sec. 20-916.	Purpose.
Sec. 20-917.	Application.
Sec. 20-918.	Stable slope.

Sec. 20-919. Modification.  
Sec. 20 920. Permitted uses.  
Sec. 20-921. Structures prohibited.  
Secs. 20-922. – 20-940. Reserved.

Division 37  
NSO Nonstructural Setback  
Overlay District

Sec. 20-941. Purpose.  
Sec. 20-942. Application.  
Sec. 20-943. Stable slope.  
Sec. 20-944. Modifications.  
Sec. 20-945. Permitted uses.  
Sec. 20-946. Structures prohibited.  
Secs. 20-947. – 20-965. Reserved.

District 38  
SWO Shoreland–Wetland Overlay District

Sec. 20-966. Purpose.  
Sec. 20-967. Permitted uses.  
Sec. 20-968. Prohibited uses.  
Sec. 20-969. Reserved.

District 39  
PUD Planned United Development  
Overlay District

Sec. 20-970. Purpose.  
Sec. 20-971. Created.  
Sec. 20-972. Principal, Accessory, and conditional uses.  
Sec. 20-973. Ownership.  
Sec. 20-974. Minimum area requirements.  
Sec. 20-975. Minimum sanitary sewer requirements.  
Sec. 20-976. Prepetition conference and general layout  
conceptional plan.  
Sec. 20-977. Petition.  
Sec. 20-978. Referral to village board and planning  
development committee.  
Sec. 20-979. Public hearing  
Sec. 20-980. Basis for petition approval.  
Sec. 20-981. Determination.  
Sec. 20-982. Changes and additions.  
Sec. 20-983. Subsequent land division.  
Sec. 20-984. Failure to begin development.  
Sec. 20-985. Failure to comply with the provisions of the  
planned unit development approval.

**ARTICLE VII.**  
**Supplementary District Regulations and**  
**Requirements**

Division 1 – Generally

Sec. 20-986. Site restrictions.  
 Sec. 20-987. Sanitary regulations.  
 Secs. 20-988. – 20-1005. Reserved.

Division 2 – Uses

Sec. 20-1006.	Application.		
Sec. 20-1007.	Principal uses.		
Sec. 20-1008.	Accessory uses and structures.	2024-14	08/12/24
		2025-04	02/10/25
Sec. 20-1009.	Parking.		
Sec. 20-1010.	Conditional uses.	Racine Co.	05/02/17
		2017-01	
Sec. 20-1011.	Unclassified, unspecified uses.		
Sec. 20-1012.	Temporary uses.	2020-06	09/14/20
Sec. 20-1013.	Performance standards.		
Sec. 20-1014.	Ponds, impoundments, etc.		
Sec. 20-1015.	Home occupations.	2023-02	01/09/23
		2023-16	11/13/23
		2024-14	08/12/24
Sec. 20-1016.	Pyramiding.		
Sec. 20-1017.	Reduction or joint use.		
Sec. 20-1018.	Pet and animal regulations.		
Sec. 20-1019.	Community and other living arrangements.		
Sec. 20-1020.	Single family dwelling and two-family dwelling requirements.	2024-09	08/12/24
Secs. 20-1021. – 20-1035.	Reserved.		

Division 3 - Shoreland

Sec. 20-1036.	Application.		
Sec. 20-1037.	Tree cutting, shrubbery clearing.		
Sec. 20-1038.	Clearing requiring approval.		
Sec. 20-1039.	Earth moving activities.		
Sec. 20-1040.	Residential uses.		
Sec. 20-1041.	Relocatable structures.		
Sec. 20-1042.	Grazing, feeding fertilizing restricted.		
Sec. 20-1043.	Approval for state permit.		
Sec. 20-1044.	Crop production on eroded lands.		
Sec. 20-1045.	No structure permitted within shoreland setback areas.		
Sec. 20-1046.	Mitigated shore yard structure.		
Secs. 20-1047. – 20-1060.	Reserved.		

Division 4  
 Performance Standards

Sec. 20-1061.	Compliance.		
Sec. 20-1062.	Water quality protection.		
Sec. 20-1063.	Noise.		
Sec. 20-1064.	Radioactivity and electrical disturbances.		
Sec. 20-1065.	Outdoor lighting.	2022-08	12/12/22
Sec. 20-1066.	Maintenance.		
Sec. 20-1067.	Odors.		
Sec. 20-1068.	Reserved.		

Secs. 20-1069. – 20-1085.	Reserved.		
	Division 5		
	Off-street Parking and Traffic Regulations		
Sec. 20-1086.	Traffic visibility.		
Sec. 20-1087.	Loading requirements.		
Sec. 20-1088.	Parking requirements.		
Sec. 20-1089.	Driveway access.		
Sec. 20-1090.	Off-street parking in B-4, B-5, B-6 districts.		
Sec. 20-1091.	Abandoned, unlicensed, inoperative, discarded or junked vehicles.		
Secs. 20-1092. – 20-1110.	Reserved.		

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## Chapter 20 - ZONING<sup>[1]</sup>

Footnotes:

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Cross reference— Requirements for surveying of land in the county, § 2-1; subdivisions, Ch. 18.

State Law reference— Zoning, building inspector, W.S.A., § 59.07(16); filing fees, W.S.A., § 59.07(16m); fees for zoning appeals, W.S.A., §§ 59.97 and 59.99; planning and zoning authority, W.S.A., § 59.97.

### ARTICLE I. - IN GENERAL

#### Sec. 20-1. - Definitions.

Unless specifically defined, words and phrases in this chapter shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and directory.

*A zones* shall mean those areas show[n] on the official floodplain zoning map which would be inundated by the regional flood. These areas may be numbered or un-numbered A zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

*Accessory structure* or use shall mean a facility, structure, building or use which is accessory to or incidental to the principal use of a property, structure, or building.

*Adult bath houses* shall mean an establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the state and which establishment provides to its patrons an opportunity for engaging in "specified sexual activities."

*Adult body painting studios* shall mean an establishment or business wherein patrons are afforded an opportunity to paint images on a "specified anatomical area." For purposes of this chapter, the adult body painting studio shall not be deemed to include a tattoo parlor.

*Adult bookstore* shall mean an establishment or business having as a substantial or significant portion of its stock and trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

*Adult booth* shall mean any area of an adult establishment set off from the remainder of such establishment by one (1) or more walls or other dividers or partitions and used to show, play, or otherwise demonstrate any adult materials or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction, or description of "specified anatomical areas" or the conduct or simulation of "specified sexual activities."

*Adult cabaret* shall mean any nightclub, bar, restaurant, or similar commercial establishment which features: (1) live performances which are characterized or distinguished by the exposure of "specified anatomical areas" or the removal of articles of clothing; or (2) films, motion pictures, video cassettes, digital video disks, video reproductions, slides or other visual presentations which are distinguished or characterized by depicting or describing "specified sexual activities" or "specified anatomical areas."

*Adult establishments* shall mean and include but are not limited to adult bookstores, adult motion picture theaters (indoor or outdoor), adult mini-motion picture theaters, adult video stores, adult bath houses, adult motels, adult theatres, adult novelty shops, adult massage parlors, adult modeling studios, adult body painting studios, and adult cabarets.

*Adult massage parlor* shall mean an establishment or business with or without sleeping accommodations which provides services including any method of rubbing, pressing, stroking, kneading, tapping, pounding, vibrating or stimulating a "specified anatomical area" with the hands or with any instruments, heat and light treatments of the body, and all forms and methods of physiotherapy not operated by a medical practitioner or professional physical therapist licensed by the state.

*Adult mini-motion picture theater* shall mean an enclosed building with a capacity for less than fifty (50) persons used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

*Adult modeling studio* shall mean any establishment or business where a person who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Adult modeling studios shall not include a proprietary school licensed by the State of Wisconsin or a college, technical college, or university; or in a structure:

- (1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
- (2) Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
- (3) Where no more than one (1) nude or semi-nude model is on the premises at any one (1) time.

*Adult motel* shall mean a hotel, motel, or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult-type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

*Adult motion picture theater* shall mean an enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

*Adult motion picture theater (outdoor)* shall mean a parcel of land from which individuals may view a motion picture presented out of doors which presents material distinguishably characterized by an emphasis on matter depicting, describing or relating to "specified sexual activity" or "specified anatomical areas."

*Adult novelty shop* shall mean an establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items which are distinguished or characterized by their emphasis on or designed for "specified sexual activity" or stimulating such activity.

*Adult theater* shall mean a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

*Adult video store* shall mean an establishment or business having as a substantial or significant portion of its stock and trade for sale or rental of motion pictures or other visual media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

*Advertising sign* shall mean a sign pertaining to goods sold or manufactured or services rendered on the premises upon which the sign is located.

*AH zone.* See "Area of shallow flooding."

*Alley* shall mean a special public right-of-way affording only secondary access to abutting properties.

*Alteration* shall mean an enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

*Animal unit* shall have the meaning that was given in NR 243.03(3) as of April 27, 2004.

*Animated sign* shall mean any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.

*Antenna* means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

*AO zone.* See "Area of shallow flooding."

*Area of shallow flooding* shall mean a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

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

*Back-to-back, side-by-side, bottom-on-top, and V-shaped sign* shall mean signs that are physically contiguous and share a common structure, in whole or in part, or are located not more than fifteen (15) feet apart at their nearest point in cases of "back-to-back" or "V-shaped."

*Balcony* shall mean a platform that projects from the wall of a building four (4) feet or less, is surrounded by a railing or balustrade, is open and roofless, and which is suspended or cantilevered from, or supported solely by, the structure to which it is attached.

*Banner* shall mean any sign of lightweight fabric, plastic, coated paper, or similar material not enclosed in a rigid frame that is mounted to a pole or a structure at one (1) or more edges. Flags or pennants are not considered banners.

*Base flood* shall mean the flood having a one (1) percent change of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

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

*Beacon* (search light) shall mean any light with one (1) or more beams that rotate or move or any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source.

*Bed and breakfast (B and B)* shall mean a private owner-occupied residence that offers sleeping accommodations to not more than a total of twenty (20) tourists or transients in eight (8) or fewer rooms which provides no meals other than breakfast and provides breakfast only to renters of the place.

*Billboard* shall mean a sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located, except for section 20-1380 (c), section 20-1380 (l), section 20-1381 (a), section 20-1402(a), and section 20-1407(a).

*Bluff* shall mean the often steeply sloped land area located to the landward side of the Lake Michigan beach. The edge of the bluff is shown on the county topographic maps as "Edge of Cliff" at a scale of one (1) inch equals two hundred (200) feet.

*Bluff recession rate* shall mean the rate at which the bluff recedes because of erosion by the waters of Lake Michigan and because of unstable slope conditions.

*Boardinghouse* shall mean a building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four (4) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.

*Brew pub* shall mean a restaurant that manufactures up to five thousand (5,000) barrels of fermented malt beverages per year on premises for either consumption on premises or sale in

hand-capped or sealed containers in quantities up to one-half (½) barrel or fifteen and one-half (15½) gallons sold directly to the consumer.

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

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

*Building height* shall mean the vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and ridges of gable, gambrel, hip and pitch roofs; or to the deck line of mansard roofs.

*Bulkhead line* shall mean a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the department pursuant to [W.S.A.] § 30.11, and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this article.

*Bus shelter* shall mean a small, roofed structure, usually having three (3) walls, located near a street and designed primarily for the protection and convenience of bus passengers.

*Campground* shall mean any parcel of land which is designed, maintained, intended, or used for the purpose of providing sites for nonpermanent overnight use by four (4) or more camping units, or which is advertised or represented as a camping area.

*Camping unit* shall mean any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including but not limited to, a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.

*Canopy sign (awning sign)* shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover. A marquee is not a canopy. The overhead protective cover used for fuel pumps is considered a canopy.

*Certificate of compliance* shall mean a certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this article.

*Changeable copy sign* shall mean a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign not more than once every eight (8) seconds or the minimum standards set by the Federal Highway Administration, whichever is longer. Each change of message shall be accomplished in one second or less. A sign on which the only copy that changes is an electronic or mechanical indication of time, date, or temperature is considered a "time and temperature" portion of a sign and not a changeable copy sign or traveling message sign.

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

*Class 1 collocation* means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free-standing support structure for the facility but does need to engage in substantial modification.

*Class 2 collocation* means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free-standing support structure for the facility but does not need to engage in substantial modification.

*Clear cutting* shall mean the removal of an entire stand or area of trees or shrubs.

*Clothing repair shops* shall mean shops where clothing is repaired, such as shoe repair shops, seamstress, tailor shops, shoe shine shops, clothes pressing shops, but none employing over five (5) persons.

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

*Cluster development* shall mean a development design technique that concentrates buildings in specific areas on a site to allow remaining lands to be used for recreation, common open space, or the preservation of historically, agriculturally or environmentally sensitive features. The size of individual lots may be reduced to gain such common open space.

*Commercial day care center* shall mean an establishment providing care and supervision for four (4) or more persons under the age of seven (7) and licensed by the State of Wisconsin pursuant to W.S.A., § 48.65.

*Commercial-scale wind energy facility* shall mean an electricity generating facility consisting of one or more wind turbines under common ownership or operating control and includes substations, MET towers, cables/wires, and other buildings accessory to such facility whose main purpose is to supply electricity to off-site customer(s) provided that such a system shall only include a wind turbine with both a total height greater than one hundred seventy (170) feet and name-plate capacity greater than one hundred (100) kilowatts/one (1) megawatt.

*Conservation standards* shall mean guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide prepared by the U.S. Department of Agriculture, Soil Conservation Service, for the county, adopted by the county soil and water conservation district supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities, from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation plan.

*Core area of living space* shall mean that area or space within a dwelling unit, devoted to the principal residential use of the structure, excluding attached garages, porches, sheds, decks, carports, and other appurtenances.

*Corner lot* shall mean a lot abutting two (2) or more streets at their intersections provided that the corner of such intersection shall have an angle of one hundred thirty-five (135) degrees or less, measured on the lot side.

*Crawlways or crawlspace* shall mean an enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for limited access to plumbing and electrical utilities.

*DATCP* shall mean the state department of agriculture, trade and consumer protection.

*Day care center.* See "Family day care home" and "Commercial day care center."

*Decibel* shall mean a unit for measuring the relative loudness of a sound (abbreviated dB) measured on an "A" weighted decibel scale.

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

*Density bonus* shall mean the allocation of development rights that allow a parcel to accommodate additional square footage or additional residential units beyond the maximum for which the parcel is zoned or beyond the net density established in the adopted village land use plan, usually in exchange for the provision or preservation of an amenity at the same site or at another location.

*Density, net* shall mean the numerical value obtained by dividing the total number of dwelling units in a development by the area of the actual tract of land (in acres) upon which the dwelling units are proposed to be located and including common open space and associated recreational facilities within the area; the result being the number of dwelling units per net residential acres of land. Net density calculations exclude all or a portion of the area occupied by rights-of-way of publicly dedicated streets and private streets, floodplains, wetlands, and water.

*Department* shall mean the state department of natural resources (DNR).

*Development* shall mean any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

*Directional sign* shall mean any auxiliary sign that is limited to directional messages principally for assisting in the flow of pedestrian or vehicular traffic, such as enter, exit, and one way. Directory sign shall mean a sign listing the tenants or occupants of a building or group of buildings and that may indicate their respective professions or business activities.

*Displaced threshold* shall mean a horizontal line on a runway, perpendicular to the runway centerline. Departing aircraft must be airborne before crossing the displaced threshold. Incoming aircraft may not touch down before crossing the displaced threshold.

*District, basic use,* shall mean a part or parts of the county for which the regulations of this chapter governing the use and location and land and buildings are uniform (such as the residential, business, industrial, or farming district classifications).

*District, overlay*, shall provide for the possibility of superimposing certain additional requirements upon a basic use zoning district without disturbing the requirements of the basic use district. In the instance of conflicting requirements, the more strict of the conflicting requirement shall apply.

*Drainage system* shall mean one (1) or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

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

*Dwelling* shall mean a detached building designed or used exclusively as a residence or sleeping place, but does not include boardinghouses or lodgings, motels, hotels, tenements, cabins or mobile homes.

*Efficiency* shall mean a dwelling unit consisting of one (1) principal room with no separate sleeping rooms.

*Egg production, commercial* shall mean an animal confinement facility used or designed for the raising of poultry for egg production having a capacity of two hundred (200) or more animal units.

*Elevation* shall mean the height in feet above National Geodetic Datum of 1929, also known as mean sea level datum.

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

*Encroachment* shall mean any fill, structure, building, use, or development in the floodway.

*Equipment compound* means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

*Essential services* shall mean services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage and communication systems and accessories thereto, such as poles, tower, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings used or intended to be used for human habitation.

*Existing manufactured home park or subdivision* shall mean a parcel of land, divided into two (2) or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this article. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

*Existing structure* means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with a county or municipality.

*Expanded livestock facility* shall mean the entire livestock facility that is created by the expansion, after May 1, 2006. Expanded livestock facility includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing or altered.

*Expansion* shall mean (for livestock siting purposes) an increase in the largest number of animal units kept at a livestock facility on at least ninety (90) days in any twelve-month period. The acquisition of an existing livestock facility, by the operator of an adjacent livestock facility, does not constitute an "expansion" unless that operator increases the largest number of animal units kept at the combined livestock facilities on at least ninety (90) days in any twelve-month period.

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

*Expressway* shall mean a divided arterial street or highway with full or partial control of access and with or without grade separated intersections.

*Family* shall mean any number of persons related by blood, adoption or marriage, or not to exceed four (4) persons not so related, living together in one (1) dwelling as a single housekeeping entity.

*FAA* shall mean the Federal Aviation Administration.

*Face* shall mean the surface of a sign upon which the message is displayed. One (1) sign structure may have more than one (1) face.

*Fall zone* means the area over which a mobile support structure is designed to collapse.

*Family day care home* shall mean a dwelling licensed as a day care center by the State of Wisconsin pursuant to W.S.A., § 48.65, where care is provided for not more than eight (8) children under the age of seven (7) years for less than twenty-four (24) hours per day.

*Family foster home* shall mean the primary domicile of a foster parent which houses four (4) or fewer foster children and which is licensed pursuant to W.S.A., § 48.62.

*Federal emergency management agency (FEMA)* shall mean the federal agency that administers the national flood insurance program.

*Flag* shall mean any fabric or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, school, or to indicate membership in a non-profit organization.

*Flashing sign* shall mean any directly or indirectly illuminated sign on which the natural or artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. This definition includes parts that move while the light remains constant, giving the impression of changing or flashing lights. Intermittent signs only providing information such as

time, date, and temperature and changeable copy signs as defined herein are not considered "flashing signs."

*Flood or flooding* shall mean a general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following:

- (1) The overflow or rise of inland waters;
- (2) The rapid accumulation of runoff of surface waters from any source;
- (3) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
- (4) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a sever storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

*Flood frequency* shall mean the probability of a flood occurrence. A flood frequency is generally determined from statistical analysis. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent chance of occurring in any given year.

*Flood insurance rate map (FIRM)* shall mean a map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

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

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

*Flood profile* shall mean a graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

*Flood protection elevation* shall mean an elevation of two (2) feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: freeboard)

*Flood stage* shall mean the elevation of the floodwater surface above an officially established datum plane, which is mean sea level, 1929 adjustment, on the supplementary floodland zoning map or in any of the flood profiles cited in section 20-211 et seq.

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

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

*Floodlands* shall mean all lands contained in the "regional flood" or one-hundred-year recurrence interval flood. For the purpose of zoning regulation, the floodlands are divided into the urban floodway district, the urban floodplain conservancy overlay district, the urban floodplain fringe overlay district and the general floodplain overlay district.

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

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

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

*Floodplain nonconforming structure* shall mean an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this chapter for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the food protection elevation, the structure is nonconforming.)

*Floodplain nonconforming use* shall mean an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies, such as a residence in the floodway.

*Floodproofing* shall mean any combination of structural provisions, changes, or adjustments to properties and structures, water and sanitary facilities, and contents of buildings subject to flooding for the purposes of reducing or eliminating flood damage.

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

*Freeboard* shall mean a flood protection elevation requirement designed as a safety factor which is usually expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for the effects of any factors that contribute to flood heights greater than those calculated. These factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the

hydrology or the watershed, loss of flood storage areas due to development and aggradation of the river or streambed.

*Freeway* shall mean an expressway with full control of access and with fully grade separated intersections.

*Frontage* shall mean the smallest dimension of a lot abutting a public street measured along the street line.

*General floodplain* shall mean that portion of the natural one-hundred-year recurrence interval flood hazard area that is not committed to urban development. The regulations of the general floodplain overlay district are constructed in a manner to promote protection of these natural floodplains in their natural state and to prevent the encroachment of urban development and other structures.

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

*Greenhouse* shall mean a building or structure constructed chiefly of glass, glasslike or translucent material, cloth or lath, which is devoted to the protection or cultivation of flowers, shrubbery, vegetables, trees and other horticultural and floricultural products.

*Greenhouse, commercial* shall mean a greenhouse used for the growing of plants, all or part of which are sold at retail or wholesale.

*Ground sign* (monument sign) shall mean any permanent free-standing sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground and which does not exceed fifteen (15) feet in height.

*Group foster home* shall mean any facility operated by a person required to be licensed by the State of Wisconsin pursuant to W.S.A., § 48.62 for the care and maintenance of five (5) to eight (8) foster children.

*Habitable* structure shall mean any structure or portion thereof used or designed for human habitation.

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

*Hearing notice* shall mean a publication or posting meeting the requirements of W.S.A., ch. 985. For appeals, a Class I notice is required, published once, at least one (1) week (seven (7) days) before the public hearing. For all zoning ordinances and amendments, a class II notice is required, published twice, once each week consecutively, with the last published at least a week (seven (7) days) before the hearing. Local ordinance or bylaws may require additional notice exceeding these minimums.

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

*Highest adjacent grade* shall mean the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic structure* shall mean any structure that is:

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

*Home occupation* shall mean any gainful occupation or profession engaged in by an occupant of a dwelling unit which meets the criteria listed in section 20-1006 et seq.

*Hub height* shall mean, when referring to a wind turbine, the distance measured from ground level to the center of the turbine hub.

*In-law suite* shall mean a physical arrangement of a dwelling unit in such a fashion that a separate living quarters is created within a dwelling unit for the sole purpose of allowing related persons to live in the secondary living area while that owner and his or her family resides in the principal living area. The secondary living area may contain a bedroom, bathroom and kitchenette which permit a limited degree of independence, but does not create a separate housekeeping entity.

*Increase in regional flood height* shall mean a calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

*Interchange* shall mean a grade separated intersection with one (1) or more turning lanes for travel between intersection legs.

*Junkyard (salvage yard)* shall mean any premises on which there is an accumulation of scrap metal, paper, rags, glass, lumber, inoperable machinery, inoperable vehicles, tires, or other materials stored or customarily stored for salvage, buying, selling, exchanging, dealing, disassembling, packing, bailing, wrecking, or handling unless such accumulation shall be housed in a completely enclosed building.

*Kitchen* shall mean a place (such as a room) with cooking facilities including kitchen-type counters and/or cabinets, kitchen sinks, or any appliances for the preparation or preservation of

food, including but not limited to, gas or electric ranges, ovens or stovetops, microwave ovens, refrigerators with more than five (5) cubic feet of capacity, or freezers.

*Kitchenette* shall mean a small kitchen or an alcove containing minimal cooking facilities.

*Land use for floodplain management purposes* shall mean any nonstructural or improved real estate.

*Landscaped buffer* shall mean an area of landscaping separating two (2) distinct land uses, or a land use and a public right-of-way or private road, and acts to soften or mitigate the effects of one (1) land use on the other.

*Letter of map amendment (LOMA)* shall mean an official notification from the Federal Emergency Management Agency (FEMA) to an individual property owner that a flood hazard boundary map or flood insurance rate map has been amended.

*Letter of map revision (LOMR)* shall mean an official notification from the Federal Emergency Management Agency (FEMA) that a municipality's flood hazard boundary map or flood insurance rate map has been amended. A LOMR is issued when the revised map is not republished.

*Livestock* shall mean domestic animals traditionally used in this state in the production of food, fiber, or other animal products. Livestock includes cattle, swine, poultry, sheep, and goats. Livestock does not include equine animals, bison, farm-raised deer, fish, captive game birds, rarities, camelids, or mink.

*Livestock facility* shall mean a feedlot, dairy farm, or other operation where livestock are or will be fed, confined, maintained, or stabled for a total of forty-five (45) days or more in any twelve-month period. A livestock facility includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single livestock facility for purposes of this chapter, except that an operator may elect to treat a separate species facility as a separate livestock facility.

*Livestock structure* shall mean a building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. Livestock structure includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. Livestock structure does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

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

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

*Lot* shall mean a parcel of land having frontage on a public street, or other means of access that was in existence prior to the original adoption of this zoning ordinance and which has been approved by the village, occupied or intended to be occupied by a principal structure or use and

sufficient in size to meet the lot width, lot frontage, lot area, lot yard, parking area, and other open space provisions of this chapter.

*Lot lines and area* shall mean the peripheral boundaries of a parcel of land and the total area lying within such boundaries exclusive of any highway right-of-way or road easement.

*Lot width* shall mean the width of a parcel of land measured at the rear of the specified street yard. On all parcels where parallel side lot lines are not perpendicular to the street right-of-way line, such lot width shall be determined by measuring along a line which is perpendicular to the side lot lines and begins at a point on the side lot line that is at the specified street yard setback distance. For parcels with non-parallel side lot lines, lot width shall be measured at the street yard setback distance along a line that is perpendicular to a line which begins at the center of the lot at a point on the street right-of-way line and is perpendicular to such right-of-way line or perpendicular to the tangent at such point in the case of a curved right-of-way.

*Lowest adjacent grade* shall mean the elevation of the lowest ground surface that touches any of the exterior walls of a building.

*Lowest floor* shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

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

*Manufactured dwelling* shall mean a dwelling structure or component thereof as is defined in the Wisconsin Administrative Code One and Two Family Uniform Dwelling Code Section ILHR 20.07(52), which bears the Wisconsin Department of Industry, Labor and Human Relations insignia certifying that it has been inspected and found to be in compliance with Subchapter V of said Uniform Dwelling Code.

*Manufactured home* shall mean a dwelling structure or component thereof fabricated in an off-site manufacturing facility after June 15, 1976, for installation or assembly at the building site bearing a HUD label or insignia certifying that it is built in compliance with Federal Manufactured Housing Construction Standards. (Ref. 42 United States Code Section 5401-5406.)

*Marquee* shall mean any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather. Marquee sign shall mean any sign attached to, in any manner, or made a part of a marquee.

*MET tower* shall mean a meteorological tower used to measure wind speed.

*Minimum facility setback distance* shall mean a component of the structural and nonstructural setback overlay district distances which represents a setback distance measured from the regraded stable sloped bluff edge which provides a safety factor against possible failure of shore protection structures or the occurrence of higher than expected bluff recession rates, provides a buffer area which helps protect the regraded bluff edge from excessive surface runoff

and from the potential bluff slope stresses resulting from the additional weight of buildings being placed close to the bluff edge, and provides an area which may be effectively utilized for surface water drainage and control.

*Minor structures* shall mean any small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment and arbors.

*Mobile home* shall mean a readily transportable factory built structure, except a manufactured dwelling or manufactured home, intended for human habitation, which by its inherent design may be moved from site to site as necessary; which may have an oversized width for normal traffic allowances and thereby require a special travel permit from state or county highway officials; and which may have its undercarriage removed to facilitate a better location on a slab, piers, or foundation. The removal of the wheels, axles, or other components of the running gear and/or the mounting of such a structure or vehicle on a foundation or over a basement shall not be deemed to change its status from that of a mobile home. A structure manufactured after June 15, 1976, which is certified and labeled as a Manufactured Home under 42 U.S. Code Sections 5401 to 5406 but which is not set on an enclosed foundation in the manner described in section 20-1020 shall be deemed to be a mobile home under this zoning ordinance. Recreational vehicles are not classified as mobile homes and may not be used as a residence.

*Mobile home park* shall mean any plot or plots of land designed, maintained, intended or used for the purpose of supplying a location or accommodations for two (2) or more units occupied for dwelling or sleeping purposes on a year-round basis and shall include all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the mobile home park and its facilities. Mobile home parks shall not include automobile or mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sale, and shall not include recreational vehicle (RV) courts/campgrounds.

*Mobile recreational vehicle* shall mean a vehicle which is built on a single chassis four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of mobile recreational homes.

*Mobile service facility* means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.

*Mobile service provider* means a person who provides mobile service as defined by federal law.

*Mobile service support structure* means free-standing structure that is designed to support a mobile service facility.

*Model, corrected effective* shall mean a hydraulic engineering model that corrects any errors that occur in the duplicate effective model, adds any additional cross sections to the duplicate

effective model, or incorporates more detailed topographic information than that used in the current effective model.

*Model, duplicate effective* shall mean a copy of the hydraulic analysis used in the effective FIS and referred to as the effective mode.

*Model, effective* shall mean the hydraulic engineering model that was used to produce the current effective flood insurance study.

*Model, existing (pre-project)* shall mean a modification of the duplicate effective mode or corrected effective model to reflect any manmade modifications that have occurred within the floodplain since the date of the effective model, but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective mode, this model would be identical to the corrected effective model or duplicate effective model.

*Model, revised (post-project)* shall mean a modification of the existing or pre-project conditions model, duplicate effective model, or corrected effective model to reflect revised or post-project conditions.

*Modular home* shall mean a structure which is partially pre-assembled at a manufacturing plant and placed on a lot or parcel as a dwelling unit or units. Also called "pre-fabricated" or pre-cut" homes or "double-wide" units. For purposes of this chapter, the term manufactured home shall generally be used to describe this type of structure. It shall be further distinguished from the term mobile home. (See definitions of manufactured home and mobile home.)

*Motel* shall mean a series of attached, semiattached or detached sleeping units for the accommodation of transient guests.

*Municipality or municipal* shall mean the county, city, or village governmental units enacting, administering, and enforcing this zoning ordinance.

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

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

*Navigable waters* shall mean Lake Michigan, all natural lakes within the state and all streams, ponds, sloughs, flowages and other waters within the territorial limits of the state, which are navigable under the laws of the state. Under W.S.A., § 144.26(2)(d), notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under W.S.A., § 59.971, and chapter NR115, Wisconsin Administrative Code, do not apply to lands adjacent to farm drainage ditches if:

- (1) Such lands are not adjacent to a navigable stream or river;
- (2) Those parts of such drainage ditches adjacent to such lands were nonnavigable streams before ditching; and
- (3) Such lands are maintained in nonstructural agricultural use.

*Net stable slope distance* shall mean the horizontal distance that the top of the bluff would need to be receded, or be regraded, to form a stable bluff slope, which would not likely be affected by major bluff recession processes such as slumping or sliding. The stable slope distance is one (1) component of the structural and nonstructural setback overlay district distances.

*New construction, for floodplain management purposes*, shall mean structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

*New livestock facility* shall mean a livestock facility that will be used as a livestock facility for the first time, or for the first time in at least five (5) years. New livestock facility does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding five (5) years.

*Nonconforming uses or structures* shall mean any structure, land or water lawfully used, occupied or erected at the time of the effective date of this chapter or amendments thereto which does not conform to the regulations of this chapter or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

*Nonstructural setback overlay district distance* shall mean, for Lake Michigan shoreland areas, not recommended to be protected by properly designed, constructed, and maintained shore protection structures, the distance from the existing bluff edge which is expected to be affected by shoreline erosion and bluff recession over a fifty-year period, or by regrading of the bluff slope as needed to achieve a stable slope. The nonstructural setback distance also includes a minimum facility setback distance.

*Normal maintenance and repair* shall mean cleaning, painting, replacing broken and vandalized non-structural parts; replacing light bulbs; and other like minor routine repairs in a manner that does not change or alter the basic copy area, design, or structure of the sign.

*Obsolete sign* shall mean any sign that no longer correctly directs or exhorts any person or advertises a business, service, product, tenant, or activity no longer conducted, available, or in existence on the premises where such sign is displayed.

*Obstruction* shall mean any structure, growth, or other object, including a mobile object, which penetrates any of the protected surfaces described in section 20-898.

*Obstruction to flow* shall mean any development which blocks the conveyance of flood waters such that this development alone or together with any future development will cause an increase in regional flood heights.

*Off-road vehicle* shall mean a motorized vehicle designed for use on a variety of non-improved surfaces including but not limited to, dune buggies, four-wheel drive vehicles, snowmobiles, all-terrain vehicles (ATVs), utility terrain vehicles (UTVs), dirt bikes, mini-bikes, motor bikes, mopeds and trail bikes.

*Off-road vehicle track* shall mean a new or existing trail made for the use of an off-road vehicle(s) where a permanent and defined path has been created and where the landscape has been manipulated in such a manner as to create a path or ruts that may include jumps, pits, obstacle courses, hills, and/or berms.

*Off-road vehicle trail* shall mean a new or existing trail made for the use of an off-road vehicle(s) where a permanent and defined path has been created.

*Official floodplain zoning map* shall mean that map, adopted and made part of this article, as described in section 20-213.5, which has been approved by the WI-DNR Department and FEMA.

*Official letter of map amendment* shall mean official notification from the federal emergency management agency (FEMA) that a flood hazard boundary map or flood insurance rate map has been amended.

*Open space use for floodplain management purposes* shall mean those uses having a relatively low flood damage potential and not involving structures.

*Ordinary highwater mark* shall mean the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

*Overspeed control* shall mean a mechanism used to limit blade rotation speed to below the design limits of the wind energy facility.

*Parking lot* shall mean a structure or premises containing ten (10) or more parking spaces open to the public for rent or a fee.

*Parking space* shall mean a graded and surfaced area of not less than one hundred eighty (180) square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

*Parties in interest* shall mean and include all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.

*Pennant* shall mean any lightweight plastic, fabric, or other material, whether or not it contains a message of any kind, suspended from a rope, wire, or string, usually in series that typically streams in the wind.

*Pergola* shall mean a structure of parallel colonnades supporting an open roof of crossing rafters or trelliswork.

*Person* shall mean any individual, firm, partnership, corporation, company, association or governmental entity; includes a trustee, a receiver, an assignee or a similar representative of any of them.

*Pierhead line* shall mean a boundary line established along any section of the shore of any navigable waters by a municipal ordinance approved by the state department of natural

resources, pursuant to W.S.A., § 30.13. Piers and wharves are only permitted to the landward side of such pierhead line unless a permit has been obtained pursuant to W.S.A., § 30.12(2).

*Pinwheel* shall mean a wheel with vanes of paper or similar material, pinned to a stick, pole, or similar structure or device, so as to revolve in the wind.

*Pond* shall mean a natural or artificial (manmade) body of standing water smaller than a lake which generally retains water year round.

*Pole sign (freestanding sign, self-supporting sign)* shall mean any sign that is mounted on one (1) or more poles so that the bottom of the sign is at least six (6) feet in height.

*Portable sign* shall mean any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including but not limited to signs designed to be transported by means of wheels; signs converted to A-or T-frames; menu and sandwich board signs; umbrellas used for advertising; and signs attached to or painted on vehicles, trailers, or equipment that are parked and readable from the street right-of-way, unless said vehicles, trailers, or equipment are used in the normal day-to-day business operations.

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

*Private sewage system* shall mean a sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also shall mean an alternative sewage system approved by the department of commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

*Projecting sign* shall mean any sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from the side(s) of such building.

*Pyramiding* shall mean the act of obtaining or providing access to public bodies of water across private lots or lands in a manner which increases the number of families which have access to that water to a degree greater than what would occur with individual riparian owners having individual lots fronting on the water. The effect of pyramiding is to funnel backlot development from offshore lots or residences via a narrow parcel of land to provide access to the water. Publicly owned access point shall not fall within this definition.

*Qualified nutrient management planner* shall mean a person qualified under § ATCP 50.48.

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

*Rear yard* shall mean a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearer point of the principal structure. This yard shall be opposite the street yard or one (1) of the street yards on a corner lot.

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

*Recreational vehicle* shall mean a vehicular unit designed as temporary living quarters for recreational, camping, or travel use which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, or motor home.

*Recycling* means the transfer, transporting, processing, marketing, and conversion of solid waste into usable materials or products and includes the stockpiling and disposal on non-usable portions of solid wastes, but does not include the collection of solid wastes.

*Recycling center* means that a facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, and metal cans, are collected, stored, flattened, crushed, or bundled, essentially by hand within a completely enclosed building.

*Recycling drop-off site* means a collection point for recyclable materials. Temporary storage of specific materials is permitted on each site, but no processing of such items is allowed.

*Recyclable materials* means waste material for which there exists a commercially demonstrated processing or manufacturing technology which uses the material as a raw material.

The following materials are "recyclable materials" under this chapter:

- (1) Batteries;
- (2) Major appliance;
- (3) Motor oil and lubricants;
- (4) Magazines and newspapers;
- (5) Plastic containers;
- (6) Glass containers;
- (7) Aluminum containers;
- (8) Polystyrene foam packaging;
- (9) Steel containers;
- (10) Waste tires, as defined in W.S.A., § 84.078(1)(b);
- (11) Carbonated or malt beverage containers made primarily of steel and aluminum;
- (12) Office paper.

*Recycling plant* means a facility that is not a junk yard and in which recoverable resources are recycled, reprocessed and treated to return such products to a condition in which they may again be used for production.

*Regional flood* shall mean a flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one (1) percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

*Related livestock facilities* shall mean livestock facilities that are owned or managed by the same person and related to each other in at least one (1) of the following ways:

- (1) They are located on the same tax parcel of adjacent tax parcels of land.

NOTE: A mere acquisition of a neighboring livestock facility does not constitute an "expansion" unless more animal units are added to the combined facilities.

- (2) They use one or more of the same livestock structures to collect or store manure.
- (3) At least a portion of their manure is applied to the same landspreading acreage.

Note: Compare definition of "animal feeding operation" under § NR 243.03(2). "Related livestock facilities" are treated as a single livestock facility for purposes of local approval, except that a "separate species facility" may be treated as a separate livestock facility.

*Relocatable structure* shall mean a structure or building which can be moved by a professional building moving contractor to its desired location at a cost not to exceed thirty (30) percent of the equalized value of the structure.

*Roadside stand* shall mean an accessory structure having a ground area of not more than three hundred (300) square feet, not closer than twenty-five (25) feet to any street right-of-way line, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises (or adjoining premises).

*Roof sign* shall mean any sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above any point of a building with a flat roof, the deck line of a building with a mansard roof, or the eave line of a building with a gambrel, gable, dome or hip roof.

*Runway* shall mean any existing or planned rectangular paved surface which is specifically used for the landing and/or taking off of aircraft.

*Screening* shall mean a method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

*Search ring* means shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and demographics of the service area.

*Self-service storage facility* shall mean any structure designed and used for the purpose of renting or leasing individual storage spaces to tenants who are to have access to such space for the purpose of storing and removing personal property; also known as a miniwarehouse.

*Separate species facility* shall mean a livestock facility that meets all of the following criteria:

- (1) It has only one (1) of the following types of livestock, and that type of livestock is not kept on any other livestock facility to which the separate species facility is related. (See definition of a "related livestock facility.")
  - a. Cattle;
  - b. Swine;
  - c. Poultry;
  - d. Sheep;

- e. Goats.
  - (2) It has no more than five hundred (500) animal units.
  - (3) Its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by livestock facilities to which it is related.
  - (4) It meets one of the following criteria:
    - a. Its livestock housing and manure storage structures, if any, are located at least seven hundred fifty (750) feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.
    - b. It and the other livestock facilities to which it is related have a combined total of fewer than one thousand (1,000) animal units.

*Shore protection structures* shall mean structures which are intended to reduce shoreline erosion and bluff recession by providing an artificial protective barrier against direct wave and ice attacks on the beach and bluff toe, by increasing the extent of the beach available to absorb wave energy before the water reaches the bluff, by dissipating wave energy and/or by stabilizing the bluff slope. Shore protection structures include bulkheads, revetments, seawalls, groins, breakwater and slope stabilization measures.

*Shore yards* shall mean a yard extending across the full width or depth of a lot, the depth of which shall be the minimum horizontal distance between a line intersecting both side lot lines at the same angle and containing the ordinary highwater mark of a lake, pond, flowage, river, stream or wetland nearest the principal structure and a line parallel thereto containing the point of the principal structure nearest the ordinary highwater mark.

*Shorelands* shall mean those lands within the following distances from the ordinary highwater mark of navigable waters: one thousand (1,000) feet from a lake, pond, or flowage, and three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

*Shorelines* shall mean the intersection of the land surfaces abutting lakes, ponds, rivers, streams, flowages, and wetland with the ordinary highwater mark.

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

*Sign* shall mean any object, device, display, or structure, or part thereof, situated outdoors or indoors, that is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

*Sign height.* See section 20-1409(a).

*Small wind energy facility* shall mean an electric generating facility consisting of one wind turbine that has a rated capacity of not more than one hundred (100) kw/one (1) mw and is primarily intended to reduce on-site consumption of power.

*Smoke unit* shall mean the number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes.

*Specified anatomical areas* shall mean:

- (1) Less than completely and opaquely covered:
  - a. Human genitals, pubic region;
  - b. Buttock;
  - c. Female breast below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

*Specified sexual activities* shall mean:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

*Stable, commercial* shall mean a building or land where horses are kept for remuneration, hire, sale, boarding, riding, or show.

*Start of construction* shall mean the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Storage capacity* shall mean the volume of space available above a given cross section of a floodplain for the temporary storage of floodwater. The storage capacity will vary with stage.

*Streamer.* See "Pennant."

*Street* shall mean a public or private right-of-way providing primary access to abutting properties.

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

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

*Structural setback overlay district distance* shall mean for Lake Michigan shoreland areas recommended to be protected by properly designed, constructed, and maintained shore protection structures, the distance from the existing bluff edge which would be lost by regrading the bluff slope as needed to achieve a stable slope. The structural setback distance also includes a minimum setback distance.

*Structure* shall mean any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts. Additionally, in the APO district, a structure also includes a mobile object such as a crane, earthworks and overhead transmission lines.

*Substantial damage* shall mean damage sustained by a structure whereby the cost of repairing or restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

*Substantial improvement* shall mean any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. The term does not however, include either: (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (b) any alteration of a designated historical structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places provided the alteration will not preclude the structure's continued designation as an historical structure. Ordinary maintenance repairs are not considered structural repairs, modifications, or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components. "Substantial improvement" begins when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

*Substantial modification* means the modification of a mobile service support structure, including the mounting of an antenna on such a structure that does any of the following:

- (a) for structures with an overall height of two hundred (200) feet or less, increases the overall height of the structure by more than twenty (20) feet;
- (b) for structures with an overall height of more than two hundred (200) feet, increases the overall height of the structure by ten (10) percent or more;

- (c) measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by more than twenty (20) feet or more, unless a larger area is needed for collocation;
- (d) increases the square footage of an existing equipment compound to a total area of more than two thousand five hundred (2500) square feet.

*Substantial work* shall mean a considerable amount of work done towards completing the project that received approval, that may include obtaining necessary plot plans, surveys, engineering data, easements, deed restrictions, approvals, permits, and physically starting the project. For typical building construction projects, the site work must progress beyond grading and completion of structural foundations, and construction must be occurring above grade to be considered substantial work.

*Support structure* means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

*Sustained yield forestry* shall mean management of forest lands to provide annual or periodic crops of forest products.

*Swept area* shall mean the largest area of the wind energy facility that extracts energy from the wind stream. There is a direct relationship between swept area and the rotor diameter in a conventional propeller-type wind energy facility.

*Temporary sign* shall mean any sign intended for a limited or intermittent period of display.

*Temporary structure* shall mean a movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.

*Temporary use* shall mean a use of land, buildings or structures not intended to be of permanent duration and not located on a parcel for more than 12 months.

*Total height* shall mean, when referring to a wind turbine, the distance measured from ground level to the blade extended at its highest point.

*Traveling message sign* shall mean any characters, letters, or illustrations (see changeable copy sign) that appear to move, change, or flash on a sign more than once every eight (8) seconds or the minimum standards set by the Federal Highway Administration, whichever is longer, excluding a "time and temperature" portion of a sign.

*Tree* shall mean, for purposes of the APO district, any object of natural growth.

*Turning lanes* shall mean an existing or proposed connecting roadway between two (2) arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

*Unnecessary hardship* shall mean that circumstance where special conditions, which are not self-created, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as lot area, lot width, setbacks, yard requirements, or

building height) unnecessarily burdensome or unreasonable in light of the purpose of the ordinance.

*Utilities* shall mean public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops and storage yards.

*Utility pole* means a structure owned or operated by an alternative telecommunications utility, public utility, telecommunications utility, county, municipality, or cooperative associate, all as defined under current law or under the proposal, and that is specifically for and used to carry lines, cables, or wires for telecommunications service, video service, or for electricity or to provide light.

*Variance* shall mean an authorization granted by the zoning board of adjustment to construct, alter, or use a building or structure in a manner that deviates from the dimensional standards of this ordinance. A variance may not permit the use of a property that is otherwise prohibited by the ordinance or allow floodland construction that is not protected to the flood protection elevation.

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

*Wall sign* shall mean any sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than twelve (12) inches from such building or structure.

*Waste* shall mean (for livestock siting purposes) manure, milking center waste and other organic waste generated by a livestock facility.

*Waste storage facility* shall mean one or more waste storage structures. Waste storage facility includes stationary equipment and piping used to load or unload a waste storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. Waste storage facility does not include equipment used to apply waste to land.

*Waste storage structure* shall mean a waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. Waste storage structure does not include equipment used to apply waste to land. For purposes of §§ ATCP 51.12(2) and 51.14, waste storage structure does not include any of the following:

- (1) A structure used to collect and store waste under a livestock housing facility;
- (2) A manure digester consisting of a sealed structure in which manure is subjected to manage biological decomposition.

*Watershed* shall mean the entire region contributing runoff or surface water to a watercourse or body of water.

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

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

*Wetlands* shall mean those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

*Wind access permit* shall mean a wind access permit within the meaning of Wisconsin Statutes 66.0403 or any successor statute.

*Wind energy facility siting permit* shall mean a construction and operation permit granted according to the provisions of this article.

*Wind turbine* shall mean a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blade, tower, base, and pad transformer, if any.

*Window sign* shall mean any sign that is placed inside a window or upon the windowpanes or glass and is readable from the street or highway.

*Winter grazing area* shall mean cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period from October 1 to April 30. Winter grazing area does not include any of the following:

- (1) An area, other than a pasture, where livestock are kept during the period from May 1 to September 30;
- (2) An area which at any time has an average of more than four (4) livestock animal units per acre;
- (3) An area from which livestock have unrestricted access to navigable waters of the state, such that the livestock access prevents adequate vegetative cover on banks adjoining the water;
- (4) An area in which manure deposited by livestock causes nutrient levels to exceed standards in § ATCP 51.16.

*Yard* shall mean an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

*Zoning administrator* shall mean a person recommended by the county planning and development committee and appointed by the board of supervisors to administer and enforce this chapter. Reference to the zoning administrator shall be construed to include duly appointed deputy administrators.

(Code 1975, § 7.0120; Ord. No. 86-17, § 7.0120, 7-22-86; Ord. No. 87-144, 11-10-87; Ord. No. 88-23, 6-28-88; Ord. No. 88-160, § 7.0120, 1-10-89; Ord. No. 89-89, § 7.0120, 8-8-89; Ord. No. 89-255, 2-27-90; Ord. No. 91-130, § 7.0120, 11-5-91; Ord. No. 93-99, 9-14-93; Ord. No. 93-183, 1-11-94; Ord. No. 94-155, § 1, 11-10-94; Ord. No. 94-235, 2-28-95; Ord. No. 97-155, 11-11-97; Ord. No. 2000-251S, 8-28-01; Ord. No. 2003-132, 11-18-03; Ord. No. 2004-136, 12-14-04; Ord. No. 2004-190, 3-8-05; Ord. No. 2005-69S, 9-13-05; Ord. No. 2005-155, 1-24-06; Ord. No. 2006-91, 10-26-06; Ord. No. 2007-28, 6-26-07; Ord. No. 2008-64, 9-16-08; Ord. No. 2011-61, 11-8-11; Ord. No. 2011-131S, 4-10-12; Ord. No. 2013-137, 2-11-14; Ord. No. 2014-87, 12-9-14)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

### **Sec. 20-2. - Authority.**

This chapter is adopted under the authority granted by W.S.A., §§ 59.69, 59.694, 87.30(2), 61.35, 62.23, 59.692, and 281.31. Uncontrolled development and use of the floodplains and rivers of Racine County would impair the public health, safety, convenience, general welfare, and tax base. (Code 1975, § 7.011; Ord. No. 2005-155, 1-10-06; Ord. No. 2011-131S, 4-10-12)

### **Sec. 20-3. - Purpose.**

The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics and general welfare of this county.  
(Code 1975, § 7.012)

### **Sec. 20-4. - Intent.**

- (a) It is the general intent of this chapter to:
- (1) Regulate and restrict the use of all structures, lands and waters;
  - (2) Regulate and restrict lot coverage, population distribution and density and the size and location of all structures so as to:
    - a. Lessen congestion in and promote the safety and efficiency of the streets and highways;
    - b. Secure safety from fire, flooding, panic and other dangers;
    - c. Provide adequate light, air, sanitation and drainage;
    - d. Prevent overcrowding;
    - e. Avoid undue population concentration;
    - f. Facilitate the adequate provision of public facilities and utilities;
    - g. Stabilize and protect property values;
    - h. Further the appropriate use of land and conservation of natural resources;
    - i. Preserve and promote the beauty of the county; and

j. Implement the county's comprehensive plan or plan components.

(b) This chapter is further intended to:

- (1) Secure safety from flooding, water pollution, contamination and other hazards;
- (2) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- (3) Obtain the wise use, conservation, development and protection of the county's water, soil, wetland, woodland and wildlife resources according to their capabilities;
- (4) Further the maintenance of safe and healthful water conditions;
- (5) Prevent and control erosion, sedimentation and other pollution of surface and subsurface waters;
- (6) Preserve shore growth and cover and promote the natural beauty of the county;
- (7) Protect fish and animal life, including their spawning, nesting, resting, nursing and feeding areas; and
- (8) Implement those municipal, watershed and regional comprehensive plans or components of such plans adopted by the county.

(c) This chapter is intended to regulate floodplain development to:

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

(Code 1975, § 7.013; Ord. No. 2005-155, 1-10-06)

### **Sec. 20-5. - Abrogation and greater restrictions.**

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to laws. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern. Where a provision of this Code or village ordinance is more restrictive than this chapter in relation to floodlands and shorelands, only its greater restrictions are effective.

(Code 1975, § 7.014)

### **Sec. 20-6. - Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this chapter is required by a standard in ch. NR115, or NR116, Wisconsin Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the ch. NR115 or NR116 standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.

(Code 1975, § 7.015; Ord. No. 86-17, § 7.015, 7-22-86; Ord. No. 2005-155, 1-10-06)

### **Sec. 20-7. - Limitation of certain liability.**

- (a) The county does not guarantee, warrant or represent that only those areas designated in section 20-816 et seq. as floodlands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the board of supervisors, its agencies or employees for any flood damages that may occur as a result of reliance upon, and conformance with, this chapter.
- (b) The nonstructural setback distance provisions in section 20-942 et seq. for the Lake Michigan shoreland are considered the minimum reasonable requirements necessary to reduce bluff recession damages to facilities for an anticipated fifty-year hazard period. These requirements are based upon engineering, geological, and other scientific studies and principles. Higher rates of erosion may occur. Erosion rates may be increased by natural causes such as major storms or high lake levels or by manmade causes such as construction activities.
- (c) Compliance with the structural setback distances set forth in section 20-916 et seq. is assumed to provide reasonable protection from further bluff recession if the shore protection structures are properly designed, constructed, and maintained. However, even proper protection structures meeting all of the required criteria may fail during major storm events or other natural occurrences. These regulations do not guarantee or warrant that development in compliance with its terms will be protected from all erosion damage. Reliance on these regulations shall not create liability on the part of the board of supervisors, its agencies or employees for any erosion damages that may occur as a result of reliance upon, and conformance with, this chapter.

(Code 1975, § 7.016)

**Sec. 20-8. - Repeal and effective date.**

- (a) The county zoning ordinance adopted June 28, 1949, as amended is hereby repealed:
  - (1) In its entirety in any town on the date of the adoption by that town's board of supervisors of this chapter adopted, December 2, 1969, if such adoption occurs within twelve (12) months of the adoption of this chapter, adopted December 2, 1969, by the county board;
  - (2) If the town board does not so adopt the chapter adopted December 2, 1969, as to all provisions:
    - a. Which apply to the area outside the floodlands and shorelands, if any, in such town and,
    - b. If within such floodland and shoreland areas, which are in conflict with the provisions of this chapter adopted December 2, 1969.
- (b) All other ordinances or parts of ordinances of the county inconsistent with this chapter adopted December 2, 1969, to the extent of the inconsistency only, are hereby repealed as to any town in this county.

(Code 1975, § 7.017)

**Sec. 20-9. - Jurisdiction.**

The provisions of this chapter shall apply to all structures, land, water, and air within the unincorporated areas of the county. Areas regulated by the shoreland provisions of this chapter shall include all the lands (referred to herein as shorelands) in the unincorporated areas of the county which are:

- (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the county shall be presumed to be navigable if they are listed in the state department of natural resources publication Surface Water Resources of Racine County or shown on United States Geological Survey quadrangle maps.
- (2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in the county shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps, Racine County Topographic Mapping (two-foot contours) or other zoning base maps which have been incorporated by reference and made a part of this chapter.
- (3) The flood hazard boundary maps, flood insurance study maps, the supplementary floodland zoning map, or county topographic mapping (two-foot contours), which have been adopted by the county, shall be used to determine the extent of the floodplain in the county.

(Code 1975, § 7.021; Ord. No. 86-17, § 7.021, 7-22-86)

## **Sec. 20-10. - Compliance.**

- (a) No structure, development, land, water or air shall be used and no structure or part thereof shall be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit, except minor structures, and without full compliance with the provisions of this chapter and all other local, county and state regulations. The zoning administrator shall issue or deny, after on-site inspections, all permits required by this chapter. The zoning administrator shall maintain records of all zoning permits issued and shall record the lowest floor elevation of any structure erected, placed or structurally altered in a floodland district. The zoning administrator shall, with the aid of the sheriff and the corporation counsel, investigate all complaints, give notice of violations, issue orders to comply with this chapter, and assist in the prosecution of chapter violators.
- (b) The zoning administrator and his duly appointed deputies may enter at any reasonable time unto any public or private lands or waters to make a zoning inspection. If, however, he is refused entry after presentation of his identification, he shall procure a special investigation warrant in accordance with W.S.A., § 66.122, except in cases of emergency.
- (c) Within the unincorporated shoreland areas of the county, unless specifically exempted by law, all cities, villages, towns and counties and their agencies and departments are required to comply with the shoreland provisions of this chapter and obtain all necessary permits. State agencies are required to comply when W.S.A., § 13.48(13), applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation are exempt when W.S.A., § 30.12(4)(a), applies.
- (d) Any development or use within the floodplain areas regulated by this chapter shall be in compliance with the floodplain provisions of this chapter, and other applicable local, state, and federal regulations.

(Code 1975, § 7.022; Ord. No. 86-17, § 7.022, 7-22-86; Ord. No. 2005-155, 1-10-06)

### **Sec. 20-10.5. - Municipalities and state agencies regulated.**

Unless specifically exempted by law, all cities, village, towns, and counties are required to comply with this ordinance and obtain all required permits. State agencies are required to comply if W.S.A., § 13.48(13) applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt from compliance when W.S.A., § 30.2022 applies.

(Ord. No. 94-155, § 2, 11-10-94; Ord. No. 2005-155, 1-10-06)

### **Sec. 20-11. - Violations.**

It shall be unlawful to construct, develop or use any structure, or develop or use any land, water or air in violation of any of the provisions of this ordinance or order of the planning and development committee or board of adjustment. In case of any violation, the board of supervisors, the corporation counsel, the director of planning and development, the manager of code administration, the planning and development committee, any municipality, or any owner of real estate within the district affected who would be specifically damaged by such violation may institute appropriate legal action or proceedings to enjoin a violation of this chapter, or seek

abatement or removal. In addition, those actions commenced on behalf of the county may seek a forfeiture or penalty as outlined herein.

Every structure, fill or development placed or maintained on floodlands in violation of this chapter is a public nuisance; and this creation thereof may be enjoined and maintenance thereof may be abated by an action instituted by the county or any citizen who lives in or within five hundred (500) feet of the floodland.

Unless there is clear evidence that a parcel is being rented or used by someone other than the owner, said owner remains responsible for compliance with this chapter.

(Code 1975, § 7.0210; Ord. No. 91-130, § 7.0210, 11-5-91; Ord. No. 93-9, 5-11-93)

**Cross reference**— Schedule of deposits for violation of the provisions in this section, § 5-3.

### **Sec. 20-12. - Penalties.**

Any person who fails to comply with the provisions of this chapter, or any order of the zoning administrator issued in accordance with this chapter, or resists enforcement shall, upon conviction thereof, forfeit not less than twenty dollars (\$20.00) nor more than one thousand dollars (\$1,000.00) and costs of prosecution for each violation, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment thereof, but not exceeding six (6) months. Each day a violation exists or continues shall constitute a separate offense. Any person who places or maintains any structure, fill or development on any floodland in violation of this chapter may be fined not more than fifty dollars (\$50.00) for each offense. Each day a violation exists or continues shall constitute a separate offense.

(Code 1975, § 7.0211; Ord. No. 88-159, § 7.0211, 1-10-89)

### **Sec. 20-13. - Enforcement.**

The provisions of this chapter shall be enforced by the sheriff's department and the zoning administrator. The use of citations, as described in chapter 5, is hereby authorized. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.

(Ord. No. 89-242, pt. 1(7.0212), 1-23-90)

### **Sec. 20-14. - Forfeiture in lieu of court appearance.**

Any person charged with a violation of the offenses listed under section 5-3 may pay the amount enumerated therein at the Racine County Sheriff's Department in lieu of a court appearance.

(Ord. No. 89-242, pt. 2(7.0213), 1-23-90)

### **Sec. 20-15. - Bonds.**

The planning and development committee may require that a performance bond be obtained from the applicant/petitioner for the benefit of the county and filed with the county so as to insure compliance with the terms of this chapter or a permit. In setting the amount of the bond, consideration should be given to:

- (1) The purpose of the bond;

- (2) The use to which any forfeited money is to be applied; and
- (3) The time when it may be applied and any increased costs due to time or inflation that may be incurred by the county in the event of noncompliance with this chapter or the terms of a permit or that may be incurred for purposes of rehabilitation.

The amount of the bond may be subject to further review. Failure to obtain or maintain such bond shall invalidate any permit.  
(Ord. No. 91-130, § 7.0212, 11-5-91)

**Sec. 20-16. - Severability.**

Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected. (Ord. No. 2005-155, 1-10-06)

**Sec. 20-17. - Zoning agency.**

- (a) The economic development and land use planning committee shall:
  - (1) Oversee the functions of the office of the zoning administrator; and
  - (2) Review and advise the Racine County Board of Supervisors on all proposed amendments to this chapter, maps and text.
  - (3) Review and approve conditional uses and site plans;
  - (4) Such other functions as established by the Racine County Board of Supervisors.
- (b) This committee shall not:
  - (1) Grant variances to the terms of the ordinance in place of action by the board of adjustment/appeals; or
  - (2) Amend the text or zoning maps in place of official action by the board of supervisors.

(Ord. No. 2005-155, 1-10-06)

**Sec. 20-18. - Zoning administrator.**

The zoning administrator is authorized to administer this chapter and shall have the following duties and powers:

- (1) Advise applicants of the chapter provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for any proposed floodplain development is shown on all such permit applications.
- (2) Issue permits and inspect properties for compliance with provisions of this chapter, and issue certificates of compliance where appropriate.

- (3) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
- (4) Keep records of all official actions such as:
  - a. All permits issued, inspections made, and work approved;
  - b. Documentation of certified lowest floor and regional flood elevations for floodplain development;
  - c. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;
  - d. All substantial damage assessment reports for floodplain structures.
- (5) Submit copies of the following items to the department of natural resources regional office:
  - a. Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
  - b. Copies of any case-by-case analyses, and any other information required by the department of natural resources, including an annual summary of the number and types of floodplain zoning actions taken.
  - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

NOTE: Information on conducting substantial damage assessments is available on the department of natural resources (DNR)

website: [wttp://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm](http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm)

- (6) Investigate, prepare reports, and report violations of this chapter to the economic development and land use planning committee and corporation counsel for prosecution. Copies of the reports shall also be sent to the DNR regional office.
- (7) Submit copies of text and map amendments and biennial reports to the FEMA regional office.
- (8) Conduct public information activities.
  - a. Cause marks to be placed on structures to show the depth of inundation during the regional flood.
  - b. Ensure that all maps, engineering data, and regulations shall be available and widely distributed.
  - c. Encourage all real estate transfers to show within what floodplain zoning district any real property is located.

### **Sec. 20-19. - Data requirements to analyze floodplain developments.**

The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in [W.S.A.] § 263, and other proposed developments exceeding five acres in area or where the estimated cost exceeds one hundred twenty-five thousand dollars (\$125,000.00). The applicant shall provide:

- (1) An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
- (2) A map showing location and details of vehicular access to lands outside the floodplain; and
- (3) A surface drainage plan showing how flood damage will be minimized. The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(Ord. No. 2005-155, 1-10-06)

### **Sec. 20-20. - Re-filing following denial; withdrawal; deferral.**

- (a) Upon denial by Racine County of any application by a property owner or his/her authorized agent for a text or map amendment, conditional use, site plan review, appeal or variance, no further application concerning any or all of the same property that is substantially the same as the application denied shall be made within one (1) year from the date of such denial.
- (b) Any such application may be withdrawn at any time; provided, that if the request for withdrawal is made after publication of the notice of any public hearing, no application which is substantially the same on all or any part of the same property may be filed within six (6) months of the withdrawal date. All such withdrawal requests must be done/confirmed in writing. Telephone requests by themselves are insufficient.
- (c) In no event shall there be any refund of fees in the case of withdrawal.
- (d) Whenever consideration of such an application is deferred or adjourned at the request of the property owner or authorized agent, after notice of any public hearing has been first published, the applicant shall bear the additional advertising and mailing costs.

(Ord. No. 2005-69S, 9-13-05)

### **Secs. 20-21—20-30. – Reserved.**

## **ARTICLE II. - BOARD OF ADJUSTMENT<sup>[2]</sup>**

Footnotes:

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**Cross reference**— Boards, committees, commissions, § 2-206 et seq.

**State Law reference**— Board of adjustment, W.S.A., § 59.99.

### **Sec. 20-31. - Establishment.**

There is hereby established a board of adjustment for the purpose of hearing certain appeals and applications and granting variances from the provisions of this chapter in harmony with the general purpose and intent of this chapter.

(Code 1975, § 7.0101)

### **Sec. 20-32. - Membership.**

- (a) The board of adjustment shall consist of five (5) members appointed by the county executive and confirmed by the board of supervisors. The members of the board of adjustment shall all reside within the county and outside of the limits of incorporated cities and villages; provided, however, that no two (2) members shall reside in the same town.
- (b) The county executive shall appoint, for staggered three-year terms, two (2) alternate members of the board of adjustment, who are subject to the approval of the county board. Annually, the county executive of the county board shall designate one (1) of the alternate members as the first alternate with the other as second alternate. The first alternate shall act, with full power, only when a member of the board of adjustment refuses to vote because of a conflict of interest or when a member is absent. The second alternate shall act only when the first alternate refuses to vote because of a conflict of interest or is absent, or if more than one (1) member of the board of adjustment refuses to vote because of a conflict of interest or is absent.
- (c) Official oaths shall be taken by all members in accordance with W.S.A., § 19.01, within ten (10) days of receiving notice of their appointment.
- (d) Terms for members of the board of adjustment shall be for staggered three-year periods beginning July first. Vacancies shall be filled for an unexpired term in the same manner as appointments for a full term.
- (e) Each member shall be paid an amount per diem as is determined by the board of supervisors from time to time for each day he attends a meeting of the board of adjustment, and, in addition to his per diem, he shall receive mileage for each mile traveled in going to and returning from the places of meetings or site inspections by the most usual traveled route, at the rate established by the board of supervisors, as the standard mileage allowance of all county employees and officers.
- (f) A member shall be removable by the vote of two-thirds ( 2/3 ) of the board of supervisors for cause upon written charges and after public hearing.
- (g) If a quorum is present, the board of adjustment may take action under this section by a majority vote of the members present.

(Code 1975, § 7.0102; Ord. No. 2005-125, 12-13-05)

### **Sec. 20-33. - Officers.**

The board of adjustment shall choose its own chairman and vice-chairman. The chairman shall preside at all meetings of the board, and in the chairman's absence or inability to serve, the vice-

chairman may preside. A secretary to the board and clerical assistance shall be provided by the zoning administrator, and other employees may be employed by the board of adjustment. (Code 1975, § 7.0102; Ord. No. 2011-61, 11-8-11)

**Sec. 20-34. - Organization.**

- (a) The board of supervisors shall adopt rules for the conduct of the business of the board of adjustment, in accordance with the provisions of any ordinance or ordinances adopted pursuant to W.S.A., § 59.97. The board of adjustment may adopt further rules as necessary to carry into effect the regulations of the board of supervisors.
- (b) Meetings shall be held at the call of the chairman or at such other times as the board of adjustment may determine and shall be open to the public.
- (c) Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, the reasons for the board's determination, and its findings of facts. These records shall be immediately filed in the office of the board and shall be a public record.
- (d) The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variation in this chapter.

(Code 1975, § 7.0103)

**Sec. 20-35. - Powers.**

- (a) The board of adjustment shall have the following powers:
  - (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator, except insofar as such appeal applies to an application for a conditional use or a temporary use.
  - (2) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of the chapter shall be observed and substantial justice done. No variance shall have the effect of permitting any use where prohibited by the district, floodland or shoreland regulations; nor of permitting standards lower than those required by the Wisconsin Statutes, the Wisconsin Administrative Code or the state department of natural resources; nor of permitting the elevation of any building lying on floodlands to be lower than that specified in this chapter.
  - (3) To hear and decide upon the delineation of floodland districts where it is alleged there is a difference between the elevation of the floodplain and lands shown within the floodplain based upon field surveys, or for delineating the precise location of the floodplain in unnumbered A zones.

- (4) To hear and decide applications for interpretations of the zoning regulations and the locations of the boundaries of the zoning district, floodland, and shorelands after the planning and development committee has made a review and recommendation. Floodland and shoreland boundaries shall be altered by the board of adjustment only when the applicant presents evidence that clearly and conclusively establishes that the location on the zoning map is incorrect.
- (5) To hear and grant application for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the planning and development committee has made a review and recommendation. Whenever the board permits such a substitution, the use may not thereafter be changed without application.
- (6) To authorize upon appeal variances where special conditions, such as terrain, cover, or nearby or existing or potential land or water uses, indicate that a shoreland regulation is more stringent than that required to meet the purposes of W.S.A., § 144.26, i.e., to prevent and control erosion and sedimentation, to prevent pollution, to preserve shore cover, and to protect fish and aquatic life.
- (7) To hear and decide conditional uses, when an applicant requires both a variance and a conditional use on the same issue or property. Only one (1) hearing shall be held on the combined variance/conditional use. Village approval in accordance with section 20-1181 et seq. shall apply to the conditional use portion of such an issue.
- (b) The board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
- (c) The board of adjustment may request assistance from other county officers, departments, commissions, and boards. The chairman may administer oaths and compel the attendance of witnesses.

(Code 1975, § 7.0104; Ord. No. 88-160, § 7.0104, 1-10-89)

**Sec. 20-36. - Appeals and applications.**

- (a) Appeals to the board of adjustment may be made by any person aggrieved by any decision or order of the zoning administrator under this chapter or any officer, department, board or bureau of the county affected by a decision or order of the zoning administrator. An application to the board of adjustment shall be filed with the zoning administrator from whom the appeal is taken within thirty (30) days after the date of written notice of the decision or order of the zoning administrator. The application shall include the following:
  - (1) Name and address of the applicant and all abutting and opposite property owners of record.

- (2) Plat of survey prepared by a registered land surveyor showing all of the information required under section 20-81 et seq. for a zoning permit and the zoning permit, if applicable.
- (3) Additional information required by the planning and development committee, highway engineer, board of adjustment or zoning administrator.
- (4) Fee receipt from the zoning administrator for the fee required by the schedule of fees adopted by the board of supervisors and on file with the zoning administrator.
- (b) The zoning administrator shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.

(Code 1975, § 7.0105)

**State Law reference**— Notice of appeal, W.S.A., § 59.99(6).

### **Sec. 20-37. - Hearings.**

- (a) The board of adjustment shall fix a reasonable time and place for the hearing of the application, give public notice thereof by publication at least once each week during two (2) consecutive weeks, the last insertion being no later one (1) week before the hearing, and shall give due notice to the parties in interest, the officer from whom the appeal is taken and the planning and development committee. At the hearing the applicant may appear in person, by agent, or by attorney.
- (b) A copy of all notices of appeals or variances to the floodland, shoreland or shoreland-wetland provisions of this chapter shall be transmitted to the district office of the state department of natural resources (DNR) for review and comment at least ten (10) days prior to the hearing. Final action on floodland appeals and variance requests shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. Copies of all decisions on shoreland or shoreland-wetland variances shall be submitted to the DNR district office within ten (10) days after the decision. (Code 1975, § 7.0106; Ord. No. 86-17, § 7.0106, 7-22-86)

**State Law reference**— Hearing, W.S.A., § 59.99(6).

### **Sec. 20-38. - Decision.**

- (a) The board of adjustment shall decide all applications, except appeals and variance requests to the floodland provisions of this chapter, within thirty (30) days after the final hearing and shall transmit a signed copy of the board's decision to the appellant or applicant, the officer from whom the appeal is taken and the planning and development committee.
- (b) Decisions on appeals and variance requests to the floodland or shoreland provisions of this chapter shall not be made for thirty (30) days or until the State Department of Natural Resources (DNR) has made its recommendation, whichever comes first. A copy of all decisions on floodland appeals or variance requests shall be transmitted to the DNR within ten (10) days of their effective date.

- (c) Variances and substitutions granted by the board of adjustment shall expire within nine (9) months of the date the decision is filed with the board, which will be considered to be the date of the written decision letter, unless substantial work has commenced pursuant to such grant. An extension of the approval may be granted by the board for a like period of time, upon written request of the appellant, submittal of the required fee, and for good cause as determined by the board.
  - (d) Applicants receiving variances in floodland districts shall be notified, in writing, by the board of adjustment that increased flood insurance premiums and risk to life and property may result from the granting of this variance. The board shall keep a record of the notification in its files.
- (Code 1975, § 7.0109; Ord. No. 94-155, § 3, 11-10-94; Ord. No. 2011-61, 11-8-11)

**Sec. 20-39. - Review by court of record.**

Any person, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board or bureau of the county may present an appeal of such decision of the board of adjustment pursuant to W.S.A., § 59.99(10).  
(Code 1975, § 7.01010)

**State Law reference—** Certiorari, W.S.A., § 59.99(10).

**Sec. 20-40. - Mapping disputes.**

- (a) The procedure in this section shall be used by the board of adjustments in settling disputes of a floodplain zoning district boundary.
- (b) The flood district boundary shall be determined by use of the flood profiles contained in an engineering study, or, where such information is not available, by experience flood maps or any other evidence available to the board.
- (c) The person contesting the location of the district boundary shall be given the opportunity to present his own technical evidence. Where it is determined that the floodplain is incorrectly mapped, the board of adjustment shall advise the planning and development committee of its findings and the planning and development committee shall proceed to petition the board of supervisors for a map amendment.

(Code 1975, § 7.0108)

**Sec. 20-41. - Variances—Generally.**

- (a) No variance to the provisions of this chapter shall be granted by the board of adjustment unless it finds by a preponderance of the evidence that all the facts and conditions in sections 20-41 through 20-43, exist which shall be indicated in its proceedings.
- (b) No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.

- (c) There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed.
- (d) No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
- (e) The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
- (f) No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

(Code 1975, § 7.0107; Ord. No. 96-37, 6-25-96)

**Cross reference**— Schedule of deposits for violation of the provisions in this section, § 5-3.

**Sec. 20-42. - Same—Additional requirements in floodland districts.**

No variance shall be granted where:

- (1) A change in the boundaries of the FFO urban floodplain fringe overlay district would result.
- (2) A lower degree of flood protection than two (2) feet above the one-hundred-year recurrence interval flood for the particular area would result.
- (3) Any residential or commercial basement or crawlway located below the one-hundred-year recurrence interval flood elevation would result.
- (4) Any change or alteration of an historic structure, including its use, would result in the structure losing its designation as an historic structure.
- (5) Any action contrary to the provisions of chapter NR116 of the Wisconsin Administrative Code would result.

(Code 1975, § 7.0107; Ord. No. 94-155, § 4, 11-10-94; Ord. No. 2011-131S, 4-10-12)

**Sec. 20-43. - Same—Additional requirements in the airport protection overlay district.**

- (a) Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this chapter, may apply to the board of adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the federal aviation administration, United States Department of Transportation, as to the effect of the proposal on the operation of air navigation facilities and the effect on the safety and utility of the airport and surrounding navigable airspace. Such variances shall only be allowed

where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and the relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this chapter.

- (b) No application for variance to the requirements of this chapter may be considered by the board of adjustment unless a copy of the application has been furnished to the airport manager for advice as to the aeronautical effects, if any, of the variance. If the airport manager does not respond to the application within fifteen (15) days after receipt, the board of adjustment may act pursuant to regulations to grant or deny such application. Any variance granted may be so conditioned as to require the applicant to install, operate and maintain, at the applicant's expense, such marking and lighting devices as may be deemed necessary by the federal aviation administration, United States Department of Transportation to assure aircraft and local safety or the variance may be conditioned to require the owner to permit the airport owner(s) to install, operate and maintain such marking and lighting devices.

(Code 1975, § 7.0107)

#### **Sec. 20-44. - Same—Additional requirements for livestock facility siting.**

- (a) The zoning board of adjustment is not authorized to grant a variance from the state requirements to livestock facility siting, except as provided in W.S.A., § 93.90, and § ATCP 51.
- (b) The board of adjustment has the discretion to reduce setbacks using factors it deems appropriate, including compliance with procedures for setbacks to roads and property lines and for new manure storage structures.

(Ord. No. 2006-91, 10-26-06)

#### **Secs. 20-45—20-60. - Reserved.**

### **ARTICLE III. - PERMITS<sup>[3]</sup>**

Footnotes:

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**State Law reference**— Zoning filing fees, W.S.A., § 59.07(16m).

### **DIVISION 1. – GENERALLY**

#### **Sec. 20-61. - Required permits.**

It is the responsibility of a permit applicant to secure all other necessary permits required by any federal, state or local agency. This includes but is not limited to the zoning permit and a water use permit pursuant to W.S.A., chs. 30 and 31, or a wetland fill permit pursuant to section 404 of the Federal Water Pollution Control Act, as amended. To this end, the zoning administrator shall determine to his satisfaction and the permit applicant shall certify that all necessary federal, state and local permits have been secured.

(Code 1975, § 7.0245)

**Cross reference**— Schedule of deposits for violation of the provisions in this section, § 5-3.

**Secs. 20-62—20-80. - Reserved.**

**DIVISION 2. - ZONING PERMITS**

**Sec. 20-81. - Contents of application.**

- (a) Applications for a zoning permit shall be made in triplicate to the zoning administrator on forms furnished by the zoning administrator and shall include the following where applicable:
- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.
  - (2) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds, referenced to the U.S. Public Land Survey System; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
  - (3) Plat of survey prepared by a land surveyor registered in the state showing the location, property boundaries, dimensions, elevations, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side, rear and shore yards; the location, yard grade (elevation) and use of abutting lands within forty (40) feet of the subject site; and the location of the highwater elevation. In addition, when the subject site contains floodlands, the permit application shall show the limits of the floodland, the lowest floor elevation (basement) of any proposed structure, the first floor elevation of the proposed structure, and the yard grade (elevation); and the first floor elevation and yard grade surrounding any abutting structure within forty (40) feet of the subject site.
  - (4) Proposed sewage disposal plan if municipal sewerage service is not available. This plan shall be approved by the county sanitarian who shall state in writing that satisfactory, adequate and safe sewage disposal is possible on the site as proposed by the plan in accordance with applicable local, county, and state regulations.
  - (5) Proposed water supply plan if municipal water service is not available. This plan shall be approved by the village plumbing inspector of the village in which the property is located, who shall state in writing that an adequate and safe supply of water can be provided.
  - (6) Additional information as may be required by the county planning and development committee, county highway engineer, zoning administrator, plumbing or health inspectors.
  - (7) Fee receipt from the zoning administrator for the fee required by the schedule of fees adopted by the board of supervisors.

- (b) The applicant need not provide any of the foregoing information to the zoning administrator if he shall have submitted the same within thirty (30) days previous thereto to any county official. The applicant in such case shall name the other official to whom the information was submitted.

(Code 1975, § 7.023; Ord. No. 2011-61, 11-8-11)

**Cross reference**— Schedule of deposits for violation of the provisions in this section, § 5-3.

**Sec. 20-82. - Issuance, denial.**

The zoning permit shall be granted or denied in writing by the zoning administrator within thirty (30) days.

(Code 1975, § 7.023)

**Sec. 20-83. - Expiration.**

The zoning permit shall expire within nine (9) months unless substantial work has commenced and is continuing. An extension of the permit may be granted by the zoning administrator for a like period of time upon request of the owner or applicant and submittal of the required fee prior to permit expiration.

(Code 1975, § 7.023; Ord. No. 2011-61, 11-8-11)

**Sec. 20-84. - Noncompliance.**

Any zoning permit issued in conflict with the provisions of this chapter shall be null and void.

(Code 1975, § 7.023)

**Sec. 20-85. - Minor revision.**

A minor revision to a zoning permit may be granted by the zoning administrator upon request of the owner or applicant and submittal of the required fee prior to permit expiration. The zoning administrator may determine if the amendment is minor or whether a new zoning permit will be required. The granting of a minor revision does not alter the date of permit expiration.

(Ord. No. 2011-61, 11-8-11)

**Secs. 20-86—20-100. - Reserved.**

**DIVISION 3. - OCCUPANCY PERMIT**

**Sec. 20-101. - Required.**

No vacant land shall be occupied, used, or developed; and no building hereafter erected, altered or moved shall be occupied; and no floodland shall be filled, excavated, or developed; and no nonconforming use shall be maintained, renewed or changed until an occupancy permit shall have been issued by the zoning administrator.

(Code 1975, § 7.024(A))

**Cross reference**— Schedule of deposits for violation of the provisions in this section, § 5-3.

**Sec. 20-102. - Effect of issuance.**

An occupancy permit shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of the chapter.  
(Code 1975, § 7.024(A))

**Sec. 20-103. - Issuance restricted.**

An occupancy permit shall be issued only when the building or premises and the proposed use thereof conform with all the requirements of this chapter.  
(Code 1975, § 7.024(A))

**Sec. 20-104. - Issuance for existing structures.**

Upon written request from the owner, the zoning administrator shall issue an occupancy permit for any building or premises existing at the time of the adoption of this chapter certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of the chapter. (Code 1975, § 7.024(B))

**Secs. 20-105—20-120. - Reserved.**

**ARTICLE IV. - CHANGE OR AMENDMENT  
DIVISION 1. – GENERALLY**

**Sec. 20-121. - Authority.**

- (a) Whenever the public necessity, convenience, general welfare or good zoning practice require, the board of supervisors and such village board as required by W.S.A., § 59.97, may, by ordinance, change the district boundaries or amend or supplement the regulations established by this chapter or amendments thereto.
- (b) Such change or amendment shall be subject to the review and recommendation of the planning and development committee. (Code 1975, § 7.0111)

**Sec. 20-122. - Effective date of amendment of text or rezoning.**

The amending ordinance shall be mailed by the county clerk to the appropriate village clerk as provided by W.S.A., § 59.97(5)(e)6, and shall become effective unless disapproved within forty (40) days by the appropriate village board as provided in W.S.A., § 59.57(5)(e)6. Village board approval or disapproval shall not apply to floodland and shoreland amendments, however, such amendments shall be subject to approval by the state department of natural resources.  
(Code 1975, § 7.0110; Ord. No. 86-86, § 7.0119, 8-26-86; Ord. No. 86-17, § 7.0118, 7-22-86)

**Secs. 20-123—20-140. - Reserved.**

## DIVISION 2. - ADMINISTRATION<sup>[4]</sup>

Footnotes:

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**Cross reference**— Administration, Ch. 2.

### **Sec. 20-141. - Initiation.**

A petition for change or amendment may be made by any property owner in the area to be affected by the change or amendment, by the village board of any village wherein this chapter is in effect, or by any member of the board of supervisors.

(Code 1975, § 7.0113)

### **Sec. 20-142. - Petitions to change boundaries or amend regulations.**

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the planning and zoning development committee. The petition shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the change, specify the proposed use and have attached the following:

- (1) Plot plan drawn to a scale of one (1) inch equals one hundred (100) feet showing the area proposed to be rezoned, its locations, its dimensions, the location and classification of adjacent zoning district, and the location and existing use of all properties within three hundred (300) feet of the area proposed to be rezoned, including those property owners whose parcels are on the opposite side of the highway, regardless of the width of the right-of-way or names and addresses of all abutting property owners to the larger parcel, when the area to be rezoned is a part of said larger parcel. Abutting property owners include those whose parcels are on the opposite side of the highway, regardless of the width of the right-of-way.
- (2) Owners' names and addresses of all properties lying within three hundred (300) feet of the area proposed to be rezoned.
- (3) Additional information required by the county planning and development committee or board of supervisors.
- (4) Fee receipt from the zoning administrator for the fee required by the schedule of fees adopted by board of supervisors which are on file in the zoning administrator's office, plus the cost of publishing.

(Code 1975, § 7.0113; Ord. No. 91-130, § 7-0113, 11-5-91)

### **Sec. 20-143. - Recommendations.**

The economic development and land use planning committee shall review all such proposed changes or amendments and shall make a recommendation to the board of supervisors. In making its recommendation to the board of supervisors, the committee may recommend approval or denial of an amendment, or any part thereof, as the public necessity, convenience, general welfare of good zoning practice may require. The committee may also recommend modifications to an amendment, including, in the case of a map amendment, a different zoning classification than requested, provided that if the zoning classification recommended is a more intense, or

higher, classification than that requested, at least one (1) additional public hearing, with notice given in accordance with the provisions of this chapter, shall be held. The committee may also, in the case of a map amendment, recommend reducing the area of the proposed amendment; or may recommend increasing the area of the proposed amendment, provided at least one (1) additional public hearing, with notice given in accordance with the provisions of this chapter, is held. Recommendation to the board of supervisors shall be made in writing.  
(Code 1975, § 7.0114; Ord. No. 2005-69S, 9-13-05)

#### **Sec. 20-144. - Hearings.**

- (a) The economic development and land use planning committee shall hold a public hearing upon each proposed change or amendment, giving notice of the time and place of such hearing by publication in the county of a class 2 notice, under W.S.A., ch. 985. A copy of each such notice shall be sent to the village clerk of each village affected by the proposed amendment at least ten (10) days prior to the date of such hearing.
- (b) Written notice of the public hearing to be held on a proposed shoreland or shoreland-wetland amendment shall be sent to the DNR district office at least ten (10) days prior to the hearing. A copy of the board of supervisor's decision on each proposed amendment shall be forwarded to the DNR district office within ten (10) days after the decision is issued.
- (c) When it is determined by the economic development and land use planning committee, in consultation with corporation counsel's office, that there is a material defect in the rezoning petition, or when the committee determines that insufficient/inadequate notice was provided for a public hearing, the committee reserves the right to require a new public hearing. Such determination must be made within ninety (90) days of the initial hearing. Costs for the second hearing are the responsibility of the petitioner.

(Code 1975, § 7.0115; Ord. No. 86-17, § 7.0115, 7-22-86; Ord. No. 97-203, 1-13-98; Ord. No. 2015-35, 7-14-15)

#### **Sec. 20-145. - Board action.**

- (a) Following hearing under this division and after careful consideration of the county planning and development committee's recommendations, the board of supervisors shall vote on the passage of the proposed change or amendment.
- (b) Amendments to regulations or changes to districts affecting shorelands shall not require the approval, or be subject to the disapproval, of any village.  
(Code 1975, § 7.0116)

#### **Secs. 20-146—20-165. - Reserved.**

### **DIVISION 3. - RESTRICTIONS AND REGULATIONS**

#### **Sec. 20-166. - Reserved.**

**Editor's note**— Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-166 which pertained to limiting floodland district boundary changes and derived from § 7.0117 of the 1975 Code and Ord. No. 94-155, § 5, adopted Nov. 10, 1994.

**Sec. 20-167. - Amendments to text and rezoning of lands in the SWO shoreland-wetland overlay district.**

- (a) For all proposed text and map amendments to the SWO shoreland-wetland overlay district, the appropriate district office of the department of natural resources shall be provided with the following:
  - (1) A copy of every petition for a text or map amendment to the shoreland-wetland overlay district, within five (5) days of the filing of such petition with the county clerk;
  - (2) Written notice of the public hearing to be held on a proposed amendment, at least ten (10) days prior to such hearing;
  - (3) A copy of the committee's findings and recommendations on each proposed amendment, within the ten (10) days after the submission of those findings and recommendations to the board of supervisors; and
  - (4) Written notice of the board of supervisor's decision of the proposed amendment within ten (10) days after it is issued.
  
- (b) A wetland, or a portion thereof, in the SWO shoreland-wetland overlay district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
  - (1) Stormwater and floodwater storage capacity;
  - (2) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
  - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would normally drain into navigable waters;
  - (4) Shoreline protection against soil erosion;
  - (5) Fish spawning, breeding, nursery or feeding grounds;
  - (6) Wildlife habitat; or
  - (7) Areas of special recreational, scenic, or scientific interest, including scarce wetland types.
  
- (c) If the department of natural resources has notified the committee that a proposed amendment to the SWO shoreland-wetland overlay district may have a significant adverse

impact on any of the criteria stated above, that amendment, if approved by the board of supervisors, shall contain the following provision:

"This amendment shall not take effect until more than thirty (30) days have lapsed since written notice of the board of supervisors' approval of this amendment was mailed to the department of natural resources. During that thirty-day period, the department of natural resources may notify the board of supervisors that it will adopt a superseding shoreland ordinance for Racine County under Section 59.971(6) of the Wisconsin Statutes. If the department does so notify the county board, the effect of this amendment shall be stayed until the Section 59.971(6) adoption procedure is completed or otherwise terminated."

(Ord. No. 86-17, § 7.0118, 7-22-86)

### **Sec. 20-168. - Protest.**

In the event a protest against a proposed change or amendment is filed with the county clerk at least twenty-four (24) hours prior to the date of the meeting of the board of supervisors at which the recommendation of the planning and development committee is to be considered, duly signed and acknowledged by the owners of fifty (50) percent or more of the area proposed to be altered, or by abutting owners of over fifty (50) percent of the total perimeter of the area proposed to be altered included within three hundred (300) feet of the parcel or parcels proposed to be rezoned, action on such ordinance may be deferred until the planning and development committee has had a reasonable opportunity to ascertain and report to the board of supervisors as to the authenticity of such ownership statements. Each signer shall state the amount of area or frontage owned by him and shall include a description of the land owned by him. If such statements are found to be true, such ordinance shall not be adopted except by the affirmative vote of three-fourths ( $\frac{3}{4}$ ) of the members of the board of supervisors present and voting. If such statements are found to be untrue to the extent that the required frontage or area ownership is not present, such protest may be disregarded.

(Code 1975, § 7.0119; Ord. No. 86-17, § 7.0118, 7-22-86)

### **Sec. 20-169. - Warning and disclaimer of liability.**

The flood protection standards in this chapter are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by manmade or natural causes. This chapter does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages, nor does this chapter create liability on the part of, or a cause of action against, the county or any office or employee thereof for any flood damage that may result from reliance on this chapter. (Ord. No. 2005-155, 1-10-06)

### **Sec. 20-170. - Annexed areas for cities and villages.**

The Racine County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR116, Wis. Adm. Code, and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevations and the location of the floodway. (Ord. No. 2005-155, 1-10-06)

**Sec. 20-171. - Reserved.**

**Editor's note**— Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-171 which pertained to general development standards and derived from Ord. No. 2005-155, adopted Jan. 10, 2006.

**Secs. 20-172—20-185. - Reserved.**

**ARTICLE V. - NONCONFORMING USES AND PREMISES**

**Sec. 20-186. - Existing nonconforming uses.**

- (a) The lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this chapter may be continued although the use does not conform with the provisions of this chapter; however:
- (1) Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter.
  - (2) The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of W.S.A., § 30.121.
  - (3) Uses which are nuisances shall not be permitted to continue as nonconforming uses.
  - (4) No structural alteration, addition or repair to any nonconforming building or structure, over the life of the building or structure, shall exceed fifty (50) percent of its equalized assessed value at the time of its becoming a nonconforming use, unless it is permanently changed to a conforming use. The equalized assessed value determination in this paragraph does not apply to floodplain nonconforming uses. For that determination, see section 20-190. If the alteration, addition or repair in excess of fifty (50) percent of the equalized assessed value of an existing nonconforming building or structure is prohibited, the property owner may still make the proposed alteration, addition or repair if:
    - a. The nonconforming building or structure is permanently changed to a conforming use;
    - b. The property owner appeals the determination of the zoning administrator, and either the board of adjustment or the circuit court find in the property owner's favor under W.S.A., § 59.99(4) or 59.99(10); or
    - c. The property owner successfully petitions to have the property rezoned under W.S.A., § 59.97(5)(e), and Section NR115.05(2)(e), Wisconsin Administrative Code, if applicable.

- (5) The construction of a deck that does not exceed two hundred (200) square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
- (b) Substitution of new equipment may be permitted by the board of adjustment if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.
- (c) For the purpose of this chapter, a nonconforming use shall begin as of the time it was made nonconforming by the terms of a preceding ordinance or of an amendment to this chapter.  
(Code 1975, § 7.081; Ord. No. 86-17, § 7.081, 7-22-86; Ord. No. 2000-251S, 8-28-01; Ord. No. 2005-155, 1-10-06)

**Sec. 20-187. - Abolishment or replacement.**

- (a) If a nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this chapter. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy, or other calamity, to the extent of more than fifty (50) percent of its current equalized assessed value, it shall not be restored except so as to comply with the use provisions of this chapter.
- (b) A current file of all nonconforming uses shall, to the extent practical, be maintained by the zoning administrator listing the following: owner's name and address; use of the structure, land, or water; and assessed value at the time of its becoming a nonconforming use.  
(Code 1975, § 7.082)

**Sec. 20-188. - Continuance of preexisting nonconforming use.**

The lawful nonconforming structure existing at the time of the adoption or amendment of this chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this chapter; however, it shall not be extended, enlarged, reconstructed, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter, or subject to the following requirements:

- (1) Repairs and improvements of a maintenance nature are allowed;
- (2) Alterations, additions and expansions which change the exterior dimensions of the structure so that it conforms to the dimensional rules of this chapter are allowed;
- (3) Alterations, additions and expansions which change the exterior dimensions of the structure, but which do not increase the dimensional nonconformity beyond that which existed before the work commenced, are allowed provided that total lifetime alterations, additions and expansions do not exceed fifty (50) percent of the current estimated equalized assessed value of the structure;

- (4) No alterations, additions or expansions may occur which will increase the dimensional nonconformity. Code 1977, § 7.083; Ord. No. 86-86, § 7.083, 8-26-86)

**Sec. 20-189. - Changes and substitutions.**

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the board of adjustment has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the board of adjustment.

(Code 1975, § 7.084)

**Sec. 20-190. - Reserved.**

**Editor's note**— Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-190 which pertained to floodplain nonconforming uses and derived from § 7.085 of the 1975 Code; Ord. No. 94-155, § 2, adopted Nov. 10, 1994; Ord. No. 2005-155, adopted Jan. 10, 2006; and Ord. No. 2011-61, adopted Nov. 8, 2011.

**Sec. 20-191. - Substandard nonconforming lots.**

- (a) A substandard lot is one which:
- (1) Does not contain sufficient width, depth or area to conform to the dimensional requirements of this chapter, and
  - (2) Was a legal lot or parcel of record in the office of the county register of deeds prior to the original adoption of this chapter or any applicable amendment to this chapter.
- (b) Such a lot located in a residential, business, industrial or institutional district may be used as a single building site provided that the use is permitted in the district and provided that there is compliance with each of the requirements of this section.
- (c) All substandard lots in separate ownership shall comply with all relevant district and shoreland requirements insofar as practicable, as determined in accordance with section 20-31 et seq., but shall in no event be less than the following:

(1)	Lot	Width	Minimum	30 feet
		Area	Minimum	4,000 sq. feet
(2)	Building	Height	Maximum	30 feet
(3)	Yards	Street	Minimum	25 feet; the second street yard on corner lots shall not be less than 10 feet
		Rear	Minimum	25 feet

		Side	Minimum	16 percent of the lot width, but not less than 5 feet, nor greater than the zoning district side yard setback requirement for a standard size lot
		Shore	Minimum	50 feet

- (d) If both an abutting lot or lands and a substandard lot are owned by the same owner on the effective date of this chapter, or if an abutting lot or lands and a substandard lot become owned by the same owner subsequent to the effective date of this chapter, the substandard lot shall not be sold or used without full compliance with the provisions of this chapter. Such lots shall be combined into one (1) lot by use of a deed restriction or similar instrument, which shall be recorded in the office of the county register of deeds, unless a habitable principal structure already exists on each lot that meets the applicable minimum provisions of section 20-1020. In the A-1 and A-3 agricultural districts, a farm owner is permitted to divide off separate parcels for the residences of the parents or children of such farm owner, and such parcels shall be considered as a separate lots.
- (e) For the purposes of this section, lots and property shall be considered in the same ownership when owned by: the same individual or corporation; an individual and another in joint tenancy, or as tenants in common, and either of such joint or common tenants owns other abutting lots individually or as joint tenant or tenant in common with another; an individual and other abutting lots are owned by his spouse, parents, grandparents, children, grandchildren, or the spouse of any child or grandchild, or a brother or sister or spouse of a brother or sister of such person; and when any of such lots are owned by an individual and other abutting lots are owned by a corporation in which such individual is an officer or director or controlling stockholder.
- (f) The sanitary regulations of section 20-987 and the floodland regulations of section 20-816 et seq. (such as the prohibition against erecting a dwelling or accessory structure in a floodway or floodplain shall apply to this section).

(Code 1975, § 7.086; Ord. No. 82-141, § 7.086, 11-9-82; Ord. No. 91-130, § 7.086, 11-5-91; Ord. No. 93-183, 1-11-94; Ord. No. 2000-251S, 8-28-01; Ord. No. 2003-197, 2-12-04)

**Cross reference**— Schedule of deposits for violation of the provisions in this section, § 5-3.

**Sec. 20-192. - Airport protection overlay nonconforming uses and structures.**

- (a) The regulations prescribed by this section shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this chapter, or otherwise interfere with the continuance of nonconforming use. Only that portion of an existing structure which is above the elevation of a protected surface shall be regarded as nonconforming.
- (b) Nothing contained herein shall be construed to prohibit the completion of any construction for which a valid zoning permit from the county is in effect as of the date of adoption of this chapter provided such completion is diligently pursued.
- (c) Consistent with the provisions of section 20-986, no zoning permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use

or structure to become a greater hazard to air navigation than it was on the effective date of this chapter.  
 (Code 1975, § 7.087)

**Secs. 20-193—20-210. - Reserved.**

**ARTICLE VI. - DISTRICT REGULATIONS<sup>[5]</sup>**

Footnotes:

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Cross reference— Signs regulations, § 20-1356 et seq.

**DIVISION 1. – GENERALLY**

**Sec. 20-211. - District designations.**

For the purpose of this chapter, the county is hereby divided into basic use districts and overlay districts, as follows:

R-1	Country estate district
R-2	Suburban residential district (unsewered)
R-2S	Suburban residential district (sewered—large lots)
R-3	Suburban residential district (sewered)
R-3A	Suburban residential district (sewered)
R-4	Urban residential district I
R-5	Urban residential district II
R-5A	Urban residential district III
R-6	Two-family residential district
R-6A	Two-family residential district II
R-7	Multifamily residential district
R-8	Planned residential district
P-1	Institutional park district
P-2	Recreational park district
C-1	Resource conservation district
C-2	Upland resource conservation district
B-1	Neighborhood business district
B-2	Community business district
B-3	Commercial service district
B-4	Planned business district
B-5	Highway business district

B-6	Water oriented business district
B-7	Adult entertainment business district
A-1	Farmland preservation district
A-2	General farming and residential district II
A-3	General farming district III
A-4	Truck farming district
M-1	Light industrial and office district
M-2	General industrial district
M-3	Heavy industrial district
M-4	Quarrying district
APO	Airport protection overlay district
SSO	Structural setback overlay district
NSO	Nonstructural setback overlay district
SWO	Shoreland-wetland overlay district
PUD	Planned unit development overlay district

(Code 1975, § 7.031; Ord. No. 86-17, § 7.031, 7-22-86; Ord. No. 2011-131S, 4-10-12; Ord. No. 2014-87, 12-9-14)

**Sec. 20-212. - District boundaries—Generally.**

Boundaries of the districts, except for the floodplain districts, structural and nonstructural districts, and airport protection districts, are hereby established as shown on a series of maps entitled "Zoning Maps, County of Racine, Wisconsin," dated to correspond with their adoption by the local municipalities, as amended, which accompany and are a part of this chapter. Unless otherwise noted on the zoning map, such boundaries shall be construed to follow: corporate limits; U.S. Public Land Survey Lines; lot or property lines; centerlines of street, highways, alleys, easements, and railroad rights-of-way or such lines extended. Where a C-1 resource conservation district is delineated on the zoning district map in a linear form along a perennial or intermittent watercourse, the district boundaries shall be construed to be the following unless otherwise noted on the zoning district map:

- (1) One hundred (100) feet from the ordinary high-water mark of perennial streams.
- (2) Fifty (50) feet from the ordinary high-water mark of intermittent streams.

(Code 1975, § 7.031)

**Sec. 20-213. – Reserved.**

**Editor’s note—** Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-213 which pertained to district boundaries of floodlands and derived from § 7.031 of the 1975 Code; Ord. No. 94-155, § 7, adopted Nov. 10, 1994; Ord. No. 96-209, adopted Feb. 25, 1997; Ord. No. 97-63, adopted

July 8, 1997; Ord. No. 2000-12, adopted May 23, 2000; Ord. No. 2002-152, adopted Nov. 12, 2002; and Ord. No. 2003-77, adopted Aug. 26, 2003.

**Sec. 20-213.5. - Reserved.**

**Editor's note**— Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-213.5 which pertained to general provisions for floodplain districts and derived from Ord. No. 2005-155, adopted Jan. 10, 2006.

**Sec. 20-214. - Same—Airport protection.**

The airport protection overlay district includes all lands within the jurisdiction of this chapter which underlie any of the protected surfaces defined for Racine Commercial Airport in section 20-898. Boundaries of the initial APO district (Racine Commercial Airport) are shown on the accompanying map entitled Airport Protection Zone, consisting of nine (9) sheets, which is incorporated in and made a part of this chapter.

(Code 1975, § 7.031)

**Sec. 20-215. - Same—Shoreland-wetland areas.**

Shoreland-wetland overlay district boundaries shall be determined by the limits of the wetlands within the shoreland area that are designated as wetlands of five (5) acres or greater on the wetlands inventory maps stamped "FINAL" on December 12, 1984, or any subsequent updated maps, that have been adopted by Resolution of the Racine County Board of Supervisors and are on file in the office of the zoning administrator.

The zoning maps mentioned above shall include all shorelands as described in section 20-9.

(Code 1975, § 7.031; Ord. No. 86-17, § 7.031, 7-22-86; Ord. No. 97-290S, 4-14-98)

**Sec. 20-216. - Same—Vacation of streets, alleys.**

Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

(Code 1975, § 7.031)

**Sec. 20-217. - Same—Setback overlay districts.**

- (a) Boundaries of the structural and nonstructural setback overlay districts shall be determined as follows. The boundaries of the SSO structural setback overlay district shall be determined through the use of the following equation establishing a setback distance from the existing Lake Michigan bluff edge:

SSO structural setback overlay district distance	=	Horizontal distance required to achieve one on two and one-half stable bluff slope +
		Minimum facility setback distance

- (b) The stable slope distance and the minimum facility setback distance are described in section 20-916 et seq.
- (c) The boundaries of the NSO nonstructural setback overlay district shall be determined through the use of the following equation establishing a setback distance from the existing Lake Michigan bluff edge:

NSO nonstructural setback overlay district distance	=	Horizontal distance required to achieve a one on two and one-half stable bluff slope +
		(Average annual bluff recession rate × 50 years) + Minimum facility setback distance

(Code 1975, § 7.031)

**Sec. 20-218. - Zoning map.**

A certified copy of the zoning maps adopted and made a part of the chapter are on file in the zoning administrator's office.

(Code 1975, § 7.032)

**Secs. 20-219—20-235. - Reserved.**

**DIVISION 2. - R-1 COUNTRY ESTATE DISTRICT**

**Sec. 20-236. - Uses.**

The following uses are permitted in the R-1 country estate district:

- (1) *Principal uses.* One-family dwellings on estate lots and sustained yield forestry.
- (2) *Conditional uses.* Stables, nurseries, orchards, riding trails and uses specified in sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 88-160, § 7.033, 1-10-89; Ord. No. 2011-61, 11-8-11)

**Sec. 20-237. - Area requirements.**

The area requirements for the R-1 country estate district are as follows:

(1)	Lot	Width	Minimum	300 feet
		Area	Minimum	5 acres
(2)	Building	Height	Maximum	35 feet

(Code 1975, § 7.033)

**Sec. 20-238. - Yard setback requirements.**

The minimum yard setback requirements in the R-1 country estate district are as follows:

	<i>Yard</i>	Minimum setback distance
(1)	Shore .....	75 feet
(2)	Street .....	100 feet
(3)	Rear .....	100 feet
(4)	Side .....	50 feet

(Code 1975, § 7.033)

**Secs. 20-239—20-255. - Reserved.**

**DIVISION 3. - R-2 SUBURBAN RESIDENTIAL DISTRICT (UNSEWERED)**

**Sec. 20-256. - Uses.**

The following uses are permitted in the R-2 suburban residential district (unsewered):

- (1) *Principal uses.* One-family dwellings on lots not served by public sanitary sewer.
- (2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

**Sec. 20-257. - Area requirements.**

The area requirements for the R-2 suburban residential district (unsewered) are as follows:

(1)	Lot	Width	Minimum	150 feet
		Area	Minimum	40,000 sq. feet
(2)	Building	Height	Maximum	35 feet

(Code 1975, § 7.033)

**Sec. 20-258. - Yard setback requirements.**

The minimum yard setback requirements in the R-2 suburban residential district (unsewered) are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	50 feet
(3)	Rear .....	50 feet
(4)	Side .....	15 feet

(Code 1975, § 7.033)

**Secs. 20-259—20-275. - Reserved.**

**DIVISION 4. - R-2S SUBURBAN RESIDENTIAL DISTRICT  
(SEWERED—LARGE LOT)**

**Sec. 20-276. - Uses.**

The following uses are permitted in the R-2S suburban residential district (sewered—large lots):

- (1) *Principal uses.* One-family dwellings on larger lots served by a public sanitary sewer.
- (2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Ord. No. 87-73, 8-11-87; Ord. No. 2011-61, 11-8-11)

**Sec. 20-277. - Area requirements.**

The area requirements for the R-2S suburban residential district (sewered—large lots) are as follows:

(1)	Lot	Width	Minimum	150 feet
		Area	Minimum	40,000 sq. feet
(2)	Building	Height	Maximum	35 feet

(Ord. No. 87-73, 8-11-87; Ord. No. 2003-197, 2-12-04)

**Sec. 20-278. - Yard setback requirements.**

The minimum yard setback requirements in the R-2S suburban residential district (sewered—large lots) are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	50 feet
(3)	Rear .....	50 feet
(4)	Side .....	15 feet

(Ord. No. 87-73, 8-11-87)

**Secs. 20-279—20-295. - Reserved.**

**DIVISION 5. - R-3 SUBURBAN RESIDENTIAL DISTRICT (SEWERED)**

**Sec. 20-296. - Uses.**

The following uses are permitted in the R-3 suburban residential district (sewered):

- (1) *Principal uses.* One-family dwellings on lots served by a public sanitary sewer.
- (2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

**Sec. 20-297. - Area requirements.**

The area requirements for the R-3 suburban residential district (sewered) are as follows:

(1)	Lot	Width	Minimum	100 feet
		Area	Minimum	20,000 sq. feet
(2)	Building	Height	Maximum	35 feet

(Code 1975, § 7.033)

**Sec. 20-298. - Yard setback requirements.**

The minimum yard setback requirements in the R-3 suburban residential district (sewered) are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	35 feet
(3)	Rear .....	50 feet
(4)	Side .....	10 feet

(Code 1975, § 7.033; Ord. No. 97-203, 1-13-98)

**Secs. 20-299—20-315. - Reserved.**

**DIVISION 6. - R-3A SUBURBAN RESIDENTIAL DISTRICT (SEWERED)**

**Sec. 20-316. - Uses.**

The following uses are permitted in the R-3A suburban residential district (sewered):

- (1) *Principal uses.* One-family dwellings on lots served by a public sanitary sewer.
- (2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

**Sec. 20-317. - Area requirements.**

The area requirements in the R-3A suburban residential district (sewered) are as follows:

(1)	Lot	Width	Minimum	90 feet
		Area	Minimum	13,500 sq. feet
(2)	Building	Height	Maximum	35 feet

(Code 1975, § 7.033)

**Sec. 20-318. - Yard setback requirements.**

The minimum yard setback requirements in the R-3A suburban residential district (sewered) are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	35 feet
(3)	Rear .....	50 feet
(4)	Side .....	10 feet

**Secs. 20-319—20-335. - Reserved.**

**DIVISION 7. - R-4 URBAN RESIDENTIAL DISTRICT I**

**Sec. 20-336. - Uses.**

The following uses are permitted in the R-4 urban residential district (I):

- (1) *Principal uses.* One-family dwellings on lots served by a public sanitary sewer.
- (2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

**Sec. 20-337. - Area requirements.**

The area requirements in the R-4 urban residential district (I) are as follows:

(1)	Lot	Width	Minimum	75 feet
		Area	Minimum	10,000 sq. feet
(2)	Building	Height	Maximum	35 feet

(Code 1975, § 7.033)

**Sec. 20-338. - Yard setback requirements.**

The minimum yard setback requirements in the R-4 urban residential district (I) are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	25 feet
(3)	Rear .....	25 feet
(4)	Side .....	10 feet

(Code 1975, § 7.033)

**Secs. 20-339—20-355. - Reserved.**

**DIVISION 8. - R-5 URBAN RESIDENTIAL DISTRICT II**

**Sec. 20-356. - Uses.**

The following uses are permitted in the R-5 urban residential district (II):

(1) *Principal uses.* One-family dwellings on lots served by a public sanitary sewer.

(2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

**Sec. 20-357. - Area requirements.**

The area requirements in the R-5 urban residential district (II) are as follows:

(1)	Lot	Width	Minimum	60 feet
		Area	Minimum	7,200 sq. feet
(2)	Building	Height	Maximum	35 feet

(Code 1975, § 7.033)

**Sec. 20-358. - Yard setback requirements.**

The minimum yard setback requirements in the R-5 urban residential district (II) are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	25 feet
(3)	Rear .....	25 feet
(4)	Side .....	10 feet

(Code 1975, § 7.033)

**Secs. 20-359—20-375. - Reserved.**

**DIVISION 9. - R-5A URBAN RESIDENTIAL DISTRICT III**

**Sec. 20-376. - Uses.**

The following uses are permitted in the R-5A urban residential district (III):

- (1) *Principal uses.* One-family dwellings on lots served by a public sanitary sewer.
- (2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Ord. No. 86-17, § 7.033, 7-22-86; Ord. No. 2011-61, 11-8-11)

**Sec. 20-377. - Area requirements.**

The area requirements in the R-5A urban residential district (III) are as follows:

(1)	Lot	Width	Minimum	65 feet
		Area	Minimum	10,000 sq. feet
(2)	Building	Height	Maximum	35 feet

(Ord. No. 86-17, § 7.033, 7-22-86; Ord. No. 2003-197, 2-12-04)

**Sec. 20-378. - Yard setback requirements.**

The minimum yard setback requirements in the R-5A urban residential district (III) are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	25 feet
(3)	Rear .....	25 feet
(4)	Side .....	10 feet

(Ord. No. 86-17, § 7.033, 7-22-86)

**Secs. 20-379—20-395. - Reserved.**

**DIVISION 10. - R-6 TWO-FAMILY RESIDENTIAL DISTRICT**

**Sec. 20-396. - Uses.**

The following uses are permitted in the R-6 two-family residential district:

- (1) *Principal uses.* Two-family dwellings on lots served by a public sanitary sewer.

- (2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, 20-1338, and 1340.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

**Sec. 20-397. - Area requirements.**

The area requirements in the R-6 two-family residential district are as follows:

(1)	Lot	Width	Minimum	100 feet
		Lot	Minimum	10,000 sq. feet
(2)	Building	Height	Maximum	35 feet

(Code 1975, § 7.033)

**Sec. 20-398. - Yard setback requirements.**

The minimum yard setback requirements in the R-6 two-family residential district are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	25 feet
(3)	Rear .....	25 feet
(4)	Side .....	10 feet

(Code 1975, § 7.033; Ord. No. 91-264, pt. 1, 4-14-92)

**Secs. 20-399—20-405. - Reserved.**

**DIVISION 10.5. - R-6A TWO-FAMILY RESIDENTIAL DISTRICT II**

**Sec. 20-406. - Uses.**

The following uses are permitted in the R-6A two-family district II:

- (1) *Principal uses.* Two-family dwellings on lots served by public sanitary sewer.
- (2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Ord. No. 91-130, § 7-033, 11-5-91; Ord. No. 2011-61, 11-8-11)

**Sec. 20-407. - Area requirements.**

The area requirements in the R-6A two-family district II are as follows:

(1)	Lot	Width	Minimum	100 feet
		Area	Minimum	20,000 sq. feet
(2)	Building	Height	Maximum	35 feet

(Ord. No. 91-130, § 7.033, 11-5-91; Ord. No. 2003-197, 2-12-04)

**Sec. 20-408. - Yard setback requirements.**

The minimum yard setback requirements in the R-6A two-family residential district II are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	50 feet
(3)	Rear .....	50 feet
(4)	Side .....	10 feet

(Ord. No. 91-130, § 7.033, 11-5-91; Ord. No. 91-264, pt. 3, 4-14-92)

**Secs. 20-409—20-415. - Reserved.**

**DIVISION 11. - R-7 MULTIFAMILY RESIDENTIAL DISTRICT**

**Sec. 20-416. - Uses.**

The following uses are permitted in the R-7 multifamily residential district:

- (1) *Principal uses.* Multifamily dwellings, not to exceed eight (8) dwelling units per structure, on lots served by a public sanitary sewer.
- (2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1337, 20-1338, and 1340.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

**Sec. 20-417. - Area requirements.**

The area requirements in the R-7 multifamily residential district are as follows:

(1)	Lot	Width	Minimum	120 feet
		Area	Minimum	15,000 sq. feet with no less than 2,000 sq. feet per efficiency unit; 2,500 sq. feet per 1-bedroom unit; and 3,000 sq. feet per 2- or more bedroom unit
(2)	Building	Height	Maximum	35 feet

**Sec. 20-418. - Yard setback requirements.**

The minimum yard setback requirements in the R-7 multifamily residential district are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	35 feet
(3)	Rear .....	50 feet
(4)	Side .....	20 feet

(Code 1975, § 7.033)

**Secs. 20-419—20-435. - Reserved.**

**DIVISION 12. - R-8 PLANNED RESIDENTIAL DISTRICT**

**Sec. 20-436. - Uses.**

The following uses are permitted in the R-8 planned residential district:

- (1) *Principal uses.* Two-family dwellings, multi-family dwellings and clustered one-family lot developments, all served by a public sanitary sewer system.
- (2) *Conditional uses.* The location and site plans for all structures and improvements which serve the principal use. See also sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.033; Ord. No. 2011-61, 11-8-11)

**Sec. 20-437. - Area requirements.**

The area requirements for the R-8 planned residential district are as follows:

(1)	Development	Area	10 acres in one ownership	
		Width	Minimum	450 feet
(2)	Park land	Area	Minimum	20 percent of the development area
(3)	Lot	Area	Minimum	4,000 sq. feet per row-house 8,000 sq. feet for one-family dwellings
		Width	Minimum	120 feet for 1½ story row-houses
			Minimum	65 feet for one-family dwellings
(4)	Building	Height	Maximum	35 feet

(Code 1975, § 7.033)

**Sec. 20-438. - Yard setback requirements.**

The minimum yard setback requirements for the R-8 planned residential district are as follows:

(1)	Shore	75 feet
(2)	Street	30 feet
(3)	Rear	25 feet
(4)	Side (unplatted developments)	30 feet from exterior property lines of the development and between principal structures, with no less than 15 feet from any interior parcel line.
(5)	Side (platted developments)	10 feet

(Code 1975, § 7.033; Ord. No. 91-264, pt. 2, 4-14-92; Ord. No. 2001-29, 6-21-01)

**Secs. 20-439—20-455. - Reserved.**

**DIVISION 13. - P-1 INSTITUTIONAL PARK DISTRICT**

**Sec. 20-456. - Uses.**

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

- (1) *Principal uses.* Public and private institutional uses, such as schools; colleges; universities; hospitals; sanitariums, religious, charitable and penal institutions; cemeteries; and crematories.
- (2) *Conditional uses.* The location and site plans for all structures and improvements which serve the principal use. See also sections 20-1010, 20-1291, 20-1336, 20-1338, and 20-1340.

(Code 1975, § 7.034; Ord. No. 2011-61, 11-8-11)

**Sec. 20-457. - Area requirements.**

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

(1)	Development	Area	Minimum	20 acres
(2)	Structure	Height	Maximum	50 feet

(Code 1975, § 7.034)

**Sec. 20-458. - Yard setback requirements.**

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

(1)	Shore .....	75 feet
(2)	Street .....	100 feet

(3)	Rear .....	100 feet
(4)	Side .....	100 feet

(Code 1975, § 7.034)

**Secs. 20-459—20-475. - Reserved.**

**DIVISION 14. - P-2 RECREATIONAL PARK DISTRICT**

**Sec. 20-476. - Uses.**

The following uses are permitted in the P-2 recreational park district:

- (1) *Principal uses.* Public and existing private recreational uses, such as arboretums, bathing, boating, cycling, fishing, horse riding, marinas, swimming, skating, sledding, skiing, nature trails and hiking.
- (2) *Conditional uses.* Extension of existing, or the creation of new, private recreational uses; all private recreational or assembly structures; golf courses; campgrounds; playgrounds; driving ranges; polo fields; swimming pools; zoological and botanical gardens; athletic fields; lodges; picnic areas; and archery and firearm ranges. See also sections 20-1010, 20-1246, 20-1291, 20-1336, and 20-1338.

(Code 1975, § 7.034; Ord. No. 2011-61, 11-8-11)

**Sec. 20-477. - Area requirements.**

The area requirements for the P-2 recreational park district are as follows:

(1)	Development	Area	Minimum	10 acres
(2)	Structure	Height	Maximum	35 feet

(Code 1975, § 7.034)

**Sec. 20-478. - Yard setback requirements.**

The minimum yard setback requirements in the P-2 recreational park district are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	100 feet
(3)	Rear .....	100 feet
(4)	Side .....	100 feet

(Code 1975, § 7.034)

**Secs. 20-479—20-495. - Reserved.**

## DIVISION 15. - C-1 RESOURCE CONSERVATION DISTRICT

### Sec. 20-496. - Uses.

The following uses are permitted in the C-1 resource conservation district:

- (1) *Principal uses.* Fishing; flood overflow and floodwater storage; hunting; navigation; pedestrian and equestrian trails; preservation of scenic, historic and scientific areas; public fish hatcheries, soil and water conservation practices; sustained yield forestry; stream bank and lakeshore protection; water retention ponds; and wildlife areas.
- (2) *Conditional uses.* Boating, drainageways, game farms, grazing, orchards, shooting preserves, swimming, truck farming, utilities, water measurement and water control facilities, and wild crop harvesting. The above uses shall not involve drainage; dumping; filling; tilling; mineral, soil, or peat removal; or any other use that would substantially disturb or impair the natural fauna, flora, watercourses, water regimen or topography. See also sections 20-1010, 20-1291, 20-1336, and 20-1338.

(Code 1975, § 7.035; Ord. No. 2011-61, 11-8-11)

### Sec. 20-497. - Structures restricted.

Structures are not permitted in the C-1 resource conservation district, except accessory to the principal or conditional uses. (Code 1975, § 7.035)

### Secs. 20-498—20-505. - Reserved.

## DIVISION 15.5. - C-2 UPLAND RESOURCE CONSERVATION DISTRICT

The primary purpose of this district is to preserve, protect, enhance, and restore all significant woodlands, areas of rough topography, and related scenic areas within the county; and to provide for limited residential development at densities not to exceed one dwelling unit per three (3) acres. Regulation of these areas will serve to control erosion and sedimentation and will promote and maintain the natural beauty of the county, while seeking to assure the preservation and protection of areas of significant topography, natural watersheds, ground and surface water, potential recreation sites, wildlife habitat, and other natural resource characteristics that contribute to the environmental quality of the county.

(Ord. No. 95-86, 9-26-95)

### Sec. 20-506. - Uses.

- (1) *Principal uses.* Farming and related agricultural uses when conducted in accordance with soil conservation service standards; hunting and fishing; forest preservation; forest and game management; preservation of scenic, historic, and scientific areas; park and recreation areas; arboreta; botanical gardens; one single-family dwelling.

- (2) *Conditional uses.* Hunting and fishing clubs; recreation camps; public or private campgrounds; gardening, tool, and storage sheds incidental to the residential use; general farm buildings, including barns, silos, sheds, and storage bins; private garages and carports; clustered residential developments; and utilities. See also sections 20-1010, 20-1291, 20-1336, 20-1337, and 20-1338.

(Ord. No. 95-86, 9-26-95; Ord. No. 2011-61, 11-8-11)

**Sec. 20-507. - Area requirements.**

The area requirements for the C-2 Upland Resource District are as follows:

(1)	Lot	Width Minimum	300 feet
		Area Minimum	3 acres
(2)	Buildings		
	Dwelling	Height Maximum	35 feet
	Residential accessory structures	Height Maximum	17 feet
	Agricultural and other structures	Height Maximum	Two (2) times the distance from the nearest lot line

(Ord. No. 95-86, 9-26-95; Ord. No. 2003-197, 2-12-04)

**Sec. 20-508. - Yard setback requirements.**

The minimum yard setback requirements in the C-2 Upland Resource Conservation District for all structures are as follows:

(1)	Rear, minimum .....	100 feet
(2)	Side, minimum .....	25 feet
(3)	Street, minimum .....	100 feet
(4)	Shore, minimum .....	75 feet

(Ord. No. 95-86, 9-26-95)

**Sec. 20-509. - Tree cutting and shrubbery clearing limited.**

Land lying within the C-2 Upland Resource Conservation District shall not be clear cut of trees, shrubbery, or underbrush. No more than twenty (20) percent of the natural vegetation shall be removed from a parcel. Normal pruning, trimming, and shearing of vegetation; removal of dead, diseased, or insect-infested vegetation; and silvicultural thinning conducted under the recommendation of a forester shall be exempt from this restriction.

(Ord. No. 95-86, 9-26-95)

**Secs. 20-510—20-515. - Reserved.**

**DIVISION 16. - B-1 NEIGHBORHOOD BUSINESS DISTRICT**

**Sec. 20-516. - Uses.**

The following uses are permitted in the B-1 neighborhood business district:

- (1) *Principal uses.* The following uses provided that they shall be retail establishments, selling and storing only new merchandise; bakeries, barber shops, bars, beauty shops, business offices, clinics, clothing stores, clubs, cocktail lounges, confectioneries, delicatessens, drug stores, fish markets, florists, fraternities, fruit stores, gift stores, grocery stores, hardware stores, house occupations, hobby shops, lodges, meat markets, optical stores, packaged beverage stores, professional offices, restaurants, self-service and pickup laundry and dry cleaning establishments, soda fountains, sporting goods, supermarkets, tobacco stores and vegetable stores. Lots or land on which there is an existing residence shall not be subdivided or transferred in such a way as to cause the parcel on which it stands to fail to comply with the lot, area and yard requirements of the R-4 residential district in those areas served by public sanitary sewer or the R-2 residential district in those areas served by on-site sanitary disposal systems. Existing residences may be expanded and repaired in compliance with the applicable requirements of the R-4 or R-2 residential district depending on the availability of the public sanitary sewer, but no new residences may be built.
  
- (2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340. Residential quarters may be permitted as a conditional use provided that such quarters are clearly accessory to the principal use on the property and occupy fifty (50) percent or less of the total floor space of the structure in which they are located.

(Code 1975, § 7.036; Ord. No. 88-160, § 7.036, 1-10-89; Ord. No. 91-130, § 7.036, 11-5-91; Ord. No. 93-9, 5-11-93; Ord. No. 2011-61, 11-8-11)

**Sec. 20-517. - Area requirements.**

The area requirements for the B-1 neighborhood business district are as follows:

(1)	Lot	Frontage	Minimum	75 feet
			Minimum	15,000 sq. feet
(2)	Building	Height	Maximum	35 feet

(Code 1975, § 7.036)

**Sec. 20-518. - Yard setback requirements.**

The minimum yard setback requirements in the B-1 neighborhood business district are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	25 feet
(3)	Rear .....	25 feet
(4)	Side .....	10 feet

(Code 1975, § 7.036; Ord. No. 2000-251S, 8-28-01)

**Secs. 20-519—20-535. - Reserved.**

**DIVISION 17. - B-2 COMMUNITY BUSINESS DISTRICT**

**Sec. 20-536. - Uses.**

The following uses are permitted in the B-2 community business district:

- (1) *Principal uses.* All uses permitted in the B-1 neighborhood business district and the following: apartment hotels, appliance stores, caterers, churches, clothing repair shops, crockery stores, department stores, electrical supply, financial institutions, food lockers, furniture stores, furniture upholstery shops, heating supply, hotels, laundry and dry-cleaning establishments employing not over seven (7) persons, liquor stores, music stores, newspaper offices and press rooms, night clubs, office supplies, pawn shops, personal service establishments, pet shops, places of entertainment, photographic supplies, plumbing supplies, printing, private clubs, private schools, publishing, radio broadcasting studios, second-hand stores, signs, tattoo parlors, television broadcasting studios, trade and variety stores. Lots or land on which there is an existing residence shall not be subdivided or transferred in such a way as to cause the parcel on which it stands to fail to comply with the lot, area and yard requirements of the R-4 residential district in those areas served by public sanitary sewer or the R-2 residential district in those areas served by on-site sanitary disposal systems. Existing residences may be expanded and repaired in compliance with the applicable requirements of either the R-4 or R-2 residential district, depending on the availability of public sanitary sewer, but no new residences may be built.
- (2) *Conditional uses.* See sections 20-1010, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340. Residential quarters may be permitted as a conditional use provided that such quarters are clearly accessory to the principal use on the property and occupy fifty (50) percent or less of the total floor space of the structure in which they are located.

(Code 1975, § 7.036; Ord. No. 88-160, § 7.036, 1-10-89; Ord. No. 91-130, § 7-036, 11-5-91; Ord. No. 93-9, 5-11-93; Ord. No. 2000-251S, 8-28-01; Ord. No. 2011-61, 11-8-11)

**Sec. 20-537. - Area requirements.**

The area requirements for the B-2 community business district are as follows:

(1)	Lot	Frontage	Minimum	75 feet
		Area	Minimum	15,000 sq. feet
(2)	Building	Height	Maximum	35 feet

**Sec. 20-538. - Yard setback requirements.**

The minimum yard setback requirements in the B-2 community business district are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	25 feet
(3)	Rear .....	25 feet
(4)	Side .....	10 feet

(Code 1975, § 7.036; Ord. No. 2000-251S, 8-28-01)

**Secs. 20-539—20-555. - Reserved.**

**DIVISION 18. - B-3 COMMERCIAL SERVICE DISTRICT**

**Sec. 20-556. - Uses.**

The following uses are permitted in the B-3 commercial service district:

- (1) *Principal uses.* All uses permitted in the B-1 neighborhood business district, B-2 community business district and the following: adult establishments, animal hospitals with no outdoor pens, auction galleries, automotive sales and repair; bicycle sales, rental, repair; boat sales, rental and repair; building material and product sales; caterers; electrical supply; employment agencies; exterminating shops; food lockers; garden supplies; heating supply; medical appliance stores; monument sales; motorcycle sales, repair and service; newspaper offices and press rooms; pawn shops; physical culture and health studios; plumbing supplies; printing, advertising and publishing shops; private clubs and lodges; radio broadcasting studios; radio and television repair and service shops; recording studios; schools of dance, music and business; second hand shops, taxidermists; television broadcasting studios; trade and contractor's offices; vending machines sales, service and repair welding repair shops. Lots or land on which there is an existing residence shall not be subdivided or transferred in such a way as to cause the parcel on which it stands to fail to comply with the lot, area and yard requirements of the R-4 residential district in those areas served by public sanitary sewer or the R-2 residential district in those areas served by on-site sanitary disposal systems. Existing residences may be expanded and repaired in compliance with the applicable requirements of the R-4 or R-2 residential district depending on the availability of the public sanitary sewer but no new residences may be built.
- (2) *Conditional uses.* See sections 20-1010, 20-1226, 20-1246, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340. Residential quarters may be permitted as a

conditional use provided that such quarters are clearly accessory to the principal use on the property and occupy fifty (50) percent or less of the total floor space of the structure in which they are located.

(Code 1975, § 7.036; Ord. No. 91-130, § 7-036, 11-5-91; Ord. No. 93-9, 5-11-93; Ord. No. 2000-251S, 8-28-01; Ord. No. 2003-132, 11-18-03; Ord. No. 2011-61, 11-8-11)

**Sec. 20-557. - Area requirements.**

The area requirements for the B-3 commercial service district are as follows:

(1)	Lot	Frontage	Minimum	75 feet
		Area	Minimum	15,000 sq. feet
(2)	Building	Height	Maximum	35 feet

(Code 1975, § 7.036)

**Sec. 20-558. - Yard setback requirements.**

The minimum yard setback requirements in the B-3 commercial business district are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	25 feet
(3)	Rear .....	25 feet
(4)	Side .....	10 feet

(Code 1975, § 7.036; Ord. No. 2000-251S, 8-28-01)

**Secs. 20-559—20-575. - Reserved.**

**DIVISION 19. - B-4 PLANNED BUSINESS DISTRICT**

**Sec. 20-576. - Uses.**

The following uses are permitted in the B-4 planned business district:

- (1) *Principal uses.* None.
- (2) *Conditional uses.* See sections 20-1010, 20-1246, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340, as applicable. Residential quarters may be permitted as a conditional use provided that such quarters are clearly accessory to the principal use on the property and occupy fifty (50) percent or less of the total floor space of the structure in which they are located.

(Code 1975, § 7.036; Ord. No. 91-130, § 7-036, 11-5-91; Ord. No. 93-9, 5-11-93; Ord. No. 2011-61, 11-8-11)

**Sec. 20-577. - Area requirements.**

The area requirements for the B-4 planned business district are as follows:

(1)	Lot	Frontage	Minimum	200 feet
		Area	Minimum	2 acres
(2)	Building	Height	Maximum	45 feet

(Code 1975, § 7.036)

**Sec. 20-578. - Yard setback requirements.**

The minimum yard setback requirements in the B-4 planned business district are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	80 feet
(3)	Rear .....	40 feet
(4)	Side .....	10 feet

(Code 1975, § 7.036)

**Secs. 20-579—20-595. - Reserved.**

**DIVISION 20. - B-5 HIGHWAY BUSINESS DISTRICT**

**Sec. 20-596. - Uses.**

The following uses are permitted in the B-5 highway business district:

- (1) *Principal uses.* Adult establishments. (See section 20-636 et al)
- (2) *Conditional uses.* Restaurants, gift shops, places of entertainment, confectioneries and drug stores, plus those specified in sections 20-1010, 20-1226, 20-1246, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340, as applicable. Residential quarters may be permitted as a conditional use provided that such quarters are clearly accessory to the principal use on the property and occupy fifty (50) percent or less of the total floor space of the structure in which they are located.

(Code 1975, § 7.036; Ord. No. 91-130, § 7-036, 11-5-91; Ord. No. 93-9, 5-11-93; Ord. No. 2003-132, 11-18-03; Ord. No. 2011-61, 11-8-11)

**Sec. 20-597. - Area requirements.**

The area regulations for the B-5 highway business district are as follows:

(1)	Lot	Frontage	Minimum	400 feet
		Area	Minimum	4 acres
(2)	Building	Height	Maximum	35 feet

(Code 1975, § 7.036)

**Sec. 20-598. - Yard setback requirements.**

The minimum yard setback requirements in the B-5 highway business district are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	100 feet
(3)	Rear .....	40 feet
(4)	Side .....	40 feet

(Code 1975, § 7.036)

**Secs. 20-599—20-615. - Reserved.**

**DIVISION 21. - B-6 WATER ORIENTED BUSINESS DISTRICT**

**Sec. 20-616. - Uses.**

The following uses are permitted in the B-6 water oriented business district:

- (1) *Principal uses.* Existing water-oriented commercial uses, such as bait shops, bathhouses, bathing and fishing areas on lakes and streams, boat and marine sales, boat launching areas, boat liveries, boat storage, repair and service marinas, dance halls, fishing equipment sales, hotels, motels, resorts, restaurants, and taverns.
- (2) *Conditional uses.* Extension of, or the creation of, new principal uses listed above. See also sections 20-1010, 20-1246, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340. Residential quarters may be permitted as a conditional use provided that such quarters are clearly accessory to the principal use on the property and occupy fifty (50) percent or less of the total floor space of the structure in which they are located.

(Code 1975, § 7.036; Ord. No. 91-130, § 7-036, 11-5-91; Ord. No. 93-9, 5-11-93; Ord. No. 2011-61, 11-8-11)

**Sec. 20-617. - Area requirements.**

The area requirements for the B-6 water oriented business district are as follows:

(1)	Lot	Width	Minimum	150 feet
		Area	Minimum	40,000 sq. feet
(2)	Structure	Height	Maximum	35 feet

(Code 1975, § 7.036)

**Sec. 20-618. - Yard setback requirements.**

The minimum yard setback requirements in the B-6 water oriented business district are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	50 feet
(3)	Rear .....	50 feet
(4)	Side .....	50 feet

(Code 1975, § 7.036)

**Secs. 20-619—20-635. - Reserved.**

**DIVISION 22. - ADULT ESTABLISHMENT USES**

**Sec. 20-636. – Intent and Findings of fact.**

(a) Intent:

- (1) The intent of this division is to regulate adult establishments and related activities to protect the health, safety, and general welfare of the citizens of Yorkville, to further preserve the quality of family life as well as the rural characteristics of the Village, to prevent adverse and deleterious effects contributing to the blight and downgrading of portions of the Village, to avoid the effects of adult entertainment upon minors and the violation of the civil rights of many persons partaking in such entertainment, mitigate criminal activity and disruption of public peace associated with adult establishments, and also to prevent the unsanitary and unhealthful conditions associated with such establishments. This regulation will establish reasonable and uniform provisions to regulate adult establishments within the Village of Yorkville.
- (2) It is not the intent or effect to restrict or deny access by the distributors or exhibitors of sexually oriented entertainment to their intended market.
- (3) It is not the intent or effect to limit or restrict the lawful activities permitted under W.S.A. ch. 125, "Alcohol Beverages" and the Municipal Code of the Village of Yorkville. By the enactment of this division, the Yorkville Village Board does not intend to give any explicit, implicit, or tacit approval or condone any activity relating to adult entertainment.

- (4) The board intends to control the impact of the secondary effects enumerated in 20-636(b) in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; and preserve the property values and character of surrounding neighborhoods and areas.
  - (5) It is not the board's intent to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of adult establishments while providing an outlet for First Amendment protected activities.
  - (6) In order to minimize and control the secondary effects of adult establishments upon the Village, it is the board's intent to prevent the concentration of adult establishments within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of adult establishments.
- (b) Findings of fact:
- (1) The board finds that adult establishments as defined in this division require special zoning in order to protect and preserve the health, safety, and welfare of Yorkville.
  - (2) Based on its review of the following:
    - a. Report to the American Center for Law and Justice on the Secondary Impacts of Sexual Oriented Businesses;
    - b. The Affidavit of Richard McCleary for the case of *New Albany DVD LLC v. City of Albany*;
    - c. National Law Center Summaries of SOB Land Use Studies;
    - d. Workplace Perspectives on Erotic Dancing, a Minneapolis Minnesota Study;
    - e. The studies conducted in Newport News, Virginia, Garden Grove, California, Dallas, Texas, Houston Texas;
    - f. The Effects of Sexually Oriented Businesses by Louis F. Cormus III, which summarized studies conducted in Phoenix, Arizona; Garden Grove California; Los Angles, California; Whittier California; Indianapolis, Indiana; Minneapolis, Minnesota; Cleveland, Ohio; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Houston, Texas; Seattle, Washington; New York City, New York (specifically, Times Square); Dallas, Texas; Environmental Research Group Report; Tucson, Arizona; Manatee County, Florida; State of Minnesota; New Hanover County, North Carolina; Town and Village of Ellicottville, New York; Islip, New York; New York City, New York; Oklahoma City, Oklahoma; Houston Texas; Newport News; and Des Moines, Washington;
    - g. The Police Memorandum dated May 1, 1990, to the Tucson, Arizona City Prosecutor;

- h. Rural Hotspots: The Case of Adult Businesses by Dr. Richard McCleary;
  - i. The findings incorporated in *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986); *Colman A. Young v. American Mini-Theaters, Inc.*, 427 U.S. 50 (1976), *Association of Club Executives of Dallas, Inc., et al. v. City of Dallas*, 22-CV-00177 (N.D. Tex. May 24, 2022).
- (3) The board finds that there is convincing evidence that the secondary effects of adult establishments include an increased risk of:
- a. Prostitution,
  - b. High-risk sexual behavior and sexually transmitted diseases,
  - c. Human Trafficking,
  - d. Crime, especially sex-related crimes, and
  - e. Other deleterious effects upon existing business and surrounding residential areas, and decreased property values.
- (4) Based on its review of "Playing for Keeps," 2002 Racine County Economic Development Study, the 2010 Racine County Economic Development Plan, Village 2050 Comprehensive Plan, and the Tax Incremental Financing District #1 Project Plan, board finds that U.S. Route 45, State Trunk Highway 20, County Trunk Highway C (A.K.A. Spring Street) and Highway 11 corridors as areas that are very important to the economic development of the Village and should be protected from the secondary effects of adult establishments for the benefit of the health, safety and welfare of the community. For purposes of this Article, "corridor" is meant to apply to properties directly abutting the named street or highway.

**Sec. 20-637. - Uses.**

- (a) *Principal Uses.* The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that adult establishments, as defined in this division, are entitled to certain protections, including the opportunity to locate in the Village. Therefore, an adult establishment shall be an allowed principal use in the B-3 and B-5 zoning districts and shall be a prohibited use in any other zoning district. The adult establishment may locate in the specified districts only if an adult establishment license has been granted by the Village if all the requirements of this division and the applicable zoning district's regulations are met.
- (b) *Accessory uses.* Any accessory use authorized by the underlying zoning district may be an accessory use to an adult establishment. In no case shall an adult establishment be an accessory use to any principal use designed by any section of this chapter.

**Sec. 20-638. - Regulations applicable to all adult establishments.**

- (a) *Location requirement:* No permit shall be granted where the public entrance of the proposed adult establishment is within one thousand (1,000) feet of a residential use,

residential district, house of worship, school, day care center, playground, public park, recreation area, library, museum, U.S. Route 45, State Trunk Highway 20, County Trunk Highway C (A.K.A. Spring Street) and Highway 11, or immediately adjacent to a bar or tavern that serves alcoholic beverages. In the case of an area zoned residential, the distance shall be measured from the nearest point on the residential district zoning boundary line. From an area not zoned residential but used for residential purposes, the measurement shall be taken from the public entrance of the adult establishment to the nearest entrance of the building in residential use. From schools, houses of worship, day care centers, libraries, and museums, the distance shall be measured from the public entrance of the adult establishment to the main public entrance of the protected use. From playgrounds, public parks, recreation areas, and schools, houses of worship and day care centers with playgrounds or recreation areas, the distance shall be measured from the public entrance of the adult establishment to the nearest property line of the playground, public park, or recreation area. Along U.S. Route 45, State Trunk Highway 20, County Trunk Highway C (A.K.A. Spring Street) and Highway 11, this distance is measured from the outside highway right-of-way line, including frontage road(s).

- (b) *Hours of operation:* No adult establishment shall be open for business at any time between the hours of 2:00 a.m. and 12:00 noon.
- (c) *Animals:* No animals, except only for seeing-eye dogs required to assist the blind, shall be permitted at any time at or in any adult establishment or permitted premises.
- (d) *Restricted access:* No adult establishment patron shall be permitted at any time to enter into any of the non-public portions of any adult establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of adult establishment employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the permitted premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.
- (e) *Exterior display:* No adult establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," from any sidewalk, public or private right-of-way, or any property other than the lot on which the permitted premises is located. No portion of the exterior of an adult establishment shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed by this division with regard to signs. This subsection shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door, or other opening.
- (f) *Sign limitations:* All signs for adult establishments shall be flat wall signs. The business may have only one (1) non-flashing business sign which may only indicate the name of the business and identify it as an adult establishment and which shall not be larger than four (4) feet by four (4) feet. Temporary signs shall not be permitted in connection with any adult establishment.

- (g) *Noise:* No loudspeakers or sound equipment audible beyond the adult establishment shall be used at any time.
- (h) *Manager's stations:* Each adult establishment shall have one (1) or more manager's stations. The interior of each adult establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one (1) manager's station to every part of each area, except restrooms, of the establishment to which any adult establishment patron is permitted access for any purpose. The cashier's or manager's station shall be located so that someone working there can quickly move to physically halt any attempted or accidental entry by a minor. An employee shall occupy the station at all times when patrons are in and on the premises.
- (i) *Adult booths prohibited:* Adult booths shall be prohibited in all adult establishments.
- (j) *No loitering policy:* The adult establishment shall clearly post and enforce a no loitering policy.
- (k) *Age limit restrictions:* The adult establishment shall clearly post and enforce age-limit restrictions. A one-square-foot sign shall be placed on each public entrance which shall state "Admittance to adults only" and may include other pertinent business information.
- (l) *Measuring disbursement distances:* The distances in this section shall be measured by following a straight line, without regard to intervening structures, from the public entrance (existing or proposed) of an adult establishment to the nearest point of the protected use as described below.
- (m) *Adequate parking:* One (1) parking space per one hundred fifty (150) square feet of total gross floor area shall be provided in a lighted area on the permitted premises of an adult establishment.
- (n) *Spacing requirement:* No more than one (1) adult establishment may be located on any one (1) parcel and the location of any one (1) adult establishment shall be at least one thousand (1,000) feet from the establishment of any other adult establishment. This distance shall be measured from the public entrance of one (1) adult establishment to the public entrance of the other adult establishment.
- (o) *Display windows prohibited:* All points of access into structures containing adult establishments and all windows or other openings shall be located, constructed, covered, or screened in a manner which will prevent a view into the interior.
- (p) *Residential quarters not allowed:* No residential quarters shall be allowed on a premises with an adult establishment.
- (q) All live performers in an adult establishment shall perform only on a stage elevated no less than thirty-six (36) inches above floor level. There shall be a metal railing attached to the floor by bolts surrounding the stage which shall keep patrons at least forty-eight (48) inches from the stage. There shall also be a metal railing attached to the floor by bolts at the end of the stage.

## **Sec. 20-639. - Required information and documents.**

### (a) *Demographics.*

#### (1) *Individuals.*

- a. Applicant's legal name, all of the applicant's aliases, and the applicant's age;
- b. Applicant's business address.

#### (2) *Corporations.*

- a. Applicant corporation's complete name and official business address;
- b. Legal names, all aliases, the ages, and business addresses of all of the directors, officers, and managers of the corporation and of every person owning or controlling more than twenty-five (25) percent of the voting shares of the corporation;
- c. Applicant corporation's date and place of incorporation and the objective for which it was formed;
- d. Proof that the corporation is a corporation in good standing and authorized to conduct business in the State of Wisconsin;
- e. Name of the registered corporate agent and the address of the registered office for service of process.

#### (3) Partnerships (general or limited), joint ventures, or any other type of organization where two (2) or more persons share in the profits and liabilities of the organization.

- a. Applicant organization's complete name and official business address;
- b. Legal name, all aliases, the ages, and business addresses of each partner (other than limited partners) or any other person entitled to share in the profits of the organization, whether or not any such person is also obligated to share in the liabilities of the organization.

#### (4) *Land trusts.*

- a. Applicant land trust's complete name;
- b. Legal name, all aliases, and the business address of the trustee of the land trust;
- c. Legal name, all aliases, the ages, and business addresses of each beneficiary of the land trust and the specific interest of each such beneficiary in the land trust;
- d. The interest, if any, that the land trust holds in the permitted premises.

- (b) If a corporation or partnership is an interest holder that shall be disclosed pursuant to subsections (a)(2) and (3), then such interest holders shall disclose the information required in said subsections with respect to their interest holders.
- (c) The general character and nature of the applicant's business.
- (d) The length of time that the applicant has been in the business of the character specified in response to subsection (c) above.
- (e) The location (including street address and legal description) and telephone number of the premises for which the adult establishment permit is sought.
- (f) The specific name of the business that is to be operated under the adult establishment permit.
- (g) The identity of each fee simple owner of the permitted premises.
- (h) A diagram showing the internal and external configuration of the permitted premises, including all doors, windows, entrances, exits, the fixed structural internal features of the permitted premises, plus the interior rooms, walls, partitions, stages, performance areas, and restrooms.

A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required, provided, however, that each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions to an accuracy of plus or minus six (6) inches and sufficient to show clearly the various interior dimensions of all areas of the permitted premises and to demonstrate compliance with the provisions of this division. The approval or use of the diagram required pursuant to this subsection shall not be deemed to be, and may not be interpreted or construed to constitute, any other Village approval otherwise required pursuant to applicable Village ordinances and regulations.

- (i) The specific type(s) of adult establishment(s) that the applicant proposes to operate on the permitted premises.
- (j) A copy of each adult establishment's permit, liquor license, and gaming license currently held by the applicant, or any of the individuals identified in the application pursuant to subsection (a) or (b) above.
- (k) The name of the individual(s) who shall be the day-to-day, on-site manager(s) of the proposed adult establishment.
- (l) The application fee, site plan review fee, and zoning permit fee in the amount as adopted by resolution or in the annual Village budget.
- (m) Any other information the zoning administrator may reasonably require to apply the requirements of this division.
- (n) The zoning administrator reserves the right to require a survey from a surveyor licensed by the State of Wisconsin to determine the spacing requirements under this division.

- (o) A site plan, landscaping plan, zoning permit application, and letter of agent status, if necessary, as required by site plan review application requirements adopted by the planning and development department.

**Sec. 20-640. - Incomplete applications returned.**

Any application for an adult establishment that does not include all of the information and documents required pursuant to this division, as well as the required fees, shall be deemed to be incomplete and shall not be acted on by the zoning administrator who shall give the applicant a written notification and explanation of such action pursuant to this section.

**Sec. 20-641. - Applicant cooperation required.**

An applicant for an adult establishment permit shall cooperate fully in the inspections and investigations conducted by Racine County and the Village of Yorkville. The applicant's failure or refusal to:

- (1) Give any information reasonably relevant to the investigation of the application;
- (2) Allow the permitted premises to be inspected;
- (3) Appear at any reasonable time and place, or
- (4) Otherwise cooperate with the investigation and inspection required by this division; shall constitute an admission by the applicant that the applicant is ineligible for an adult establishment permit and shall be grounds for denial of the permit by the zoning administrator.

**Sec. 20-642. - Time for issuance or denial.**

The zoning administrator shall, within thirty (30) days after submittal of a completed application, or within such other period of time as the Village and the applicant shall otherwise agree, either issue or deny an adult establishment permit pursuant to the provisions of this division.

**Sec. 20-643. - Standards for issuance or denial of permit.**

- (a) *Issuance:* The zoning administrator shall issue an adult establishment permit to an applicant if the zoning administrator finds and determines all of the following:
  - (1) All information and documents required by this division for issuance of an adult establishment permit have been properly provided.
  - (2) No person identified in the application may:
    - a. Have been denied an adult establishment permit within twelve (12) months immediately preceding the date of the application;
    - b. Be a person whose adult establishment permit has been revoked within twelve (12) months immediately preceding the date of the application; or

- c. Be a person whose adult establishment permit is under suspension at the time of application.
- (3) The adult establishment and the permitted premises comply with all requirements under this division and the applicant has obtained a license required for the adult establishment by the Village, if any.
- (4) The applicant has signed the permit he or she has received indicating his or her acceptance of the conditions of the permit.
- (b) *Denial:* If the zoning administrator determines that the applicant has not met any one (1) or more of the conditions set forth in this section, then the zoning administrator shall deny issuance of the adult establishment permit and shall give the applicant a written notification and explanation of such denial.
- (c) *License deemed to be issued:* If the zoning administrator does not issue or deny the adult establishment permit within thirty (30) days after the properly completed application is submitted, then the adult establishment permit applied for shall be deemed to have been issued.

**Sec. 20-644. - Enforcement.**

- (a) A violation of any conditions or an adult establishment permit is a violation of this division.
- (b) Notwithstanding any other remedy, a violation of any conditions or an adult establishment permit shall be grounds for revocation of the adult establishment permit.

**Sec. 20-645. - Continued conforming status.**

An adult establishment lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant of the adult establishment permit, if a protected use is located within one thousand (1,000) feet of the adult establishment.

**Sec. 20-646. Severability.**

If any section, subsection, sentence, clause or phrase of this division is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. This ordinance shall take effect and be in force from and after its passage and publication, as provided by law.

**Secs. 20-647—20-655. - Reserved.**

**DIVISION 23. - A-1 FARMLAND PRESERVATION DISTRICT<sup>6</sup>**

Footnotes:

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**Editor's note**— Ord. No. 2014-87, adopted Dec. 9, 2014, repealed the former Div. 23, §§ 20-656—20-658, and enacted a new division as set out herein. The former Div. 23 pertained to A-1 general farming district I, and derived from Code 1975, § 7.037; Ord. No. 82-141, § 7.037, adopted

Nov. 9, 1982; Ord. No. 93-9, adopted May 11, 1993; Ord. No. 2000-251S, adopted Aug. 28, 2001; and Ord. No. 2011-61, adopted Nov. 8, 2011.

**Sec. 20-656. - Purpose.**

The intent of this district is to maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment on non-agricultural development and minimizing land use conflicts among incompatible uses.

(Ord. No. 2014-87, 12-9-14)

**Sec. 20-657. - Definitions.**

The following definitions apply in the A-1 farmland preservation district:

*Accessory use* shall mean any of the following land uses on a farm:

- (1) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use;
- (2) An activity or business operation that is an integral part of or incidental to, an agricultural use;
- (3) A farm residence;
- (4) A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in paragraph (1) or (3), that employs no more than four (4) full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland;
- (5) Any other use that the DATCP, by rule, identifies as an agricultural use.

*Agricultural-related use* shall mean any of the following: an agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.

*Base farm tract* shall mean one (1) of the following:

- (1) All contiguous parcels in a farmland preservation zoning district that are part of a single farm on December 31, 2014, regardless of any subsequent changes in the size of the farm;
- (2) Any other tract that the department, by rule, defines as a base farm tract.

*Farm* shall mean all land under common ownership (all owned by exactly the same person or entity) that is primarily devoted to agricultural use.

*Farm acreage* shall mean size of farm in acres.

*Farmland preservation agreement* shall mean any of the following agreements between an owner of land and the department under which the owner agrees to restrict the use of land in return of tax credits:

- (1) A farmland preservation agreement or transition area agreement entered in under W.S.A., § 91.14;
- (2) An agreement entered in to under W.S.A., § 91.60(1).

*Farmland preservation area* shall mean an area that is planned primarily for agricultural use or agricultural-related use, or both, and that is one (1) of the following:

- (1) Identified as an agricultural preservation area or transition area in a farmland preservation plan described in W.S.A., § 91.21(1);
- (2) Identified under W.S.A., § 91.10(1)(d) in a farmland preservation plan described in W.S.A., § 91.12(2).

*Farmland preservation plan* shall mean a plan for the preservation of farmland in a county, including an agricultural preservation plan under W.S.A., subch. IV of ch. 91, 2007 Stats.

*Farm residence* shall mean any of the following structures that are located on a farm:

- (1) A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
  - a. An owner or operator of the farm;
  - b. A parent or child of an owner or operator of the farm;
  - c. An individual who earns more than 50 percent of his or her gross income from the farm.
- (2) A migrant labor camp that is certified under W.S.A., § 103.92.

*Livestock* shall mean bovine animals, equine animals, goats, poultry, sheep swine, farm raised deer, farm-raised game birds, camelids, ratities, and farm-raised fish.

*Non-farm residence* shall mean a single-family or multi-family residence other than the farm residence.

*Non-farm residential acreage* shall mean the total number of acres of all parcels on which non-farm residences are located.

*Owner* shall mean a person who has ownership interest in land.

*Prior nonconforming use* shall mean a land use that does not conform with the farmland preservation zoning ordinance, but that existed lawfully before the farmland preservation zoning ordinance was enacted.

*Protected farmland* shall mean land that is located in the farmland preservation zoning district, is covered by a farmland preservation agreement, or is otherwise legally protected from non-agricultural development.  
 (Ord. No. 2014-87, 12-9-14)

**Sec. 20-658. - Uses.**

The following uses are permitted in the A-1 farmland preservation district:

- (1) *Principal uses.* Apiculture, dairying; floriculture; forestry; grazing; greenhouses; hay; livestock raising except those listed in subsection 20-658(2); orchards; paddocks; pasturage; plant nurseries; poultry raising; raising of cash grain crops, mint, grass, seed crops, silage, tree fruits, nuts and berries, and vegetables; stables; truck farming; aqua farming; Christmas tree production; viticulture; a farm residence that is the only residential structure on the farm; nonfarm residences constructed in a cluster in accordance with W.S.A. § 91.46(1); undeveloped natural resource and open space areas; and enrolling land in a federal agricultural commodity payment program or federal or state agricultural land conservation payment program.
- (2) *Conditional uses.* Animal hospitals; commercial egg production; commercial raising of animals, such as dogs, foxes, goats, mink, pigs and rabbits must meet W.S.A. § 91.01(1); condenseries; creameries; feed lots, grain elevators, commercial grain storage and seed operations, which operate exclusive of any farm operation; hatching or butchering of fowl, airports, airstrips and landing fields for farm or personal use only; worm farms; sod farming; one- and two-family non-farm residences and one- and two-family non-farm residential clusters and a second farm residence that is occupied either by an individual who earns more than fifty (50) percent of his or her income from the farm or a migrant labor camp that is certified under W.S.A., § 103.92. These residences are also subject to the restrictions found in subsection 20-1008(d); mobile service support structures. For additional restrictions see sections 20-1010, 20-1226, 20-1291, 20-1336, 20-1337, and 20-1338.
- (3) Prior nonconforming uses subject to W.S.A., § 59.69(10).
  - a. A prior nonconforming use may not be expanded or modified.
  - b. The number and location of existing residences may limit conditional use permits for new residences.

(Ord. No. 2014-87, 12-9-14; Ord. No. 2015-90, 12-15-15)

**Sec. 20-659. - Area and setback requirements.**

The area requirements for the A-1 farmland preservation district are as follows:

(1)	Farm Residence Non-farm Residence(s)	Area	Must comply with all of the provisions of the A-2 general farming and residential district II. See sections 20-677 and 20-678.
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(2)	Agricultural structures, such as barns, silos, sheds and storage bins	Height Maximum	Two (2) times the distance from the nearest lot line
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(Ord. No. 2014-87, 12-9-14)

**Secs. 20-660—20-675. - Reserved.**

**DIVISION 24. - A-2 GENERAL FARMING AND RESIDENTIAL DISTRICT II**

**Sec. 20-676. - Uses.**

The following uses are permitted in the A-2 general farming and residential district II:

- (1) *Principal uses.* All uses permitted in the A-1 farmland preservation district, plus one and two family dwellings, whether or not such dwellings are associated with farm operations. In the A-2 district, the principal structure shall be the residential structure intended to service the parcel on which such residence is located.
- (2) *Conditional uses.* All conditional uses permitted in the A-1 farmland preservation district. See sections 20-1010, 20-1202, 20-1226, 20-1291, 20-1336, 220-1337 and 20-1338.

(Code 1975, § 7.037; Ord. No. 89-255, 2-27-90; Ord. No. 2011-61, 11-8-11; Ord. No. 2014-87, 12-9-14)

**Sec. 20-677. - Area requirements.**

The area requirements for the A-2 general farming and residential district II are as follows:

(1)	Lot	Width Minimum	150 feet
		Area Minimum	40,000 sq. feet per family plus such acreage as is required by antipollution regulations or ordinances
(2)	Buildings		
	Dwelling	Height Maximum	35 feet
	Residential accessory structures	Height Maximum	17 feet
	Agricultural structures, such as barns, silos, sheds and storage bins	Height Maximum	Two (2) times the distance from the nearest lot line

(Code 1975, § 7.037; Ord. No. 2003-197, 2-12-04)

**Sec. 20-678. - Yard setback requirements.**

The minimum yard setback requirements in the A-2 general farming and residential district II are as follows:

- (1) Shore ..... 75 feet
- (2) Street ..... 75 feet
- (3) Rear ... .. 25 feet
- (4) Side ... .. 25 feet

(Code 1975, § 7.037; Ord. No. 91-264, pt. 3, 4-14-92)

**Secs. 20-679—20-695. - Reserved.**

**DIVISION 25. - A-3 GENERAL FARMING DISTRICT III**

**Sec. 20-696. - Purpose.**

The board of supervisors and village boards of supervisors adopting this chapter find that urbanization is taking place in certain areas of the county at a rapid pace, that scattered urbanization can greatly increase the public cost of installing public facilities, such as sewers and schools required to service such growth, and therefore that the public interest will be best served by channelling such development to suitable county areas only at such time as it is economically feasible to plan, budget and commit to construction of the necessary supporting public services and facilities. Consequently, some county areas of potential growth will be placed in so-called holding districts, A-3 general farming district III, where nonagricultural development will be deferred until the appropriate legislative bodies determine that it is economically feasible to provide public services and facilities for uses other than those permitted in the holding district. It is intended that the status of all holding districts will be reviewed by the county planning and development committee no less frequently than every five (5) years in order to determine whether, in light of the foregoing general standards, there should be a transfer of all or part of a holding district to some other use district. Any such review will consider the need for permitting other uses on such land, the nature of the use or uses to be permitted and the cost and availability of the public services and facilities which will be necessitated by such new uses or uses.

(Code 1975, § 7.037)

**Sec. 20-697. - Uses.**

The uses permitted in the A-3 general farming district III are as follows:

- (1) *Principal uses.* All uses permitted in the A-1 farmland preservation district.
- (2) *Conditional uses.* Same as in A-1 farmland preservation district.

(Code 1975, § 7.037; Ord. No. 2014-87, 12-9-14)

**Sec. 20-698. - Area, yard requirements.**

The lot, building and yard requirements in the A-3 general farming district III shall be the same as in the A-1 farmland preservation district.

**Secs. 20-699—20-715. - Reserved.**

**DIVISION 26. - A-4 TRUCK FARMING DISTRICT**

**Sec. 20-716. - Uses.**

The following uses are permitted in the A-4 truck farming district:

- (1) *Principal uses.* Apiculture, floriculture, greenhouses, horticulture, nurseries, orchards, paddocks, raising of cash crops, raising of horses not to exceed three (3) head for each five (5) acres, truck farming, and viticulture, and farm dwellings for those resident owners actually engaged in a principal agricultural use. Residential dwellings for laborers actually engaged in a principal agricultural use are accessory uses to the farm operation but shall comply with all the provisions of the R-2 residential district. Existing dwellings not accessory to any farm operation or dwellings remaining after consolidation of neighboring farms are permitted but shall comply with all the provisions of the R-2 residential district. Not more than one (1) roadside stand on any one (1) farm shall be permitted as an accessory use.
- (2) *Conditional uses.* See sections 20-1010, 20-1226, 20-1291, 20-1336, 20-1337, and 20-1338.

(Code 1975, § 7.037; Ord. No. 2011-61, 11-8-11)

**Sec. 20-717. - Area requirements.**

The area requirements for the A-4 truck farming district are as follows:

(1)	Farm	Width	Minimum	300 feet
		Area	Minimum	10 acres
(2)	Structures	Height	Maximum	50 feet

(Code 1975, § 7.037)

**Secs. 20-718—20-735. - Reserved.**

**DIVISION 27. - M-1 LIGHT INDUSTRIAL AND OFFICE DISTRICT**

**Sec. 20-736. - Uses.**

- (a) *Permitted uses.* The following uses are permitted in the M-1 light industrial and office district subject to approval by the planning and development committee as to location and operations:
  - (1) General or clerical offices.
  - (2) Professional offices.
  - (3) Research and testing laboratories.
  - (4) Schools and training centers.
  - (5) Cleaning, pressing and dyeing establishments.

- (6) Commercial greenhouses.
  - (7) Wholesalers and distributors.
  - (8) Food locker plants.
  - (9) Light industrial plants such as required for production of millwork, machine tools, paper containers, patterns, die castings, light metal fabrication and similar small industries.
- (b) *Conditional uses.* All structures and improvements for principal uses subject to the following general provisions. See sections 20-1010, 20-1226, 20-1291, 20-1336, and 20-1338.
- (1) No merchandise shall be handled for sale or service rendered on the premises except such as are incidental or accessory to the principal permissible use of the premises, except for sales or service to industrial customers.
  - (2) All operations and activities of all uses within this district shall be conducted wholly inside a building or buildings.
  - (3) No continuous or intermittent noise from operations greater than the volume and range of noise emanating from vehicular traffic or its equivalent in noise shall be detectable at the boundary line of any residence district.
  - (4) No toxic matter, noxious matter, smoke or gas, and no odorous or particulate matter detectable beyond the lot lines shall be emitted.
  - (5) No vibrations shall be detectable beyond the lot lines.
  - (6) No glare or heat shall be detectable beyond the lot lines.
  - (7) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any residence district or into public streets or parks.
  - (8) The storage or use of chemicals, either solid, liquid or gas, shall be subject to the following conditions:
    - a. The storage, utilization, or manufacturing of materials or products ranging from incombustible to moderate burning is permitted.
    - b. The storage, utilization or manufacturing of materials or products ranging from free to active burning is permitted provided the following condition is met: Said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.
    - c. The manufacture of flammable materials which produce explosive vapors or gases is prohibited.

(Code 1975, § 7.038; Ord. No. 2011-61, 11-8-11)

**Sec. 20-737. - Area requirements.**

The area requirements for the M-1 light industrial and office district are as follows:

(1)	Building	Height	Maximum	35 feet
(2)	Accessory building	Height	Maximum	30 feet
(3)	Lot	Width	Minimum	150 feet
		Area	Minimum	As necessary to comply with all district regulations

(Code 1975, § 7.038)

**Sec. 20-738. - Yard setback requirements.**

The minimum yard setback requirements in the M-1 light industrial and office district are as follows:

(1)	Street	100 feet on all streets the opposite side of which lies in a more restrictive district in this or a neighboring municipality and 25 feet minimum on streets both sides of which lie within this or a less restrictive district (wherein there shall be no structure of any kind or parking of automobiles)
(2)	Side	25 feet minimum, except where property is adjacent to residential districts when it shall be not less than 100 feet. (Parking of automobiles permitted in offset, except where property is adjacent to a residential district, or public building area, no parking space or access driveway shall be closer than 75 feet to any residential district or public building area.)
(3)	Rear	25 feet
(4)	Shore	75 feet

(Code 1975, § 7.038)

**Secs. 20-739—20-755. - Reserved.**

**DIVISION 28. - M-2 GENERAL INDUSTRIAL DISTRICT**

**Sec. 20-756. - Uses.**

(a) *Permitted uses.* The following uses are permitted in the M-2 general industrial district subject to approval by the planning and development committee as to location and operations:

- (1) All M-1 permitted uses.
- (2) Manufacture, fabrication, packing, packaging, and assembly of products from furs, glass, leather, metals, paper, plaster, plastic, textiles and wood.
- (3) Manufacture, fabrication, packing, packaging and assembly of confections; cosmetics; electrical appliances; electronic devices; foods except garbage, fish and fish products, meat and meat products, and pea vineries; instruments; jewelry; pharmaceuticals; tobacco and toiletries.

- (4) Manufacturing and bottling of nonalcoholic beverages.
- (5) Painting.
- (6) Printing.
- (7) Publishing.

(b) *Conditional uses.* All structures and improvements for principal permitted uses. See sections 20-1010, 20-1226, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340. (Code 1975, § 7.038; Ord. No. 2011-61, 11-8-11)

**Sec. 20-757. - Height requirements.**

The maximum height of any building in the M-2 general industrial district is forty-five (45) feet. (Code 1975, § 7.038)

**Sec. 20-758. - Yard setback requirements.**

The minimum yard setback requirements for the M-2 general industrial district are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	50 feet
(3)	Rear .....	25 feet
(4)	Side .....	20 feet

(Code 1975, § 7.038)

**Secs. 20-759—20-775. - Reserved.**

**DIVISION 29. - M-3 HEAVY INDUSTRIAL DISTRICT**

**Sec. 20-776. - Uses.**

(a) *Permitted uses.* The following uses are permitted in the M-3 heavy industrial district subject to approval by the planning and development committee as to location and operation:

- (1) All M-1 and M-2 uses.
- (2) Manufacture and processing of abrasives, acetylene, acid, alkalies, ammonia, asbestos, asphalt, batteries, bedding, bleach, bone, cabbage, candle, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal tar, coffee, coke, cordage, creosote, dextrine, disinfectant, dye, excelsior, felt, fish, fuel, gelatin, glucose, gypsum, hair products, ice, ink, insecticide, lampblack, lime, lime products, linoleum, matches, meat, oil, cloth, paint, peas, perfume, pickle, plaster of paris, plastics, poison, polish, potash, pulp, pyroxylin, radium, rope, rubber, sausage, shoddy, size, starch, stove polish, textiles and varnish.

- (3) Manufacturing, processing, and storage of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar and yeast.
  - (4) Manufacture and bottling of alcoholic beverages; bag cleaning; canneries; cold storage warehouses; electric and steam generating plants; electroplating; enameling; forges; foundries; garbage incinerators; lacquering; lithographing; offal, rubbish, or animal reduction; oil, coal, and bone distillation; refineries; road test facilities; slaughterhouses; smelting; stockyards; tanneries; and weaving provided such uses shall be at least six hundred (600) feet from residential and public and semipublic districts.
  - (5) Outside storage and manufacturing areas.
  - (6) Wrecking, junk, demolition, and scrap yards shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way and shall be at least six hundred (600) feet from residential, public and semipublic districts.
  - (7) Freight yards.
  - (8) Freight terminals and trans-shipment depots.
  - (9) Inside storage warehouses.
  - (10) Breweries.
  - (11) Crematories.
- (b) *Conditional uses.* All structures and improvements for principal permitted uses. See sections 20-1010, 20-1226, 20-1291, 20-1336, 20-1338, 20-1339, and 20-1340. (Code 1975, § 7.038; Ord. No. 2011-61, 11-8-11)

**Sec. 20-777. - Height requirements.**

The maximum height of any building in the M-3 heavy industrial district is sixty (60) feet. (Code 1975, § 7.038)

**Sec. 20-778. - Yard setback requirements.**

The minimum yard setback requirements in the M-3 heavy industrial district are as follows:

(1)	Shore .....	75 feet
(2)	Street .....	50 feet
(3)	Rear .....	25 feet
(4)	Side .....	20 feet

(Code 1975, § 7.038)

**Secs. 20-779—20-795. - Reserved.**

**Sec. 20-796. - Uses.**

The following uses are permitted in the M-4 quarrying district:

- (1) *Principal uses.* Mineral extraction operations and concrete and concrete products manufacturing that are presently in existence. The manufacture of concrete and concrete products, including concrete and asphalt batch plants, may occur on a parcel only during the duration of the on-site mineral extraction activity.
- (2) *Conditional uses.* Extension of legally existing mineral extraction operations and manufacture of concrete and concrete products or the creation of new such extraction or manufacturing operations; utilities. The manufacture of concrete and concrete products, including concrete and asphalt batch plants, may occur on a parcel only during the duration of the on-site mineral extraction activity. See sections 20-1010, 20-1228, 20-1291, 20-1336, and 20-1338.

(Code 1975, § 7.038; Ord. No. 2000-251S, 8-28-01; Ord. No. 2011-61, 11-8-11)

**Sec. 20-797. - Yard setback requirements.**

- (a) All excavations shall occur within the M-4 quarrying district and shall be at least two hundred (200) feet from any right-of-way or property line. All accessory uses such as offices, parking areas, and stockpiles shall be located within the M-4 district and shall be at least one hundred (100) feet from any right-of-way or property line.
- (b) When a mineral extraction operation abuts another such operation, the two hundred (200) foot setback for each operation from their common lot line may be reduced to a zero lot line setback through planning and development committee approval of restoration plan(s) in order to establish a more reasonable restoration of such operations.

(Ord. No. 88-160, § 7.038, 1-10-89; Ord. No. 2000-251S, 8-28-01)

**Sec. 20-798. - Height requirement.**

The maximum height of any structure in the M-4 quarrying district shall be forty-five (45) feet.  
(Code 1975, § 7.038)

**Secs. 20-799—20-815. - Reserved.**

**DIVISION 31. - RESERVED<sup>71</sup>**

Footnotes:

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**Editor's note**— Ord. No. 2011-131S, adopted April 10, 2012, repealed Div. 31, §§ 20-816—20-819, which pertained to the FW urban floodway district and derived from § 7.039 of the 1975 Code; Ord. No. 94-155, § 8, adopted Nov. 10, 1994; and Ord. No. 2055-155, adopted Jan. 10, 2006.

**Secs. 20-816—20-835. - Reserved.**

## DIVISION 32. - RESERVED<sup>[8]</sup>

Footnotes:

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**Editor's note**— Ord. No. 2011-131S, adopted April 10, 2012, repealed Div. 32, §§ 20-836—20-838, which pertained to the FCO urban floodplain conservancy overlay district and derived from § 7.039 of the 1975 Code and Ord. No. 94-155, § 9, adopted Nov. 10, 1994.

**Secs. 20-836—20-855. - Reserved.**

## DIVISION 33. - RESERVED<sup>[9]</sup>

Footnotes:

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**Editor's note**— Ord. No. 2011-131S, adopted April 10, 2012, repealed Div. 33, §§ 20-856—20-858, which pertained to the FFO urban floodplain fringe overlay district and derived from § 7.039 of the 1975 Code; and Ord. No. 94-155, §§ 8 and 10, adopted Nov. 10, 1994.

**Secs. 20-856—20-875. - Reserved.**

## DIVISION 34. - RESERVED<sup>[10]</sup>

Footnotes:

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**Editor's note**— Ord. No. 2011-131S, adopted April 10, 2012, repealed Div. 34, §§ 20-876—20-879, which pertained to the GFO general floodplain overlay district and derived from § 7.039 of the 1975 Code; Ord. No 86-86, § 7.039, adopted Aug. 26, 1986; and Ord. No 2005-155, adopted Jan. 10, 2006.

**Secs. 20-876—20-895. - Reserved.**

## DIVISION 35. - APO AIRPORT PROTECTION OVERLAY DISTRICT

**Sec. 20-896. - Purpose.**

- (a) The airport protection overlay district is intended to maintain the existing utility of any airport in the county and prevent further encroachment or obstruction of the airspace necessary for safe landing, takeoff and maneuvering of aircraft. It is intended to protect any airport that is open for use by the general public. It is hereby declared that obstructions to the airspace required for the safe landing, takeoff and maneuvering of aircraft and that land uses which interfere with the safe operation of aircraft, have the potential for endangering lives and the property of users of the county airports and of those who occupy land in their vicinity.
- (b) It is therefore determined that the public safety and general welfare require the prohibition of hazardous land use and obstructions to the airspace necessary for safe air operations. So far as is practical, the provisions of this division regarding airport protection have been

structured and modeled in accordance with Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace. The initial airport covered by the APO district is the Racine Commercial Airport, which has been designated by the federal aviation administration as an official reliever airport for General Mitchell Field and O'Hare International Airport in the category of general aviation.

- (c) However, the protections and restrictions described herein and the principles upon which they are based are applicable to other local airports which may seek similar protections or restrictions.

(Code 1975, § 7.0310)

**Sec. 20-897. - Prohibited uses.**

- (a) No use may be made of any lands within the airport protection overlay district which will result in or cause any of the following:
  - (1) Interference with navigational signals or radio communications between airport and aircraft;
  - (2) Make it difficult for pilots to distinguish between airport lights and others by maintaining lights which resemble airport marker or navigational lights or aids;
  - (3) Result in causing glare in the eyes of pilots using the airport;
  - (4) Impair visibility from aircraft using the airport;
  - (5) Create bird strike hazards by creating bodies of water which attracts birds; or
  - (6) Otherwise interfere with the landing, takeoff or maneuvering of aircraft using or intending to use the airport.
- (b) Use of any land in the airport protection overlay district for solid waste disposal is prohibited.
- (c) This section shall not be construed as prohibiting the tilling of soil in normal farming operations or the use of land for retention of stormwater for short periods not to exceed forty-eight (48) hours.

(Code 1975, § 7.026)

**Sec. 20-898. - Protected surfaces.**

The following surfaces in the APO airport protection overlay district shall be protected:

- (1) *Primary surface.* A surface whose elevation at any point is the same as the elevation at the nearest point on a runway and whose horizontal projection is bounded as follows: Begin at a point on the Section line between Section 31, Township 4 North, Range 23 East and Section 6, Township 3 North, Range 23 East which is located S88°07'45"W 35.56 feet from the Southeast corner of said Section 31; run thence S35°25'36"W 329.76 feet;

thence N54°34'24"W 1000.00 feet; thence N35°25'36"E 1899.83 feet; thence N48°11'17"W 1791.55 feet; thence N41°48'43"E 500.00 feet; thence S48°11'17"E 1735.60 feet; thence N35°25'36"E 3067.76 feet; thence S54°34'24"E 1000.00 feet; thence S35°25'36"W 3176.66 feet; thence S48°11'17"E 1667.09 feet; thence S41°48'43"W 500.00 feet; thence N48°11'17"W 1611.14 feet; thence S35°25'36"W 1458.16 feet to the point of beginning.

- (2) *Approach Surface No. 04.* Commence at a point on the Section line between Section 31, Township 4 North, Range 23 East and Section 6, Township 3 North, Range 23 East, located S88°07'45"W 35.56 feet from the Southeast corner of said Section 31; run thence S35°25'36"W 329.76 feet to the point of beginning of this description at elevation 667.20; run thence S26°53'45"W 5157.06 feet to a point at elevation 817.20; thence S26°53'45"W 4954.82 feet to a point at elevation 817.20; thence N54°34'24"W 4000.00 feet to a point at elevation 817.20; thence N43°57'27"E 4954.82 feet to a point at elevation 817.20; continue thence N43°57'27"E 4954.82 feet to a point at elevation 817.20; continue thence N43°57'27"E 5157.06 feet to a point at elevation 667.20; thence S54°34'24"E 1000.00 feet to the point of beginning.
- (3) *Approach Surface No. 14.* Commence at a point on the East line of Section 31, Township 4 North, Range 23 East, located N01°21'46"W 1953.40 feet from the Southeast corner of said Section 31; run thence N48°11'17"W 1649.11 feet to the point of beginning of this description at elevation 668.61; run thence N53°53'55"W 3768.70 feet to a point at elevation 818.61; continue thence N53°53'55"W 6281.17 feet to a point at elevation 818.61; thence N41°48'43"E 2500 feet to a point at elevation 818.61; thence S42°28'39"E 6281.17 feet to a point at elevation 818.61; continue thence S42°28'39"E 3768.70 feet to a point at elevation 668.61; thence S41°48'43"W 500.00 feet to the point of beginning.
- (4) *Approach Surface No. 22.* Commence at a point on the North-South ¼ line of Section 32, Township 4 North, Range 23 East, located N01°05'11"W 1715.72 feet from the center of said Section 32; run thence N54°34'24"W 539.97 feet to the point of beginning of this description at elevation 665.25; run thence N28°18'06"E 5139.69 feet to a point at elevation 815.25; continue thence N28°18'06"E 4938.13 feet to a point at elevation 815.25; thence S54°35'24"E 3500.00 feet to a point at elevation 815.25; thence S42°33'06"W 4938.13 feet to a point at elevation 815.25; continue thence S42°33'06"W 5139.69 feet to a point at elevation 665.25; thence N54°34'24"W 1000.00 feet to the point of beginning.
- (5) *Approach Surface No. 32.* Commence at a point on the North-South ¼ line of Section 32, Township 4 North, Range 23 East, located N00°47'06"W 194.51 feet from the South ¼ corner of said Section; run thence N53°53'55"W 361.46 feet to the point of beginning of this description at elevation 655.06; run thence S53°53'55"E 3768.70 feet to a point at elevation 805.06; continue thence 53°53'55"E 6281.17 feet to a point at elevation 805.06; thence S41°48'43"W 2500 feet to a point at elevation 805.06; thence N42°28'39"W 6281.17 feet to a point at elevation 805.06; continue thence N42°28'39"W 3768.70 feet to a point at elevation 655.06; thence N41°48'43"E 500.00 feet to the point of beginning.
- (6) *Transition Surface "A."* Commence at a point on the Section line between Section 31, Township 4 North, Range 23 East and Section 6, Township 3 North, Range 23 East, located S88°07'45"W 35.56 feet from the Southeast corner of said Section 31; run thence S35°25'36"W 329.76 feet to the point of beginning of this description at elevation 667.20;

run thence S26°53'45"W 5157.06 feet to a point at elevation 817.20; thence N38°37'31"E 5107.96 feet to a point at elevation 817.20; thence N35°25'36"E 613.87 feet to a point at elevation 809.48; thence S48°11'17"E 437.08 feet to a point at elevation 805.06; thence S58°23'32"E 3810.27 feet to a point at elevation 805.06; thence N42°28'39"W 3768.70 feet to a point at elevation 655.06; thence N48°11'17"W 1611.14 feet to a point on the primary surface; thence S35°25'36"W 1787.93 feet to the point of beginning.

- (7) *Transition Surface "B."* Commence at a point on the East line of Section 31, Township 4 North, Range 23 East; located N01°21'46"W 1953.40 feet from the Southeast corner of said Section 31; run thence N48°11'17" W 1649.11 feet to the point of beginning of this description at elevation 668.61; thence S48°11'17"E 1791.55 feet to a point on the primary surface; thence S35°25'36"W 1899.83 feet to a point at elevation 667.20; thence S43°57'27"W 5157.06 feet to a point at elevation 817.20; thence N32°13'41"E 5107.96 feet to a point at elevation 817.20; thence N35°25'36"E 960.78 feet to a point at elevation 817.96; thence N48°11'17"W 852.50 feet to a point at elevation 818.61; thence N37°59'03"W 3810.27 feet to a point at elevation 818.61; thence S53°53'55"E 3768.70 feet to the point of beginning.
- (8) *Transition Surface "C."* Commence at a point on the East line of Section 31, Township 4 North, Range 23 East, located S01°21'26"E 24.73 feet from the East ¼ corner of said Section 31; run thence N48°11'17"W 1180.00 feet to the point of beginning of this description at elevation 668.61; run thence N42°28'39"W 3768.70 feet to a point at elevation 818.61; run thence S58°23'32"E 3810.27 feet to a point at elevation 818.61; thence S48°11'17"E 561.54 feet to a point at elevation 818.02; thence N35°25'36"E 1893.70 feet to a point at elevation 815.25; thence N40°03'03"E 5116.65 feet to a point at elevation 815.25; thence S28°18'06"W 5139.69 feet to a point at elevation 665.25; thence S35°25'36"W 3067.76 feet to a point on the primary surface; thence N48°11'17"W 1735.60 feet to the point of beginning.
- (9) *Transition Surface "D."* Commence at a point on the North-South ¼ line of Section 32, Township 4 North, Range 23 East located N00°47'06"W 194.51 feet from the South ¼ corner of said Section; run thence N53°53'55"W 361.46 feet to the point of beginning of this description at elevation 655.06; run thence N48°11'17"W 1667.09 feet to a point on the primary surface; thence N35°25'36"E 3179.66 feet to a point at elevation 665.25; thence N42°33'06"E 5139.69 feet to a point at elevation 815.25; thence S30°48'09"W 5116.65 feet to a point at elevation 815.25; thence S35°25'36"W 2240.61 feet to a point at elevation 807.15; thence S48°11'17"E 728.04 feet to a point at elevation 805.06; thence S37°59'03"E 3810.27 feet to a point at elevation 805.06; thence N53°53'55"W 3768.70 feet to the point of beginning.

(Code 1975, § 7.087; Ord. No. 97-156, 11-11-97)

**Secs. 20-899—20-915. - Reserved.**

**DIVISION 36. - SSO STRUCTURAL SETBACK OVERLAY DISTRICT**

**Sec. 20-916. - Purpose.**

The SSO structural overlay district is intended to be used to protect people and property from shore erosion damage in Lake Michigan shoreland areas which are recommended to be protected by properly designed, constructed and maintained shore protection structures.

### **Sec. 20-917. - Application.**

The SSO structural overlay district applies to those Lake Michigan shoreline areas which are located south of the northern one-half of Township 4 North, Range 23 East, Section 8, in the Town of Caledonia and Mt. Pleasant. In addition, the SSO district applies to the northernmost one thousand three hundred (1,300) feet of Lake Michigan shoreline in Section 6 of the Town of Caledonia, Township 4 North, Range 23 East, which is covered by fly ash deposits. All new development within this overlay district shall be adequately protected by properly designed, constructed, and maintained shore protection structures or measures. Such structural protection structures or measures shall meet the criteria established in Recommendations of the Racine County Technical Subcommittee on Shoreland Development Standards to the Racine County Land Use Committee, 1982.

(Code 1975, § 7.0311)

### **Sec. 20-918. - Stable slope.**

- (a) In delineating the SSO structural setback overlay district, the required recession or regrading of the bluff needed to form a stable slope, plus a minimum facility setback distance, shall be computed. The provision of the stable slope provides protection against further major bluff recession, as long as the shore protective structures are effective. This stable slope distance is measured from the existing bluff edge. The minimum facility setback distance is then measured from the edge of the regraded bluff needed to form a stable slope. The minimum facility setback distance provides a safety factor against possible failure of the protective structures during extreme storm events or other natural occurrences, and provides a buffer area which helps protect the regraded bluff edge from excessive surface water runoff and from the potential bluff instability which could be caused by the additional weight of buildings being placed close to the bluff edge. In addition, the minimum facility setback distance provides an area which may be effectively utilized to facilitate surface water and subsurface water drainage and control.
- (b) The distance required to achieve a one (1) on two and one-half (2½) stable slope is set forth in Table 12, page 65, of SEWRPC Community Assistance Planning Report No. 86, A Lake Michigan Coastal Erosion Management Study for Racine County, Wisconsin, and shall be used to determine the stable slope distance. Minimum facility setback distances measured from the edge of the net stable slope distance shall be as follows:
- (1) Two hundred (200) feet for all structures except public utilities, public recreational facilities and single-family residential units.
  - (2) One hundred (100) feet for public utilities, public recreational facilities, and single family residential units. The minimum setback distance may be reduced in areas of existing facility development to be at least the average distance from the edge of the net stable slope distance to adjacent principal structures located on abutting parcels (excluding public right-of-ways and easements), although the minimum setback distance shall not be less than fifty (50) feet from the edge of the net stable slope distance. If an abutting parcel is vacant, a setback of one hundred (100) feet will be assumed for purposes of averaging.

(Code 1975, § 7.0311; Ord. No. 2000-251S, 8-28-01)

**Sec. 20-919. - Modification.**

The calculated SSO structural setback overlay district distance may be modified upon submittal by an applicant or property owner of acceptable engineering analyses which indicated that the required distance for a stable slope is different than as defined in SEWRPC Community Assistance Planning Report No. 86, or that the height of the bluff is different than the assumed height.

(Code 1975, § 7.0311)

**Sec. 20-920. - Permitted uses.**

The following uses are permitted in the SSO structural setback overlay district:

- (1) *Principal uses.* Surface and subsurface water drainage and control; general farming activities, not including the erection of structures; open space; outdoor recreation; yard; storage of portable equipment and supplies; accessory buildings such as storage sheds; and minor structures such as driveways, sidewalks, patios and fences.
- (2) *Conditional uses.* Tree cutting and shrubbery clearing, land disturbance and earth movements, and shore protection structures. See section 20-1291.

(Code 1975, § 7.0311)

**Sec. 20-921. - Structures prohibited.**

New, permanent or relocatable residential, institutional, commercial, industrial, and agricultural structures designed for human habitation or the confinement of animals are prohibited in the SSO structural setback overlay district. (Code 1975, § 7.0311)

**Secs. 20-922—20-940. - Reserved.**

**DIVISION 37. - NSO NONSTRUCTURAL SETBACK OVERLAY DISTRICT**

**Sec. 20-941. - Purpose.**

The NSO nonstructural setback overlay district is intended to be used to protect people and property from shore erosion damage in Lake Michigan shoreland areas which are not protected by properly designed, constructed, and maintained shore protection structures.

(Code 1975, § 7.0311)

**Sec. 20-942. - Application.**

The NSO nonstructural setback overlay district applies to those Lake Michigan shoreline areas which are located north of the southern one-half of Township 4 North, Range 23 East, Section 8, Town of Caledonia, except for the northernmost one thousand three hundred (1,300) feet of Lake Michigan shoreline in Section 6 of the Town of Caledonia, which is covered by fly ash deposits.

(Code 1975, § 7.0311)

### **Sec. 20-943. - Stable slope.**

- (a) In delineating the NSO nonstructural setback overlay district, the expected bluff recession over a fifty-year period, plus the required recession, or regrading the bluff needed to form a stable slope, plus a minimum facility setback distance from the regraded bluff edge, shall be computed. The NSO district thus includes those Lake Michigan shoreland areas which, based on historical bluff recession rates, are expected to be lost due to bluff recession, and the formation of a stable slope, over a fifty-year period, plus a minimum facility setback distance.
- (b) The distance required to achieve a one (1) on two and one-half (2½) stable slope is set forth in Table 12, page 65, of SEWRPC Community Assistance Planning Report No. 86, A Lake Michigan Coastal Erosion Management Study for Racine County, Wisconsin, and shall be used to determine the stable slope distance. Minimum facility setback distances measured from the edge of the net stable slope distance shall be as follows:
  - (1) Two hundred (200) feet for all structures except public utilities; public recreational facilities and single-family residential units.
  - (2) One hundred (100) feet for public utilities, public recreational facilities, and single-family residential units. The minimum setback distance shall be reduced in areas of existing facility development to the average distance from the regraded bluff edge to adjacent structures within one hundred (100) feet of the structure, although the minimum setback distance shall not be less than fifty (50) feet from the edge of the net stable slope distance.

(Code 1975, § 7.0311)

### **Sec. 20-944. - Modifications.**

The calculated NSO nonstructural setback overlay district distance may be modified upon submittal by an applicant or property owner of acceptable engineering analyses which indicate that the actual bluff recession rate is different than as set forth in SEWRPC Community Assistance Planning Report No. 86, that the required distance for a stable slope is different, or that the height of the bluff is different than the height presented in the report.

(Code 1975, § 7.0311)

### **Sec. 20-945. - Permitted uses.**

The following uses are permitted in the NSO nonstructural setback overlay district:

- (1) *Principal uses.* General farming activities, not including the erection of structures; open space, outdoor recreation; yard; storage of portable equipment and supplies; accessory buildings such as storage sheds; and minor structures such as driveways, sidewalks, patios and fences.
- (2) *Conditional uses.* Tree cutting and shrubbery clearing, land disturbance and earth movements, shore protection structures, and the placement of structures or buildings which may be relocated at a cost not to exceed 30 percent of the equalized value of the structure. See section 20-1291 et seq. (Code 1975, § 7.0311)

**Sec. 20-946. - Structures prohibited.**

New, permanent residential, institutional, commercial, industrial and agricultural structures designed for human habitation or the confinement of animals are prohibited in the NSO nonstructural setback overlay district.

(Code 1975, § 7.0311)

**Secs. 20-947—20-965. - Reserved.**

**DIVISION 38. - SWO SHORELAND-WETLAND OVERLAY DISTRICT**<sup>[11]</sup>

Footnotes:

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**Cross reference**— Schedule of deposits for violation of the provisions in this division, § 5-3.

**Sec. 20-966. - Purpose.**

The SWO shoreland-wetland overlay district is intended to be used to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

(Ord. No. 86-17, § 7.0311, 7-22-86)

**Sec. 20-967. - Permitted uses.**

The following uses are permitted in the SWO shoreland-wetland overlay district:

- (1) *Principal uses.*
  - a. The following uses must be carried out without filling, flooding, draining, dredging, ditching, tiling or excavating; hiking, fishing, trapping, hunting, swimming and boating; the harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops; the practice of silviculture, including the planting, thinning and harvesting of timber; the pasturing of livestock; the cultivation of agricultural crops; and the construction and maintenance of duck blinds.
  - b. The following uses may involve filling, flooding, draining, dredging, ditching, tiling or excavating to the extent specifically provided below; temporary water level stabilization measures, in the practice of silviculture, which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected; dike and dam construction and ditching for the purpose of growing and harvesting cranberries; ditching, tiling, dredging, excavating or filling done to maintain or repair existing agricultural drainage systems only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use; limited excavating and filling necessary for the

construction and maintenance of fences for the pasturing of livestock; limited excavating and filling necessary for the construction and maintenance of piers, docks and walkways built on pilings; limited excavating and filling necessary for the maintenance, repair, replacement and reconstruction of existing village and county highways; and the maintenance and repair of existing village and county bridges. A zoning permit is not required for the preceding uses.

(2) *Conditional uses.*

- a. The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation, provided that:
  1. The road cannot, as a practical matter, be located outside the wetland; and
  2. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:
    - i. The road shall be designed and constructed as a single lane roadway with only such depth and width necessary to accommodate the machinery required to conduct agricultural and silvicultural activities;
    - ii. Road construction activities are to be carried out in the immediate area of the roadbed only; and
    - iii. Any filling, flooding, draining, dredging, ditching, tiling or excavating that is to be done must be necessary for the construction or maintenance of the road.
- b. The construction and maintenance of nonresidential buildings used solely in conjunction with raising of waterfowl, minnows or other wetland or aquatic animals or used solely for some other purpose which is compatible with wetland preservation, if such building cannot as a practical matter be located outside the wetland, provided that:
  1. Any such building does not exceed five hundred (500) square feet in floor area; and
  2. Only limited excavating and filling necessary to provide structure support for the building is allowed.
- c. The establishment and development of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur and animal farms, shooting preserves, public boat launching ramps and access roads used in conjunction with a public boat launching ramp, provided that:

1. Any private recreation or wildlife habitat area must be used exclusively for that purpose.
  2. Filling and excavating necessary for the construction and maintenance of public boat launching ramps and access roads is allowed only where such construction meets the criteria listed for roads to service silvicultural activities.
  3. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game bird and animal farms, fur animal farms, private wildlife habitat areas, and shooting preserves, but only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
  4. Open space cannot contain buildings. Public use must meet W.S.A., § 91.46(5) and any private parks or shooting preserves must meet W.S.A., § 91.01(1).
- d. The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members, provided that:
1. The transmission and distribution lines and related facilities cannot as a practical matter be located outside the wetland; and
  2. Any filling, excavating, ditching or draining that is to be done must be necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands, and
  3. Utilities must meet W.S.A. § 91.46(1)(f).
- e. The construction and maintenance of railroad lines, provided that:
1. The railroad lines cannot as a practical matter be located outside the wetland; and
  2. Any filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetland; and the replacement and/or reconstruction of existing village and county bridges; and
  3. Transportation Uses must meet W.S.A., § 91.46(4).
- f. Such conditional uses may be approved under section 20-1181 or 20-1182. (Ord. No. 86-17, § 7.0311, 7-22-86; Ord. No. 2015-90, 12-15-15)

**Sec. 20-968. - Prohibited uses.**

Any use that is not listed as a principal or conditional use is prohibited in the SWO shoreland-wetland overlay district, unless the wetland or a portion of the wetland has been rezoned by amendment of this chapter in accordance with W.S.A., § 59.97(5)(e), Chapter NR115, Wisconsin Administrative Code and section 20-167.  
(Ord. No. 86-17, § 7.0311, 7-22-86)

**Sec. 20-969. - Reserved.**

**DIVISION 39. - PUD PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT**

**Sec. 20-970. - Purpose.**

The PUD planned unit development overlay district, set forth in this division, is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning and diversified location of structures. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic, to provide attractive recreation and open spaces as integral parts of the developments, to enable economic design in the location of public and private utilities and community facilities, and to ensure adequate standards of construction and planning. The PUD overlay district under this division will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements set forth in the underlying basic zoning district. The unified and planned development of a site in a single or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in W.S.A., ch. 703 (condominiums), may be permitted by the board of supervisors upon specific petition under this division and after public hearing, with such development encompassing one (1) or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this division have been met.  
(Ord. No. 90-131, § 7.0313(A), 10-7-90)

**Sec. 20-971. - Created.**

So to ensure a maximum benefit to both the community and to developers and so as to provide for flexibility in planning in all the districts created under this division except for the A-1, A-2, A-3, A-4, R-1, R-2, P-1, P-2, C-1, M-4, FFO, APO, SSO, NSO and SWO districts, there is hereby created the planned unit development overlay district (PUD). Note: While PUDs may not consist entirely of wetlands or floodplains, portions of a development may contain such features. Any parcel where the building site lies in whole or in part within the primary environmental corridor shall not be considered for PUD until such time as the primary environmental corridor has been removed from the sites.  
(Ord. No. 90-131, § 7.0313(B), 10-7-90; Ord. No. 2011-131S, 4-10-12)

**Sec. 20-972. - Principal, accessory and conditional uses.**

Principal, accessory and conditional uses permitted in a planned unit development overlay district shall conform to uses permitted in the underlying basic use district. Individual structures shall comply with the specific building area and height requirements of the underlying basic use district.

All open space and parking requirements of the underlying basic use district shall be complied with either individually or by providing the combined open space and parking space required for the entire development in one (1) or more locations within the development.  
(Ord. No. 90-131, § 7.0313(C), 10-7-90)

**Sec. 20-973. - Ownership.**

Areas designated as PUD overlay districts shall be under single or corporate ownership at the time of their creation.  
(Ord. No. 90-131, § 7.0313(D), 10-7-90)

**Sec. 20-974. - Minimum area requirements.**

Areas designed as PUD overlay districts shall contain a minimum development area of:

Principal uses	Minimum area of PUD (acres)	Minimum frontage (feet)
Residential planned unit development	10	450
Commercial planned unit development	10	450
Industrial planned unit development	40	450

(Ord. No. 90-131, § 7.0313(E), 10-7-90)

**Sec. 20-975. - Minimum sanitary sewer requirements.**

All planned unit developments shall be on a public sanitary sewer system.  
(Ord. No. 90-131, § 7.0313(F), 10-7-90)

**Sec. 20-976. - Prepetition conference and general layout conceptual plan.**

Prior to the official submission of the petition for the approval of a planned unit development overlay district, the owner or his agent making such petition shall meet at the county planning and development office and the designated representative of the village wherein the planned unit development is to be located to discuss the scope and proposed nature of the contemplated development and data and other information as deemed appropriate and pertinent for presentation to the committee. At the prepetition conference, the owner or agent shall present a general layout conceptual plan including drawings and sketches of the proposed development and figures or calculations that are pertinent to the development using as a general guideline the requirements set forth in section 20-977(2). (Ord. No. 90-131, § 7.0313(G), 10-7-90)

**Sec. 20-977. - Petition.**

Following the prepetition conference, the owner or his agent may file a petition with the planning and development office for approval of a planned unit development overlay district. Such petition shall be accompanied by the required review fee as well as the following information:

- (1) A statement which sets forth the relationship of the proposed planned unit development to any existing or proposed master plans or any adopted component thereof, and the general character of the uses to be included in the proposed planned unit development including the following information:
  - a. Total area to be included in the planned unit development, area of open space (minimum required is twenty (20) percent of total area), residential density computations, proposed number of dwelling units, population analysis, availability of, or requirements for, municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
  - b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features of common open spaces.
  - c. A general outline of the organizational structure of a property owner's association which may be proposed to be established for the purpose of providing any necessary private services or maintenance of common open spaces.
  - d. Any proposed departures from the standards of development as set forth in the county zoning regulations, other county regulations or administrative rules, or other county or village ordinances.
  - e. The expected date of commencement, schedule of development by phases, and completion of physical development as set forth in the proposal.
- (2) A detailed development site plan including:
  - a. A survey and legal description of the boundaries of the subject property included in the proposed planned unit development and its relationship to surrounding properties prepared by a land surveyor registered by the state.
  - b. The location of public and private roads, driveways, and parking facilities.
  - c. The size, arrangement, and location of any individual building sites and proposed building groups on each individual site.
  - d. The location of institutional, recreational, and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
  - e. The type, size, and location of all structures.
  - f. General landscape treatment.
  - g. Architectural plans, elevation, and perspective drawings and sketches illustrating the design and character of the proposed structures.

- h. The existing and proposed location of public sanitary sewer and water supply facilities.
- i. The existing and proposed location of all private utilities or other easements.
- j. The characteristics of soils related to contemplated specific uses.
- k. Existing topography on the site with contours at no greater than two-foot intervals.
- l. Detailed stormwater drainage plans prepared by a professional engineer registered by the state.
- m. Anticipated uses of adjoining lands in regard to roads, surface water drainage, and compatibility with existing adjacent land uses.
- n. Any other data or information requested at the prepetition conference.

(Ord. No. 90-131, § 7.0313(H), 10-7-90)

**Sec. 20-978. - Referral to village board and planning and development committee.**

The petition and detailed site plan for a planned unit development overlay district shall be referred to the village board of the village wherein the proposed planned unit development is to be located for its review and recommendation, which may include any additional conditions or restrictions which it may deem necessary or appropriate. Following such review, the petition and recommendation shall be forwarded to the county planning and development committee for similar review and recommendations.

(Ord. No. 90-131, § 7.0313(I), 10-7-90)

**Sec. 20-979. - Public hearing.**

The planning and development committee before formulating its recommendations to the board of supervisors shall hold a public hearing pursuant to the requirements of section 20-144. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested planned unit development overlay district.

(Ord. No. 90-131, § 7.0313(J), 10-7-90)

**Sec. 20-980. - Basis for petition approval.**

The planning and development committee in making its recommendation to the board of supervisors and the board of supervisors in making its determination shall find that:

- (1) The petitioners for the proposed planned unit development overlay district have indicated that they intend to begin the physical development of the planned unit development within twelve (12) months following the approval of the petition and the development will be carried out according to a reasonable construction schedule satisfactory to the county.
- (2) The proposed planned unit development overlay district is consistent in all respects to the purpose of this section and to the spirit and intent of this division, is in

conformity with any existing or proposed adopted master plans or any adopted components thereof, and that the development would not be contrary to the general welfare and economic prosperity of the community.

- (3) The planning and development committee in making its recommendations and the board of supervisors in making its determination shall further find that:
- a. The proposed site is provided with adequate drainage facilities for surface waters and stormwaters.
  - b. The proposed site is accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
  - c. No undue constraint or burden will be imposed on public services and facilities, such as, but not limited to, fire and police protection, street maintenance, and maintenance of public areas by the proposed development.
  - d. The streets and driveways on the site of the proposed development are adequate to serve the proposed development and to meet the minimum standards of all applicable ordinances or administrative regulations of the county or village, whichever is more restrictive.
  - e. Centralized public sewer facilities are provided; centralized public water is desired.
  - f. The entire tract or parcel of land to be included in a planned unit development overlay district is held under single ownership, or, if there is more than one (1) owner, the petition for such planned unit development overlay district is considered as one (1) tract, lot or parcel and the legal description defines such planned unit development as a single parcel, lot or tract and is jointly petitioned by the several owners. This requirement shall not be deemed to prevent further divisions of the land after creation of the planned unit development.
- (4) That in the case of a proposed residential planned unit development overlay district:
- a. Such development creates an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreational space, and coordination with overall plans for the county and the village wherein the planned unit development is to be located.
  - b. The following table has been used and complied with for the following districts in determining the density of a development or site. In no case shall the density of a development or site exceed the net residential density of its neighborhood based on the regional plan or county plan.

Zoning district	Maximum gross density (dwelling units/acre)	Average net area per dwelling unit (sq. ft.)
R-2S	0.9	40,000
R-3	1.8	20,000
R-3A	2.7	13,500
R-4	3.6	10,000
R-5	5.0	7,200
R-5A	3.6	10,000
R-6	7.3	5,000
R-7*	12.1	3,000 Zoning district
R-7**	14.5	2,500
R-7***	18.1	2,000

\*Two (2) or more bedrooms per unit.

\*\*One-bedroom units.

\*\*\*Efficiency units.

- c. The residential planned unit development project is limited to development types set forth as follows:
  1. Cluster developments and detached condominiums are permitted in the R-2S, R-3 and R-3A districts.
  2. Cluster developments, attached single-family dwellings, townhouses, and condominiums are permitted in the R-4, R-5, R-5A and R-6 districts but shall not exceed two (2) dwelling units per structure.
  3. Cluster developments, townhouses, and condominiums are permitted in the R-7 district. The number of units per structure and the precise location of any such buildings shall be determined by the village and the county on a site specific basis.
- d. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
- e. Provision has been made for adequate, continuing fire and police protection.
- f. The population composition of the development will not have an adverse effect upon the individual village's capacity to provide needed school or other municipal service facilities.



**Sec. 20-981. - Determination.**

The board of supervisors, after due consideration, may deny the petition, approve the petition as submitted, or approve the petition subject to additional conditions and restrictions. The approval of a planned unit development overlay district shall be based upon and include as conditions thereto adherence to the building, site, and operational plans for the development as approved by the board of supervisors. The above described conditions shall be recorded with the deeds to the parcels.

(Ord. No. 90-131, § 7.0313(L), 10-7-90)

**Sec. 20-982. - Changes and additions.**

Any subsequent change or addition to the plans or uses shall first be submitted for approval to the designated village board and the planning and development committee and, if in the opinion of either, such change or addition constitutes a substantial alteration of the original plan, a public hearing before the planning and development committee shall be required and notice thereof shall be given pursuant to the provisions of section 20-144, and the proposed alterations shall be submitted to the board of supervisors for approval. Any change in ownership, contractor, or other responsible party during the course of construction shall only be made with the full knowledge of the board of supervisors.

(Ord. No. 90-131, § 7.0313(M), 10-7-90)

**Sec. 20-983. - Subsequent land division.**

The division of any land within a planned unit development overlay district for the purpose of change or conveyance of ownership shall be accomplished pursuant to the land division regulations of the county and the individual village. (Ord. No. 90-131, § 7.0313(N), 10-7-90)

**Sec. 20-984. - Failure to begin development.**

If no substantial construction has commenced or no use established in the planned unit development district within the time schedule which addresses construction commencement and construction completion submitted to the board of supervisors, the county planning and development office shall petition the board of supervisors for the purpose of rescinding the planned unit development overlay designation so as to allow the land in question to revert to its underlying zone. The procedures set forth in section 20-122, relating to the amendment of this chapter, shall be adhered to in its discretion and, for good cause, the board of supervisors may extend for a reasonable period of time, not to exceed one (1) year, the period for the beginning of construction or the establishment of a use. If the planned unit development overlay district is rescinded, the planning and development office shall remove the district from the official zoning map. Those zoning regulations applicable before the creation of the district shall then be in effect and no vested rights in the planned unit development overlay district shall be deemed to have accrued.

(Ord. No. 90-131, § 7.0313(O), 10-7-90)

**Sec. 20-985. Failure to comply with the provisions of the planned unit development approval.**

It shall be unlawful to construct, develop or use any structure or develop or use any land, water or air in violation of any provisions or conditions of a planned unit development approval or order of the planning and development committee regarding compliance with conditions of approval. In case of any violation, the board of supervisors, the corporation counsel, the planning and development director, the planning and development committee, any municipality, or any owner of real estate within the district affected who would be specifically damaged by such violation may institute appropriate legal action or proceedings to enjoin a violation of the conditions or provisions of planned unit development approval, or seek abatement or removal. In addition, those actions commenced on behalf of the county may seek a forfeiture or penalty as outlined elsewhere in this division.

(Ord. No. 90-131, § 7.0313(P), 10-7-90)

**ARTICLE VII. - SUPPLEMENTARY DISTRICT REGULATIONS AND REQUIREMENTS<sup>121</sup>**

Footnotes:

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**Cross reference**— Sign regulations, § 20-1356 et seq.

**DIVISION 1. - GENERALLY**

**Sec. 20-986. - Site restrictions.**

- (a) No permit shall be issued and no land shall be used or structure erected where the land is held unsuitable for such use or structure by the planning and development committee by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this county.
- (b) Pursuant to the county land division control ordinance, the county shall review all land divisions, including those in shoreland areas. In such review the following factors shall be considered, where applicable:
  - (1) Hazards to the health, safety or welfare of future residents.
  - (2) Proper relationship to adjoining areas.
  - (3) Public access to navigable waters, as required by law.
  - (4) Adequate storm drainage facilities.
  - (5) Conformity to state law and administrative code provisions.

- (c) "Aesthetics" may only constitute grounds for prohibiting the use if such use will depreciate the value of property in the neighborhood or impose a visual effect upon neighbors or passersby which is clearly obnoxious to the prevailing taste of the community. The planning and development committee, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the planning and development committee may affirm, modify, or withdraw its determination of unsuitability.
- (d) A minimum of thirty-three (33) feet of all lots shall abut upon a public street, or other means of access that was in existence prior to the original adoption of this ordinance and which has been approved by the village. All lots shall also have a minimum width at the street yard setback line as prescribed for the particular zoning district in which the lot is located. All principal structures shall be located on a lot; and only one (1) principal structure shall be located, erected, or moved onto a lot unless more are allowed and regulated by conditional use permit or site plan review.
- (e) No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width. No zoning permit shall be issued for a lot which abuts upon the termination of a non-through-public street unless such street has been or is to be provided with a permanent cul-de-sac or other type of permanent turnaround as determined by the village board of the village in which such lot is located.
- (f) Widths and area of all lots not served by a public sanitary sewer system or other sewage disposal system approved by that state agency having jurisdiction over the approval or disapproval of such system shall be sufficient to permit the use of a private on-site wastewater treatment system (POWTS) designed in accordance with applicable state and county sanitary regulations but in no case shall be less than one hundred fifty (150) feet in width and forty thousand (40,000) square feet in area unless said lot width and area has been approved by the economic development and land use planning committee through the land division or conditional use process.
- (g) When there is a reasonable likelihood that unsewered lots will be sewerred within ten (10) years and that the required frontage thereafter will be seventy-five (75) feet, the planning and development committee or subdivider may cause dotted lines to be drawn across the center of the lots applicable on plat and zoning maps so as to notify prospective purchasers of that possibility.
- (h) Within the APO airport protection overlay district, no structure shall be erected, altered or maintained, nor shall any mobile object be operated, nor shall any vegetation be allowed to grow if such structures, object or vegetation penetrates or intrudes upon any of the protected surfaces defined in section 20-898, except that nothing in this section shall be construed as prohibiting the construction, alteration or maintenance of any structure or the growth of any tree up to a height of fifty (50) feet above the ground surface at its base; or prohibiting the construction, alteration or maintenance of structures necessary to the operation of the airport. Trees shall be trimmed to a height of five (5) feet below the elevation of the protected surface to provide a reasonable interval of clearance between the time of trimming and the time when the vegetation again grows to a height which invades the protected surface.

(Code 1975, § 7.025; Ord. No. 86-17, § 7.025, 7-22-86; Ord. No. 2000-251S, 8-28-01; Ord. No. 2007-28, 6-26-07)

**Sec. 20-987. - Sanitary regulations.**

Where public water supply systems are not available, private well construction shall be required to conform to ch. NR112, Wisconsin Administrative Code. Where a public sewage collection and treatment system is not available, design and construction of private sewage disposal systems shall be governed by chapter 19 adopted by the county pursuant to W.S.A., § 59.065. No private waste disposal systems or parts thereof shall be located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered or their use changed without full compliance with chapter 19. A zoning permit for a principal structure or an addition thereto may not be issued until evidence of such compliance is provided to the zoning administrator. (Code 1975, § 7.027; Ord. No. 86-17, § 7.027, 7-22-86)

**Secs. 20-988—20-1005. - Reserved.**

**DIVISION 2. - USES<sup>[13]</sup>**

Footnotes:

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**Cross reference**— Schedule of deposits for violation of the provisions in this section, § 5-3.

**Sec. 20-1006. - Application.**

The use restrictions and regulations set forth in this division shall apply throughout the county. (Code 1975, § 7.026)

**Sec. 20-1007. - Principal uses.**

Only those principal uses specified for a district, their essential services, and the following uses on the conditions specified in this division shall be permitted in that district. (Code 1975, § 7.026)

**Sec. 20-1008. - Accessory uses and structures.**

- (a) Accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction, except as provided in subsection (b) below.
- (b) Subject to approval by the Village Board, accessory structures may be permitted in the agricultural districts prior to the presence of the principal structure provided that the parcel on which the accessory structure will be located is ten (10) contiguous acres in size or larger, the accessory structure is intended for an agricultural use, the proposed accessory structure meets the setback requirements needed for a principal structure in that district, and the accessory structure is at least one hundred (100) feet from any existing residence on abutting parcels. As part of the approval process, the Village Board may impose reasonable conditions on the above-described use.

- (c) Accessory uses may include, but are not limited to, incidental repairs; incidental storage; parking areas; private swimming pools; private emergency shelters; and gardening. Examples of accessory structures (regardless of whether attached to a foundation) are barns, detached garages, playhouses, sheds, private greenhouses, gazebos, storage buildings, boathouses, wind energy facilities, swimming pool pump houses.
- (d) Servant's and itinerant agricultural laborer's quarters not for rent may be considered accessory uses, subject to conditional use approval. In areas not served by public sanitary sewer, any added quarters must have private onsite wastewater treatment system (POWTS) sanitary approval prior to zoning permit issuance. These uses will also require a recorded deed restriction at the time of the filing of the zoning permit application indicating that the proposed use is associated with the principal use on the property, that the quarters are not for rent, that quarters are limited in area to the lesser of eight hundred (800) square feet or fifty (50) percent of the habitable floor area of the main residence, and that the structure with this use will be utilized as a single housekeeping entity and not as a multi-family dwelling. In addition, a detached accessory structure used for the above quarters must be located on the same property as the principal structure/use and comply with accessory structure setbacks, but in no case may be less than twenty-five (25) feet from a lot line. In the A-1 district all servant's and itinerant agricultural labor's quarters must qualify under W.S.A., § 91.01(19).
- (e) In-law suites (herein "suite") may be allowed as an accessory use to a single-family residence located in the R-1, R-2, R-2S, R-3, R-3A, R-4, R-5, R-5A, A-1, A-2 and C-2 zoning districts, subject to the following:
- (1) Up to two (2) family members related by blood or marriage to the family occupying the principal structure may reside in the suite and must be allowed unrestricted access to the common areas of the dwelling.
  - (2) The suite shall not have separate gas, water, and/or electric meters (more than one (1) meter per utility would constitute a multi-family dwelling unit, which is prohibited).
  - (3) The suite shall not be located in any detached accessory structure.
  - (4) The gross floor area of the suite shall not exceed eight hundred (800) square feet (not including areas for common utilities such as water heater, furnace, etc.).
  - (5) The suite shall be connected to the main heated living area of the dwelling by way of common walls (the suite shall not be connected to the dwelling by a breezeway, garage, or corridor as this would constitute a multi-family dwelling unit and that is prohibited). A code-compliant suite may be located above a garage that is attached in its entirety to a single-family residence.
  - (6) There shall be only one (1) address and one (1) mailbox for the lot containing the residence and suite.
  - (7) The suite addition shall be constructed so as to be compatible and in harmony in terms of architecture, color, materials and texture with the exterior of the principal residence.

- (8) In areas not served by public sanitary sewer, any suite that is added onto or created within an existing residence must have private onsite wastewater treatment system (POWTS) sanitary approval prior to zoning permit issuance.
  - (9) The suite shall have its principal means of access to the outdoors from the main dwelling unit via said dwelling unit's main exterior doorways (a sole segregated doorway from the suite to the outdoors would constitute a multi-family dwelling unit and that is prohibited).
  - (10) The suite may have up to one (1) bedroom, kitchenette, and bathroom, along with a sitting room or parlor.
  - (11) There may be no more than one (1) suite addition within or attached to a single-family residence.
  - (12) Evidence of a recorded deed restriction will be required at the time of the filing of the zoning permit application that establishes that persons within the home are required to be living together in the dwelling as a single housekeeping entity, that the living area shall not be utilized as a two-family dwelling, and that the suite will be in compliance with subsection 20-1008(e).
- (f) "A", "C-2" and "R" district residential accessory uses and structures shall not involve the conduct of any business, trade, or industry, except if allowed as a principal or conditional use, and as allowed in section 20-1015 for storage of home occupation materials, which may not exceed two hundred (200) square feet of storage area for the home occupation. A greater storage area of home occupation materials may be approved in association with conditional use approval in the A-2 zoning district if granted by the Economic Development and Land Use Planning Committee.

#### **Sec. 20-1009. - Parking.**

- (a) Parking of vehicles accessory to a residential use shall be limited to those actually used by the residents or for temporary parking for guests. Vans or pickup trucks used for private and recreational use, or a motor home (recreational vehicle), or a van or pickup truck used in a business or trade and commercial vehicle per subsection (b) used for transportation to and from a place of employment or workplace of the occupant may be parked on a residential property.
- (b) One (1) commercial vehicle of not over one-ton rated capacity may be parked per residential dwelling unit, providing all of the following conditions are met: vehicle is registered and licensed; used by a resident of the premises; gross weight does not exceed ten thousand (10,000) pounds, including any load; height does not exceed nine (9) feet as measured from ground level, excluding antennas, air vents, and roof-mounted air conditioning units, but including any load, bed, or box; and total vehicle length does not exceed twenty-six (26) feet, including attachments thereto (such as plows, trailers, etc.).
- (c) Recreational vehicles shall be parked in the rear or side yards only or in compliance with same setbacks allowed for accessory structures in subsections 20-1115(b)(1), (b)(2), and (b)(3). Recreational vehicles must maintain a minimum of a six-foot setback from the rear and side lot lines but are not restricted to a minimum setback to the principal structure.

For the purpose of this section, recreational vehicles shall include boats and trailers, snowmobiles and their trailers, minibikes or trailbikes and their trailers, and unoccupied tent campers and travel trailers, all-terrain vehicles and personal watercraft and their trailers.

- (d) No other vehicular equipment of a commercial or industrial nature, except as stated above, shall be parked or stored for more than two (2) consecutive hours and four (4) accumulated hours during any twenty-four-hour period on any lot in any zoning district except business and industrial districts or as permitted by conditional use in the A-2 district (also see section 20-1226).
- (e) Outdoor parking of semi-tractors/trailers on commercial property (B-district), that is not a principal use (e.g., truck sales), an accessory use (e.g., delivery vehicles), or which has not been approved through the conditional use or site plan review process is prohibited.
- (f) Agricultural equipment (such as farm tractors, plows, farm plows, seeders, combines, cultivators, trucks owned and used by the farmer in the operation of the farm, etc.) used in a farm operation are permitted in all agricultural districts.

(Code 1975, § 7.026; Ord. No. 98-21, 6-9-98; Ord. No. 2005-69S, 9-13-05; Ord. No. 2011-61, 11-8-11)

#### **Sec. 20-1010. - Conditional uses.**

- (a) Conditional uses and their accessory uses are considered as special uses which require approval and a public hearing if there is approval all in accordance with section 20-1141 et seq.
- (b) Any development within five hundred (500) feet of an existing or mapped right-of-way of a freeway or expressway and within one thousand five hundred (1,500) feet of their existing or mapped centerline of interchange with any other road shall be deemed to be a conditional use. Any development within fifty (50) feet of any existing or mapped state trunk highway or county trunk highway and within one hundred fifty (150) feet of an existing or mapped centerline of intersection with any other road shall be deemed to be a conditional use. Such development shall be specifically reviewed in accordance with section 20-1141 et seq.
- (c) Unless otherwise provided in the permit, a conditional use permit shall have an indeterminate duration provided that the use for which it was obtained has commenced as required by subsection 20-1141(c) and continues without abandonment as provided in subsection 20-1141(d) in accordance with its terms, and a conditional use permit shall be transferable with the land, provided that the use for which it was obtained does not change.

(Code 1975, § 7.026; Ord. No. 2005-69S, 9-13-05)

#### **Sec. 20-1011. - Unclassified, unspecified uses.**

Unclassified or unspecified uses may be permitted after the planning and development committee has made a review and recommendation provided that such uses are similar in character to the principal uses permitted in the district.

(Code 1975, § 7.026)

### **Sec. 20-1012. - Temporary uses.**

Temporary uses are intended to allow occasional, temporary uses and activities when consistent with the overall purposes of this zoning ordinance and the uses allowed in a particular zoning district, and when the operation of the temporary use will not be detrimental to the public health, safety or general welfare. Because the nature, character or circumstances of temporary uses are unique and dependent upon specific conditions, specifying all temporary uses and associated standards, regulations or conditions necessary or appropriate for a temporary use to be granted is not practical. Therefore, all requested temporary uses shall require a conditional use permit as approved by the Village Board after a duly noticed public hearing before the Plan Commission and Village Board.

### **Sec. 20-1013. - Performance standards.**

Performance standards listed in section 20-1061 et seq. shall be complied with by all uses in all districts.

(Code 1975, § 7.026)

### **Sec. 20-1014. - Ponds, impoundments, etc.**

Ponds, impoundments and similar bodies are permitted in all zoning districts provided that:

- (1) To the maximum extent possible, all excavated material shall remain on site and shall be integrated into the restoration of the pond area.
- (2) Detailed plans (site plan, cross section, depth, area, location and disposition of spoils, timing) of the proposed pond excavation and restoration shall be submitted to the planning and development department for review and approval.
- (3) A permit is required for such pond construction prior to any excavation.
- (4) Except as discussed below, these provisions apply to all ponds, including, but not limited to, those utilized for the following purposes: drainage, recreation, aesthetics, sediment control, fish management. Stormwater ponds done by drainage districts according to district plans, ponds which have been previously reviewed and approved as part of an erosion control plan and existing ponds are exempt from such provisions.
- (5) Borrow pits for public facility construction, such as for public roads, are subject to review and approval by the planning and development department.
- (6) Ponds to be constructed in the shoreland or floodplain areas remain subject to the shoreland, wetland and/or floodplain provisions of this chapter which may limit such construction and will require a shoreland conditional use permit.
- (7) Ponds should be constructed in conformance with the standards of the soil conservation service.

- (8) If the excavated material from the project site is sold, given away, or is otherwise removed from the site in a manner in which the principal use appears to be soil removal, and pond construction appears to be a secondary result, the parcel shall be rezoned to M-4 quarrying district and a mineral extraction conditional use permit shall be obtained prior to any excavation or grading on the parcel.

(Code 1975, § 7.026; Ord. No. 89-255, 2-27-90; Ord. No. 2001-185, 1-22-02)

### **Sec. 20-1015. – Home-Based Businesses.**

(a) Purpose and findings of this section:

- (1) Establishes criteria for operators of home-based businesses in dwelling units within appropriate zoning districts;
- (2) Permits and regulates the conduct of home-based businesses as an accessory use in a dwelling unit, whether owner- or renter-occupied;
- (3) Ensures that such home-based businesses are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;
- (4) Ensures that public and private services, such as streets, wastewater, water or storm water systems, are not burdened by the home-based businesses to the extent that usage exceeds that normally associated with residential use;
- (5) Allows residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards, conditions and criteria;
- (6) Enables the fair and consistent enforcement of these home-based business regulations; and
- (7) Promotes and protects the public health, safety, and general welfare.

(b) This section applies to any occupation, profession, or business activity conducted entirely within a dwelling unit and carried on by a member of the family residing in the dwelling unit, and which occupation or profession is clearly incidental and subordinate to the use of the dwelling unit for residential purposes and does not change the character of the dwelling unit. A home-based business is an accessory use to a dwelling unit.

No home-based business, except as otherwise provided in this section, may be initiated, established, or maintained in the unit except in conformance with the regulations and performance standards set forth in this section.

(c) Types of home-based businesses. Three types of home-based businesses are defined and regulated under this section:

- (1) Type A residential home-based businesses. Type A residential home-based businesses are those in which household residents use the dwelling unit they occupy as a place of work, but no employees come to the site, and customers or

clients are by appointment only. **Type A residential home-based businesses do not require a permit or registration.**

- a. Where allowed. Type A residential home-based businesses are permitted by right as an accessory use to a principal dwelling use. Type A residential home-based businesses are subject to the general regulations of this subsection.
- b. Permitted and conditional uses. The home-based business regulations of this section establish regulations and standards for home-based work activities rather than limit the range of work activities to a specific list of occupations or business types. Type A home-based businesses that comply with all applicable regulations of this section are permitted by right unless otherwise expressly stated.
- c. General regulations for Type A residential home-based businesses. All Type A residential home-based businesses are subject to the following general regulations:
  1. All individuals engaged in a Type A residential home-based business must reside in the dwelling unit in which the residential home-based business is located as their primary place of residence.
  2. Residential home-based businesses must be accessory and secondary to the use of a dwelling unit for residential purposes. They may not change the character of the residential building they occupy or adversely affect the character of the surrounding neighborhood. Residential home-based businesses may not, for example, produce light, noise, vibration, odor, parking demand, or traffic impacts that are not typical of a residential neighborhood in Yorkville. Residential home-based businesses must be operated so as not to create or cause a nuisance.
  3. Any tools or equipment used as part of a residential home-based business must be operated in a manner or sound-proofed so as not to be audible beyond the lot lines of the subject property.
  4. External structural alterations or site improvements that change the residential character of the lot upon which a residential home-based business is located are prohibited. Examples of such prohibited alterations include construction of parking lots, the addition of commercial-like exterior lighting, or the addition of a separate building entrance that is visible from abutting streets.
  5. Residential home-based businesses must be conducted entirely within the dwelling unit. Materials related to the home-based business must be stored entirely within the dwelling unit or an accessory structure.

6. No window display or other public display of any material or merchandise is allowed.
7. The use or storage of hazardous substances is prohibited, except at the "consumer commodity" level, as that term is defined in 49 CFR 171.8.
8. Only licensed automobiles, passenger vans and passenger trucks may be used in the conduct of a residential home-based business. No other types of vehicles may be parked or stored on the premises. This provision is not intended to prohibit deliveries and pickups by common carrier delivery vehicles (e.g., postal service, United Parcel Service, Fed Ex, Amazon, et al.) of the type typically used in residential neighborhoods.
9. No nonresident employees are allowed except for the purposes of student instruction, teaching or tutoring.
10. Up to four individual client or customer appointments are permitted at any one time. For the purposes of this subsection, each "client or customer" may be accompanied by his/her immediately family.
11. The area devoted to the conduct of all Type A residential home-based businesses present on the subject property is limited to 33% of the dwelling unit's floor area or 750 square feet, whichever is less.
12. The following uses are expressly prohibited as Type A residential home-based businesses:
  - i. Any type of assembly, cleaning, maintenance or repair of vehicles, equipment with internal combustion engines, or of large appliances.
  - ii. Dispatch centers or other businesses where employees come to the site and are dispatched to other locations.
  - iii. Equipment supply or equipment rental businesses.
  - iv. Eating or drinking places.
  - v. Funeral or interment services.
  - vi. Any use involving the use or storage of vehicles, products, parts, machinery or similar materials or equipment outside of a completely enclosed building.

- (2) Type B residential home-based businesses. Type B residential home-based businesses are those in which household residents use the dwelling unit they occupy as a place of work and either one nonresident employee or more than 4 customers/clients come to the site at any one time. **Type B residential home-based businesses require a conditional use permit and registration.**

- a. Where allowed. Type B residential home-based businesses may be approved as an accessory use to a principal dwelling use. Type B residential home-based businesses are subject to all applicable regulations of this subsection.
- b. Permitted and conditional uses. The home-based business regulations of this section establish regulations and standards for home-based work activities rather than limit the range of work activities to a specific list of occupations or business types. **Conditional use permits approved as to Type B Home-based businesses may include conditions that vary from the provisions of this ordinance, depending on the unique characteristics of the home-based business under consideration, in accordance with the provisions governing the issuance of conditional use permits set forth in Chapter 55, Exhibit A, Chapter 20, Article VIII, Division 3.**
- c. General regulations for Type B residential home-based businesses. All Type B residential home-based businesses are subject to the following general regulations:
  1. Type B residential home-based businesses are allowed only if reviewed and approved in accordance with the conditional use procedures of Chapter 55, Exhibit A, Chapter 20, Article VIII, Division 3.
  2. Residential home-based businesses must be accessory and secondary to the use of a dwelling unit for residential purposes. They may not change the character of the residential building they occupy or adversely affect the character of the surrounding neighborhood. Residential home-based businesses may not, for example, produce light, noise, vibration, odor, parking demand, or traffic impacts that are not typical of a residential neighborhood in Yorkville. Residential home-based businesses must be operated so as not to create or cause a nuisance.
  3. One nonresident employee is allowed with a Type B residential home-based business. Residential home-based businesses that have more than 4 clients or customers coming to the site at any one time, may not have nonresident employees. For the purpose of this section, the term "nonresident employee" includes an employee, business partner, co-owner or any other person affiliated with the residential home-based business, who does not live at the site, but who visits the site as part of the residential home-based business.
  4. Customer visits are allowed only between the hours of 7:00 a.m. and 7:00 p.m.
  5. Any tools or equipment used as part of a residential home-based business must be operated in a manner or sound-proofed so as not to be audible beyond the lot lines of the subject property.

6. External structural alterations or site improvements that change the residential character of the lot upon which a residential home-based business is located are prohibited. Examples of such prohibited alterations include construction of parking lots, the addition of commercial-like exterior lighting, or the addition of a separate building entrance that is visible from abutting streets.
7. Residential home-based businesses must be conducted entirely within the dwelling unit. Materials related to the home-based business must be stored entirely within the dwelling unit or an accessory structure.
8. No window display or other public display of any material or merchandise is allowed.
9. The use or storage of hazardous substances is prohibited, except at the "consumer commodity" level, as that term is defined in 49 CFR 171.8.
10. Only licensed automobiles, passenger vans and passenger trucks may be used in the conduct of a residential home-based business. No other types of vehicles may be parked or stored on the premises. This provision is not intended to prohibit deliveries and pickups by common carrier delivery vehicles (e.g., postal service, United Parcel Service, Fed Ex, Amazon, et al.) of the type typically used in residential neighborhoods.
11. The area devoted to the conduct of all Type B residential home-based businesses present on the subject property is limited to 49% of the dwelling unit's floor area or 1,000 square feet, whichever is less.
12. As part of the conditional use process, renters will need to obtain written permission from the property owner to carry out Type B residential home-based businesses.
13. The following uses are expressly prohibited as Type B residential home-based businesses:
  - i. Any type of assembly, cleaning, maintenance or repair of vehicles, equipment with internal combustion engines, or of large appliances.
  - ii. Dispatch centers or other businesses where employees come to the site and are dispatched to other locations.
  - iii. Equipment supply or equipment rental businesses.
  - iv. Eating or drinking places.
  - v. Funeral or interment services.

- vi. Any use involving the use or storage of vehicles, products, parts, machinery or similar materials or equipment outside of a completely enclosed building.
- d. Home-Based Business Registry.
1. Intent and Purpose. The intent and purpose of the Home-Based Business Registry is to quicken response times to home-based businesses needing fire, rescue and/or law enforcement services, and to protect the health, safety, and welfare of residents and those frequenting home-based businesses.
  2. Any person receiving a conditional use permit to conduct a Type B home-based business shall file with the village clerk a Home-Based Business Registration Form. The Home-Based Business Registration Form shall contain the following information:
    - i. Business name and address
    - ii. Business owner and address
    - iii. Property owner name and address
    - iv. Hours of operation
    - v. Whether the business is continuous or seasonal
    - vi. Number of employees
    - vii. Estimated number of customers or clients per day
    - viii. Description of products sold and/or services provided
    - ix. Emergency contact information
    - x. Hazardous chemicals and/or substances kept on site
    - xi. Form of ownership (i.e., sole proprietorship, partnership, corporation, or limited liability company)
  3. Changes and updates. The operator of a home-based business shall submit an updated Home-Based Business Registration Form if any information located on the form has changed or is no longer current.
- (3) Rural home-based businesses. Rural home-based businesses are those that do not comply with the Type A or Type B residential home-based business regulations and in which household residents use the dwelling unit they occupy or an accessory building as a place of work. **Rural home-based businesses are permitted in the A-2 General Farming and Residential District II or A-3**

**General Farming District III and require a conditional use permit and registration.**

- a. Where allowed. Rural home-based businesses may be approved as an accessory use to a principal dwelling use or accessory use to an agricultural use only in the A-2 General Farming and Residential District II or A-3 General Farming District III. Rural home-based businesses are subject to the supplemental regulations of Subsection (c) and all other applicable regulations of this section.
- b. Permitted and conditional uses. The home-based business regulations of this section establish regulations and standards for home-based work activities rather than limit the range of work activities to a specific list of occupations or business types. **Conditional use permits approved as to Rural Home-Based Businesses may include conditions that vary from the provisions of this ordinance, depending on the unique characteristics of the home-based business under consideration, in accordance with the provisions governing the issuance of conditional use permits set forth in Chapter 55, Exhibit A, Chapter 20, Article VIII, Division 3.**
- c. Supplemental regulations for rural home-based businesses.
  1. Rural home-based businesses are allowed only if reviewed and approved in accordance with the conditional use procedures of Chapter 55, Exhibit A, Chapter 20, Article VIII, Division 3.
  2. A maximum of three nonresident employees are allowed with a rural home-based business.
  3. Customer visits are allowed only between the hours of 7:00 a.m. and 7:00 p.m.
  4. Rural home-based businesses must be accessory and secondary to the use of a dwelling unit for residential purposes or accessory to any on-site agricultural use. They may not change the character of the property they occupy or adversely affect the character of the surrounding area. Rural home-based businesses may not, for example, produce light, noise, vibration, odor, parking demand, or traffic impacts that are not typical of a rural or semirural area in Yorkville. Rural home-based businesses must be operated so as not to create or cause a nuisance.
  5. Rural home-based businesses may be conducted within the principal dwelling unit or within an accessory building.
  6. Accessory buildings in which rural home-based businesses are conducted must be set back at least 150 feet from any offsite dwelling unit.

7. Any tools or equipment used as part of a rural home-based business must be operated in a manner or sound-proofed so as not to be audible beyond the lot lines of the subject property.
8. No window display or other public display of any material or merchandise is allowed.
9. The use or storage of hazardous substances is prohibited, except at the "consumer commodity" level, as that term is defined in 49 CFR 171.8.
10. As part of the conditional use process, renters will need to obtain written permission from the property owner to carry out the rural home-based business.
11. Roadside stands, as defined in Section 20-1, and permitted as an accessory use in agriculturally zoned districts, are not subject to any of the home-based business provisions set forth in this ordinance.
12. The following uses are expressly prohibited as rural home-based businesses:
  - i. Any type of motor vehicle repair, except where permitted pursuant to a conditional use permit as a rural home-based business under this ordinance.
  - ii. Any use involving the use or storage of vehicles, products, parts, machinery or similar materials or equipment outside of a completely enclosed building.
13. Home-based agricultural related businesses (HBARB) must comply with the following standards, as set forth in Section 20-1226 (15):
  - i. Allowed as a conditional use approval in all agricultural districts.
  - ii. The operator shall reside in a residence on the property.
  - iii. The operator shall grow the primary portion of materials or products sold onsite.
  - iv. The HBARB must be located on a parcel not less than five (5) acres in area.
  - v. Maximum two (2) persons other than members of the immediate family may be employed in the HBARB at any given time.
  - vi. Any signage associated with the HBARB must comply with Chapter 55 of this code and will require zoning permit approval.

- vii. Any structure that is utilized at the subject site that is associated with any aspect of the HBARB must meet the principal structure setbacks for the zoning district.
- viii. Any accessory building used in association with the HBARB shall be clearly incidental to the principal use.
- ix. Retail sales of ancillary non-agricultural items is subject to detailed plan approval by the Plan Commission and Village Board.
- x. Proper sanitation approval must be obtained in full compliance with state sanitation codes.
- xi. The HBARB product must consist of farm commodities that are entirely, or the majority of which are, planted or produced on the farm premises, or are agriculturally related.
- xii. Food shall not be served to patrons other than small sample of product produced by the HBARB.
- xiii. Limited outside customer activity may occur on the premises in accordance with Village approval.

d. Home-Based Business Registry.

- 1. Intent and Purpose. The intent and purpose of the Home-Based Business Registry is to quicken response times to home-based businesses needing fire, rescue and/or law enforcement services, and to protect the health, safety, and welfare of residents and those frequenting home-based businesses.
- 2. Any person receiving a conditional use permit to conduct a rural home-based business shall file with the village clerk a Home-Based Business Registration Form. The Home-Based Business Registration Form shall contain the following information:
  - i. Business name and address
  - ii. Business owner and address
  - iii. Property owner name and address
  - iv. Hours of operation
  - v. Whether the business is continuous or seasonal
  - vi. Number of employees
  - vii. Estimated number of customers or clients per day
  - viii. Description of products sold and/or services provided

- ix. Emergency contact information
  - x. Hazardous chemicals and/or substances kept on site
  - xi. Form of ownership (i.e., sole proprietorship, partnership, corporation, or limited liability company)
3. Changes and updates. The operator of a home-based business shall submit an updated Home-Based Business Registration Form if any information located on the form has changed or is no longer current.
- e. Unsafe home-based businesses. If any home-based business has become dangerous or unsafe; presents a safety hazard to the public, pedestrians on public sidewalks, or motorists on a public right-of-way; or presents a safety hazard to adjacent or nearby properties, residents, or businesses, the Zoning Administrator, Building Inspector or Code Enforcement Officer shall issue an order to the dwelling owner and/or tenant on the property on which the home-based business is being undertaken, directing that the home-based business immediately be made safe or be terminated. The property owner and/or tenant shall take the necessary corrective steps or measures and notify the official who issued the order of the corrective action taken. In the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period, the Village may take any and all available enforcement actions to render the home-based business and dwelling safe. Costs incurred by the Village if forced to take enforcement actions, shall be borne by the property owner and the failure to take corrective action shall be treated as a zoning violation.

**Sec. 20-1016. - Pyramiding.**

No pyramiding, as defined in section 20-1, shall be permitted on any lands fronting a public body of water except as may be specifically permitted accessory to a marina or resort or which may be allowed under the terms of a conditional use permit for a planned residential development or which may be approved as a part of a subdivision plat review.

**Sec. 20-1017. - Reduction or joint use.**

No lot, yard, parking area, building, area, or other space shall be reduced in area or dimension so as not to meet the provisions of this chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.  
(Code 1975, § 7.029)

**Sec. 20-1018. - Pet and animal regulations.**

Except for the commercial raising, propagation, boarding, or butchering of animals or fowl, which are conditional uses, any restriction of the number and type of animals and pets permitted within a particular district shall be the responsibility of the local village boards. This includes beekeeping in districts zoned residential.

In this section, commercial shall mean any activity conducted with the intent of realizing a profit from the sale of goods or services to others.

(Ord. No. 93-183, 1-11-94; Ord. No. 2016-52, 6-14-16)

**Cross reference**— Animals generally, Ch. 4.

### **Sec. 20-1019. - Community and other living arrangements.**

In any district which allows single-family or two-family residences as a principal use, the following are permitted uses:

- (1) Licensed community living arrangements which have a capacity for eight (8) or fewer persons, subject to the limitations set forth in W.S.A., § 59.97(15).
- (2) Licensed family foster homes subject to the regulations set forth in W.S.A., § 48.62.
- (3) Licensed family day care homes subject to the regulations set forth in W.S.A., § 48.65 and must meet W.S.A., § 91.01(1)(d).

(Ord. No. 93-183, 1-11-94; Ord. No. 2015-90, 12-15-15)

### **Sec. 20-1020. - Single family dwelling and two-family dwelling requirements.**

No single family dwelling or two-family dwelling shall be erected or installed in any zoning district unless it meets all of the following:

- (1) Is set on an enclosed foundation in accordance with W.S.A., § 70.043(1), which meets the standards set forth in Subchapters III, IV, and V of Chapter ILHR 21 Wis. Adm. Code, or is set on a comparable enclosed foundation system approved by the village building inspector. The building inspector may require a plan certified by a registered architect or registered professional engineer to be submitted in order to ascertain that a proposed comparable foundation system provides proper support for the structure.
- (2) Is properly connected to utilities.
- (3) For structures with multiple floors, the core area of living space measured at the ground floor shall be no less than one thousand (1,000) square feet per family in size.
- (4) Regardless of the number of floors a structure is comprised of, the total core area of living space shall be at least fourteen hundred (1,400) square feet per family.

Subject to provisions (1)-(4) above, manufactured dwellings, manufactured homes, and modular homes that are installed in accordance with the manufacturer's instructions or a plan certified by a registered architect or engineer so as to insure proper support for the home, are permitted in any district where single family dwellings or two-family dwellings are shown as permitted or conditional uses.

(Ord. No. 94-235, 2-28-95; Ord. No. 96-116, 10-8-96)

**Secs. 20-1021—20-1035. - Reserved.**

**DIVISION 3. - SHORELAND**<sup>[14]</sup>

Footnotes:

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**Cross reference**— Schedule of deposits for violation of the provisions in this section, § 5-3.

**State Law reference**— Construction site erosion and storm water management zoning, W.S.A., § 59.974.

**Sec. 20-1036. - Application.**

- (a) In addition to any other applicable use, site or sanitary regulation, the provisions of this division shall apply to shorelands within the county.
- (b) With respect to the application of this division during such time period, if any, when any village in the county shall not have adopted this chapter and related zoning map, see section 20-8.  
(Code 1975, § 7.028)

**Sec. 20-1037. - Tree cutting, shrubbery clearing.**

- (a) Tree cutting and shrubbery clearing are prohibited except for home and park site development, access roads, customary trimming, dead tree removal, stream and drainage projects approved by the planning and development committee, and managed timber harvesting under a state district forester's plan within the following distances from high-water elevation:
  - (1) Lakes 50 acres or more in area ..... 300 feet
  - (2) Lakes less than 50 acres in area ..... 200 feet
  - (3) Navigable streams ..... 100 feet
  - (4) All other streams ..... 50 feet
- (b) Within the Lake Michigan shoreland area, such tree cutting and shrubbery clearing, except for the permitted uses noted above, shall be prohibited within the SSO structural setback overlay district and the NSO nonstructural setback overlay district.  
(Code 1975, § 7.028)

**Sec. 20-1038. - Clearing requiring approval.**

Site, road (except roads used primarily for agricultural purposes), path, and trail development and all other cutting and trimming within the shoreland area may be conditional uses requiring review, public hearing and approval by the planning and development committee or may be subject to review and approval by the zoning administrator in accordance with section 20-1141 et seq.  
(Code 1975, § 7.028)

### **Sec. 20-1039. - Earth moving activities.**

- (a) Earth movements and soil disturbance activities such as grading, topsoil removal, filling, road cutting, construction, altering, or enlargement of waterways, removal of stream or lakebed material, excavation, channel clearing, ditching, dredging, lagooning, and soil and water conservation structures may be conditional uses requiring review, public hearing, and approval by the planning and development committee or may be subject to review and approval by the zoning administrator in accordance with section 20-1141 et seq., in addition to the permit required from the state agency having jurisdiction under W.S.A., §§ 30.11, 30.12, 30.19, 30.195, 30.20. Within the Lake Michigan shoreland area, the construction of new permanent residential, institutional, commercial, industrial, agricultural and transportation structures is prohibited within the SSO structural setback overlay district and the NSO nonstructural setback overlay district, section 20-916 et seq.
- (b) In addition, only filling, grading, lagooning, dredging, ditching or excavating that is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat may be permitted in the shoreland area. Filling, grading, lagooning, dredging, ditching or excavating in a SWO shoreland-wetland overlay district may be permitted only if the requirements of section 20-966 et seq. are met.
- (c) A state or federal permit may be required, in addition to a permit under this chapter, if state or federal laws are applicable to the filling, grading, lagooning, dredging, ditching or excavating that is proposed.

(Code 1975, § 7.028; Ord. No. 86-17, § 7.028, 7-22-86)

### **Sec. 20-1040. - Residential uses.**

All new, single-family residential parcels created in the shoreland area shall at the minimum meet either the standards of the R-5A urban residential district (III) in areas with public sanitary sewer or the standards of the R-2 suburban residential district (unsewered) in those areas without public sanitary sewer.

(Ord. No. 86-17, § 7.028, 7-22-86)

### **Sec. 20-1041. - Relocatable structures.**

Within the NSO nonstructural setback overlay district, relocatable structures may be allowed as a conditional use provided that:

- (1) The property extends sufficiently outside the NSO nonstructural setback overlay district so that the structure can be relocated outside the NSO district in the future; and
- (2) The structure is certified by a professional building moving contractor as being relocatable at a cost not exceeding thirty (30) percent of the estimated equalized value of the structure.

This conditional use requires review, public hearing, and approval by the planning and development committee and approval by the zoning administrator in accordance with section 20-

1141 et seq. Relocatable structures are not allowed as conditional uses within the SSO structural setback overlay district.  
(Code 1975, § 7.028)

**Sec. 20-1042. - Grazing, feeding, fertilizing restricted.**

Grazing, livestock watering and feeding, and application of fertilizers shall be prohibited unless conducted in accordance with the county's conservation standards, as such standards are formulated and adopted by the planning and development committee.  
(Code 1975, § 7.028)

**Sec. 20-1043. - Approval for state permit.**

Where W.S.A., §§ 30.18, 144.025(2) and 144.555, require a state permit for surface waters withdrawal, diversion or discharge for irrigation, processing, cooling or any other purpose, then such activities may be a conditional use requiring review, public hearing and approval by the planning and development committee or may be subject to review and approval by the zoning administrator in accordance with section 20-1141 et seq. The planning and development committee shall advise the state agency having jurisdiction of the results of the public hearing or the zoning administrator's review and whether the conditional use was approved.  
(Code 1975, § 7.028)

**Sec. 20-1044. - Crop production on eroded lands.**

- (a) In order to help prevent and control further erosion and consequent sedimentation of the surface waters of the county, crop production on lands that are severely eroded is prohibited, and such lands shall be planted to permanent vegetation.
  - (b) For purposes of this section, all lands designated by the U.S. Soil Conservation Service as having an erosion factor of three (3) or more, as shown on the operational soil survey maps on file with the zoning administrator, shall be considered as being severely eroded. An erosion factor of three (3) means that three-fourths or more of the surface soil has been removed by erosion.
- (Code 1975, § 7.028)

**Sec. 20-1045. - No structure permitted within shoreland setback area.**

Within the shore yard setback area in conformance with the regulations of the Wisconsin Department of Natural Resources, no structures are permitted. "Structures" includes fences, ice fishing shanties, accessory buildings other than boathouses, minor structures, and any retaining wall not approved by a site plan review/conditional use approval or approved by the Wisconsin Department of Natural Resources.  
(Ord. No. 91-130, § 7-028, 11-5-91; Ord. No. 2011-61, 11-8-11)

**Sec. 20-1046. - Mitigated shore yard structure.**

Notwithstanding section 20-1045 above, special zoning permission shall be granted for the construction or placement of a structure on property in a shore yard setback area if all of the following apply:

- (1) The part of a structure that is nearest to the water is located at least thirty-five (35) feet landward from the ordinary highwater mark.
- (2) The total floor area of all of the structures in the shore yard setback area of the property will not exceed two hundred (200) square feet. In calculating this square footage, boathouses shall be excluded.
- (3) The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.
- (4) Once the location of the structure is approved by the county, a plan must be submitted by the applicant(s) for county approval. The plan must be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least seventy (70) percent of the half of the shore yard setback area that is nearest to the water. The plan shall contain the following information:
  - a. Location of mitigated structure.
  - b. Location of vegetative buffer.
  - c. Number, type and size of proposed native vegetation to be installed or identification of existing plant/materials to be maintained.
  - d. Installation schedule/deadline.
  - e. Erosion control measures.
  - f. Maintenance plan to replace dead/diseased vegetation.
  - g. Before and after photographs of vegetative buffer area.
  - h. Description of how the project is to be implemented.
- (5) The structure meets the height and street, side and rear yard setback requirements for the zoning district in which it is located.
- (6) The structure shall not be used for principal or accessory uses not allowed in the district.
- (7) Such structure shall be colored in earth tones to decrease the visual intrusion near the natural shoreline.

For purposes of this section, special zoning permission includes, but is not limited to the following: shoreland contract, conditional use, special exception, special permit, zoning variance, conditional permit and words of similar intent.

(Ord. No. 2000-251S, 8-28-01)

**Secs. 20-1047—20-1060. - Reserved.**

## DIVISION 4. - PERFORMANCE STANDARDS<sup>[15]</sup>

Footnotes:

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**Cross reference**— Schedule of deposits for violation of the provisions in this division, § 5-3.

### **Sec. 20-1061. - Compliance.**

This chapter permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. All structures, lands, air and waters shall hereafter, in addition to their use, site and sanitary, floodland and shoreland regulations, comply with the following performance standards.  
(Code 1975, § 7.091)

### **Sec. 20-1062. - Water quality protection.**

No residential, commercial, industrial, institutional or recreational use shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might run off, seep, percolate or wash or be harmful to human, animal, plant or aquatic life. This section shall not apply to uses other than those enumerated in it.  
(Code 1975, § 7.092)

### **Sec. 20-1063. - Noise.**

All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittance, duration, beat frequency, impulse character, periodic character or shrillness.  
(Code 1975, § 7.093)

### **Sec. 20-1064. - Radioactivity and electrical disturbances.**

No activity shall emit radioactivity or electrical disturbances so as to endanger the use of neighboring premises.  
(Code 1975, § 7.094)

### **Sec. 20-1065. - Outdoor lighting.**

(a) Purpose.

The outdoor lighting regulations of this article are primarily intended to advance the general purposes of this zoning ordinance and to:

- (1) Provide adequate light for safety and security;
- (2) Promote efficient and cost-effective lighting and to conserve energy;
- (3) Reduce light pollution, light trespass, glare and offensive light sources;

- (4) To help avoid unsafe and unpleasant conditions as the result of poorly designed or installed outdoor lighting; and
- (5) To discourage excessive lighting.

(b) Applicability.

The outdoor lighting regulations of this article apply to all outdoor lighting installed after December 15, 2022, except that they do not apply to any of the following:

- (1) Public street lights;
- (2) Approved signs;
- (3) Safety lights required by state or federal regulations;
- (4) Spotighting of official government flags, provided that such lighting consists of no more than one fully shielded spotlight light fixture placed as close to the base of the flagpole as reasonably possible;
- (5) Outdoor lighting used exclusively for and during public recreational activities, sporting events at stadiums and ball fields or other outdoor public spaces or venues, provided such lighting is extinguished by 11:00 p.m.;
- (6) Low-voltage (12 volt maximum), low-wattage ornamental landscape lighting fixtures, and solar operated light fixtures with self-contained rechargeable batteries, provided that any single light fixture does not exceed 100 lumens, based on the manufacturer's specifications.
- (7) Soffit or wall-mounted luminaries that are permanently attached to buildings occupied by one or 2 dwelling units, provided that they are mounted below the eave and directed away from abutting residential uses.
- (8) Outdoor lighting used for emergency equipment and work conducted in the interest of law enforcement or for public health, safety or welfare;
- (9) Outdoor lighting in association with special events approved by the village; and
- (10) Customary holiday lights displayed for no more than 30 days before or after the subject holiday.
- (11) Temporary and/or mobile lighting from agricultural activities in an Agricultural District.

(c) Prohibited lighting.

The following light fixtures and sources are prohibited:

- (1) Mercury vapor lamps;
- (2) Low-pressure sodium lamps;

- (3) Blinking, flashing, moving, revolving, flickering, changing intensity or color, and chase lighting;
- (4) Any light fixture that may be confused with or construed as a traffic control device or emergency vehicle lights;
- (5) Any upward oriented lighting except as otherwise expressly allowed in this article;
- (6) Searchlights, beacons, and laser source light fixtures;
- (7) Exposed linear lamps that include, without limitation, neon, Light Emitting Diode (LED), and fluorescent lighting, primarily intended as an architectural highlight to attract attention or used as a means of identification or advertisement;
- (8) Any lamp or bulb, except for seasonal displays and landscape ornamental lighting, that is visible beyond the property line of the lot on which it is located; and
- (9) Any lamp or bulb with a correlated color temperature (CCT) that exceeds 4,000 degrees Kelvin, based on the manufacturer's specifications.
- (10) Any private light fixture that is placed in the public right of way or easement dedicated for use as a public right-of-way.

(d) Design standards.

- (1) *Shielding.* All light sources must be concealed or fully shielded to minimize the potential for glare and unnecessary diffusion and light trespass onto adjacent property.
- (2) *Fixture Height.* Freestanding lighting fixtures, including base, pole and luminaire, may not exceed the height limits of Table 1.

TABLE 1 – MAXIMUM FIXTURE HEIGHTS			
Location	R Districts, C Districts, and P.U.D. with Underlying Residential	P Districts	All Other Districts
In Parking Lots	20 Feet	20 Feet, but 20 feet within 50 feet of R zoned lot	30 feet, but 20 feet within 50 feet of R district

In parking lots and outdoor storage areas 3 acres or larger	20 Feet		35 feet, but 20 feet within 50 feet of R district
All other areas	15 feet	20 feet	15 feet

- (3) *Maximum light levels at lot lines.*
- a. The maximum light level at any point on a lot line may not exceed 0.5 footcandles within or adjacent to a residential zoning district or 2.0 footcandles within all other zoning districts.
  - b. The maximum light level at any point on a lot line butting a public right-of-way may not exceed 1.2 footcandles.
  - c. Illumination measurements must be taken from the top of the fence or wall along the lot line or at a height of 4.5 feet above finished grade at the lot line if there is no fence or wall.
  - d. Lighting intensity regulations of this section do not apply to abutting properties under common ownership.
- (4) *Minimum parking lot lighting.* A minimum of 0.5 foot-candle of illumination is required in all parking areas, including the parking surface and drive aisles.
- (5) *Lights Adjacent to Residential Zoning Districts, Residential Uses, or Public Rights of Way.* Any light fixture located within 10 feet of an R-zoned, a lot occupied by a residential dwelling unit, or a public right-of-way must be:
- a. Aimed away from such lots and rights-of-way; and
  - b. Shielded on the side closest to such lots and rights-of-way.
- (6) *Building Mounted Lighting.* Building mounted security light fixtures such as wall packs may not project above the fascia or roof line of the building and must be full cut-off. Building mounted fixtures may not be substituted for parking area or walkway lighting and are restricted to use in loading areas, storage areas, service areas, and similar locations.
- (7) *Canopy Lighting.* Lighting fixtures mounted under fueling station, automatic teller machine, and similar canopies must be aimed downward and installed so that the bottom of the light fixture or its lens, whichever is lower, is recessed or mounted flush with the bottom surface of the canopy. A full cutoff light fixture may project below the underside of a canopy. All light emitted by an under-canopy fixture must be substantially confined to the ground surface directly beneath the perimeter of the canopy. No lights are permitted on the top or sides of a canopy.

- (8) *Architectural Lighting of Building Facades.* The lighting of a building facade for architectural, aesthetic, or decorative purposes is permitted subject to the following restrictions:
- a. Building facade lighting must be fully shielded, fully confined from projecting into the sky by eaves, roofs, or overhangs, and mounted as flush to a wall as possible.
  - b. Building facade lighting must be fully contained within the vertical surface of the wall being illuminated.
- (9) *Lighting for Security Purposes.* Motion detector security lights, which are normally "off" and which are activated "on" for less than 4 minutes occasionally when motion is detected, are exempt from the requirements of this ordinance, but are not exempt from the requirements of Sections (d) (1), (2), (3), and (6) of this ordinance.
- (e) Light plans.
- (1) *When Required.* Outdoor lighting plans must be included with all required site plans, or if no site plan is required, with building permit applications, provided that lighting plans are required for residential projects only when any single outdoor light fixture exceeds 2,600 lumens output, based on the manufacturer's specifications.
  - (2) *Required Information.* Lighting plans must include the following information:
    - a. Plans indicating the location, type, intensity, and height of luminaires including both building- and ground-mounted fixtures;
    - b. A description of the luminaires, including lamps, poles or other supports and shielding devices, which may be provided as catalogue illustrations from the manufacturer;
    - c. Photometric data, such as that furnished by the manufacturer, showing the angle of light emission and the foot-candles on the ground; and
    - d. Additional information as may be required by the zoning administrator in order to determine compliance with this article.
- (f) Measure of illumination.
- (1) Light levels expressed in terms of maximum foot-candles must be measured with a direct-reading, light meter.
  - (2) For the purpose of measuring footcandles along property lines, the light meter's sensor must be located at the top of any visual screening fence or wall along on the property line (or at a height of 4 feet above finished grade at the property line if there is no fence or wall), aimed towards the subject property in horizontal position. Readings must be recorded after the value has stabilized. Measurements are made after establishment of darkness, first with the light sources to be

measured illuminated, and then with those light sources extinguished. The difference between these readings must then be compared to the maximum allowed illumination at the property line. In this way, contributions to light levels by the moon and other ambient light sources are eliminated and the light intensity from the subject light sources can be accurately determined.

(g) Definitions.

- (1) The definitions of this section supplement the general definitions for the purpose of interpreting and administering the outdoor lighting regulations of this article.
  - a. **Fixture.** A complete lighting assembly (including the lamp, housing, reflectors, lenses, and shields), less the support assembly (pole or mounting bracket); a light fixture. Includes luminous tubes, lamps or similar devices, permanently installed or portable, used for illumination, decoration, or advertisement.
  - b. **Footcandle.** A quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square foot.
  - c. **Fully Shielded (Full-Cutoff) Fixture.** A light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane through the luminaire's lowest light-emitting part.
  - d. **Glare.** Intense or blinding light that is sufficiently brighter than the level to which the eyes are adapted, to cause visual discomfort, or loss of visual performance and ability.
  - e. **Light Source.** The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.
  - f. **Light Trespass.** Light falling where it is not wanted or needed including spill light and obtrusive light.
  - g. **Lumen.** A quantitative unit measuring the amount of light emitted by a light source.
  - h. **Kelvin.** A measurement used to describe the color temperature of a light source. This is the specification that gives a description of the warmth or coolness of a light source. For instance, a 1000 kelvin light source will emit a dark, low intensity, orange light and a 5000 kelvin light source will emit a bright, high intensity, white light.

**Sec. 20-1066. - Maintenance.**

Any fence, wall, hedge, yard space or landscaped area required by this chapter or grant of variance or conditional use shall be kept free of an accumulation of refuse or debris. Plant materials must be well kept in a healthy, growing condition; and structures, such as walls and fences, shall be maintained in sound conditions, good repair and appearance at all times. (Ord. No. 86-86, § 7.096, 8-26-86)

**Sec. 20-1067. - Odors.**

No residential, commercial, industrial, institutional or recreational use shall emit an odor of such nature or quantity as to be offensive or unhealthful which is detectable at the lot line. The guide for determining odor measurement and control shall be Chapter NR 429 of the Wisconsin Administrative Code and amendments thereto.

(Ord. No. 93-3, 5-11-93)

**Cross reference**— Outdoor burning, § 13-51 et seq.

**Sec. 20-1068. - Reserved.**

**Editor's note**— Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-1068 which pertained to floodproofing and derived from Ord. No. 94-155, § 11, adopted Nov. 10, 1994.

**Secs. 20-1069—20-1085. - Reserved.**

**DIVISION 5. - OFF-STREET PARKING AND TRAFFIC REGULATIONS**

**Sec. 20-1086. - Traffic visibility.**

(a) No obstructions, such as structures, parking or vegetation, shall be permitted in any district between the heights of two and one-half (2½) feet and ten (10) feet above the plane through the mean curb-grades within the triangular space formed by any two (2) existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of fifteen (15) feet from their intersection.

(b) In the case of arterial streets' intersection with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

(Code 1975, § 7.051)

**Sec. 20-1087. - Loading requirements.**

In all districts adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back onto any public way. (Code 1975, § 7.052)

**Sec. 20-1088. - Parking requirements.**

(a) In all districts and in connection with every use, there shall be provided, at the time any use or building is erected, enlarged, extended or increased, off-street parking stalls for all vehicles in accordance with the provisions of this section.

(b) Adequate access to a public street shall be provided for each parking space, and driveways shall be at least ten (10) feet wide for one- and two-family dwellings and a minimum of twenty-four (24) feet for all other uses.

- (c) Each parking space shall be not less than nine (9) feet in width and not less than one hundred eighty (180) square feet in area exclusive of the space required for ingress and egress.
- (d) Location shall be on the same lot as the principal use or not over four hundred (400) feet from the principal use. No parking stall or driveway except in residential districts shall be closer than twenty-five (25) feet to a residential district lot line or a street line opposite a residential district.
- (e) All off-street parking areas shall be graded and surfaced so as to be dust free and properly drained. Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.
- (f) Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines.
- (g) All open, off-street parking areas providing more than twenty-five (25) parking spaces, except parking areas restricted to use by employees only, shall provide parking spaces for use by motor vehicles which transport physically disabled persons in accordance with the requirements of W.S.A., §§ 346.50, 346.503, and 346.505.

*Number of parking stalls required:*

Single-family dwelling and mobile homes	2 stalls for each dwelling unit
Two-family and multi-family dwellings	2 stalls for each dwelling unit
Hotels, motels	1 stall for each guest room plus 1 stall for each 3 employees
Hospitals, clubs, lodges, sororities, dormitories, lodgingshouses and boardinghouses	1 stall for each 2 beds plus 1 stall for each 3 employees
Sanitariums, institutions, rest and nursing homes	1 stall for each 5 beds plus 1 stall for each 3 employees
Medical and dental clinics	3 stalls for each doctor plus 1 stall for each employee
Churches, theaters, auditoriums, community centers, vocational and night schools and other places of public assembly	1 stall for each 5 seats
Colleges, secondary and elementary schools	1 stall for each 2 employees plus a reasonable number of stalls for student and other parking
Restaurants, bars, places of entertainment, repair shops, retail and service stores	1 stall for each 150 square feet of floor area
Manufacturing and processing plants, laboratories and warehouses	1 stall for each 2 employees during any 12-hour period
Financial institutions; business, governmental and professional offices	1 stall for each 300 square feet of floor area

Funeral homes	1 stall for each 4 seats
Bowling alleys	5 stalls for each alley

In the case of structures or uses not mentioned, the provision for a use which is similar shall apply.

- (h) Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use during such periods of time as the various uses are reasonably likely to be simultaneously requiring parking for employees, customers and other persons.

(Code 1975, § 7.053; Ord. No. 88-160, § 7.053, 1-10-89)

**Sec. 20-1089. - Driveway access.**

- (a) No direct access shall be permitted to the existing or proposed rights-of-way of expressways, freeways or interstate highways, nor to any other road, street or highway, without permission of the authority maintaining the facility.
- (b) Vehicle entrances and exits to drive-in theaters, banks, and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than two hundred (200) feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or place of public assembly.
- (c) Adjacent residential uses may agree to establish a common driveway. In such cases, the driveway midpoint should be the property line between the two (2) parcels; however, the precise location of such driveway will be determined by the jurisdictional highway authority. The driveway must meet standard specifications and the landowner(s) shall record cross access agreements to ensure continued use, upkeep and maintenance of the combined access points.
- (d) Sharing of access to state and county trunk highways by commercial or industrial land uses may also be permitted. Such shared access shall be shown on an adopted neighborhood or similar village plan as may be determined by the planning and development committee. Such shared access shall have the approval of the county highway department or state department of transportation, depending upon jurisdiction. A cross access agreement shall be recorded by all landowners utilizing such shared access. Such shared access must meet standard specifications.
- (e) When a parcel contains two (2) or more different zoning districts, a driveway shall not traverse the district abutting the highway to service a use/structure on the rear portion of the parcel in a different zone(s) unless that use/structure is also permitted in the zoning district abutting the highway or when specifically allowed in a planned unit development.
- (f) New or reconstructed access drives onto existing county trunk highways require the review and approval of the Racine County Public Works Department prior to their construction. Such approval will be based upon sight distances, road speeds, adopted public works department policy, and other factors.

- (g) Access drives to principal structures which traverse wooded, steep, or open fields shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. All driveways shall have a minimum width of twelve (12) feet with road strength capable of supporting emergency and fire vehicles, in compliance with any village standards.

(Code 1975, § 7.054; Ord. No. 86-86, § 7.054, 8-26-86; Ord. No. 2000-251S, 8-28-01; Ord. No. 2005-69S, 9-13-05)

**Sec. 20-1090. - Off-street parking in B-4, B-5, B-6 districts.**

Off-street parking is permitted in all yards of the B-4, B-5 and B-6 business districts, but shall not be closer than twenty-five (25) feet to any public right-of-way.

(Code 1975, § 7.062)

**Sec. 20-1091. - Abandoned, unlicensed, inoperative, discarded or junked vehicles.**

The outside storage of abandoned, unlicensed, inoperative, discarded or junked vehicles on privately owned properties within Racine County is a source of annoyance to members of the public and to owners and occupants of adjacent land. The outdoor storage of such vehicles on private property is unsightly and constitutes an attractive nuisance to children and peril to their safety. This legislation is intended hereby to protect public health and safety and to curb the deterioration of the community environment.

- (1) No property shall be used for the outside storage of abandoned, unlicensed, inoperative, dismantled, partially dismantled, discarded or junked vehicles, except as may be otherwise permitted in this chapter.
- (2) No dismantled, partially dismantled or parts of vehicles shall be stored outside on any property within the county, except as otherwise permitted within this chapter.
- (3) No person shall abandon any vehicle within Racine County and no person shall leave any vehicle at any place within the county for such time and under such circumstance as to reasonably cause such vehicle to appear to have been abandoned.
- (4) As used in this section, an abandoned, unlicensed, inoperative, discarded or junked vehicles is:
  - a. Any vehicle that is:
    1. Without a current license;
    2. Being held or used for the purpose of resale of used parts therefrom or for the purpose of reclaiming for use some of the materials therein for the purpose of disposing of the same;
    3. Wrecked, discarded or dismantled;

4. In such a condition as to cost more to repair and place in operating condition than its reasonable market value after such repair; or
5. Left unattended for more than forty-eight (48) hours on property of another, if left without permission of the property owner.

b. With respect to any vehicle not required to be licensed or not usually used on the public highways, the fact that such vehicle has remained unused for more than six (6) months and is not in condition to be removed under its own power shall be presumptive evidence that such vehicle is an abandoned, junked and/or inoperative vehicle.

c. The fact that a vehicle does not display a current motor vehicle registration or license plate shall be presumptive evidence that such vehicle is not in any condition for legal use upon the highways.

(5) The provisions of this section do not apply to vehicles kept by collectors or hobbyists pursuant to W.S.A., 341.266(4) or 341.268(4).

(Ord. No. 2005-69S, 9-13-05)

**Secs. 20-1092—20-1110. - Reserved.**

## **DIVISION 6. - HEIGHT AND AREA REGULATIONS**

### **Sec. 20-1111. - Height.**

The district height limitations stipulated elsewhere in this ordinance may be exceeded, but such modification shall be in accord with the following:

- (1) Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this chapter.
- (2) Special structures, such as elevator penthouses, gas tanks, grain elevators, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, are exempt from the height limitations of this chapter.
- (3) Essential services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this chapter.
- (4) Communication structures, such as radio and television transmission, receiving, and relay towers, aerials, and observation towers, shall not in any event exceed in height their distance from the nearest lot line, provided, however that any such structure, aerial or tower, if located within three (3) miles of a boundary line of an airport and landing strips, may not exceed the height limitations of the district in which it is located without prior proof of written notification of the public hearing to the owner of the said airport or landing strip, and prior written approval from the F.A.A. and Wisconsin Bureau of Aeronautics, if applicable.

- (5) Agricultural structures, such as barns, silos and windmills, shall not exceed in height twice their distance from the nearest lot line.
- (6) Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.

(Code 1975, § 7.061; Ord. No. 99-58S, pt. 2, 7-13-99; Ord. No. 2011-61, 11-8-11)

**Sec. 20-1112. - Modification of yard requirements.**

The yard requirements stipulated elsewhere in this chapter may be modified as provided in this division.

(Code 1975, § 7.062)

**Sec. 20-1113. - Projections into yards.**

- (a) Pergolas and otherwise uncovered decks, stairs, landings and fire escapes may project into any yard, but not to exceed six (6) feet and not closer than three (3) feet to any lot line.
- (b) Architectural projections, such as chimneys, flues, sills, eaves, belt courses, ornaments, decorative projections, lighting fixtures, balconies, and bay/bow windows, may project into any required yard; but such projection shall not exceed two (2) feet and bay/bow windows must be less than or equal to eight (8) feet wide.
- (c) The projections permitted in paragraph (a) above shall not encroach into the minimum required shore yard setback area, except as allowed by section 20-1046, and no projection shall be closer than ten (10) feet from any street right-of-way.
- (d) The zoning administrator shall be authorized to review and issue a zoning permit to allow a nonconforming building addition projection, such as a wheelchair ramp, that is needed to allow the minimum required reasonable accommodation that is necessary to allow ingress/egress by a handicapped or disabled person to the following:
  - (1) A residential structure utilized by such person that lives on the property or such person employed in a home occupation on the property. Any such addition shall be removed within thirty (30) days from the time that the structure is no longer serving the aforementioned handicapped or disabled person. A deed restriction to this effect shall be recorded with the register of deeds department and proof of such shall be submitted to the zoning administrator before a zoning permit will be issued.
  - (2) A commercial facility or any other structure that provides public accommodations.

Any such projection should be designed to be at least three (3) feet from any lot line and have a minimal intrusion into a floodplain, wetland, environmental corridor, or required shore yard setback.

(Code 1975, § 7.062; Ord. No. 97-203, 1-13-98; Ord. No. 2000-251S, 8-28-01; Ord. No. 2003-197, 2-12-04; Ord. No. 2007-28, 6-26-07; Ord. No. 2011-61, 11-8-11)

### **Sec. 20-1114. - Security fences.**

Security fences are permitted on the property lines in all districts except residential districts and as required under section 20-1226, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

### **Sec. 20-1115. - Accessory regulations.**

- (a) Except for signs and towers for broadcast facilities and/or wind energy, which are regulated separately, any detached accessory structure less than thirty-six (36) square feet in area is exempt from the requirement for obtaining a zoning permit. In addition, any temporary, seasonal outdoor above-ground swimming pool, hot tub, or whirlpool bath that does not remain erected on the same lot for more than one hundred twenty (120) consecutive days is exempt from the requirement for obtaining a zoning permit.
- (b) Detached accessory structures shall not be closer than ten (10) feet to the principal structure; not closer than three (3) feet to a side or rear lot line if  $\leq$  seven hundred twenty (720) square feet in footprint area or five (5) feet to a side or rear lot line if  $>$  seven hundred twenty (720) square feet in footprint area; not closer than five (5) feet to an alley line; shall not exceed seventeen (17) feet in building height; and are permitted in the rear and side yards only, except as follows:
  - (1) Except for storage containers, storage pods, polystructures, or polyshelters as described in Sec. 10-148, accessory structures within the shoreland area are permitted in the street yard portion of waterfront lots provided that they are not placed within the required minimum street yard setback.
  - (2) For lots with multiple street yards and no defined rear yard area, accessory structures are permitted in the street yard portion of the secondary or non-access street provided that they are not placed within the minimum required street yard setback.
  - (3) Except for storage containers, storage pods, polystructures, or polyshelters as described in Sec. 10-148, accessory structures may be placed in the street yard portion of a lot if the street yard setback of a principal structure exceeds the required setback for the particular district in question, provided that the street yard setback of the accessory structure is not less than the required setback for the district or the average street yard setback of principal structures on abutting parcels, if any, whichever is greater. On vacant parcels, the minimum setback may be used for averaging.
  - (4) Accessory structures placed in the street yard portion of a lot pursuant to (1), (2), or (3) above that are less than one hundred (100) feet from a road right-of-way line must have exterior building materials that are the same as or in harmony with the principal structure on the lot, unless the principal and accessory structure's street yard setbacks are within seventy-five (75) feet of each other.

- (5) Accessory structures located in the R-1 district and other non-"R" districts are limited in height to that listed for the principal structures in those districts. A greater height may be approved through a site plan review process and as allowed in section 20-1111. The minimum setback from a lot line shall be one-half (1/2) of the building height or that required by section 20-1115(b), whichever is greater.
- (6) Any portion of an accessory structure placed or constructed in a side yard area of a nonconforming principal structure shall not encroach into the minimum required street and/or shore yard setback.
- (7) Tower broadcast facilities and wind energy facilities restrictions may be found in articles X and XI, respectively.
- (8) *Permanent Storage Containers.*
  - a. *Applicability.*
    1. The permit requirements of this section do not apply to permanent storage structures placed before August 30, 2024, for which permits were applied for and obtained and the structures were placed in accordance with the requirements of the Code at that time.
    2. The permit requirements of this Section apply to all other permanent storage structures, including those placed without applying for and obtaining permits before August 30, 2024, and/or were not placed in accordance with the requirements of the Code.
      - (i) Any permanent storage structure that was placed prior to August 30, 2024, without the necessary permits shall obtain permits after the fact with double permit fees imposed, and shall bring the structures into compliance with the requirements of the Code. The Village Board may, in its discretion for good cause shown, waive the double permit fee requirement."
  3. *Minimum lot size.* Permanent storage containers, those storage containers that will remain in place for more than six (6) months, shall only be a permitted accessory use on parcels five (5) acres or greater in size located in A-2, A-3, A-4, and R-2 zoning districts.
  4. *Maximum storage pod size.* No permanent storage container shall exceed the following dimensions: 10 feet wide, 20 feet long, and 10 feet high.
  5. *Other permits required.* In addition to an Accessory Structure Permit under this section, a Building Permit is required for permanent storage container per Sec. 10-148(g)(3).
  6. No storage pod, polystructure, or polyshelter shall be considered a permanent storage container, as defined by Sec. 10-148 of the Village of Yorkville Municipal Code.

- (c) The aggregate total footprint area for all accessory structures shall not exceed the following square footage for the stated lot size, exclusive of road right-of-way:

**Lot Size / Accessory Structure(s) Maximum Aggregate Total Footprint Area**

< 10,000 square feet lot = 720 square feet

≥ 10,000 square feet lot to 20,000 square feet lot = 1,000 square feet

> 20,000 square feet to < 1 acre lot = 2,600 square feet

1 acre to < 2 acre lot = 4,000 square feet

2 acre to < 3 acre lot = 5,000 square feet

3 acre to < 4 acre lot = 6,000 square feet

4 acre to < 5 acre lot = 7,500 square feet

5 acre to < 10 acre lot = four (4) percent of lot area

≥ 10 acre lot = five (5) percent of lot area.

Note: A greater amount of square footage per lot size may be allowed if approved as part of a conditional use permit or site plan review when needed as an integral part of the plan of operation and where said structure(s) is used solely accessory to the permitted principal or conditional use on said lot.

- (d) Where an accessory structure is permanently attached to the principal structure by a roof or wall-to-wall, such accessory structure shall be considered as a part of the principal structure. Pergolas, decks, stairs and landings that abut a principal structure, whether or not physically attached, and outdoor swimming pools, hot tubs or whirlpools on top of, within, or immediately abutting such shall be considered to be part of the principal structure and principal structure setbacks would apply for required setbacks except where sections 20-1113, 20-1118, and 20-1120 setbacks apply. Items such as a fence, trellis, retaining wall, and sidewalk, driveway or patio less than six (6) inches from grade are not considered an attachment, and are exempt from setbacks except where regulated by shoreland, floodplain or traffic visibility regulations.

(Code 1975, § 7.062; Ord. No. 86-86, § 7.062, 8-26-86; Ord. No. 2000-251S, 8-28-01; Ord. No. 2007-28, 6-26-07; Ord. No. 2008-107, 1-13-09; Ord. No. 2008-136, 3-10-09; Ord. No. 2011-61, 11-8-11)

**Sec. 20-1116. - Exemptions from yard requirements.**

- (a) Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this chapter.
- (b) Landscaping and vegetation are exempt from the yard requirements of this chapter.  
(Code 1975, § 7.062)

**Sec. 20-1117. - Boathouses.**

- (a) Boathouses accessory to residential uses may be located within a shore yard but shall:
- (1) Be no closer than twenty (20) feet to the average annual high-water elevation of the stream, lake, pond or wetland. This distance may be varied by the board of adjustment in accordance with section 20-31 et seq.; in no case, however, shall boathouses be allowed to project beyond the shoreline;

- (2) Not exceed one (1) boathouse on the premises for each shoreland lot;
  - (3) Not exceed a height of fifteen (15) feet above the high-water elevation;
  - (4) Not exceed two hundred fifty (250) square feet in horizontal area covered; and
  - (5) Not be closer than fifteen (15) feet to any side lot line.
  - (6) Be constructed in such a manner as to orient the main opening of the boathouse toward the body of water.
  - (7) Be used strictly for the storage of boats and water-related recreational accessories.
- (b) The use of a boathouse for human habitation is prohibited. No plumbing, heating or cooking facilities may be provided in or for a boathouse.
  - (c) The roof of a boathouse shall not be used as a deck or for other such purposes, nor shall railings be placed on top of the boathouse.

(Code 1975, § 7.062; Ord. No. 86-17, § 7.062, 7-22-86; Ord. No. 97-203, 1-13-98)

**Sec. 20-1118. - Adjustment of shore yards.**

Shore yards may be reduced to the average of the shore yards existing on the abutting properties within a straight-line distance of one hundred (100) feet, excluding highway right-of-way or road easements, of the subject site but shall not be reduced to less than fifty (50) feet. Only principal structures on abutting lots within one hundred (100) straight-line feet of the proposed structure may be used for averaging. Any existing uncovered and/or unenclosed portion of a principal structure, such as deck or covered porch, can only be used for averaging with a similar uncovered and/or unenclosed portion of a proposed structure. If an abutting lot is vacant or the existing principal structures are greater than one hundred (100) feet from the proposed structure, seventy-five (75) feet shall be used for averaging purposes. If a principal structure on an abutting lot within one hundred (100) feet is greater than the required minimum shore yard setback, the actual setback shall be used for averaging. On substandard lots, fifty (50) feet is used as the minimum setback for averaging purposes.

(Code 1975, § 7.062; Ord. No. 86-17, § 7.062, 7-22-86; Ord. No. 2000-251S, 8-28-01; Ord. No. 2007-28, 6-26-07)

**Sec. 20-1119. - Building projections into street yards.**

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

(Code 1975, § 7.063)

**Sec. 20-1120. - Average street yards.**

The street yard may be increased or decreased in any residential or business district to the average of the existing street yards of the abutting structures on each side. However, in no case may the street yard be decreased to less than the district minimum setback or minimum

substandard lot setback, whichever applies. Only principal structures on abutting lots within one hundred (100) straight-line feet of the proposed structure may be used for averaging. Any existing uncovered and/or unenclosed portion of a principal structure, such as deck or covered porch, can only be used for averaging with a similar uncovered and/or unenclosed portion of a proposed structure. If an abutting lot is vacant or the existing principal structure is greater than one hundred (100) feet from the proposed structure, the minimum required setback for the district may be used or the minimum substandard setback may be used when said abutting lot is a substandard lot. (Code 1975, § 7.064; Ord. No. 2000-251S, 8-28-01; Ord. No. 2007-28, 6-26-07)

**Sec. 20-1121. - Lot area requirements and street yard setbacks.**

All lot area requirements are measured exclusive of any highway right-of-way and all street yard setbacks are measured from the outer limit of the highway right-of-way or private road easement. (Ord. No. 2000-251S, 8-28-01)

**Secs. 20-1122—20-1140. - Reserved.**

**ARTICLE VIII. - CONDITIONAL USES**

**DIVISION 1. - GENERALLY**

**Sec. 20-1141. - Time limitations for decision and expiration of use.**

- (a) The Village Board, after consideration of the recommendations of the Plan Commission, and acting in accordance with the provisions of section 20-1181 et seq., shall decide all applications for a conditional use within sixty (60) days after the public hearing, unless the time is extended with the concurrence of the applicant, and shall transmit a signed copy of its decision to the applicant.
- (b) Conditional use or temporary use permits shall expire within nine (9) months unless substantial work has commenced pursuant to such grant.
- (c) Any conditional use granted under this article that is discontinued or terminated for a period of twelve (12) consecutive months or eighteen (18) cumulative months in a three (3) year period shall be considered abandoned and any future use thereof will require additional Plan Commission and Village Board review and approval. A business of a seasonal nature shall not be deemed to be discontinued during periods in which it is normally inactive (e.g., summer camps, snowmobile courses, ski areas, marinas, quarries, etc.).

**Secs. 20-1142—20-1159. - Reserved.**

**DIVISION 2. - PERMITS<sup>161</sup>**

**Sec. 20-1160. – Authority.**

The Village Board, after consideration of the recommendations of the Plan Commission, shall hear and decide applications for conditional uses or special exceptions to the terms of this zoning code and may authorize the issuance of a conditional use permit after its review and

determination. The Village Board is designated the "Zoning Board" for purposes of Wis. Stat. §62.23(7)(de).

### **Sec. 20-1161. - Application.**

Applications for conditional use permits or amendments to existing conditional use permits provided for in this chapter shall be made to the zoning administrator on forms furnished by the zoning administrator and shall include the following:

- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, and contractor.
- (2) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; a parking plan and the zoning district within which the subject site lies.
- (3) Plat of survey prepared by a registered land surveyor showing all of the information required under section 20-81 et seq. for a zoning permit and, in addition, the following: mean and historic high-water lines, on or within forty (40) feet of the subject premises, and existing and proposed landscaping.
- (4) For floodland conditional uses, the applicant shall include information that is necessary for the Plan Commission and Village Board to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill or storage elevations, lowest floor elevations of structures, size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types and other pertinent information.
- (5) Additional information as may be required by the Plan Commission, Village Board, engineer, or building inspector for the purpose of assisting the Plan Commission and Village Board in their review of the application.
- (6) Fee receipt from the zoning administrator for the fee required by the schedule of fees adopted by the village board from time-to-time.

### **Sec. 20-1162. – Publication and public hearing.**

- (1) Upon receipt of an application for a conditional use permit and payment of the required fee, a notice of public hearing on the application shall be published as a Class 2 notice pursuant to Wis. Stat., Chapter 985.
- (2) Prior to the public hearing the zoning administrator shall provide written notice to all property owners of land adjacent to or within five hundred (500) feet of the property which is the subject of the application for a conditional use permit.
- (3) A public hearing shall be held before the Plan Commission and Village Board prior

to the issuance of the Plan Commission's recommendation and the Village Board's decision to approve or deny an application for conditional use permit.

**Sec. 20-1163. - Notice to DNR of hearings on shoreland, shoreland-wetland floodplain uses.**

A copy of all notices for public hearings on applications for shoreland and shoreland-wetland conditional uses or for conditional uses in the floodland districts, including a copy of the application, shall be transmitted to the State Department of Natural Resources for review and comment at least ten (10) days prior to the hearing. Final action on floodland applications shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. A copy of any decision on any such conditional use shall be mailed to the DNR district office within ten (10) days after it is granted or denied.

**Sec. 20-1164. - Failure to comply.**

- (a) No person, firm or corporation shall violate, disobey, neglect or refuse to comply with or abide by the terms and conditions of a conditional use permit.
- (b) The failure of any person, firm or corporation to obtain a conditional use permit when required shall constitute a violation of this chapter.
- (c) In the event of a violation of subsection (a), above, the zoning administrator or designee may revoke any conditional use permit, whether or not a citation is issued or injunctive relief is sought. Before the zoning administrator may revoke a conditional use permit, the Plan Commission and Village Board shall follow the revocation procedure set forth below.

**Sec. 20-1165. - Modification of existing conditional use permit.**

Should the conditions of the area in which a conditional use exists change such that the conditional use allowed by the permit presents an imminent and substantial threat to public health, safety, or property, the Plan Commission and Village Board may review such conditional use permit upon notification and hearing as set forth in this chapter. Any review conducted hereunder shall be limited to revision of the permit to eliminate the threat(s) to public health, safety, or property. Revision of the permit may include addition and/or deletion of specific conditions.

**Sec. 20-1166. - Conditional use permit revocation.**

Should a permit applicant, or the applicant's heirs or assigns, fail to comply with the conditions of the conditional use permit issued by the Village Board or should the use, or characteristics of the use be changed without prior approval by the Village Board, the conditional use permit may be revoked. The process for revoking a permit shall follow the same procedures as those required for granting a conditional use permit as set forth in this Section. Additional grounds for revocation shall include, but not be limited to, the following:

- (1) A change in conditions affecting the public health, safety, and welfare since adoption of the conditional use permit; or
- (2) Fraudulent, false, or misleading information supplied by the applicant or his agent for the conditional use permit; or

- (3) Improper public notice of the conditional use permit public hearing(s) when the permit was considered by the Plan Commission and Village Board.

**Secs. 20-1167. —20-1180. - Reserved.**

### **DIVISION 3. - REVIEW PROCEDURE AND APPROVAL STANDARDS**

#### **Sec. 20-1181. – Standards in reviewing conditional uses.**

In reviewing the proposed conditional uses, the Plan Commission and the Village Board shall consider all factors relevant to the issuance of the conditional use including but not limited to the following:

- (1) All conditional uses must be in accordance with the purpose, intent and specific conditions of this chapter and the particular zoning district in which the property is located and which authorizes the conditional use.
- (2) A review of the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation and improvement upon flood damage protection, water quality, shoreland cover, natural beauty and wildlife habitat.
- (3) Reasonable conditions necessary to protect adjacent properties, uses and structures and to protect the health, safety and welfare of the public, To the extent practicable, conditions must be measurable and may include conditions such as the permit's duration, transfer, or renewal. Conditions may include, without limitation, the following subject matters:
  - a. Landscaping; existing topography, and vegetative cover; planting screens.
  - b. Drainage facilities, including drain tile, swales, retention/detention basins, terraces, stream bank protections and storm water piping;
  - c. Architectural design;
  - d. Type of construction, construction commencement and completion dates;
  - e. Sureties or letter of credit;
  - f. Lighting;
  - g. Fencing;
  - h. Location, size and number of signs;
  - i. Operation control;
  - j. Hours of operation;
  - k. Road access restrictions;
  - l. Deed restrictions;
  - m. Parking requirements; adequacy of existing and proposed parking areas and driveway locations.
  - n. Traffic movement and control; existing and proposed traffic generation and circulation.
  - o. Impact on water, sanitation, and utilities; adequacy of existing and proposed public services; adequacy of proposed water

- supply and waste disposal systems;
  - p. Higher performance standards;
  - q. Street dedication;
  - r. Land divisions;
  - s. Police and fire Protection.
  - t. Other reasonable conditions required by the specific proposed use.
  - u. Any harmful, offensive or otherwise adverse impacts on the environment.
  - v. Duration of the permit if granted.
  - w. Transfer of the permit if granted
  - x. Renewal of the permit if granted.
  - y. Compatibility of the use with other uses on adjacent properties.
  - z. Flood proofing.
  - aa. Increased yard setbacks or additional parking to comply with this chapter and state law, including the provisions of the state's floodplain and shoreland management programs.
- (4) Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards, shall be required of all conditional uses. Variances shall only be granted as provided in section 20-31 et seq.
- (5) With respect to conditional uses within shorelands, the standards set forth in W.S.A., § 144.26(5)(a), in particular as they relate to the avoidance or control of pollution.

**Sec. 20-1182. - Determination.**

- (a) The Village Board may issue a conditional use permit with appropriate conditions, deny the permit with reasons, or require the submittal of a modified application. The decision must be supported by substantial evidence.
- (b) All conditions imposed by the Village Board must be related to the purpose of the ordinance and shall be based on substantial evidence.
- (c) The Village Board shall grant a conditional use permit if the applicant meets or agrees to meet the requirements and conditions established by the Village.
- (d) "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements an applicant must meet to obtain a conditional use permit and that a reasonable person would accept in support of a conclusion.
- (e) The applicant must demonstrate that the application and all requirements and conditions established by the Village are or shall be satisfied, both of which must be supported by substantial evidence.

**Sec. 20-1183. – Appeal.**

If the Village Board denies an application for a conditional use permit, the applicant may appeal the decision to circuit court under the procedures set forth in Wis. Stat. Section 62.23(7)(e)(10).

**Sec. 20-1184. - Review and approval of minor additions and accessory structures.**

- (a) Approval of minor additions, expansions or alterations to principal or accessory structures, where such structures were previously approved after a conditional use public hearing, may be granted without further public hearing as a site plan review function of the planning and development committee and the appropriate village board. Such additions, expansions or alterations may be approved in this manner provided that total lifetime additions, alterations or expansions do not exceed fifty (50) percent of the current equalized assessed value of the structure to which they are being attached. Further accessory structures for such previously approved uses/structures may also be approved via site plan review.
- (b) The applicant may request a public hearing if he does not agree with the provisions of the conditions of approval or feels that a public hearing is in the applicants' best interest.
- (c) The planning and development committee through the zoning administrator may request technical assistance from the county land conservation office, county park department, county highway engineer, county environmental control department or other county officers, departments, commission, and boards in reviewing a site plan approval application prior to setting forth the provisions of site plan approval. Such provisions shall be in compliance with the standards set forth in this division.
- (d) The zoning administrator shall mail a copy of the application together with all maps, plans, and other documents submitted by the applicant to the village board within which the subject land lies. The village board shall have the power to impose conditions on site plan approval applications which are more strict than those imposed by the planning and development committee or may approve or deny the request. The village board shall have twenty (20) days from the receipt of the application to notify the zoning administrator of the more strict conditions being imposed or if the request is approved or denied.

**Sec. 20-1185. - Reserved.**

**Editor's note**— Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-1185 which pertained to general standards applicable to all floodplain districts and derived from Ord. No. 2005-155, adopted Jan. 10, 2006.

**Secs. 20-1186—20-1200. - Reserved.**

**DIVISION 4. - MOBILE HOME PARKS<sup>17</sup>**

Footnotes:

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**Cross reference**— Mobile homes and mobile home parks in the floodplain overlay districts, § 20-1270.

**Sec. 20-1201. - Definitions.**

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

*Lot* shall mean a mobile home space plus all required yards for a mobile home.

*Mobile home* shall have the meaning listed in section 20-1. Any additions, attachments, annexes, foundations and appurtenances shall be approved by the village building inspector.

*Mobile home park* shall have the meaning listed in section 20-1.

*Space* shall mean a plot of ground designed for the accommodation of one (1) mobile home.

(Code 1975, § 7.048(A); Ord. No. 94-235, 2-28-95)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

### **Sec. 20-1202. - When, where allowed.**

Mobile home parks may be allowed as a conditional use in the A-2 agricultural district subject to the requirements of this division and all provisions of this chapter pertaining to conditional uses. No mobile home shall be used as a residence within the county unless located within a mobile home park.

(Code 1975, § 7.048)

### **Sec. 20-1203. - Application for zoning permit.**

- (a) An application for a county zoning permit for a mobile home park shall be accompanied by a duly issued license or permit from the village in which the mobile home park is to be located. In the absence of such village license or permit, the application for a county permit shall be denied. The application shall be filed with the zoning administrator in duplicate and shall be accompanied with duplicate sets of plans and specifications which shall be in compliance with all county or village ordinances and provisions of the state division of health and a performance bond in the sum of five thousand dollars (\$5,000.00) to insure completion of the mobile home park within nine (9) months from the date of the issuance of the county zoning permit and insuring further that such completion is in compliance with the requirements of this chapter. No mobile home shall be occupied until all conditions of this chapter have been met and an occupancy permit issued.
- (b) The life of a county zoning permit for a mobile home park shall be nine (9) months, but may be extended for not more than an additional ninety (90) days in the aggregate by the zoning administrator with the approval of the planning and development committee upon the holder of the county zoning permit showing good cause arising out of an act of God, delay in construction due to the elements, fire or due to a strike that is not within the control of the person requesting the extension.
- (c) The application shall contain the following information:
  - (1) Name, address and telephone number of applicant;
  - (2) A legal description of the land upon which applicant seeks to have a zoning permit for a mobile home park;

(3) The names and addresses of all persons owning land abutting upon such land; and

(4) The names and addresses of all persons owning lands located across the street from such land.

(Code 1975, § 7.048(B); Ord. No. 2011-61, 11-8-11)

#### **Sec. 20-1204. - Location.**

No mobile home shall be located less than fifty (50) feet from any highway right-of-way line. The location of each mobile home park shall be approved or denied in writing within sixty (60) days. In approving such location, the zoning administrator shall view the proposed site or sites and shall consider such evidence as may be presented, bearing upon the general purposes and intent of this chapter to promote the public health, safety and general welfare and the specific purpose of this section to prevent the overcrowding of land and the development of housing blight in rural area.

(Code 1975, § 7.048(C))

#### **Sec. 20-1205. - Specific requirements.**

(a) *Drainage.* Every mobile home park shall be located on a well-drained site and shall be so graded and adequately drained as to eliminate collection of surface waters at any point in the mobile home park and drainage easements obtained when necessary.

(b) *Sewage.* Adequate provisions shall be made for the disposal of all sewage from a mobile home park into a municipal sanitary sewer where available, or by properly constructed and maintained sewage exidation system approved by the state DNR.

(c) *Water.* Where a public water supply is not available within the mobile home park an adequate supply of pure water for drinking and domestic purposes shall be provided in an amount sufficient to care for the needs of the maximum number of persons which can be accommodated in such mobile home park, approved by the state DNR.

(d) *Refuse.* Every mobile home in the park shall have at least two (2) containers with close fitting covers for garbage and provisions shall be made for the handling and removal of all garbage, trash or refuse from the park no less than twice each week.

(e) *Lighting.* All entrances, exits, lanes, and driveways between rows of trailers used or occupied in any mobile home park shall be lighted by electric lighting of at least one (1) watt per lineal foot.

(Code 1975, § 7.048(D))

#### **Sec. 20-1206. - Mobile home lots.**

(a) Each mobile home shall be located on a lot of not less than five thousand (5,000) square feet.

(b) Each mobile home lot shall contain a parking space upon which the mobile home shall be situated which parking space shall be graveled or paved with concrete or bituminous

material. Each parking space shall be not less than ten (10) feet wide nor of less length than the length of the trailer to be parked therein, plus five (5) feet.

- (c) There shall be additional parking spaces for automotive vehicles within such park, surfaced as required above. Each automobile parking space shall be not less than nine (9) feet wide and one hundred sixty (160) square feet in area, exclusive of maneuvering and access space.
- (d) There shall be a system of driveways, with a minimum of thirty-six (36) feet widths, surfaced as required by subsection (b) above, providing access from each and every trailer and automobile parking space within such mobile home park to the public street or highway; provided that there shall not be more than two (2) entrances from or exits to such street or highway from any one (1) such park.
- (e) Each mobile home space shall be separated from all other mobile home spaces, automobile parking spaces or service buildings or structures within such park by open spaces, permanently planted to grass, flowers, shrubs or trees, which shall be not less than fifteen (15) feet wide, except that there need not be more than a five-foot setback from an access driveway; provided, however, that such five-foot setback shall apply to the longest trailer to be accommodated within such park.
- (f) Each mobile home park shall be completely surrounded, except for permitted entrances and exits, by a yard, in addition to all other required yards and open spaces, which shall not be less than fifteen (15) feet wide.

(Code 1975, § 7.048(E))

**Sec. 20-1207. - Mobile home use restrictions.**

- (a) *Businesses prohibited.* No business shall be conducted in any trailer in a mobile home park.
- (b) *Registers.* Each mobile home park shall maintain an office where a register shall be kept for the registration of all occupants, which register shall be open to county or village officials for inspection and shall contain information as follows:
  - (1) Name and address of each occupant;
  - (2) Trailer license number and manufacturer's name;
  - (3) Automobile license number, and name and make of automobile;
  - (4) Number of site to which assigned;
  - (5) Last place of location;
  - (6) Date of arrival; and
  - (7) Date of departure.

(Code 1975, § 7.048(F), (G))

**Sec. 20-1208. - Appeal from denial.**

In the event the zoning administrator is required to deny an application for a county zoning permit for a mobile home park, the applicant has the right to appeal to the board of adjustment as in other cases for a variance.

(Code 1975, § 7.048(H))

**Secs. 20-1209—20-1225. - Reserved.**

**DIVISION 5. - INDUSTRIAL AND AGRICULTURAL USES**

**Sec. 20-1226. - Uses permitted conditionally.**

The following industrial and agricultural uses shall be conditional uses and may be permitted as specified:

- (1) Animal hospitals in the A-1 and must meet W.S.A. § 91.01(1), A-2 and A-4 agricultural districts, the B-5 business district and the M-2 and M-3 industrial districts; provided the lot area is not less than three (3) acres, and all principal structures and uses are not less than one hundred (100) feet from any residential district.
- (2) Commercial raising, propagation, boarding or butchering of animals, such as dogs, mink, rabbits, foxes, goats and pigs; the commercial production of eggs; and the hatching, raising, fattening or butchering of fowl in the A-1 and A-2 agricultural districts. Pea vineries, creameries and condenseries in all agricultural districts and the M-3 industrial district.
- (3) Manufacture and processing of abrasives, acetylene, acid, alkalis, ammonia, asbestos, asphalt, batteries, bedding, bleach, bone, cabbage, candle, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal tar, coffee, coke, cordage, creosote, dextrine, disinfectant, dye, excelsior, felt, fish, fuel, furs, gelatin, glucose, gypsum, hair products, ice, ink, insecticide, lampblack, lime, lime products, linoleum, matches, meat, oil cloth, paint, paper, peas, perfume, pickle, plaster of paris, plastics, poison, polish, potash, pulp, pyroxylin, radium, rope, rubber, sausage, shoddy, shoe and lampblackening, size, starch, stove polish, textiles, and varnish, manufacturing, processing, and storage of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar and yeast; manufacture and bottling of alcoholic beverages, bag cleaning, bleacheries, canneries, cold storage warehouses; electric and steam generating plants; electroplating; enameling; forges, foundries; garbage; incinerators; lacquering; lithographing; offal, refuse, or animal reduction; oil, coal, and bone distillations; refineries, road test facilities; slaughterhouses; smelting; stockyards; tanneries; and weaving, all in the M-3 heavy industrial district and shall be at least six hundred (600) feet from residential and public and semipublic districts.
- (4) Outside storage and manufacturing areas in the M-3 heavy industrial district. Wrecking, junk, demolition and scrap yards shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property

or public right-of-way and shall be at least six hundred (600) feet from residential, public and semipublic districts.

- (5) Commercial service facilities, such as restaurants and fueling stations, in the M-1, M-2 and M-3 industrial districts, provided all such services are physically and sales-wise oriented toward industrial district users and employees and other users are only incidental customers.
- (6) The parking of school buses, semi-tractors and trailers or other vehicles of a commercial nature in the A-2 agricultural district by the occupant, provided all such uses are at least six hundred (600) feet from any residential district and one hundred (100) feet from any other residence and landscape screening to be determined on a site-specific basis is in place: If the vehicles are parked inside a structure, the above distance may be reduced. Only one (1) vehicle unit (a school bus, a semi-tractor or trailer, etc.) may be allowed on a parcel of land with the exception that two (2) vehicle units may be allowed if both are parked within a fully enclosed structure.
- (7) Sanitary landfills and their related accessory uses when operated in accordance with the provisions of the applicable chapters of the Wisconsin Administrative Code in the M-3 industrial district.
- (8) Airports, airstrips and landing fields for the use of the property owner for personal and farm related activities in the A-1 and A-3 agricultural districts and must meet W.S.A., § 91.01(1).
- (9) Airports, airstrips and landing fields in the A-2 district.
- (10) Storage and maintenance of construction equipment and vehicles, including landscaping vehicles and equipment, in the A-2 district. The storage area for all such equipment and vehicles shall be at least six hundred (600) feet from residential, public and semi-public districts. If the vehicles and equipment are parked/stored inside a structure, the above distance may be reduced. Some landscaping business type activities in the A-2 district may be regulated as a home occupation if the applicant secures a home occupation permit and abides by section 20-1015, including that there is no outdoor display or storage of materials, goods, or supplies and that no stock in trade shall be displayed or sold upon the premises.
- (11) Recycling centers and recycling plants in the M-3 district.
- (12) This conditional use category is created in recognition of the potential which exist in livestock facility operations for uncontrolled runoff and animal waste pollution of surface and groundwater and potential for such uses to become a nuisance. Livestock facilities as defined herein, including livestock and poultry of all types, may be permitted as conditional uses in all agricultural districts subject to the following:
  - a. No livestock facility operation shall be permitted on less than thirty-five (35) acres of agriculturally-zoned land (including A-2) nor closer than one

thousand (1,000) feet from any land presently zoned residential (does not include A-2 zoned parcels).

- b. No accessory residence shall be permitted closer than one hundred (100) feet to the livestock facility.
- c. Except as provided for waste storage structures, no part of the livestock facility operation shall be closer than one hundred (100) feet from the right-of-way line of any public road if the livestock facility will have fewer than one thousand (1,000) animal units, and one hundred fifty (150) feet if the livestock facility will have one thousand (1,000) or more animal units, nor closer than one hundred (100) feet if the livestock facility will have fewer than one thousand (1,000) animal units, and two hundred (200) feet if the livestock facility will have one thousand (1,000) or more animal units from any other lot lines of the site on which the production unit is situated. In addition the requirements below, proximity to lakes, ponds, rivers, streams, wells, bedrock and groundwater for feedlot and manure storage facility must meet NRCS standards.
- d. A new waste storage structure may not be located within three hundred fifty (350) feet of the nearest point of any public road right-of-way.

A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:

- Located on the same tax parcel as a waste storage structure in existence before May 1, 2006;
- No larger than the existing structure;
- No further than fifty (50) feet from the existing structure; or
- No closer to the road or property line than the existing structure.

This setback requirement does not apply to existing waste storage structures, except that an existing structure within three hundred fifty (350) feet of a property line or road may not expand toward that property line or road.

- e. A livestock facility shall comply with setback and related requirements in any applicable shoreland or wetland zoning ordinances enacted within the scope of authority granted under W.S.A., § 59.692, 61.351 or 62.231, Stats., and a livestock facility shall comply with setback and related requirements in any applicable floodplain zoning ordinance that is enacted within the scope of statutory authority granted under W.S.A., § 87.30, Stats.
- f. All wells located in a livestock facility shall comply with chs. NR811 and 812. New or substantially altered livestock structures shall be separated from existing wells by the distances required in chs. NR 811 and 812, regardless of whether the livestock facility operator owns the land on which

the wells are located. A livestock structure in existence on May 1, 2006, may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.

- g. A conservation plan addressing the proposed methods of manure handling, storage, disposal and waste runoff controls shall be prepared and made a part of the plan of operation and shall be approved by the Racine County Land Conservation Division.
  - h. Animal waste shall be applied in accordance to the NRCS 590 Nutrient Management Standard and reviewed by the Racine County Land Conservation Division staff.
  - i. The site plan must show surface water drainage patterns and the methods to be employed to control, contain or divert clean water runoff from the manure storage facilities.
  - j. An operations plan detailing the method of operation and the equipment necessary to accomplish a safe and sanitary disposal of animal waste. An agreement must be filed with the county by the owner of the land that any manure discharged in a drainage way or a public way, either intentionally or accidentally, will be cleaned up by the owner and that the county may clean up such condition and the cost thereof assessed back to the property owner.
  - k. A statement of the maximum number of animals to be contained in the proposed livestock facility. This plan shall include numbers, types, and weights.
  - l. No single-family residence shall be constructed within one thousand (1,000) feet of a livestock structure or building. This provision shall not apply to dwelling units that are accessory to a livestock facility.
- (13) Off-season storage facilities for boats and other recreational vehicles, such as campers, travel trailers, snowmobiles, off-road vehicles, and motor homes, in the B-3, B-5, M-2, M-3, and A-2 districts.

In the A-2 district, such storage may only occur in a barn or other accessory building that was constructed prior to January 1, 2000.

In the B-3, B-5, and M-2 districts, such storage may only occur as an accessory use to an approved self-service storage facility.

- (14) Motorized off-road vehicle tracks as a conditional use in the A-2, B-3, B-5 and P-2 districts. Off-road vehicle tracks intended for any and all self-propelled two-, three, or four-wheeled recreational vehicles and any that have ground contact and are equipped with a saddle for the use of the operator, including, but not limited to, motorized scooters, mini-bikes, motorcycles, ATVs, UTVs, snowmobiles and off-road vehicles. This regulation does not apply to same type of vehicles used strictly for agricultural, governmental, emergency or utility purposes, which would be allowed in all zoning districts without permits.

- (15) Standards for home-based agricultural related business (HBARB):
- a. Allowed as a conditional use approval in all agricultural districts.
  - b. The operator shall reside in a residence on the property.
  - c. The operator shall grow the primary portion of materials or products sold onsite.
  - d. The HBARB must be located on a parcel not less than five (5) acres in area.
  - e. Maximum two (2) persons other than members of the immediate family may be employed in the HBARB at any given time.
  - f. Any signage associated with the HBARB must comply with chapter 20 zoning of the Racine County Code of Ordinances and will require zoning permit approval.
  - g. Any structure that is utilized at the subject site that is associated with any aspect of the HBARB must meet the principle structure setbacks for the zoning district.
  - h. Any accessory building used in association with the HBARB shall be clearly incidental to the principle use.
  - i. Retail sales of ancillary non-agricultural items is subject to detailed plan approval by the committee and local municipality.
  - j. Proper sanitation approval must be obtained in full compliance with state sanitation codes.
  - k. The HBARB product must consist of farm commodities that are entirely, or the majority of which are, planted or produced on the farm premises, or are agriculturally related.
  - l. Food shall not be served to patrons other than small sample of product produced by the HBARB.
  - m. Limited outside customer activity may occur on the premises in accordance with village/county approval.
- (16) Non-farm residences require a conditional use permit, unless the residence legally existed prior to January 1, 2014, and thus qualifies as a prior nonconforming use.
- a. Creation of a non-farm residence or conversion of a farm residence to a non-farm residence through a change in occupancy, subject to the following requirements:

1. The ratio of all non-farm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than one (1) to twenty (20) after the residence is constructed or converted to a non-farm residence.
  2. There will not be more than four (4) dwelling units in non-farm residences, nor more than five (5) dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a non-farm residence.
  3. The location and size of the proposed non-farm residential parcel (residence and lot) will not do any of the following:
    - i. Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a non-farm residential parcel or a non-farm residence.
    - ii. Significantly impair or limit the current or future agricultural use of other protected farmland.
  4. A deed restriction shall be recorded at the Racine County Register of Deeds office prior to release of any permits for construction on new parcels created for farm residential uses.
- b. Creation of a non-farm residential cluster that covers more than one (1) non-farm residence if all of the following apply:
1. The parcels on which the non-farm residences would be located are contiguous.
  2. Each non-farm residence constructed in the non-farm residential cluster must satisfy the requirements of section 20-1226(16)(a).

(17) A-1 farmland preservation zoning district rezonings.

- a. Except as provided in section 20-1226(17)(b), the Racine County Board and the Racine County Economic Development and Land Use Planning Committee may not rezone land out of the farmland preservation zoning district unless the Racine County Economic and Development and Land Use Planning Committee finds all of the following in writing, after public hearing, as part of the official record of rezoning:
  1. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
  2. The rezoning is consistent with any applicable comprehensive plan.

3. The rezoning is substantially consistent with the Racine County Farmland Preservation Plan, which is in effect at the time of the rezoning.
  4. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
- b. Section 20-1226(17)(a) does not apply to any of the following:
1. A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) under W.S.A., ch. 91.
  2. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the Racine County Farmland Preservation Plan map, certified under W.S.A., Ch. 91, which is in effect at the time of the rezoning.
- c. By March 1 of each year, the Racine County Public Works and Development Services Department shall provide to the DATCP a report of the number of acres that Racine County has rezoned out of the farmland preservation zoning district under section 20-1226(16)(a) during the previous year and a map that clearly shows the location of those acres.

(Code 1975, § 7.049; Ord. No. 93-99, 9-14-93; Ord. No. 97-155, 11-11-97; Ord. No. 2005-69S, 9-13-05; Ord. No. 2006-91, 10-26-06; Ord. No. 2007-28, 6-26-07; Ord. No. 2008-127, 2-10-09; Ord. No. 2011-61, 11-8-11; Ord. No. 2013-54, 8-13-13; Ord. No. 2014-87, 12-9-14; Ord. No. 2015-90, 12-15-15; Ord. No. 2016-53, 6-14-16)

### **Sec. 20-1227. - Application.**

Application for the conditional use permit for sanitary landfills shall be accompanied by the following:

- (1) A plat of survey of the proposed site and an adequate description of the operational methods, including leachate collections and disposition;
- (2) A list of equipment, machinery, and structures to be used;
- (3) The source, quantity, and disposition of any water or other material to be used in the sanitary landfill operation;
- (4) A topographic map of the site showing existing contours with a maximum vertical contour interval of two (2) feet, existing trees, proposed and existing access roads, and the depth of all existing and proposed excavations and fills; and
- (5) A restoration and reuse plan. The restoration and reuse plan provided by the applicant shall contain:
  - a. Proposed contours after filling or restoration;
  - b. Depth of the restored topsoil; and

- c. Planting or restoration and reforestation commencement and completion dates.

(Code 1975, § 7.049)

### **Sec. 20-1228. - Mineral extraction.**

Mineral extraction operations, including washing, crushing or other processing, are conditional uses and may be permitted in the M-4 quarrying district provided:

- (1) The application for the conditional use permit shall include: an adequate description of the operation; a list of equipment, machinery and structures to be used; the source, quantity and disposition of water to be used; a topographic map of the site showing existing contours with a contour interval no greater than five (5) feet, trees, proposed and existing access roads, the depth of all existing and proposed excavations; and a restoration plan.
- (2) The restoration plan provided by the applicant shall contain proposed contours after filling, depth of the restored topsoil, type of fill, planting or reforestation, restoration commencement and completion dates. The applicant shall furnish the necessary fees to provide for the county's inspection and administrative costs and the necessary sureties which will enable the county to perform the planned restoration of the site in event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the county engineer, and the form and type of such sureties shall be approved by the corporation counsel.
- (3) The conditional use permit shall be in effect for a period not to exceed two (2) years and may be renewed upon application for a period not to exceed two (2) years. Modifications or additional conditions may be imposed upon application for renewal.
- (4) The planning and development committee shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the locality and shall also consider the practicality of the proposed restoration of the site.

(Code 1975, § 7.0410)

### **Secs. 20-1229—20-1245. - Reserved.**

## **DIVISION 6. - RECREATIONAL USES**

### **Sec. 20-1246. - Uses permitted conditionally.**

- (a) The following public recreational facilities shall be conditional uses and may be permitted as specified: archery ranges, bathhouses, beaches, boating, camps, conservatories, driving ranges, firearm ranges, golf courses, gymnasiums, hunting, ice boating, marinas, music halls, polo fields, pools, riding academies, skating rinks, sport fields, stadiums, swimming pools and zoological and botanical gardens in the P-2 district provided that the

lot area is not less than three (3) acres and all structures are not less than fifty (50) feet from any district boundary.

- (b) Commercial recreation facilities, such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, racetracks, rifle ranges, turkish baths, skating rinks and theaters are conditional uses and may be permitted in the B-3, B-4, B-5 and B-6 business districts.

(Code 1975, § 7.0411)

**Secs. 20-1247—20-1265. - Reserved.**

**DIVISION 7. - LIVESTOCK FACILITY SITING**

**Secs. 20-1266. - Procedures for siting livestock facilities.**

- (a) These procedures apply to livestock facilities that require a conditional use permit under this chapter which are all new or expanded livestock facilities that will have five hundred (500) or more animal units.
- (b) *Permits for existing livestock facilities.*
  - (1) A permit is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:
    - a. The applicable size threshold for a conditional use permit established in the zoning district where the facility is located.
    - b. The maximum number previously approved or, if no maximum number was previously approved, a number that is twenty (20) percent higher than the number kept on May 1, 2006, or on the effective date of the permit requirement, whichever date is later.
  - (2) A permit is not required for livestock facility that existed before May 1, 2006, or before the effective date of the permit requirement in this division, except as provided in subsection (1).
  - (3) A permit is not required for livestock facility that was previously issued a conditional use permit or other local approval, except as provided in subsection (1). A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.
- (c) *Application procedures.* In addition to the standard conditional use application requirements of section 20-1161, a livestock operator must complete the application and worksheets prescribed by § ATCP 51, including any authorized local modifications. The application requirements specified in § ATCP 51, Wis. Adm. Code, are incorporated by

reference, without reproducing them in full. The application form and worksheets establish compliance with the standards in ATCP 51 and this division.

The operator must file four (4) duplicate copies of the § ATCP 51 application form, including worksheets, maps and documents (other than engineering design specifications) included in the application.

- (d) *Application fee.* In addition to the standard conditional use filing fee, a non-refundable § ATCP 51 application fee as established by board of supervisors resolution shall accompany an application.
- (e) *Application review procedure.*
  - (1) Within forty-five (45) days after the planning and development department receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within fourteen (14) days after the applicant provides all of the required information, the department shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.
  - (2) Within fourteen (14) days after the department notifies an applicant that the application is complete, the department shall notify adjacent landowners of the application. The department shall use the approved notice form in § ATCP 51, and mail a written notice to each adjacent landowner.
  - (3) The economic development and land use planning committee shall grant or deny an application within ninety (90) days after the notice of a complete application is provided as required by subsection (2) above. The economic development and land use planning committee may extend this time limit for good cause, including any of the following:
    - a. The committee needs additional information to act on the application.
    - b. The applicant materially modifies the application or agrees to an extension. The committee shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the committee will act on the application.
- (f) *Public hearing.* The economic development and land use planning committee will schedule a public hearing on the application within ninety (90) days after issuing notice of a complete application.
- (g) *Standards.* The standards for issuing a permit are as follows:
  - (1) The state livestock facility siting standards adopted under § ATCP 51, Wis. Adm. Code. These standards are incorporated by reference, without reproducing them in full.
  - (2) Setbacks authorized by this chapter.

- (h) *Criteria for issuance of a permit.*
- (1) A permit shall be issued if the application for the proposed livestock facility contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in the ordinance. Note: If the application and worksheets prescribed by ATCP 51 are properly completed, there is a rebuttable presumption that the applicant has met the application requirements.
  - (2) A permit may be denied if any of the following apply:
    - a. The application, on its face, fails to meet the standard for approval.
    - b. The political subdivision finds, based on other clear and convincing information in the record, that the proposed livestock facility does not comply with applicable standards in this division.
    - c. Other grounds authorized by W.S.A., § 93.90, that warrant disapproving the proposed livestock facility.
  - (3) No conditions may be imposed on the permit other than the standards provided in this chapter.
- (i) *Record of decision.*
- (1) The economic development and land use planning committee shall issue its decision in writing. Its decision shall be based on written findings of fact supported by evidence in the record.
  - (2) In the event that a permit is approved, the applicant shall receive a duplicate copy of the approved application, marked "approved." The duplicate copy must include worksheets, maps and other documents (other than engineering specifications) included in the application.
- (j) *Notice to the department of agriculture, trade and consumer protection.* The Village, as required by § ATCP 51.34(5), within thirty (30) days of the decision on the application shall do all of the following:
- (1) Give the department of agriculture, trade, and consumer protection written notice of the decision.
  - (2) File with the ATCP a copy of the final application granted or denied, if the Village has granted or denied an application under this ordinance. (The copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications).
  - (3) If the Village has withdrawn a local approval under this division, file with the department a copy of the final notice or order withdrawing the local approval.
- (k) *Expiration of permit.* A permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under the permit,

and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the political subdivision may treat a permit as lapsed and withdraw the permit if the permit holder fails to do all of the following within two (2) years after the issuance of the permit:

- (1) Begin populating the new or expanded livestock facility.
  - (2) Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the permit application.
- (l) *Permit modifications.* The operator may make reasonable changes that maintain compliance with the standards in this division, and the Village shall not withhold authorization for those changes. It is the Village's responsibility to determine what changes are reasonable.
- (m) *Compliance monitoring.* The Village shall monitor compliance with the chapter as follows:
- (1) Upon notice to the livestock facility owner, request the right of the zoning administrator to personally view the permitted facility at a reasonable time and date to ensure that all commitments of the application as approved are being complied with.
  - (2) If the livestock facility owner refuses the zoning administrator the right to view the permitted facility, the zoning administrator may request the assistance of the sheriff or deputy sheriff to obtain an inspection warrant from the circuit court to inspect the permitted facility for the purpose of protection of the public health and safety under W.S.A., § 66.0119.
  - (3) If a permitted facility is found not to be in compliance with the commitments made in the approved application, the zoning administrator shall issue a written notice to the livestock facility owner stating the conditions of non-compliance and directing that compliance of the commitments of the approved application be complied with in a reasonable amount of time stated in this notice.
  - (4) If non-compliance of the permit conditions as described in the written notice given by the zoning administrator continue past the stated reasonable time to comply, the zoning administrator may take further action as provided in this division, including, but not limited to, issuance of a citation or seeking of injunctive relief.
  - (5) If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within five (5) days of receipt of the notice of non-compliance. The economic development and land use planning committee shall schedule a hearing within five (5) days to determine if the conditions of the permit have been complied with or whether non-compliance of the commitments of the approved application and local approval exists. The date of the hearing shall be based on the economic development and land use planning committee's published hearing schedule.
- (n) *Terms of the permit.* A permit and the privileges granted by a permit issued under this chapter are conditioned on the livestock operator's compliance with the standards in this chapter and with commitments made in the application for a permit. The Village is

authorized to suspend a permit or seek other redress provided in this division for non-compliance.

(o) *Transferability.*

(1) A permit and the privileges granted by the permit run with the land and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application.

(2) Upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Village Clerk providing pertinent information, including, but not limited to, such information as the name and address of the new owner and date of transfer of ownership.

**Sec. 20-1267 – 20-1290. - Reserved.**

**DIVISION 8. - SHORELAND USES**

**Sec. 20-1291. - Uses permitted conditionally.**

The uses set forth in this division may be conditional uses requiring review, public hearing, and approval by the planning and development committee or may be permitted by the zoning administrator subject to the provisions of this article.

(Code 1975, § 7.0413)

**Sec. 20-1292. - Tree cutting, shrubbery clearing.**

(a) Tree cutting and shrubbery clearing not prohibited in section 20-1036 et seq. may be permitted, provided that such cutting and clearing within thirty-five (35) feet inland from the ordinary high-water mark shall not exceed thirty (30) feet in any one hundred (100) feet, as measured along the ordinary high-water mark and shall be so regulated as to prevent erosion and sedimentation, preserve and improve scenic qualities, and during foliage substantially screen any development from stream or lake uses. Paths and trails shall not exceed ten (10) feet in width and shall be so designed and constructed as to result in the least removal and disruption of shoreland cover and the minimum impairment of natural beauty. Any path or trail within the thirty-five-foot area described above shall be constructed and surfaced so as to effectively control erosion.

(b) The planning and development committee or the zoning administrator shall request a review of such tree cutting and shrubbery clearing in excess of one (1) acre by the state department of natural resources and await their recommendations before taking final action, but not to exceed sixty (60) days.

(Code 1975, § 7.0413; Ord. No. 86-17, § 7.0413, 7-22-86)

**Sec. 20-1293. - Earth movements.**

(a) Earth movements, such as grading, topsoil removal, stream course changing, road cutting, waterway construction or enlargement, removal of stream or lake bed materials,

excavation, channel clearing, ditching, dredging, lagooning, and soil and water conservation structures, may be permitted provided that such uses are so regulated as to prevent erosion and sedimentation and to least disturb the natural fauna, flora, watercourse, water regimen, and topography.

- (b) The planning and development committee or the zoning administrator shall request a review of such earth movement by the county land conservation office and the state district fish and game managers and a review of each such cutting and clearing from the state district forester and await their recommendations before taking final action, but not to exceed sixty (60) days.
- (c) A copy of the planning and development committee's or the zoning administrator's decision on such application shall be forwarded to the department of natural resources and the Region 2 Water Resources Advisory Board within ten (10) days of such decision.

(Code 1975, § 7.0413)

#### **Sec. 20-1294. - Shore protection structures.**

- (a) Shore protection structures for the Lake Michigan shoreline include such items as groins, revetments, breakwaters, bulkheads and piers, and may be permitted. All such structures shall meet the criteria set forth in recommendations of the Racine County Technical Subcommittee on Shoreland Development Standards to the Racine County Land Use Committee, 1982.
- (b) The planning and development committee or the zoning administrator shall request a review of such shore protection structures by the county technical subcommittee on shoreland development standards and await their recommendations before taking final action, but not to exceed sixty (60) days.

(Code 1975, § 7.0413)

#### **Sec. 20-1295. - Relocatable structures.**

- (a) The placement of relocatable structures or buildings within the NSO district may be permitted.
- (b) The property owner shall submit a report from a professional building moving contractor certifying that the structure can be feasibly moved at a cost not to exceed thirty (30) percent of the equalized value of the structure. In addition, the property shall extend sufficiently outside the NSO district so that the structure can be relocated in the future outside the NSO district. Relocatable structures are not permitted within the SSO structural setback overlay district.

(Code 1975, § 7.0413)

#### **Secs. 20-1296—20-1335. - Reserved.**

**Editor's note**— Ord. No. 2003-132, adopted Nov. 18, 2003, repealed Art. VIII, Div. 9, in its entirety. Former Div. 9 pertained to Adult entertainment uses, and derived from Code 1975, § 7.0415, and Ord. No. 85-2, § 7.0415, adopted May 14, 1985.

## DIVISION 9. - REGULATIONS FOR OTHER SPECIFIC USES

**Editor's note**— Ord. No. 2003-132, adopted Nov. 18, 2003, renumbered former Div. 10 as Div. 9 to read as set out herein.

### **Sec. 20-1336. - Public and semipublic uses.**

The following public and semipublic uses shall be conditional uses and may be permitted as specified:

- (1) Airports, airstrips and landing fields in the M-2 and M-3 industrial districts, the A-2 and A-4 agricultural districts and the P-1 institutional park district, provided the site area is not less than twenty (20) acres.
- (2) Governmental and cultural uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums in all residential and business districts; M-1, M-2 and M-3 industrial districts, and P-1 and P-2 park districts.
- (3) Utilities in all districts provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line. Utilities in the A-1 district must meet W.S.A., § 91.46(4).
- (4) Public passenger transportation terminals, such as heliports, bus and rail depots, except airports, airstrips and landing fields, in all business districts and the M-1, M-2 and M-3 industrial districts, provided all principal structures and uses are not less than one hundred (100) feet from any residential district boundary.
- (5) Public and parochial and private elementary and secondary schools and churches in all residential districts and P-1 institutional park district, provided the lot area is not less than two (2) acres and all principal structures and uses are not less than fifty (50) feet from any lot line.
- (6) Colleges; universities; hospitals; sanitariums; religious, charitable, penal and correctional institutions; cemeteries and crematories in the A-2 and A-4 agricultural districts and P-1 institutional park district, provided all principal structures and uses are not less than fifty (50) feet from any lot line.
- (7) Clubs, fraternities, lodges, sororities and similar semipublic associations, where the principal purpose of the facility is for social, educational, recreational or similar nonresidential type use in the B-3 or B-5 districts, provided that all principal structures and uses conform to the setbacks for those districts.

(Code 1975, § 7.044; Ord. No. 86-243, § 7.044, 2-24-87; Ord. No. 2015-90, 12-15-15)

### **Sec. 20-1337. - Residential uses.**

The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

- (1) Planned residential developments in the R-8 residential district. In addition to the development, park land, lot, building and yard requirements specified in the R-8 residential district, deed restrictions enforceable by the county shall be given to assure the proper preservation, care and maintenance, by the original and all subsequent owners, of the exterior design and layout of the development and of all common structures, facilities, utilities, accesses, open spaces and park lands.
- (2) Clubs, fraternities, lodges, sororities, religious and charitable institutions, where the principal purpose of the facility is to provide lodging and meals for the members of such organization in the R-7 residential district, provided that all principal structures and uses are not less than twenty-five (25) feet from any lot line. This provision is not intended to limit "community living arrangements" as defined by the state statutes.
- (3) Rest homes, nursing homes, homes for the aged, clinics and children's nurseries in the R-6 or R-7 residential districts provided all principal structures and uses are not less than fifty (50) feet from any lot line.
- (4) Cluster residential developments in the C-2 district shall be permitted as a conditional use. The district regulations may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than one (1) dwelling unit per five (5) acres. The original and all subsequent owners shall assure, by deed restrictions enforceable by the jurisdictional zoning body, proper preservation, care, and maintenance of: exteriors; designs; all common structures; facilities; utilities; accesses; and open spaces.

<i>Development</i>		
Area	Minimum	20 acres
<i>Lot</i>		
Width	Minimum	150 feet
Area	Minimum	40,000 square feet
<i>Buildings</i>		
Dwelling	Height maximum	35 feet
Residential accessory structures	Height maximum	17 feet
Agricultural structures such as barns, silos, sheds and storage bins	Height maximum	Two (2) times the distance from the nearest lot line
<i>Yard setbacks</i>		
All structures		
Rear	Minimum	50 feet
Side	Minimum	15 feet
Street	Minimum	50 feet

Shore	Minimum	75 feet
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- (5) Bed and breakfast (B&B) in all residential districts and the A-2 district.
- (6) Servant's quarters not for rent in any district that allows residential development as a principal use; itinerant agricultural laborer's quarters not for rent in any agricultural district. All such structures must be clearly accessory to the principal use. In the A-1 district all servant's and itinerant agricultural labor's quarters must qualify under W.S.A., § 91.01(19).

(Code 1975, § 7.045; Ord. No. 86-243, § 7.045, 2-24-87; Ord. No. 89-255, 2-27-90; Ord. No. 97-203, 1-13-98; Ord. No. 2000-251S, 8-28-01; Ord. No. 2003-197, 2-12-04; Ord. No. 2007-28, 6-26-07; Ord. No. 2015-90, 12-15-15)

**Sec. 20-1338. - Temporary structures.**

Temporary structures are intended to facilitate occasional, temporary uses and activities authorized pursuant to Section 20-1012, when consistent with the overall purposes of this zoning ordinance and the uses and/or structures allowed in a particular zoning district, and when the operation or use of the temporary structure will not be detrimental to the public health, safety or general welfare. Because the nature, character or circumstances of temporary structures are unique and dependent upon specific conditions, specifying all temporary structures and associated standards, regulations or conditions necessary or appropriate for a temporary structure to be granted is not practical. Therefore, all requested temporary structures shall require a conditional use permit as approved by the Village Board after a duly noticed public hearing before the Plan Commission and Village Board.

**Sec. 20-1339. - Highway-oriented uses.**

- (a) The following commercial uses shall be conditional uses and may be permitted as specified:
  - (1) Drive-in theaters in the B-5 business district provided that a planting screen at least twenty-five (25) feet wide is created along any side abutting a residential district and no access is permitted to or within one thousand (1,000) feet of an arterial street.
  - (2) Drive-in establishments serving food or beverages for consumption outside the structure in the B-3, B-5 and B-6 business districts.
  - (3) Motels in the B-5 and B-6 business districts.
  - (4) Funeral homes in the B-2 and B-5 business districts, provided all principal structures and uses are not less than twenty-five (25) feet from any lot line.
  - (5) Drive-in banks in the B-2, B-3, B-4 and B-5 business districts.

- (6) Tourist homes in the B-5 and B-6 business districts provided such district is located on a state trunk or U.S. numbered highway.
  - (7) Truck and bus terminals for the parking, repair and servicing of vehicles, provided no trans-shipment or warehousing facilities are provided, in the B-5 highway business district.
  - (8) Self-service storage facilities including incidental managers office/quarters in the B-3 business district along county trunk highways, state trunk highways and other similar major arterials, the B-5 business district and in the M-2 and M-3 industrial districts. The maximum lot coverage by structures for a self-service storage facility shall not exceed fifty (50) percent, and such facility shall not exceed in height the maximum allowed for principal structures for the district in which it is located and shall meet the setbacks for the district in which it is located.
  - (9) Vehicle sales, service, washing and repair stations, garages, taxi stands and public parking lots, in all business districts provided all gas pumps are not less than thirty (30) feet from any side or rear lot line and twenty-five (25) feet from any existing or proposed street line.
- (b) Any development within five hundred (500) feet of an existing or mapped right-of-way of a freeway or expressway and within one thousand five hundred (1,500) feet of their existing or mapped centerline of interchange with any other road shall be deemed to be a conditional use. Any development within fifty (50) feet of any existing or mapped state trunk highway or county trunk highway and within one hundred fifty (150) feet of an existing or mapped centerline of intersection with any other road shall be deemed to be a conditional use.
- (Code 1975, § 7.047; Ord. No. 86-86, § 7.047, 8-26-86; Ord. No. 87-144, 11-10-87; Ord. No. 88-160, § 7.047, 1-10-89)

**Sec. 20-1340. - Business uses.**

The following uses shall be conditional uses and may be permitted as specified:

- (1) Recycling drop-off sites in the B-3, M-2, M-3 and P-1 (for municipally owned sites) zoning districts subject to the following criteria:
  - a. Sites shall be located so as to generate minimum impact on adjacent areas.
  - b. Sites shall be fenced so that their hours can be controlled and site locked when not open.
  - c. It is preferred that sites be accessory to established commercial, industrial or municipal uses.
  - d. The site's storage area, parking area, and driveway shall be maintained in an all-weather, dust-free surface. Parking for a minimum of five (5) vehicles shall be provided.
  - e. The non-surfaced areas of the site shall be landscaped and maintained.

- f. Trash receptacles shall be provided at the site, in addition to the receptacles for recyclable materials.
  - g. Security lighting shall be provided.
  - h. Sites shall not occupy required parking, not impede vehicular or pedestrian traffic flow nor disrupt on site drainage for the principal use.
  - i. Sites shall be limited to collection of recyclable materials as defined in this chapter. Each site will be limited to acceptance of those materials approved by the committee and the affected village.
  - j. No composting is permitted on the site.
  - k. Owner and/or operator shall keep each site clean and in a neat appearance and shall dispose of material and other litter from the site.
  - l. Signs shall indicate only name of site, operator, phone number, hours of collection, and types of materials collected.
- (2) Licensed commercial day care centers in the R-6 and R-7 residential districts; the B-1, B-2, and B-3 commercial districts; and in the P-1 institutional park district.
  - (3) Flea markets in the B-3 and B-5 business district.
  - (4) In any business district any development involving multiple, principal use buildings or multiple tenants in a single building or any single commercial building two thousand five hundred (2,500) gross square feet or larger.
  - (5) Brew pubs in the B-3 business district.
  - (6) Landscape contractors offices and yards in the B-3 business district.

(Ord. No. 93-99, 9-14-93; Ord. No. 93-183, 1-11-94; Ord. No. 2000-251S, 8-28-01)

**Secs. 20-1341—20-1355. - Reserved.**

## **ARTICLE IX. - SIGNS<sup>191</sup>**

Footnotes:

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**Editor's note**— Ord. No. 2004-190, adopted Mar. 8, 2005, repealed Art. IX in its entirety and reenacted a new Art. IX to read as set out herein. Former Art. IX pertained to similar subject matter and derived from Code 1975m §§ 7.071—7.076, 7.078, 7.079; Ord. No. 87-113, § 7.0710, adopted Oct. 13, 1987; Ord. No. 88-160, § 7.073, adopted Jan. 10, 1989; Ord. No. 89-89, § 7.074, adopted Aug. 8, 1989; Ord. No. 90-255, § 7.704, adopted Mar. 12, 1991 and Ord. No. 93-9, adopted May 11, 1993.

**Cross reference**— Schedule of deposits for violation of the provisions in this section, § 5-3; district regulations, § 20-211 et seq.; supplementary district regulations and requirements, § 20-986 et seq.

**State Law reference**— Authority to regulate billboards, etc., W.S.A., § 59.07(49).

## DIVISION 1. - GENERALLY

### Sec. 20-1356. - Scope, purpose, and findings.

- (1) *Scope and Purpose*
  - (a) The sign regulations of this division establish regulations for the fabrication, construction, and use of signs in the Village. The regulations govern the location, type, size, and height of signs within the Village.
  - (b) These sign regulations do not regulate every form and instance of visual communication that may be displayed. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more general purposes or findings set forth in this division.
- (2) *Findings.* The adoption of this division reflects the formal findings by the Plan Commission and Village Board that these sign regulations advance the following compelling governmental interests:
  - (a) Protecting Village residents. Signs can obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately require regulation.
  - (b) Protecting property values. Regulating signs preserves the character of various neighborhoods, creates a harmonious community, and encourages economic development. This division allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs.
  - (c) Promoting public health, safety and general welfare. Regulating signs helps protect all persons using public thoroughfares and rights-of-way within the Village in relation to the signage displayed thereon, or overhanging, or projecting into such public spaces.
- (3) *Interpretation and administration.* The regulations of this division must be interpreted and administered in a manner consistent with the First Amendment guarantee of free speech.
- (4) *Content neutrality.* Any sign allowed under this chapter may contain, in lieu of any other message or copy, any lawful noncommercial message, as long as the sign complies with all size, height, location and other applicable regulations of this division.
- (5) *Compliance required.* The sign regulations of this division and all local and state building codes apply to all signs in all zoning districts, except as may be otherwise expressly stated in this chapter.
- (6) *General government exemption.* The sign regulations of this division are not intended to and do not apply to signs erected, maintained or otherwise posted, owned or leased by the Village, state, or federal government. The inclusion of the term "government" in describing some types of signs does not subject the government to regulation but instead

is intended to help clarify the types of signs that are exempt under this general government exemption.

## **Sec. 20-1357. Signs – Definitions.**

The following definitions are used in this article:

*Abandoned or Obsolete Sign.* Any display or sign remaining in place or not maintained for a period of ninety (90) days, which no longer identifies an ongoing business, product, or service available on the premises where the display or sign is located or where the building, business, or establishment to which the display or sign is related has ceased operation. For purposes of this definition, abandonment for the applicable period shall be deemed conclusive evidence of abandonment regardless of the property, business, or sign owner's intent.

*Agricultural Homestead Sign.* A sign with the principal purpose of identifying the name and address of a farm operation and/or date of establishment.

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

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

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

*Canopy.* A roof-like cover that projects from the wall of a building. Canopies may be freestanding, such as a covering over a service station island.

*Changeable copy signs.* Any message on a sign that may be changed by electronic process. Includes electronic signs that display the time and temperature.

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

*Drive through Sign.* A menu or pre-menu information sign displaying menu-related information for a restaurant with a drive-through facility.

*Electronic Signs.* A sign which has an electronically controlled, illuminated display surface which allows all, or a portion, of the sign to be changed or illuminated in different ways.

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

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

*Ground Sign.* A freestanding, self-supported sign structure erected or supported from the ground containing one or more faces for sign or display purposes.

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

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

*Marquee.* A permanent roof-like area to mount a sign that projects beyond a building wall at an entrance to a building or extends along and projects beyond the building's wall and is generally designed and constructed to provide protection against weather.

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

*Off-Premises sign.* Any sign that is five hundred (500) feet or more from a building or Premises.

*On-Premises sign.* Any sign that is less than five hundred (500) feet from a building or Premises.

*Pole Sign.* A sign that is mounted on a freestanding pole or other support.

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

*Premises.* A house or building, together with its land and outbuildings.

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

*Recreational Directory Signs.* A sign indicating the direction and/or distance to a specific cottage, resort, residence, or recreation facility that is located within an agricultural, resource conservation or park district.

*Roof signs.* A sign affixed to a roof of a building where the top edge of any point of that sign does not exceed the height of the roof plane to which it is affixed.

*Sandwich Board Sign.* An outdoor freestanding structure designed with an A-Frame construction no larger than twenty-five (25) inches wide by forty-five (45) inches tall capable of holding signage on both sides with a signage area typically twenty-four (24) inches by thirty-six (36) inches.

*Sign.* Any device, structure, fixture, painting, or visual image using words, graphics, symbols, numbers, or letters designed for the purpose of conveying information or attracting attention.

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

*Time and/or temperature devices.* An electronic sign that displays the time, temperature, or both. Time and/or temperature information may be in addition to other sign copy or advertising.

*Wall Sign.* Structure attached to, erected on, or painted on the wall of a building that supports or permits the mounting of signage, such as letters, pictures and symbols.

*Way-finding sign.* A sign with the purpose of serving the public welfare through way-finding by displaying the address of the residence, name of the destination, arrow, and/or distance.

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

### **Sec. 20-1358. - Existing signs.**

- (a) Signs (including billboards) lawfully existing at the time of the adoption or amendment of this article may be continued, although the use, size, height, or location does not conform to the provisions of this article. However, they are deemed a nonconforming use or structure and the provisions of section 20-186 et seq. apply. Notwithstanding section 20-186 et seq., the zoning administrator is authorized to issue a zoning permit for conversion of an existing nonconforming sign from static to digital display, even if the costs of conversion exceed fifty (50) percent of the equalized assessed value, as long as the sign meets the requirements of this article, and does not otherwise become more nonconforming in its overall size, location or height. A conversion from static to digital display that increases the nonconformity of the overall size, location or height of an existing nonconforming sign will require approval via the site plan review process or a petition for a variance to the village board of appeals.
- (b) Except as provided in subsection (a), a sign loses its legal nonconforming status if the overall size, design, structure, location or height of the sign is altered in any way that makes the sign less in compliance with requirements of this article than it was before alteration.
- (c) Notwithstanding subsection 20-1360(1), a zoning permit will be required for any structural alteration, addition, or repair to a legal nonconforming sign.

### **Sec. 20-1359. - Obsolete signs.**

Upon vacating a commercial, industrial, agricultural, or institutional establishment, obsolete signs must be removed within sixty (60) days, or for wall signs, may be painted out to match the building's exterior color, by the owner, agent, or person having the beneficial use of the property, building, or structure upon which such signs may be found.

### **Sec. 20-1360 - Prohibited signs and sign characteristics.**

- (1) No sign may be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit, except as provided herein and except for

normal maintenance and repair, without being in conformity with the provisions of this article.

- (2) An applicant may seek village board review of an application for a sign permit for any prohibited sign or sign characteristic listed in this section. The village board will then either approve a variance for the sign along with reasonable conditions, or deny the sign application.
- (3) The following signs and sign characteristics are prohibited except as otherwise expressly stated:
  - (a) Signs for which no required permit has been issued;
  - (b) Signs that by reason of position, shape, color or design interfere with, obstruct the view of, or may be confused with any authorized traffic sign, signal or device;
  - (c) Signs that use words such as "stop," "look," "danger," or any other word, phrase, symbol, or character in a manner that interferes with, misleads, or confuses users of streets or highways;
  - (d) Fluttering, undulating, swinging, rotating, or otherwise moving signs, such as wind socks, motorized signs, pennants, pinwheels, festoons, inflatables, and streamers (does not apply to banner signs) except as may be allowed under Section 20-1380 and Section 12-1404;
  - (e) Signs that project above the building parapet or eave;
  - (f) Flashing, scrolling, or animated signs;
  - (g) Beacons and search lights;
  - (h) Abandoned signs;
  - (i) Portable trailer signs with backlighting;
  - (j) Signs that prevent free ingress to or egress from any door, window, or fire escape;
  - (k) Signs attached to a standpipe or fire escape;
  - (l) Roof signs;
  - (m) Signs attached to or painted on a licensed motor vehicle if the sign:
    - (1) Directs attention to a business, service, commodity, or activity offered or sold on the premises; and
    - (2) If the vehicle is parked closer to the street than the nearest building wall (does not apply to vehicles parked for the purpose of immediate loading and unloading).

- (n) Signs attached to or painted on an inoperable or unlicensed vehicle (motorized or nonmotorized) located in view of the right-of-way;
- (o) Signs located in or obstructing required parking or loading spaces, or that otherwise obstruct vehicular or pedestrian access or circulation, or that pose any other hazard to motorized or nonmotorized travel;
- (p) Signs that violate the intersection visibility regulations of Sec. 20-1086;
- (q) Signs located in or that project into the right-of-way of a public street, except as expressly allowed under this division or as otherwise permitted by the Village;
- (r) Sign displays with a brightness of such intensity or brilliance that they impair the vision or endanger the safety and welfare of any pedestrian, cyclist, or person operating a motor vehicle;
- (s) No sign may be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered in any conservancy district, SWO district, or any floodplain district other than the FFO Urban Floodplain Fringe Overlay District; and
- (t) Signs that are located in a vision corner or vision triangle unless in compliance with section 20-1086.

**Sec. 20-1361. - Construction, maintenance and appearance.**

- (1) All signs must be constructed, mounted, and maintained so as to comply with all applicable provisions of the building code and electrical code.
- (2) The base or supports of all ground-mounted signs must be securely anchored to a concrete base or footing and must meet applicable minimum wind load capabilities.
- (3) The footing and related support structure of a permanent freestanding sign, including bolts, flanges, and brackets, must be concealed by landscaping.
- (4) Signs must be mounted so that the method of installation is concealed.
- (5) Signs must be anchored to minimize any lateral movement that would cause wear on the sign face or supporting members or connections.
- (6) All permanent signs and their supporting members must be constructed of standardized sign materials.
- (7) No combustible materials other than approved plastics may be used in the construction of electric signs.
- (8) All signs must remain in a state of proper maintenance, including the absence of loose materials (including peeling paint, paper or other material), the lack of excessive rust, the lack of excessive vibration or shaking, and the presence of the original structural integrity of the sign, its frame and other supports, its mounting, and all other components.

- (9) Any signs that are rotted, unsafe, or that are not in a state of proper maintenance must be repaired or removed by the licensee or owner of the sign or owner of the property upon which the sign stands, upon notice of the Village.
- (10) All signs erected or installed after [effective date of this ordinance], must display in a conspicuous place thereon the date of erection, the manufacturer's name, the permit number, and the voltage of any electrical apparatus used in connection with the sign.
- (11) The owner, lessee, or manager of a sign, and the owner of the land on which the same is located, must keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the site on which the sign is located.
- (12) If a permitted sign is suspended or projects above a public right-of-way, the issuance and continuation of a sign permit must be conditioned on the sign owner agreeing to hold the Village harmless and obtaining and maintaining in force liability insurance for such a sign in an amount of at least One Million Dollars (\$1,000,000) per occurrence per sign or such greater amount as the Village may reasonably determine.

**Sec. 20-1362. - Sign permits.**

- (1) A sign permit must be obtained for any and all signs that are located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered, unless otherwise expressly stated in this division.
- (2) Sign permits are not required for repainting, changing of parts, and preventive maintenance of signs if such activities result in absolutely no change in the appearance of the sign from that which was originally approved.
- (3) Notwithstanding section 20-81, a zoning permit application for a sign must be submitted to the Village's zoning administrator on forms provided by the zoning administrator. The zoning permit application must contain or have attached thereto at least the following information:
  - (a) Applicant's name, address, and telephone number.
  - (b) Location of building, structure, or lot to which or upon which the sign is to be located.
  - (c) Name of person, firm, corporation, or association erecting the sign.
  - (d) Written consent of the owner or lessee of the building, structure, or land to or upon which the sign is to be located. Owner or lessee's signature on the zoning permit application is considered written consent. The signature of an owner's representative or agent is acceptable provided a letter of agency is on file with the Zoning Administrator.
  - (e) A drawing of such sign indicating the materials to be used, the type of illumination, if any, and the method of construction and attachment. Said drawing must be drawn at a scale no smaller than one-tenth ( 1/10 ) inch equals one (1) foot or dimensions must be shown on the drawing.

- (f) A drawing indicating the location and position of such sign in relation to nearby buildings, structures, and lot lines. Said drawing must include the sign's height above finished yard grade. Said drawing must be at a scale no smaller than one (1) inch equals fifty (50) feet or dimensions must be shown on the drawing.
- (g) Signs requiring state or federal approval must provide a copy of such approval with the sign permit application.
- (h) Additional information as may be required by the zoning administrator.

**Secs. 20-1363. – 20-1379. Reserved.**

## **DIVISION 2. – ADMINISTRATION**

### **Sec. 20-1380. Signs for which no permit is required—All zoning districts.**

The following signs may be erected and maintained without a sign permit as long as they do not constitute a hazard or nuisance. Such signs are not counted as signs for purposes of determining the number of signs or amount of signage on a lot.

- (a) Signs erected and maintained pursuant to the discharge of governmental functions, or that are required by law, ordinance, or government regulation, or that are required to be posted in order to effectuate a legal right;
- (b) Operational signs designating entrances, exits, service areas, parking areas, restrooms and other such signs relating to the functional operation of the subject building or premises, including "no trespassing," "no hunting," and warning signs;
- (c) Signs, plaques, or carvings that are affixed to a building with identifying information of a building or occupants, addresses, or dates of construction that are necessary to the public interest and that:
  - (1) Are not illuminated; and
  - (2) Do not exceed two (2) square feet in area per sign.
- (d) Interior and inside-window signs intended for viewing from inside or outside the building, provided that such signs are permitted only on buildings occupied by nonresidential uses and may cover or obscure no more than 40% of the subject building facade's total window area; and
- (e) Fuel price signs on lots occupied by fueling stations, as required by § 100.18(8), Wis. Stats.
- (f) Signs advertising events or activities sponsored or authorized by a governmental body, as defined in Wis. Stat. Sec. 19.82(1). Such signs are not subject to the signage requirements set forth in Secs. 1400(1)(a) or (b).

**Sec. 20-1381. - Signs for which no permits are required—Agricultural, resource conservation, and park districts.**

The following signs may be located in all agricultural, resource conservation, and park districts without a permit and subject to the conditions herein specified:

- (1) On-premises or off-premises recreational directory signs not to exceed two (2) in number not to exceed twelve (12) square feet in display area on one (1) side and twenty-four (24) square feet on all sides, five (5) feet in height and no closer than ten (10) feet to any right-of-way or property line.
- (2) Signs over show windows or doors of a nonconforming business establishment not to exceed two (2) in number announcing, without display or elaboration, only the name and occupation of the proprietor and not to exceed a total of twenty (20) square feet in area for all signs, and twenty (20) feet in height.
- (3) On-premises agricultural homestead signs, where the principal purpose of the sign is to identify the name and address of a farm operation and/or date of establishment, which may not exceed twenty-four (24) square feet in area on one (1) side and forty-eight (48) square feet in area on all sides, limited to one (1) sign for any one (1) farm, and such signs are located at least ten (10) feet from the outer limits of the street right-of-way or any property line, and such signs do not exceed ten (10) feet in height. Such signs may be exempt from the aforementioned height limit if painted upon the wall of an accessory structure. The size of such wall signs may exceed twenty-four (24) square feet if done in an aesthetically pleasing manner that is approved through a site plan review by the zoning administrator.
- (4) Residential subdivisions located in C2 conservancy zoning are prohibited from erecting signs permitted under this section.

**Secs. 20-1382. – 20-1399. Reserved.**

**DIVISION 3. - SPECIFIC SIGN REGULATIONS**

**Sec. 20-1400. - Signs allowed in all zoning districts.**

- (1) Signs allowed at any time.
  - (a) Up to three (3) square feet of window signage or window signage covering up to 25% of the window, whichever is lesser, is allowed per window.
  - (b) Up to four (4) square feet of (non-window) temporary signage not more than six (6) feet in height is allowed per 100 (100) feet of lot frontage, subject to a maximum of thirty-two (32) square feet of signage per parcel.
- (2) Temporary signs on property being opened to the public. In addition to the other signs allowed under this section, six additional square feet of temporary signage per 100 feet of lot frontage, subject to a maximum of twelve (12) additional square feet of signage per parcel, may be located on the owner's property on a day when the property owner is opening the property to the public; provided, however, that the owner may not use this

type of sign in a residential district on more than nine (9) days in a year and may not use this type of sign in any commercial district for more than 30 (30) days in a year. For purposes of this section, a year is counted from the first day on which the sign is erected counting backwards and from the last day on which the sign exists counting forward.

- (3) Additional temporary development signs for the purpose of designating a new building or development or for promotion of a subdivision may be permitted for a period up to two (2) years, and extensions may be granted for a period not to exceed five (5) years total. Signs may not exceed forty-eight (48) square feet in area on one (1) side and ninety-six (96) square feet in area on all sides; may not exceed twelve (12) feet in height, and must be located not closer than fifteen (15) feet from any street right-of-way and seventy-five (75) feet from any street right-of-way intersection, nor closer than ten (10) feet to any side or rear lot line. Only one (1) such sign is permitted per street frontage.
- (4) Additional temporary signs on property for sale, rent or lease. In addition to the other signs allowed under this section, up to twelve (12) additional square feet of temporary signage is allowed per 100 feet of lot frontage, subject to a maximum of twelve (12) additional square feet of signage per parcel in the following cases:
  - (a) The owner consents and that property is being offered for sale, rent or lease through a licensed real estate agent or through advertising in a local newspaper of general circulation or equivalent web-based advertising.
  - (b) For up to thirty (30) days following the date on which a contract of sale has been executed by a person purchasing the property.
  - (c) During the time between the issuance of a building permit for construction on the subject property and issuance of a certificate of occupancy.
  - (d) Up to thirty (30) days immediately following issuance of a certificate of occupancy for the subject property.
  - (e) When a property is offered for sale and being opened to the general public, including a period of seventy-two (72) hours before that opening.
  - (f) The traditional arm and post residential real estate signs are allowed.
  - (g) For square footage and sign counting requirements, an arm and post sign with a small (2 sq. ft.) rider sign attached shall count as one sign.
  - (h) Notwithstanding the above, commercial or non-residential real estate signs are allowed up to 32 square feet in area and shall not exceed ten (10) feet in height.

Note: Typical residential real estate signs are approximately 12 square feet and are double sided. Rider signs are typically 2 square feet. Commercial real estate signs are typically 32 square feet.

- (5) General regulations. Under the sign regulations of this section
  - (a) Any street frontage under 100 feet is counted as 100 feet. Additional allowances are per 100 feet and not awarded at a ratio.

- (b) Each street frontage of a corner lot or double-frontage lot is counted separately and is given its own allowances.
- (c) Additional signage allowances are not mutually exclusive; properties that meet multiple conditions that allow for additional temporary signage are allowed additional signage for each.
- (d) Sign allowances under section 20-1400 can be subdivided or combined among individual signs, so long as any one sign does not exceed 12 square feet in a residential district or 32 square feet in any nonresidential district.
- (e) The lessor of a property is considered the owner of the subject property if the lessor holds a right to use exclusive of others (or the sole right to occupy).

**Sec. 20-1401. – Billboards permitted in all commercial and industrial districts with a permit.**

- (a) Billboards may be erected in all commercial and industrial districts with a permit and subject to the conditions specified in this section.
- (b) No billboard erected in the Village shall be within twenty (20) feet of a side or rear lot line and fifty (50) feet of a street right-of way line, and all such billboards shall be set back at least one hundred (100) feet from any freeway or expressway. Such street setback shall be measured from the outer right-of-way line of the freeway complex including frontage roads regardless of jurisdiction.
- (c) Billboards designed, intended or located in a manner to be visible to the traveling public on a freeway or expressway shall be limited to seven hundred fifty (750) square feet in area including temporary cutouts or extensions but excluding ornamental base or apron, supports and other structural members. The maximum size limitation shall apply to each side of a billboard and may be double faced, V type or placed back to back.
- (d) Billboards designed, intended or located in such a manner as to be visible to the traveling public on a freeway or expressway shall be limited to forty (40) feet in height. Such height shall be measured from the mean centerline street grade of such freeway or expressway to which the billboard is oriented or ground level at the billboard location, whichever is higher.
- (e) Illuminated billboards shall be erected or maintained so that the beams or rays of light are effectively shielded so as not to cause glare or impair the vision of the driver of any motor vehicle and while changeable copy signs are allowed, they shall contain no flashing, intermittent or moving lights.
- (f) No billboard shall be erected within a two-thousand-foot radius of any other billboard or within two thousand (2,000) feet of any intersection, or within two thousand (2,000) feet of the property line of any airport, airfield or landing strip. In those instances where vision corners are a part of the right-of-way, the two-thousand-foot distance shall be measured from the intersection right-of-way lines as if the vision corner did not exist.

- (g) Billboards which are not designed, intended or located in a manner so as to be visible to the traveling public on freeways and expressways shall not exceed twenty (20) feet in height above mean centerline street grade and shall not exceed three hundred (300) square feet on one (1) nor six hundred (600) feet on all sides for any one (1) sign.
- (h) The owner of any billboard shall keep it in sound condition, well-maintained, and in good appearance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing billboard to its original condition, and shall maintain the premises on which the billboard is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, refuse, debris and weeds.
- (i) All billboards designed, intended or located in a manner to be visible to the traveling public on a freeway or expressway shall be erected on a single steel pole upright.
- (j) No off-premise changeable copy sign may be located within four hundred (400) feet of any "R-zoned" residential district from which the sign face is visible. The distance must be calculated as the shortest measurable distance between the nearest point of the sign to the edge of the residential zoning district, in a straight line and without regard to intervening structures.
- (k) Nuisance light on residential properties is prohibited. Spill light is considered a nuisance when measurement in the nearest habitable area of the residential property at the location where the alleged nuisance occurs reveals that such light produces 0.2 foot-candles or more measured perpendicular to the ground at approximately four (4) feet from the ground at which the measurement is taken.
- (l) The required light standard during daylight hours is five thousand (5,000) NITs (candelas per square meter), and five hundred (500) NITs (candelas per square meter) between dusk and dawn or the minimum standards set by the Federal Highway Administration, whichever is more restrictive.

**Sec. 20-1402. - On-premises signs permitted in all residential districts with a permit.**

The following signs may be located in any residential district and are subject to the conditions herein specified:

- (1) Single-family, two-family, and multi-family permanent residential development signs not to exceed forty-eight (48) square feet in area on one (1) side and ninety-six (96) square feet in area on all sides, that are located at entrances to subdivisions or developments or along abutting streets or highways, identifying residential complexes or displaying the property addresses. Said signs must be located on an outlot, permanent easement, or other common area and they must be located not closer than fifteen (15) feet to any street right-of-way, nor closer than ten (10) feet to any side or rear lot line. Said signs may also be located within a street center island, boulevard, or median strip with proper jurisdictional approval. Such signs may not exceed twelve (12) feet in height. No more than two (2) such signs are permitted for any one (1) subdivision or development.

**Sec. 20-1403. - On-premises signs permitted in all business and industrial districts with a permit.**

The following signs may be located in all business and industrial districts subject to the conditions herein specified:

- (1) Wall signs placed against the exterior walls of buildings may not extend more than twelve (12) inches outside of a building's wall surface may not exceed thirty (30) feet in height, and may not extend above the roof line of a flat roof, or the eave line of a building with a gambrel, gable, dome, or hip roof or the decline of a building with a mansard roof. Total area of all wall signs may not exceed five hundred (500) square feet in area for any one (1) premises; except that in multi-tenant shopping centers, the anchor tenant(s) may each have five hundred (500) square feet of allowable sign area and the total area of all individual wall signs for non-anchor businesses within such multi-tenant structures shall not exceed fifty (50) square feet per tenant. An anchor tenant is defined as the major store or stores within a shopping center exceeding forty thousand (40,000) square feet in total floor area.
- (2) Projecting signs fastened to, suspended from, or supported by structures may not extend more than six (6) feet from said structure; may not be less than ten (10) feet from all lot lines; may not exceed a height of twenty (20) feet; and the bottom of the sign may not be less than twelve (12) feet above the sidewalk or fifteen (15) feet above a driveway or an alley. Total area of all projecting signs may not exceed one hundred (100) square feet in area for any one (1) premises, regardless of the number of projecting signs on the site.
- (3) Marquee, awning, and canopy signs affixed flat to the surface of a marquee, awning, or canopy are permitted provided that the signs do not extend more than six (6) inches vertically or horizontally beyond the limits of such marquee, awning, or canopy. A marquee, awning, or canopy for a shopping center may not extend beyond a point one (1) foot back from the vertical plane formed by the curblin in the shopping center. No marquee, awning, or canopy may project into a required street yard, side yard, or rear yard, unless such structure already exists as an existing legal nonconforming structure or was approved by variance by the village board of appeals and such sign does not increase the dimensional nonconformity by more than six (6) inches. A name sign not exceeding two (2) square feet in area located immediately in front of the entrance to an establishment may be suspended from a marquee, awning, or canopy provided that the bottom of the name sign is at least twelve (12) feet above the sidewalk or fifteen (15) feet above a driveway or alley. Total area of all marquee, awning, or canopy signs may not exceed sixty (60) square feet in area for any one (1) premises, except that gas station canopies over gas islands may have an additional sixty (60) square feet in area for each additional canopy beyond the first one.
- (4) Ground signs may not exceed fifteen (15) feet in height and may not exceed one hundred (100) square feet on one (1) side or two hundred (200) square feet on all sides for any one (1) premises. Ground signs must be located not closer than fifteen (15) feet to a street right-of-way or closer than ten (10) feet to a side or rear lot line.
- (5) Pole signs may not exceed a height of twenty (20) feet; the bottom of the sign may not be less than six (6) feet above the lot grade; may not exceed two hundred (200) square feet

on one (1) side or four hundred (400) square feet on all sides for any one (1) premises. Pole signs must be located not closer than twenty-five (25) feet from a street right-of-way or closer than twenty (20) feet to a side or rear lot line. The area of signs may be increased to a total of three hundred (300) square feet of one (1) side and six hundred (600) square feet on all sides if the sign is within one hundred (100) feet of the right-of-way of an interstate freeway and is designed and located to be read from the interstate freeway. One (1) pole sign within one hundred (100) feet of the right-of-way of an Interstate freeway may be up to thirty- five (35) feet in height.

- (6) Roof signs may not exceed ten (10) feet in height above the roof; may not extend horizontally beyond the wall of the roof to which they are attached; may not exceed height requirements for the district in which they are located; and may not exceed three hundred (300) square feet in area on all sides for any one (1) premises.
- (7) Changeable copy signs may be erected as wall signs, projecting signs, ground signs, canopy signs, or pole signs and must meet the requirements attendant to those sign types. Notwithstanding the provisions of section 20-1360(2), time and/or temperature devices may change their copy not more than once every four (4) seconds.
- (8) Window signs, except for painted signs and decals, that may be placed on the outside of the glass, may be placed only on the inside of buildings and only in first floor windows/doors. No permit is required for window signs that are not readable from the street right-of-way. The total area of all window signs requiring a permit shall not cover more than twenty (20) percent of the total window area or door window area to which they are applied, or one hundred (100) square feet, whichever is less.
- (9) Signs on any one (1) site are further limited as follows:
  - a. Shopping centers and multi-tenant buildings may provide one (1) ground or pole sign for each street frontage. Such facilities may also provide one (1) wall sign or one (1) sign for each business in the building.
  - b. Gasoline stations, service stations, convenience stores with pumps, or any combination thereof may provide one (1) ground sign and one (1) additional pole or ground sign. Wall signs and canopy signs may also be provided subject to total square footage limitations. Signs advertising incidental products for sale that are window signs or located on the gasoline pumps, and are not readable from the street right-of-way, will not require permits or be regulated in number.
  - c. For all other uses, total signs are limited to one (1) ground or pole sign and two (2) other signs per street-view frontage.
  - d. For subsections (9)(a), (b), and (c) above, window signs are not subject to the limitation on number of signs. However, such signs may not occupy more than twenty (20) percent of the total window area or one hundred (100) square feet, whichever is less.
  - e. The total of all signs that require permits that are erected or placed on any one (1) premises may not exceed twelve hundred (1,200) square feet in total display area, except for multi-tenant shopping centers, which will be allowed an additional five

hundred (500) square feet of display area for each anchor store beyond the first one, under subsection (1) above.

- f. As an alternative to limitations in subsections (1), (2), (3), (4), and (5) above, the parcel owner may submit a master sign plan to the zoning administrator for review and to the Village board for approval. This master sign plan must indicate the type, construction, location, size and height of each proposed sign on the site. Approval of the master sign plan is required before issuance of the permit for the proposed sign on the property. After approval of a master sign plan, no sign shall be erected, placed, altered, moved, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this chapter. In cases of any conflict between the provision of such a plan and any other provisions of this chapter, the chapter shall control.
- (10) Any sign authorized in this chapter is allowed to contain non-commercial copy in lieu of any other copy.

**Sec. 20-1404. - On premises temporary signs in business or industrial district with a permit.**

- (a) A permit is required for temporary signs in business or industrial districts, including portable signs and banners, and such signs must conform to all regulations of this section. These provisions do not apply to subsections 20-1380(12), (14) and (19), section 20-1402(2), and subsection 20-1407(a).
- (b) Such signs for on-premises advertising purposes are allowed in any business or industrial district provided that such signs will not be located closer than fifteen (15) feet to any street right-of-way, will not be located closer than ten (10) feet to an adjacent property line, will not exceed twenty (20) feet in height {six (6) feet for a portable sign}, will not cause a hazard to traffic or adjoining properties, will not exceed thirty-two (32) square feet in area on one (1) side nor sixty-four (64) square feet in area on all sides for any one (1) premises.
- (c) The application for a temporary sign permit must state who is responsible for the removal of the sign and must include that person's address and telephone number. Such permit authorizing any temporary sign may not exceed thirty (30) days in a calendar year and the sign may not remain more than three (3) days after the expiration of the permit. Only one (1) such permit may be issued per premises per year.

**Sec. 20-1405. - On premises signs permitted in park and resource conservation districts with a permit.**

- (a) Public and private institutional and park name signs shall be permitted in the P-1, P-2, C- 1, and C-2 districts with a permit. Such signs may be erected as wall signs, projecting signs, ground signs, or pole signs and shall meet the requirements under section 20-1403.
- (b) Cluster residential developments in the C-2 district may have permanent residential development signs pursuant to the provisions of subsection 20-1402(1).

### **Sec. 20-1406. - Institutional signs with a permit.**

Institutional signs in any zoning district, except for signs in zoning districts regulated by section 20-1405, must be located on the same premises as the institution and may be displayed after obtaining a zoning permit, subject to the following restrictions:

- (1) Projecting signs may not project further than four (4) feet into any required yard, except that no such projection is allowed into the shore yard. Roof, wall, or projecting signs may not exceed thirty-two (32) square feet in area for one (1) side and sixty-four (64) square feet in area on all sides, may not exceed the height requirement of the district, and the number of signs may not exceed two (2) signs per street frontage.
- (2) Ground signs must be located not less than fifteen (15) feet from the street right-of-way line, nor closer to the rear or side yard line than ten (10) feet. Such institutional ground signs may not at any point exceed fifteen (15) feet in height. The area of such sign may not exceed sixty-four (64) square feet on one (1) side and one hundred twenty-eight (128) square feet in area on all sides. The number of signs may not exceed two (2) signs per street frontage.

### **Sec. 20-1407. - Agricultural signs with a permit.**

- (a) Agricultural signs pertaining to the sale of products actually grown on the farm or in connection with a roadside stand not to exceed thirty-two (32) square feet in area on one (1) side and sixty-four (64) square feet on all sides for no more than two (2) signs on any one (1) farm, such signs are located at least ten (10) feet from the outer limits of the street right-of-way or any property line, such signs do not exceed fifteen (15) feet in height, and such signs are located on the same premises as the products for sale.
- (b) Signs for agricultural businesses approved by conditional use shall be treated as commercial/industrial signs pursuant to section 20-1403 and are also allowed in agriculturally zoned districts.

### **Sec. 20-1408. – Signs in Shoreland Areas.**

All signs in shoreland areas that are readable to stream or lake users at any time of the year may not exceed twenty-five (25) square feet in area on one (1) side or fifty (50) square feet in area on all sides for any one (1) premises; the sign may not exceed a height of twenty (20) feet, may not be located closer than twenty-five (25) feet to any side lot lines, and may not be located closer than seventy-five (75) feet to the ordinary high water mark of any navigable water body, unless the signs are official signs of any public or governmental agency, such as railroad crossing signs, trespassing signs, signs indicating danger, or signs used as aids to service or safety including water dependent informational signs with public health, safety or regulatory information that are no larger than necessary to accommodate the information that needs to be displayed.

### **Sec. 20-1409. - Way-finding signs.**

A single permanent sign placed by the property owner for the purpose of serving the public welfare through way-finding is permitted in all nonresidential zoning districts. Such way-finding signs may not exceed 12 square feet in area, except that such signs may be up to 30 square feet in area if

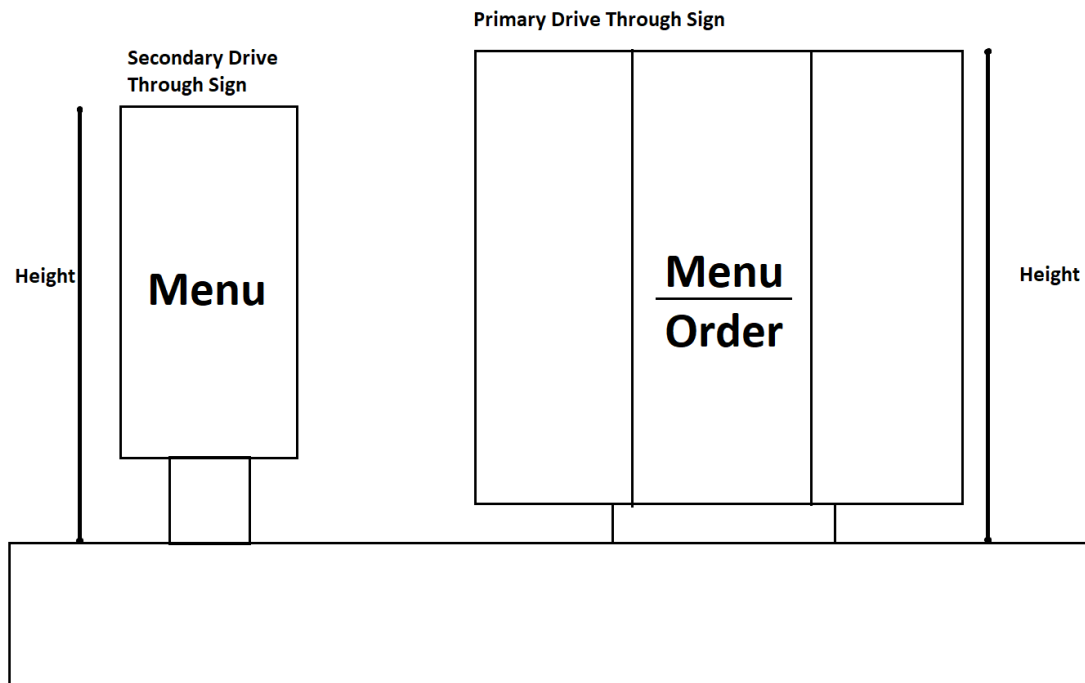
a substantial landscape area is provided around the base of the sign and illumination on each side is limited to exterior lighting, not exceeding 1,100 lumens per 15 square feet of sign area.

**Sec. 20-1410. - Drive-through signs.**

Drive-through signs are permitted in conjunction with drive-through uses, in accordance with the following regulations:

- (1) Drive-through signs must be located within 10 feet of a drive-through lane.
- (2) One primary drive-through sign not to exceed 36 square feet in area or eight feet in height is allowed per order station up to a maximum of two primary drive-through signs per lot. One secondary drive-through sign not to exceed 15 square feet in area or six feet in height is allowed per lane.
- (3) Drive-through signs must be set back at least 25 feet from residential zoning districts.
- (4) Drive-through signs must be oriented to be visible by motorists in allowed drive-through lanes.
- (5) Internal illumination is permitted only when the sign is completely screened from view of abutting residential zoned lots.

**Figure 20-14010-1 Drive-Through Sign**



**Sec. 20-1411. - Sign illumination.**

- (a) Signs may not be erected or maintained if they contain, include, or are illuminated by any flashing light, electronic change in messages, electronic change in

background colors, electronic change in light intensity, or electronic video display, except for electronic messaging signs permitted under § 20-1411.

- (b) External light sources used to illuminate signs must be effectively shielded so as to prevent:
  - (1) Beams or rays of light from being directed at any portion of the traveled way of any roadway; or
  - (2) Beams of light of such intensity or brilliance as to cause glare or impair vision of the operator of any motor vehicle.

### **Sec. 20-1412. - Electronic signs.**

- (a) **Prohibited electronic signs.** The following types of electronic signs are prohibited:
  - (1) Video display signs
- (b) **Electronic messaging signs.** Unless otherwise expressly prohibited under this division, a freestanding sign or on-building sign may be an electronic messaging sign or include electronic messaging elements, subject to compliance with the following regulations:
  - (1) An electronic messaging sign or sign element may not exceed thirty (30) percent of the maximum sign area allowed for the subject sign type.
  - (2) The electronic display background color tones, lettering, logos, pictures, illustrations, symbols, and any other electronic graphic or video display may not blink, flash, rotate, scroll, change in illumination intensity, or otherwise change in outward appearance, except when the electronic message or display is changed to another message or display.
  - (3) The images and messages displayed on an electronic messaging sign must have a minimum dwell time of at least twenty (20) seconds and may not contain any movement, animation, audio, video, pyrotechnics or other special effects. The images and messages displayed must be complete in and of themselves within the required dwell time.
  - (4) The transition or change from one message to another must occur in two seconds or less and involve no animation or special effects.
  - (5) Electronic messaging signs must be equipped with a default mechanism that will stop the messaging or freeze the image in one position when a malfunction in electronic programming occurs.
  - (6) Electronic messaging signs must have a nonilluminated background.

(7) The maximum illumination level of the display on an electronic messaging sign may not exceed 0.3 footcandle above ambient light levels, measured as follows:

- a. At least thirty (30) minutes past sunset, and with the electronic display either turned off, showing all black copy, or blocked, a footcandle (light) meter must be used to record the area's ambient light level. An ambient reading will be taken with the meter aimed directly at the electronic display and at the following distance:

Electronic Display Area (square feet)	Measurement Distance (feet)
Up to 100	100
More than 100	150

- b. To establish the illumination level, the electronic display must be turned on to show all white copy and a second reading taken. The difference between the two readings is the electronic display's illumination level.

(8) Electronic messaging signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one-half (1/2) hour before sunset and one-half (1/2) hour after sunrise.

(9) Audio speakers are not allowed with any electronic messaging sign.

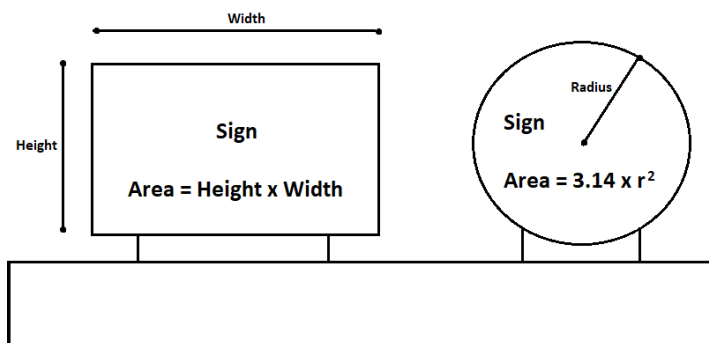
(10) Any form of pyrotechnics is prohibited in association with an electronic messaging sign.

**Sec. 20-1413. - Measurements.**

(a) Measurement of sign area. Sign area is calculated as follows:

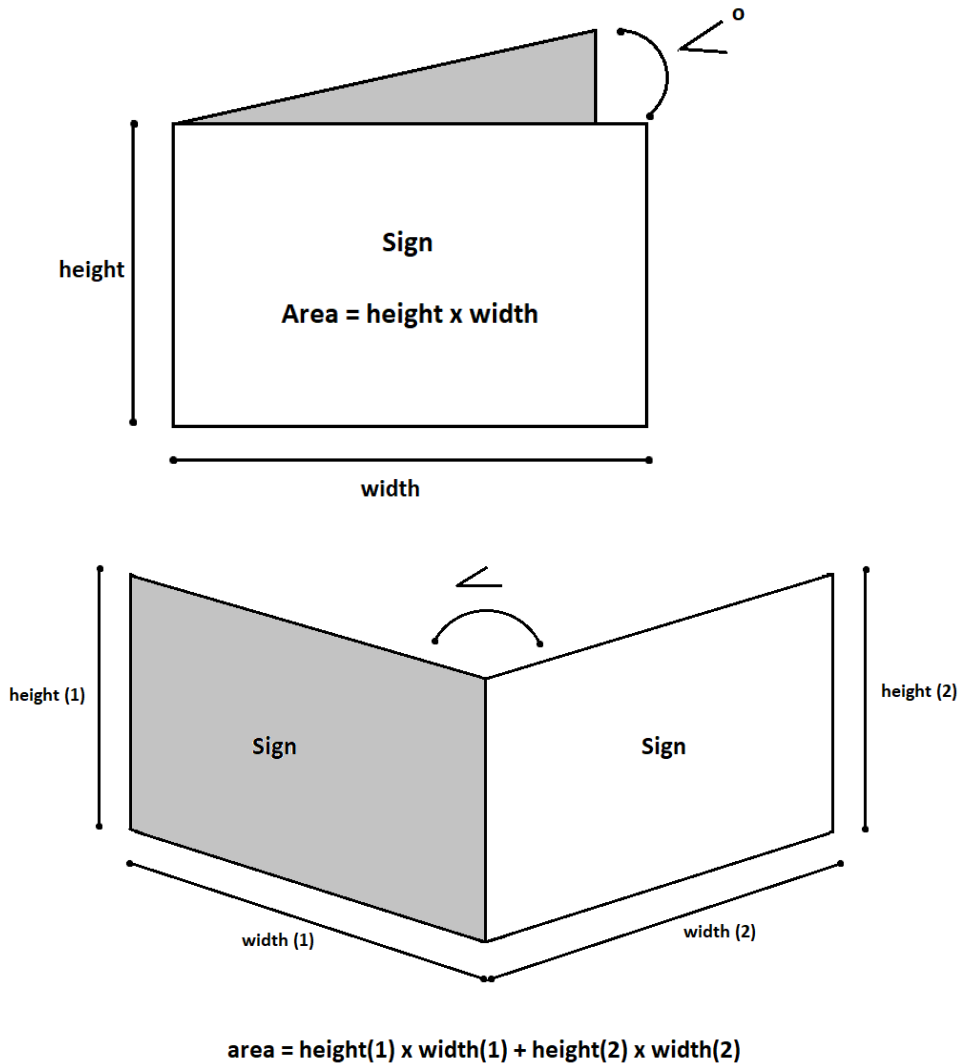
(1) The area of a sign enclosed in a frame or cabinet is determined based on the outer dimensions of the frame or cabinet surrounding the sign face.

**Figure 20-1413-1 Sign Area**



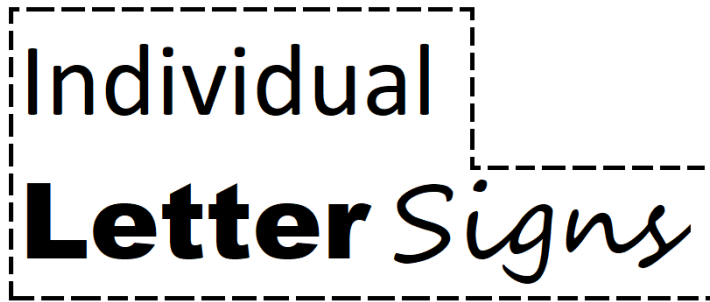
- (2) When the sign faces of a multisided sign are parallel or within 30° of parallel, only one side of the sign is counted for the purpose of determining the area and number of signs. If the sign faces are not parallel or within 30° of parallel, all sign faces are counted in determining the number and area of signs on the subject lot.

**Figure 20-1413-2 Multisided Sign**



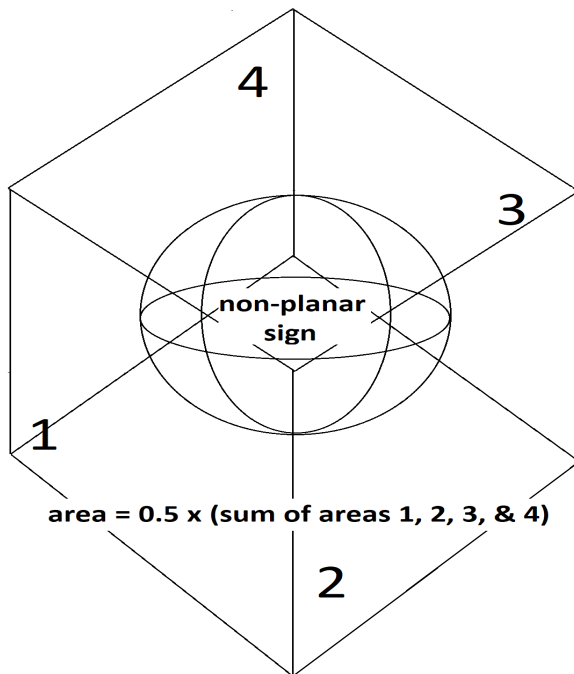
- (3) The area of a sign comprised of individual letters or elements attached to a wall is determined by calculating the area of the smallest square, rectangle, or circle that can be drawn around the letters and graphic elements of the sign. Signs consisting of individual letters and/or graphic elements will be measured as one sign when the distance between the letters and/or elements is less than the largest dimension of the largest sign letter.

**Figure 20-1413-3 Individual Letter Signs**



- (4) Spherical, free-form, sculptural or other nonplanar sign area is measured as fifty (50) percent of the sum of the areas using only the four (4) vertical sides of the smallest four-sided polyhedron that will encompass the sign structure.

**Figure 20-1413-4 Nonplanar Signs**



- (b) Assignment of sign area: multitenant buildings. The allowable area for signs is based on the linear feet of a building facade assigned to each tenant.
- (c) Measurement of sign height. The height of a sign is measured by calculating the distance from the base of the sign at normal grade to the top of the sign face. Normal grade is the lower of:

- (1) The existing grade prior to construction; or
  - (2) The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.
- (d) Measurements for specific sign types
- (1) Sidewalk signs shall be located within 3 feet of the building face of the business, leave a minimum of five (5) feet of contiguous clear sidewalk space for pedestrian movement, and shall not have any other devices attached to it such as balloons or ribbons.
  - (2) Wall signs project not more than twelve (12) inches from the wall on which the sign is mounted.

**Secs. 20-1414 - 20-1418. - Reserved.**

## **ARTICLE X. - MOBILE TOWER SITING<sup>[20]</sup>**

Footnotes:

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**Editor's note**— Ord. No. 2013-137, adopted Feb. 11, 2014, repealed the former Art. X, §§ 20-1419—20-1433, 20-1440—20-1446, and enacted a new article as set out herein. The former Art. X pertained to tower broadcast facilities and derived from Ord. No. 99-58S, pt. 1, adopted July 13, 1999.

### **DIVISION 1. - GENERAL**

#### **Sec. 20-1419. - Purpose.**

The purpose of this section is to regulate by zoning permit, site plan review, or conditional use the siting and construction of any new mobile service support structures and/or facilities.

Mobile service support structures or other supporting buildings or structures that are used to elevate an antenna, or which act as an antenna, and are intended for wireless telecommunications, are subject to the regulations and site development standards set forth in this article.

(Ord. No. 2013-137, 2-11-14)

#### **Sec. 20-1420. - Amateur and citizen band towers.**

Amateur and citizen band towers and antennas where the structure is fifty (50) feet or more in height are exempt from the provisions of this article except for the following:

- (1) The installation or construction of such structure must require a site plan review and approval in accordance with the procedure set forth in section 20-1184. The committee may request a hearing following a site plan review if it is determined that such a hearing is in the public interest.

- (2) Such structures must be considered an accessory structure and may only be permitted in the side yard and rear yard. A minimum ten (10) foot side-yard and rear-yard setback must be maintained.

(Ord. No. 2013-137, 2-11-14)

**Sec. 20-1421. - Application submittal requirements—New mobile service support structures.**

The siting and construction of any new mobile service support structures will require a conditional use permit. All structures should be camouflaged to the greatest extent possible, including compatible building materials, colors, and screening. Per Wisconsin W.C.A., § 66.0404(4)(g), an application may not be denied based solely on aesthetics concerns. A zoning permit application must be completed by the applicant and submitted to the development services office. In addition to the requirements found in section 20-1161, the application must contain the following information:

- (1) Applicant name, business address, and phone number of all known occupants of the proposed mobile service support structure, including contact individual(s) for the applicant(s). The proposed structure must be designed structurally, electronically, and in all respects to accommodate collocation of both the applicant's antennas and antennas for at least two (2) additional users. The equipment compound must also be able to accommodate multiple users.
- (2) The location of the proposed mobile service support facility.
- (3) If the applicant does not own the site or the tower, the applicant must provide a lease agreement or binding lease memorandum which shows on its face:
  - a. that it does not preclude the site owner from entering into leases on the site with other provider(s);
  - b. that it does not preclude the tower owner from entering into leases on the tower with other provider(s);
  - c. the legal descriptions and amount of property leased;
  - d. in the event of abandonment, the county reserves the right to remove the tower at the property owner's expense.
- (4) A scaled site plan which shows property lines, location of mobile service support structure, setback distances, mobile service facility, and fencing.
- (5) A sketch, concept, or rendition of the site as proposed.
- (6) An explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who is responsible over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is not technically feasible; or is economically burdensome to the mobile service provider.

- (7) A construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
- (8) A tabular and/or map inventory of all of the applicant's existing towers and antennas which are located within the county. The inventory must specify the location, antennae height, and structure type of each of the applicant's existing mobile service support facilities. The inventory must also specify whether such towers are currently in operation and indicate the ability of the existing structures to accommodate additional collocation antennas.
- (9) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.
- (10) Evidence that the applicant has informed local airport owners and operators about any permit application for structures above two hundred (200) feet tall or within a three-mile radius of any existing public or private airport, including all landing strips.

(Ord. No. 2013-137, 2-11-14)

**Sec. 20-1422. - Application process—New mobile service support structures.**

- (a) If an applicant submits to the county an application to engage in an activity described in this section, which contains all of the information required under this article, the county must consider the application complete. If the county does not believe that the application is complete, the county must notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. The applicant may resubmit an application as often as necessary until it is complete.
- (b) Within ninety (90) days of its receipt of a completed application, the county must complete all of the following or the applicant may consider the application approved, except that the applicant and the county may agree in writing to an extension of the ninety (90) day period:
  - (1) Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this article;
  - (2) The economic development and land use planning committee must make a final decision whether to approve or deny the application;
  - (3) The county must notify the applicant in writing of the committee's final decision;
  - (4) If the application is approved, the development services office will issue the applicant a zoning permit;
  - (5) If the decision is to deny the application, the county must include with the written notification substantial evidence which supports that decision.

- (c) The county may deny an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and does not provide the sworn statement described in section 20-1420(6).
  - (d) If an applicant provides the county with an engineering certification showing that the proposed mobile service support structure is designed to collapse within a smaller area than the setback or fall zone area required in the specified zoning district, that zoning setback does not apply to the proposed structure unless the county provides the applicant with substantial evidence that the engineering certification is flawed.
- (Ord. No. 2013-137, 2-11-14)

**Sec. 20-1423. - Technical review.**

In the event the committee determines that it is necessary to consult with a third party in considering a permit, all reasonable costs and expenses, excluding travel expenses, associated with such consultation shall be borne by the applicant. Failure to pay such costs and expenses or to provide information requested by the committee shall be grounds for denial or revocation of a conditional use permit. The applicant may provide to the committee the names of consultants believed by the applicant to be qualified to assist in resolving the issues before the committee.

(Ord. No. 2013-137, 2-11-14)

**Sec. 20-1424. - Abandonment.**

- (a) Any mobile service support structure and facilities not in operation for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the owner of the mobile service support structure and facility of the property where the structure and facility are located must remove the support structure and all supporting equipment, buildings, and foundations to a depth of five (5) feet, and must restore the location to its natural condition (except any grading may remain in the after-condition as determined by the zoning administrator) within ninety (90) days of receipt of notice from the zoning administrator. If removal and restoration to the satisfaction of the zoning administrator does not occur within the said ninety (90) days, the zoning administrator may remove and salvage said mobile service support structure and facility and restore the site at the expense of the mobile service provider or property owner.
  - (b) The applicant must submit a copy of a signed agreement, which may be the lease agreement, between the property owner and the owner of the mobile service facility detailing requirements for abandonment and subsequent removal based on the provisions of section 20-1424(1). Said agreement must also identify that the agreement must be binding on future property owner(s) and future owner(s) of the mobile service support structure and facility.
  - (c) The mobile service support structure and facility must be recorded in the register of deed's office and a copy of the deed must be filed with the development services office.
- (Ord. No. 2013-137, 2-11-14)

**Sec. 20-1425. - Security for removal.**

The applicant shall provide to the county, prior to the issuance of the permit, a performance bond in the amount of twenty thousand dollars (\$20,000.00) to guarantee that the tower and all

supporting equipment, buildings and foundations will be removed when no longer in operation. The county must be named as obligee in the bond, and it must approve the bonding company. The face of the bond must reflect that the county will be given notice if the bonding company cancels the bond. If, prior to the removal of the tower, tower removal rates exceed twenty thousand dollars (\$20,000.00), the committee reserves the right to require a corresponding increase in the bond amount.

(Ord. No. 2013-137, 2-11-14)

#### **Sec. 20-1426. - Continued compliance.**

Upon written inquiry by the economic development and land use planning committee, the permit holder under this section shall have the burden of presenting credible evidence establishing to a reasonable degree of certainty the continued compliance with all conditions placed upon the conditional use permits. Failure to establish compliance with all conditions placed upon the conditional use will be grounds for revocation of the permit.

(Ord. No. 2013-137, 2-11-14)

#### **Sec. 20-1427. - Use of existing structures.**

A mobile service facility may locate on alternative support structures, such as clock towers, steeples, silos, light poles, buildings, water towers or similar structures, provided that the placement of the antenna will not extend more than six (6) feet from the structure. Mobile service facilities located on roofs must not occupy more than fifty (50) percent of the roof surface of a building and must be secured from the remaining area to prevent unauthorized access. The mobile service facility must be painted or otherwise treated to match the exterior of the structure. Such mobile service facility installation will be classified as either a class 1 or class 2 collocation and will require a site plan review.

(Ord. No. 2013-137, 2-11-14)

#### **Sec. 20-1428. - Application submittal requirements—Class 1 collocations.**

A collocation will be classified as a class 1 collocation if the following substantial modifications are added to the exiting mobile service support structure:

- (1) an increase in the overall height of the structure by more than twenty (20) feet, for structures with an overall height of two hundred (200) feet or less;
- (2) an increase in the overall height of the structure by 10% or more, for structures with an overall height of more than two hundred (200) feet;
- (3) an increase in width of the support structure by twenty (20) feet or more, measured at the level of the appurtenance added to the structure as a result of the modification;
- (4) an increase in the square footage of an existing equipment compound to a total area of more than two thousand five hundred (2,500) square feet.

A zoning application must be completed by the applicant and submitted to the development services office. In addition to the requirements found in section 20-1161, the application must contain the following information:

- (1) Applicant name, business address, and phone number of the contact individual(s) for the applicant(s).
- (2) The location of the existing mobile service support structure, including legal description, amount of property leased, and the height of the proposed and existing mounted antennas and/or equipment.
- (3) A construction plan which describes the proposed modifications to the mobile support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
- (4) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.

(Ord. No. 2013-137, 2-11-14)

**Sec. 20-1429. - Application process—Class 1 collocation.**

- (a) If an applicant submits to the county an application to engage in an activity described in this section, which contains all of the information required under this article, the county must consider the application complete. If the county does not believe that the application is complete, the county must notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (b) Within ninety (90) days of its receipt of a completed application, the county must complete all of the following or the applicant may consider the application approved, except that the applicant and the county may agree in writing to an extension of the ninety (90) day period:
  - (1) Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this article;
  - (2) The economic development and land use planning committee must make a final decision whether to approve or deny the application;
  - (3) Notify the applicant in writing of the committee's final decision;
  - (4) If the application is approved, issue the applicant a zoning permit;
  - (5) If the decision is to deny the application, include with the written notification substantial evidence which supports that decision. (Ord. No. 2013-137, 2-11-14)

**Sec. 20-1430. - Application submittal requirements—Class 2 collocation.**

A collocation will be classified as a class 2 collocation if the substantial modifications described in section 20-1428 are not required for service.

A zoning application must be completed by the applicant and submitted to the development services office. In addition to the requirements found in section 20-1161, the application must contain the following information:

- (1) Applicant name, business address, and phone number of the contact individual(s) for the applicant(s);
- (2) The location of the existing support structure; including legal description, amount of property leased, and the height of the proposed and existing mounted antennas and/or equipment;
- (3) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.

(Ord. No. 2013-137, 2-11-14)

**Sec. 20-1431. - Application process—Class 2 collocation.**

- (a) If an applicant submits to the county an application to engage in an activity described in this section, which contains all of the information required under this article, the county must consider the application complete. If the county does not believe that the application is complete, the county must notify the applicant in writing, within five (5) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (b) Within forty-five (45) days of its receipt of a completed application, the county must complete all of the following or the applicant may consider the application approved, except that the applicant and the county may agree in writing to an extension of the forty-five (45) day period:
  - (1) Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this article;
  - (2) The economic development and land use planning committee must make a final decision whether to approve or deny the application;
  - (3) Notify the applicant in writing of the committee's final decision;
  - (4) If the application is approved, issue the applicant a zoning permit;
  - (5) If the decision is to deny the application, include with the written notification substantial evidence which supports that decision.

(Ord. No. 2013-137, 2-11-14)

**Sec. 20-1432. - Application process—liability.**

The county does not warrant any mobile service support structure against design or structural failure. The county does not certify that the design is adequate for any tower and the county hereby accepts no liability through the issuance of a conditional use permit or zoning permit.

**Sec. 20-1433. - Site specifics.**

- (a) As with commercial-scale wind energy facilities, mobile service support structures setbacks must not be less than the height of the tower above grade between the base of the tower and property line. The setback may be reduced if the requirements of section 20-1421(9) are met.
- (b) When more than one (1) tower is placed on a site, all setback and design requirements must be met by each tower.
- (c) A site with a guyed mobile support structure must provide:
  - (1) A setback of at least twenty-five (25) feet between a guy anchor and any property line abutting a residential district, public property, or street; and
  - (2) A setback equal to or exceeding the rear setback required for the adjoining property where the adjoining property is not a public property or street, nor in a residential district.
  - (3) A guy anchor may be located on an adjoining property when:
    - a. Written authorization from the adjoining property owner is provided at the time of application for conditional use approval; and
    - b. The guy anchor meets the requirement of subsections (1) and (2) above, as to all other adjoining property lines.
- (d) Mobile service facility accessory structures must be limited to fifteen (15) feet in height.
- (e) Mobile service support structures must not be illuminated except as required by the Wisconsin Division of Aeronautics or the Federal Aviation Administration.

(Ord. No. 2013-137, 2-11-14)

**Sec. 20-1434. - Severability.**

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

(Ord. No. 2013-137, 2-11-14)

**Sec. 20-1435. - Fees.**

Application fees for new mobile service support structures, and class 1 and 2 collocations, shall be in accordance with the Racine County fee schedule.

(Ord. No. 2013-137, 2-11-14)

**Secs. 20-1436—20-1459. - Reserved.**

## **ARTICLE XI. - WIND ENERGY FACILITIES**

### **DIVISION 1. – GENERALLY**

#### **Sec. 20-1460. – Intent and Purpose.**

It is intended that conditional use permits shall be issued under this article to promote the effective and efficient use of wind energy and to regulate the placement of wind energy facilities so that the public health and safety will not be jeopardized.

The purpose of this ordinance is to provide a regulatory scheme for the construction and operation of wind energy systems in the Village of Yorkville, Racine County, Wisconsin. This ordinance is adopted pursuant to § 66.0401, Wis. Stats., and Wis. Adm. Code Ch. PSC 128, and pursuant to the Village's general police powers. All regulations contained herein are adopted to preserve and protect the public health and safety.

This Article provides the standards and procedures to issue permits for wind energy systems. This section ensures that any proposed wind energy system complies with applicable provision of Wis. Adm. Code Ch. PSC 128, Wis. Stat. § 66.0401 and this Article.

#### **Sec. 20-1461. – Definitions.**

The definitions set forth in Wis. Adm. Code § PSC 128.01, and Wis. Stat. § 66.0401 are incorporated by reference as though fully set forth herein.

#### **Sec. 20-1462. – Statutes, Regulations and Rules.**

- (a) All provisions of Wis. Adm. Code Ch. PSC 128, and Wis. Stat. § 66 .0401, are hereby adopted and by reference made part of this chapter as if fully set forth herein. Any future amendments, revisions or modifications of Wis. Adm. Code Ch. PSC 128, and Wis. Stat. § 66.0401, are intended to be made part of this chapter.
- (b) This Article is subject to the provisions of the Wisconsin Statutes and all regulations and rules promulgated thereunder.

#### **Sec. 20-1463. – Application.**

- (a) *Requirements.* The owner must file an application that contains the information specified in Wis. Adm. Code § PSC 128.30, except as modified by Wis. Adm. Code § PSC 128.61(6). Every application for a wind energy system permit shall be made in writing accompanied by the fees required by this ordinance and shall include the following information:
  - (1) Wind energy system description and maps showing the locations of all proposed wind energy facilities.
  - (2) Technical description of wind turbines and wind turbine sites.

- (3) Timeline and process for constructing the wind energy system.
- (4) Information regarding anticipated impact of the wind energy system on local infrastructure.
- (5) Information regarding noise anticipated to be attributable to the wind energy system including options considered to eliminate noise, GIS maps showing noise levels surrounding wind turbines, computer modeling of noise impacts, information on ground absorption coefficients used to model noise, measures used to address low frequency noise and infrasound, and any other information necessary for the Village to assess noise impacts.
- (6) Information regarding shadow flicker anticipated to be attributable to the wind energy system including alternate turbine locations considered by the applicant that would eliminate shadow flicker, GIS maps showing shadow flicker zones for each turbine, shadow flicker computer monitoring results, and any other information necessary for the Village to assess shadow flicker impacts.
- (7) Information regarding the anticipated effects of the wind energy system on existing land uses within 0.5 mile of the wind energy system.
- (8) Information regarding the anticipated effects of the wind energy system on airports and air space.
- (9) Information regarding the anticipated effects of the wind energy system on line-of-sight communications.
- (10) A list of all state and federal permits required to construct and operate the wind energy system, copies of all correspondence with state and federal agencies, statements as to whether each permit has been approved or denied, and, for those permits that have not yet been obtained, the anticipated timeline for obtaining the permit.
- (11) Information regarding the planned use and modification of roads within the Village during the construction, operation, and decommissioning of the wind energy system, including a process for assessing road damage caused by wind energy system activities and for conducting road repairs at the owner's expense.
- (12) A copy of all emergency plans developed in collaboration with appropriate first responders under § PSC 128.18(4)(b), Wis. Adm. Code. An owner may file plans using confidential filing procedures as necessary.
- (13) A decommissioning and site restoration plan providing reasonable assurances that the owner will be able to comply with § PSC 128.19, Wis. Adm. Code.
- (14) A representative copy of all notices issued under §§ PSC 128.105(1)(a) and 128.42(1), Wis. Adm. Code.
- (15) Certification that the preapplication notice requirements of § PSC 128.105(1), Wis. Adm. Code, were met, including a list of all landowners who received pre-application notices under § PSC 128.105(1)(a), Wis. Adm. Code, and the date that the landowners were provided pre-application notices.

- (16) Information regarding any additional turbines that may be added to the project in the future.
  - (17) Copies of all correspondence to or from Village residents.
  - (18) Any other information necessary to understand the construction, operation or decommissioning of the proposed wind energy system.
- (b) *Completeness.*
- (1) An application is complete if it meets the filing requirements set by this ordinance and Wis. Adm. Code § PSC 128.50(1).
  - (2) If the Village determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination. The owner may file a supplement to an application that the Village has determined to be incomplete. There is no limit to the number of times that an owner may refile an application.
  - (3) Requests for additional information. The Village may request additional information necessary to understand the wind energy system after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete and accurate manner.
- (c) *Effect of ownership change on approval.* Approval of a wind energy system remains in effect if there is a change in ownership of the wind energy system. However, a wind energy system owner must provide notice within 30 days to the Village of any change of ownership of the wind energy system.
- (d) *Owner requirements.* Pursuant to § PSC 128.10(1), Wis. Adm. Code, the Village incorporates by reference all owner requirements set forth in Subchapter II of Ch. § PSC 128, Wis. Adm. Code, (and all subsequent amendments thereto) to their fullest extent. (For example all permissive provisions are mandatory and all quantifiable standards are adopted in their most stringent form.)
- (e) *Public participation.*
- (1) The Village shall make a copy of an application for a wind energy system available for public review at a local library and at the Village Hall or location where the Village maintains records for public access, and it may make an application available on the Village website.
  - (2) The Village shall accept written public comments on an application for a wind energy system filed with the Village Clerk and shall make them part of the record at the public hearing held pursuant to Subsection 3 below.
  - (3) The Village shall hold at least one public meeting to obtain comments on and to inform the public about a proposed wind energy system.
- (f) *Joint application review process.* If a wind energy system is proposed to be located in the

Village and at least one other municipality with jurisdiction over the wind energy system, the Village may participate in the joint application review process set forth in § PSC 128.30(7), Wis. Adm. Code.

**Sec. 20-1464. – Notice to property owners and residents.**

- (a) On the same day an owner files an application for a wind energy system, the owner shall, under § 66.0401(4)(a)3., Wis. Stat., use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any wind energy system facility. At the same time, a copy of the written notice shall be provided to the Village. The notification shall include all of the following:
  - (1) A complete description of the wind energy system, including the number and size of the wind turbines.
  - (2) A map showing the locations of all proposed wind energy system facilities.
  - (3) The proposed timeline for construction and operation of the wind energy system.
  - (4) Locations where the application is available for public review.
  - (5) Owner contact information.
- (b) After the Village receives an application for a wind energy system, the Village shall publish the notice required by Wis. Stat. § 66.0401(4)(a)(1), which shall include a brief description of the proposed wind energy system and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the Village, and the approximate schedule for review of the application by the Village.
- (c) *Fees.* At the time of application filing, the applicant shall deposit an application fee as set by Board resolution from time to time and as reflected on the fee schedule on file at the Clerk's office.
  - (1) All costs incurred by the Village relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, acousticians, and other consultants or experts shall be reimbursed to the Village by the Applicant. The amount of reimbursement will be based on the actual and necessary cost of the review and processing of the wind energy system application.

**Sec. 20-1465 – Additional requirements.**

The Village requires the following as conditions for approval of an application to construct a wind energy system:

- (a) *Information.* The owner shall inform the Village in writing whether the owner has consulted with and received any nonbinding recommendations for constructing, operating or decommissioning the wind energy system from a state or federal agency, and whether the owner has incorporated such non-binding recommendations into the design of the wind energy system.
- (b) *Studies.* The owner shall cooperate with any study of the effects of wind energy system coordinated by a state agency.
- (c) *Monetary compensation.* The owner of a wind energy system shall offer an agreement that includes annual monetary compensation to the owner of a nonparticipating residence, if the residence is located within 0.5 mile of a constructed wind turbine. For one turbine located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$600. For two turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$800. For three or more turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$1,000. The initial monetary compensation under this subsection shall apply to agreements entered into in the year 2023. For agreements entered into in the year of 2024 and thereafter, the initial annual amounts shall increase each year by the greater of 2% or the increase in the Consumer Price Index, as described in § 196.374(5)(bm)2.b., Wis. Stat., from the previous year. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under § PSC 128, Wis. Adm. Code, and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under § PSC 128, Wis. Adm. Code.
- (d) *Aerial spraying.* The owner of a wind energy system shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within 0.5 mile of a constructed wind turbine if the farm operator demonstrates all of the following:
  - (1) Substantial evidence of a history, before the wind energy system owner gives notice under § PSC 128.105(1), Wis. Adm. Code, of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans, sweet corn or other crops on all or part of a farm field located within 0.5 mile of a constructed wind turbine.
  - (2) A material reduction in potato, pea, snap bean, sweet corn or other crop production or a material increase in application costs on all or part of a farm field located within 0.5 mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.
- (e) *Permits.* The owner shall submit to the Village copies of all necessary county, state, and federal permits and approvals.
- (f) *Annual reports.* The owner shall file an annual report with the Village documenting the operation and maintenance of the wind energy system during the previous calendar year. The annual report must be filed on or before the anniversary date of the issuance of the owner's permit.

## **Sec. 20-1466 – Written Decision and Record Requirements.**

- (a) The Village shall issue a written decision to grant or deny an application. The written decision shall include findings of fact, supported by evidence in the record. If an application is denied, the decision shall specify the reason for the denial. The Village shall provide its written decision to the owner and to the Public Service Commission of Wisconsin. If the Village approves an application for a wind energy system, the Village shall provide the owner with a duplicate original of the decision. If an application is approved, the Village will issue a written permit with conditions.
- (b) The owner shall record the duplicate original of a decision approving an application with the Register of Deeds for Racine County, Wisconsin.
- (c) The Village shall keep a complete written record of its decision-making relating to an application for a wind energy system. The record of a decision shall include all of the following:
  - (1) The approved application and all additions or amendments to the application.
  - (2) A representative copy of all notices issued under §§ PSC 128.105(1)(a), 128.30(5) and 128.42(1), Wis. Adm. Code.
  - (3) A copy of any notice or correspondence that the Village issues related to the application.
  - (4) A record of any public meeting under § PSC 128.30(6)(c), Wis. Adm. Code, and any hearing related to the application. The record shall include any documents or evidence submitted by meeting or hearing participants.
  - (5) Copies of any correspondence or evidentiary material that the Village considered in relation to the application, including copies of all written public comments filed under § PSC 128.30(6)(b), Wis. Adm. Code.
  - (6) Minutes of any Village Board or committee meetings held to consider or act on the application.
  - (7) A copy of the written decision under § PSC 128.32(3)(a), Wis. Adm. Code.
  - (8) Other materials that the Village prepared to document its decision-making process.
  - (9) A copy of any Village ordinance cited in or applicable to the decision.
- (d) If the Village denies an application, the Village shall keep the record for at least seven years following the year in which it issues the decision.
- (e) If the Village approves an application, the Village shall keep the record for at least seven years after the year in which the wind energy system is decommissioned.
- (f) The Village may deny without a hearing an application for approval of a wind energy system with a nominal capacity of at least one megawatt if the proposed site of the wind energy system is in an area primarily designed for future residential or commercial

development as shown on a map adopted as part of the Village's comprehensive plan or on such maps adopted by the Village under § 66.1001(2)(i), Wis. Stats.

**Sec. 20-1467 – Aerial Restrictions.**

The applicant shall comply with any restrictions established for public use airports or heliports under Wis. Stats., § 114.135 or 114.136. If no such restrictions are effective, wind turbine height and setback distances shall comply with the Federal Aviation Administration's obstruction standards in 14 CFR Part 77.

**Sec. 20-1468 – Post Construction Filing Requirement.**

Within 90 days of the date a wind energy system commences operation, the owner shall file with the Village an as-built description of the wind energy system, an accurate map of the wind energy system showing the location of all wind energy system facilities, geographic information system information showing the location of all wind energy system facilities and current information identifying the owner of the wind energy system. An owner shall in the filings under this section label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under § PSC 128.18(1)(g), Wis. Adm. Code.

**Sec. 20-1469 – Modifications to an approved wind energy system.**

(a) *Material change.*

- (1) An owner may not make a material change in the approved design, location or construction of a wind energy system without the prior written approval of the Village, unless the Village automatically approves the material change by taking either of the steps specified in § PSC 128.32(2)(b)1. or 2., Wis. Adm. Code.
- (2) An owner shall submit to the Village an application for a material change to an approved wind energy system.

(b) *Review limited.*

- (1) The Village, upon receipt of an application for a material change to a wind energy system may not reopen the merits of the earlier approval but may consider only those issues relevant to the proposed change.
- (2) An application for a material change in subject to §§ PSC 128.30(1), (3) to (5), (6)(a) and (b) and (7) and 128.31 to 128.34, Wis. Adm. Code.
- (3) An application for a material change shall contain information necessary to understand the material change as determined by the Village.
- (4) The Village may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved wind energy system.

### **Sec. 20-1470 – Monitoring compliance.**

- (a) *Monitoring procedure.* The Village may establish a procedure to monitor compliance by the owner with any condition on an approved wind energy system or to assess when wind energy system facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public. Such procedures shall be included in the permits granted under this ordinance. The owner shall cooperate with the Village during its monitoring.
- (b) *Third-party inspector during construction.* The Village may require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the Village regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request.

### **Sec. 20-1471 – Notice of complaint process.**

- (a) *Notice of process for making complaints.* Before construction of a wind energy system begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within 0.5 mile of any wind energy system facility. An owner shall include in the notice the requirements under § PSC 128.40(1), Wis. Adm. Code, for submitting a complaint to the owner, a petition for review to the Village, and an appeal to the Commission, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning.
- (b) *Notice to Village.* An owner shall provide a copy of the notice provided under Subsection (1) to the Village, and the owner shall keep the contact person and telephone number current and on file with the Village.

### **Sec. 20-1472 – Small Wind Energy Systems.**

- (a) All of the provisions of this ordinance apply to small wind energy systems except for provisions adopted under the following subsections of Ch. PSC 128, Wis. Adm. Code, §§ 128.14(4)(d), 128.15(1)(c), (3)(b) to (e), and (5), 128.16(2) to (4), 128.18(1)(g), (2)(b) and (c), (3)(am), (b) and (c), and (4)(b) to (f), 128.19(1)(c) to (e), (3), and (4), 128.30(2)(L) and (m), 128.33(1) to (3m) and (5), 128.34(3), 128.36, 128.40(2)(b) to (e), 128.41, and 128.42.
- (b) The standards in this ordinance applicable to wind energy systems are modified for small wind energy systems as follows:
  - (1) The preapplication notice shall be filed at least 60 days before an owner files an application to construct a small wind energy system and the notice shall be provided only to adjacent landowners and the Village.
  - (2) Setback distances for small wind energy systems are as set forth in § PSC 128.61(3), Wis. Adm. Code.

- (3) An Owner shall provide notice of the requirements of § PSC 128.14, Wis. Adm. Code, only to each adjacent nonparticipating residence or occupied community building before the initial operation of the small wind energy system.
  - (4) For purposes of § PSC 128.19(1), Wis. Adm. Code, a small wind energy system is presumed to be at the end of its useful life if it generates no electricity for a continuous five-hundred-forty-day period.
  - (5) For purposes of § PSC 128.30(2)(g), Wis. Adm. Code, the information regarding the anticipated effects of the small wind energy system on existing land uses shall be only for parcels adjacent to the wind energy system.
  - (6) Written notice of the filing of an application shall be provided only to property owners and residents located adjacent to the small wind energy system.
  - (7) Under § PSC 128.30(6)(c), Wis. Adm. Code, the Village may hold at least one public meeting to obtain comments on and to inform the public about a proposed small wind energy system.
- (c) *Application Fee.* At the time of application filing, the applicant for a small wind energy facility shall deposit an application fee as set by Board resolution from time to time and as reflected on the fee schedule on file at the Clerk's office.
- (1) All costs incurred by the Village relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, acousticians, and other consultants or experts shall be reimbursed to the Village by the Applicant. The amount of reimbursement will be based on the actual and necessary cost of the review and processing of the wind energy system application.

**Sec. 20-1473 – Revocation and enforcement.**

Any permit granted for the installation, construction or expansion of a wind energy system may be revoked by the Village if the permit holder, its heirs, or assigns, violates the provision of this ordinance or the provisions of a wind energy system permit granted pursuant to this ordinance. Violations of this ordinance are also punishable by forfeitures of not less than \$200 and not more than \$500 per violation plus costs and attorneys' fees. Each day a violation exists constitutes a separate offense. The Village may also seek equitable and injunctive relief in the event of a violation. Further, the Village may deny a pending application in the event of the applicant's failure to comply with the provisions of this ordinance.

**Sec. 20-1474. - Severability.**

If any section, subsection, sentence or phrase of this ordinance shall be held invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance; and there shall be substituted for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue.

## DIVISION 2. - SOLAR ENERGY SYSTEMS

### Sec. 20-1475 Solar Energy Systems.

(a) *Definitions.*

- (1) *Agrivoltaics* - A solar energy system co-located on the same parcel of land as agricultural production, including crop production, grazing, apiaries, or other agricultural products or services.
- (2) *Building-integrated Solar Energy Systems* - A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.
- (3) *Community-Scale Solar Energy System* - A commercial solar energy system that converts sunlight into electricity for the primary purpose of serving electric demands off-site from the facility, either retail or wholesale. Community-scale systems are principal uses and projects typically cover less than 1 acre.
- (4) *Community Solar Garden* - A solar energy system that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system. Also referred to as shared solar.
- (5) *Grid-intertie Solar Energy System* - A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.
- (6) *Ground-mount* - A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either accessory or principal uses.
- (7) *Large-Scale Solar Energy System* - A commercial solar energy system that converts sunlight into electricity for the primary purpose of retail or wholesale sales of generated electricity to many customers and/or is not primarily for consumption of electricity on the property on which the system is located. A large-scale solar energy system will have a project size greater than 1 acre and is the principal land use for the parcel(s) on which it is located.
- (8) *Off-grid Solar Energy System* - A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.
- (9) *Passive Solar Energy System* - A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

- (10) *Photovoltaic System* - A solar energy system that converts solar energy directly into electricity.
- (11) *Renewable Energy Easement, Solar Energy Easement* - An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to sunlight passing over the burdened land, consistent with Wis. Statutes §700.35.
- (12) *Roof-mount* - A solar energy system mounted on a rack that is fastened to or ballasted on a structure roof. Roof-mount systems are accessory to the principal use.
- (13) *Roof Pitch* - The final exterior slope of a roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.
- (14) *Solar Access* - Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.
- (15) *Solar Carport* - A solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.
- (16) *Solar Collector* - A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.
- (17) *Solar Daylighting* - Capturing and directing the visible light spectrum for use in illuminating interior building spaces in lieu of artificial lighting, usually by adding a device or design element to the building envelope.
- (18) *Solar Energy* - Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- (19) *Solar Energy System* - A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.
- (20) *Solar Hot Air System* - (also referred to as Solar Air Heat or Solar Furnace) - A solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance includes a solar collector to preheat air or supplement building space heating, typically using a vertically mounted collector on a south-facing wall.

- (21) *Solar Hot Water System* - A solar energy system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.
  - (22) *Solar Mounting Devices* - Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.
  - (23) *Solar Resource* - A view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on all days of the year and can be measured in annual watts per square meter.
  - (24) *Viewshed* - a natural or historic environment that is visible from a viewing point.
- (b) *Permits and Approvals.* The following permits, agreements and/or approvals are required for installation of any Village-regulated Solar Energy System:
- (1) A building permit, zoning permit and site plan are required for all Accessory Use Solar Energy Systems. The owner must pay any applicable fees, and provide any information specified in the Village zoning ordinance with permit applications. Site plans shall contain to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.
  - (2) In addition to a building permit, zoning permit and required fees, a conditional use permit is required for all Large-Scale Solar Energy Systems designed for operation at a capacity of less than 100 megawatts. A conditional use permit application must be on a form approved or provided the Village and provide the information required in the Village ordinance.
  - (3) Plan Approvals - Applications for Accessory Use and Large-Scale Solar Energy Systems shall require review and recommendation by the Plan Commission and approval by the Village Board. Plan approval does not indicate compliance with Building Code or Electric Code. For Large-Scale Solar Energy Systems, written confirmation by the Union Grove – Yorkville Fire Department that the project site can be safely accessed for fire and rescue calls must be obtained by the applicant and submitted to the Village.
  - (4) Solar Energy Systems designed for operation at a capacity of 100 megawatts or more are under the jurisdiction of the Public Service Commission and not subject to this ordinance.
- (c) *Solar Energy System - Accessory Use.* Solar Energy systems which are not a principal use are a permitted accessory use in all zoning districts where structures of any sort are allowed, subject to certain requirements as set forth below. Solar carports and associated electric vehicle charging equipment are a permitted accessory use on surface parking lots in all districts regardless of the existence of another building. Solar Energy Systems that do not meet the following design standards will require a conditional use permit.
- (1) Height - Solar energy Systems must meet the following height requirements:

- a. Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in the underlying zoning district. For purposes of height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to height standards as building-mounted mechanical devices or equipment.
  - b. Ground or pole-mounted solar energy systems shall not exceed maximum allowed height for accessory structures in the underlying zoning district.
- (2) Setback. Solar Energy Systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located, except as allowed below.
- (3) Roof or Building-Mounted Solar Energy Systems. The collector surface and mounting devices for roof-mounted Solar Energy Systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side-yard exposure. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and are regulated as awnings.
- (4) Ground-mounted Solar Energy Systems - Ground-mounted solar energy systems may not extend into the side-yard or rear-yard setback when oriented at minimum design tilt, except as otherwise allowed for building mechanical systems.
- (5) Building Integrated Photovoltaic Systems - Building integrated photovoltaic solar energy systems shall be allowed provided the building component in which the system is integrated meets all required setbacks, land use, or performance standards for the district in which the building is located.
- (6) Aesthetic restrictions - Roof-mount or ground-mount solar energy systems shall not be restricted for aesthetic reasons.
- (7) Reflectors. All Solar Energy Systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties.
- (8) Lot Coverage. Ground-mount systems total collector area shall not exceed half the building footprint of the principal structure if applicable.
  - a. Ground-mount systems shall be exempt from lot coverage or impervious surface standards if the soil under the collector is maintained in vegetation and not compacted, and the system area is less than one acre in size.
  - b. Ground-mounted systems shall not count toward accessory structure limitations.
  - c. Solar carports in non-residential districts are exempt from lot coverage limitations.

(d) *Solar Energy System Principal Use - Large-Scale Solar Energy Systems designed for operation at a capacity of less than 100 megawatts.* The development of commercial or utility scale Solar Energy Systems are permitted where such systems present few land conflicts with current and future development patterns. Large-Scale Solar Energy Systems designed for operation at a capacity of less than 100 megawatts are conditional uses.

(1) Principal Use General Standards.

Solar Energy System in the A-1, A-2, A-4, and M-1 Districts.

- a. Minimum lot size and frontage: Lot size and frontage requirements shall generally be consistent with the requirements for the underlying zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.
- b. Minimum setbacks: Setbacks, shall be measured from the foundation of any associated system building, the outer edge of battery storage system, converter or inverter or from the solar collector extended at full tilt parallel to the ground. Setbacks shall generally be consistent with the setback provisions for the underlying zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.
- c. Maximum height for solar collectors: Height requirements shall generally be consistent with the height provisions for the underlying zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.
- d. Shall not be located within the 100-year floodplain.
- e. Shall not be located within a designated wetland.
- f. Any buildings associated with the Solar Energy System shall meet the building requirements specified in the underlying zoning district related to building size and height but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.
- g. Any Solar Energy System that is on-grid shall comply with the Public Service Commission of Wisconsin's Rule 119, Rules for Interconnecting Distributed Generation Facilities.
- h. Agreement Exhibits: The following exhibits shall be submitted:
  1. Proposed Site Plan: Exhibit A is the proposed plan for above-ground facilities of the Solar Energy System.
  2. Proposed Haul Route: Exhibit B is a map depicting proposed Solar Energy System equipment Haul Routes.

3. Construction Schedule: Exhibit C is the proposed Construction Schedule.
  4. Vegetation Management Plan: Exhibit D is the Vegetation Management Plan.
  5. Drain Tile Management Plan: Exhibit E is the Drain Tile Management Plan.
  6. Decommissioning Plan: Exhibit F is the Decommissioning Plan.
- i. Archeology: Shall conduct an Archeological Site Assessment with review by the Wisconsin State Historical Preservation Office.
  - j. Fencing: Other than the fencing directly surrounding the Solar Energy System substation, O&M and BESS the Solar Energy System perimeter fencing shall consist of "deer fencing" (wire mesh), which can be described in greater detail as a six (6) to ten (10) foot in height woven wire partition with posts. Fences will be set within/inside property lines or rights-of-way edges unless otherwise requested from the landowner. Alternate fencing specifications may be requested by the applicant or imposed by the Village as part of the conditional use process to better complement the specific project under consideration.
    1. Installed fencing shall be adequately maintained at all times during the Solar Energy System operation. The depths of the fence posts shall be installed per prudent engineering practice based on the height of the fence and the type and slope of the terrain. Impairments to either the woven wire or wooden posts shall be remedied within two weeks of written notification from the Village's Zoning Administrator, Code Enforcement Officer, or designee. "Leaning" of the fence shall not be allowed to exceed plus or minus 10 degrees of perpendicular. In the event leaning or tilting of the fence does occur, it will be corrected back to perpendicular within two weeks of receiving written notice on the issue.
  - k. Visual Considerations: The Solar Energy System shall not be used for any type of advertising. The Solar Energy System may erect and maintain a single Solar Energy System identification sign subject to sign requirements of Article IX of Exhibit A to Section 55-1(a). The Solar Energy System shall be minimally lighted so as not to disturb neighboring properties. Necessary lighting to provide safety and security of facilities shall meet the lighting requirements of Section 20-1065 of Exhibit A of the Municipal Code for the Village. Solar Energy System will provide the Village with a description of permanent Solar Energy System lighting plans as part of the conditional use process.
  - l. Drain Tile: Solar Energy System shall contract with an experienced and qualified regional drain tile contractor to gather information concerning participating landowner drain tile, avoid said tile where commercially reasonable, and mitigate the landowner and non-participating landowners'

drainage issues where significant impact is expected as a result of drain tile alteration. The Solar Energy System Owner agrees to discuss and address identified drain tile concerns at the post-construction meeting to finalize remedies to known drainage issues on either participating or non-participating property. Solar Energy System Owner shall receive, investigate, and remedy drain tile issues due to the Solar Energy System that arise subsequent to the post-construction meeting pursuant to the Drain Tile Management Plan attached hereto as Exhibit E.

1. If drainage infrastructure or systems are damaged by the Solar Energy System and the result is reduced drainage performance that adversely affects non-participating landowners, Solar Energy System Owner shall restore the drainage infrastructure or system to pre-existing condition or better in accordance with the Drain Tile Management Plan attached as Exhibit E. Pre-existing condition shall mean the flow capacity existing immediately prior to the Solar Energy System commencing construction. If previous flow capacity cannot be determined, Solar Energy System Owner and landowners agree to negotiate an adequate solution in good faith. Solar Energy System Owner is responsible for all expenses related to repairs, restoration, relocations, reconfigurations and replacements of drainage infrastructure and systems that are damaged by the Solar Energy System as provided in Exhibit E. The intent of this Section is to make landowners whole where drainage infrastructure or systems are damaged by the Solar Energy System. For example, and without limitation due to enumeration, if damage to drainage infrastructure or systems is caused by the Solar Energy System on a participating property ("Solar Energy System -related Damage"), and the Solar Energy System-related Damage causes damages to non-participating property owners upstream of the Solar Energy System-related Damage, including crop loss and/or blowout damage to the drain tile system on the non-participating owner's property, Solar Energy System Owner shall reasonably compensate the non-participating owner for crop loss and for repairs to the non-participating property owner's drain tile system. Solar Energy System Owner agrees to cooperate with non-participating landowners as outlined in Exhibit E that desire to repair or replace drainage tile affecting their properties to the extent that such work does not interfere with the Solar Energy System or its related facilities. Solar Energy System Owner will not unreasonably withhold approval for access to the Property that lies outside of any fenced solar collector area, to the extent participating property owners also agree to such access.
2. For purposes of this agreement, participating landowner or property owner shall mean a property owner who has signed a solar lease and easement agreement, collection easement, or purchase option for the use of his or her property for solar generation, construction access, and/or placement of facilities associated with the Solar Energy System. Non-participating landowner or property owner shall mean a property owner who is not a participating landowner.

A solar lease and easement agreement does not include a good neighbor agreement.

- m. Stormwater Management and Erosion Control: Solar Energy System Owner shall ensure compliance with Chapter 10, Article IX (“Erosion Control”) and Article X (“Post-Construction Storm Water Management”) of the Municipal Code of Village of Yorkville and shall ensure that a plan for compliance with said chapter is presented at the pre-construction meeting. Solar Energy System Owner will comply with stormwater and erosion control requirements imposed by the Wisconsin Department of Natural Resources (WDNR). Where the lands associated with the proposed Solar Energy System are adjacent to the East Branch of the Root River Canal, the land owner and Solar Energy System Owner shall grant and convey to the Village a permanent easement and right-of-way, including the perpetual right to enter upon the easement areas described, including the East Branch of the Root River Canal, to construct, improve, alter, maintain or repair drainage channels, drains, pipelines and appurtenances thereto for the purpose of draining, conveying, and transporting storm water over, across, under, and through such lands with all necessary and proper workers, equipment and materials, and the right to remove such trees, bushes, undergrowth, and other obstructions which may interfere with the location, construction, improvement, alteration, maintenance, or repair of such drainage channels, drains, pipelines and appurtenances; and a temporary construction easement to further the above-described activities.
  
- n. Ground cover and buffer areas: The following provisions shall be met related to the clearing of existing vegetation and establishment of vegetated ground cover. Additional requirements and standards may apply as required by the Village.
  - 1. Large-scale removal of mature trees on the site is discouraged. The Village may set additional restrictions on tree clearing or require mitigation for cleared trees.
  - 2. To the greatest extent possible, the topsoil shall not be removed during development, unless part of a remediation effort.
  - 3. Soils shall be planted and maintained for the duration of operation in perennial vegetation to prevent erosion, manage run off, and improve soil.
  - 4. Seeds should include a mix of grasses and wildflowers (pollinator habitat), exclusively native to the region of the Solar Energy System site that, which will result in a short stature prairie with a diversity of forbs or flowering plants that bloom throughout the growing season. Blooming shrubs may be used in buffer areas as appropriate for visual screening.
  - 5. Seed mixes and maintenance practices shall be consistent with those recommendations made by the Village and/or Wisconsin DNR.

6. The applicant shall submit a financial guarantee in the form of a letter of credit, cash deposit or bond in favor of the Village equal to one hundred twenty-five (125) percent of the costs to meet the ground cover and buffer area standard. The financial guarantee shall remain in effect until vegetation is 75% established.
  7. Solar Energy System Owner shall contact every owner of property with a residential dwelling immediately adjacent to solar collector and discuss in good faith a reasonable, strategically-located visual buffer of plants that, upon mutual agreement, shall be installed at Solar Energy System Owner's expense prior to the completion of construction of the Solar Energy System. Where the Solar Energy System Owner and the adjacent property owner are unable to agree on the type of visual buffer and the adjacent property owner makes a request in writing to Solar Energy System Owner to provide a visual buffer, the Solar Energy System owner shall install a vegetative buffer on the Solar Energy System site equal to the length of the non-participating residence and designed to achieve at least 50% opacity at ground level within 5 years. Proposals and plans for vegetative buffers will be finalized in writing by the pre-construction meeting with the Village.
  8. Solar Energy System Owner shall submit a vegetative buffer plan for a visual barrier along all roadways subject to approval by the Village.
- o. Road Use: The Solar Energy System Owner and its successors, assigns, contractors, agents and representatives may use public roads as part of the construction, operation, maintenance and repair of the Solar Energy System. The Solar Energy System Owner acknowledges that in connection with construction, operation and maintenance of electric collection lines, communications cables and other equipment, that Solar Energy System facilities may cross road rights-of-way and/or drainage systems. The Solar Energy System Owner agrees that it shall seek and obtain all permits typically required of others, including permits required under Section 38-81 of the Village's Code of Ordinances, entitled "Occupancy of public rights-of-way."
1. The Solar Energy System Owner further agrees that the construction process may cause wear, tear, and damage to the Haul Route roads identified in Exhibit B above. In addition to providing the Village engineer with a written description of the designated haul roads, vehicles to be utilized, and the type of materials being hauled to or removed from a project site, the engineer shall be provided sufficient time to inspect the designated haul roads before they are used. Said inspection shall include, if requested, a representative of the Solar Energy System Owner. The engineer will document any deficiencies or special conditions regarding the existing roads and structures. During the hauling operations, the Solar Energy System Owner and its contractors shall use only designated haul roads, observe legal weight and

speed limits, provide an adequate water supply, applying water as needed to control dust, and shall perform minor preventative and repair maintenance as necessary (after giving reasonable notice to the Village engineer), to minimize damage to the haul roads. All haul roads must be maintained in a dust-controlled condition and any dust palliatives must be approved by the DNR prior to usage. The Solar Energy System Owner shall clean applicable rights-of-way of mud, dirt, stone or debris related to the project within twenty-four (24) hours after receiving verbal notice from the Village Engineer, or designee. If the rights-of-way are not cleaned up after notification, the Village reserves the right to do so at the expense of the Solar Energy System Owner. Prior to commencement of construction, the Solar Energy System Owner shall post a letter of credit in an amount approved by the Village Board, upon the recommendation of its engineer, taking into account the duration and nature of the project, haul route to be utilized and materials to be transported. All minor road repairs and general maintenance shall be inspected and approved by the Village engineer or designee to ensure that the repair or maintenance meets Village standards.

2. Throughout the construction of the Solar Energy System, the Solar Energy System Owner shall work cooperatively to maintain public road infrastructure in a safe condition for passage by the public. During the ongoing construction of the Solar Energy System, Solar Energy System Owner shall regularly monitor its designated haul roads, and at its expense, shall repair any significant damage that jeopardizes the safety of the travelling public. In the event the Village engineer or designee notifies the Solar Energy System Owner of a safety concern to the traveling public the Solar Energy System Owner shall carry out the necessary repair to mitigate the unsafe road condition. In the event a unsafe road condition exists that presents a safety hazard to the public use of the road and is not promptly repaired by Solar Energy System Owner within one week after receipt of notice of the unsafe condition, the Village may make emergency road repairs, or order emergency road repairs to be performed by qualified contractors, and Solar Energy System Owner will promptly reimburse the Village for reasonable emergency road repairs. The Village reserves the right to access the letter of credit posted by the Solar Energy System Owner if reimbursement is not made within thirty (30) days of notice.
3. After the hauling operations are concluded, the Village engineer or designee, and Solar Energy System Owner's representative, if requested, shall jointly inspect the designated haul roads. The Village engineer will review the results of the initial and final inspections and will consider the impacts of other parties that used the haul roads. Upon consideration of all pertinent factors, the engineer will determine the amount of restoration necessary to return the haul roads to their condition at the time of the initial inspection. The Village Board shall decide whether to permit the

Solar Energy System Owner to undertake the necessary restoration, or to undertake the work as a publicly bid project, utilizing the Solar Energy System Owner's letter of credit toward the cost of the project. If there is a deficiency in the estimated cost of the project, less any proceeds posted by the Solar Energy System Owner, the Solar Energy System Owner shall submit the difference within thirty (30) days of notice.

4. Solar Energy System Owner shall be responsible for addressing applicable road use issues with other entities to the extent they have jurisdiction over roads to be used for the Solar Energy System.
- p. Foundations: A qualified engineer shall certify, by sealed stamped and signed plans that the foundation and design of the solar panels' racking and support is within accepted professional standards, given local soil and climate conditions.
  - q. Power and communication lines: Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Village in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Department as shown by adequate soil borings.
  - r. Agricultural Protection: Commercial use Solar Energy Systems must comply with site assessment or soil identification standards that are intended to protect agricultural soils.
  - s. Aviation Protection: For Solar Energy Systems located within 1,000 feet of an airport or within approach zones of an airport or landing strip, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Solar Energy Systems on Federally Obligated Airports, or most recent version adopted by the FAA.
  - t. Decommissioning: Solar Energy System Owner shall implement the Decommissioning Plan attached as Exhibit F to this Agreement upon permanent cessation of the commercial operation of the Solar Energy System. For the purposes of this Agreement, permanent cessation of the commercial operation of the Solar Energy System shall mean that the entire Solar Energy System has ceased commercial operation for a consecutive period of twelve (12) months for reasons other than a force majeure event. The Solar Energy System shall be deemed to be in commercial operation if the Solar Energy System is under active construction activities including but not limited to construction activities in connection with Solar Energy System-wide replacements or upgrades.

1. The Solar Energy System Owner acknowledges that a Decommissioning Plan shall be submitted that includes a detailed Decommissioning Cost Analysis and will provide such a plan to the Village when the analysis is available. The Solar Energy System Owner agrees that the Decommissioning Plan shall require Solar Energy System Owner to, at a minimum:
  - a) Notify the Department when permanent cessation has been determined.
  - b) Remove, at its expense, all Solar Energy System components including but not limited to solar collectors and associated facilities, buried wires and transmission lines, to a depth of 4 feet and properly dismantle all components that shall be disposed of at a licensed solid waste disposal facility and/or otherwise in a manner consistent with federal, state, and local regulations.
  - c) Restore the land to a condition reasonably similar to pre-existing conditions, including de-compacting areas where Solar Energy System access roads were installed and any other areas of substantial soil compaction, and installing a new drainage system including drainage tile to the extent those facilities were present at the commencement of the project. The Solar Energy System's Access Roads can remain in place if requested by the property owner.
  - d) Prior to the issuance of a zoning permit, the Solar Energy System owner shall post a commercially reasonable financial assurance (bond, letter of credit) in the amount of 120% of the reasonably estimated costs of decommissioning the Solar Energy System as determined by the Village engineer, or designee. The costs of this determination are to be paid by the Solar Energy System Owner. The need for and amount of the financial assurance shall be reviewed by a qualified engineer, and if applicable, updated approximately every 5 years.
  - e) All solar equipment shall be decommissioned and disposed of in accordance with State, Federal and local regulations.
- u. Replacement of Lost Property Tax Revenue: Properties hosting qualifying utility generating facilities under Chapter 76 Wis. Stats. and approved by the PSCW are removed from the local property tax roll. Solar Energy System Owner will establish a program (the "Lost Revenue Program") to reimburse the local school districts for lost revenue following completion of the Solar Energy System, when the specific, qualified utility properties are identified. The Lost Revenue Program will calculate the amount of lost revenue based on local tax rates for the land at the time the Solar Energy

System is placed in service. Payment amount for each taxing authority will be increased annually by Two Percent (2%). Solar Energy System Owner will execute the Lost Revenue Program only to the extent the amount promised is recoverable by the Solar Energy System Owner through approval by the PSCW of rates under Wis. Stat. 196.20. The Solar Energy System Owner's obligation to make such payments shall be suspended if the State adopts or implements a new mechanism to replace the Utility Aid Shared Revenue payments, to the extent that the new payment system provides payments equal or greater than the payments provided herein. In such case of suspension of payments, the Solar Energy System Owner's payment obligations as set forth herein will only be reinstated if such new payment system is eliminated by the Legislature.

- v. Insurance for Solar Energy Systems as Principal Use: Large-Scale Solar Energy Systems designed for operation at a capacity of less than 100 megawatts.
  - 1. Solar Energy System Owner and its Contractors/Subcontractors:
    - a) At all times during construction and operation Owner and its contractors/subcontractors shall maintain Commercial General Liability Coverage of: \$3,000,000 per occurrence; \$5,000,000 general aggregate; \$5,000,000 products-completed operations aggregate.
    - b) Coverage shall list the Village as an additional insured.
    - c) Coverage shall be primary and non-contributory to the insurance of the Village.
    - d) Coverage shall provide a Waiver of Subrogation in favor of the Village.
    - e) Umbrella/Excess Liability - \$3,000,000 each occurrence; \$5,000,000 annual aggregate; \$5,000,000 completed operations aggregate. The policy shall follow form to the Commercial General Liability policy.
    - f) Automobile Liability - \$1,000,000 Combined Single Limit
      - 1) Coverage shall list the Village as Additional Insureds.
    - g) Workers Compensation - Workers Compensation as required by the State of Wisconsin Statute.
- w. Limitations upon authority: The Village's review and action in the matter shall be subject to the limitations imposed by § 66.0401, Wis. Stats. In the event the applicant believes the Village has exceeded its authority in this regard, the applicant shall notify the Village and it may reconsider the

matter. In that event, the applicable permit authority of the Village may modify the requirements of this section as applied to that application, on a case-by-case basis if, and only to the extent, such modification is necessary to ensure that applicable laws are followed. This section is intended to allow case-by-case consideration of the standards of § 66.0401(1m), Wis. Stats., as needed.

(b) *Community-Scale Solar Energy System Standards:*

- (1) Community-scale uses - Ground-mount Community Solar Energy Systems are a conditional use in all districts.
- (2) Dimensional standards - Setbacks and height standards shall generally be consistent with the setback and height provisions for the underlying zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.
- (3) Other standards - Ground-mount systems shall generally be consistent with the standards for the underlying zoning district but may be varied based upon the specific Solar Energy System being proposed, and the substantial evidence presented as part of the conditional use permit process.

*Approved Solar Components.* Electric solar energy system components must have a UL or equivalent listing and solar hot water systems must have an SRCC rating.

- (c) *Compliance with Building Code.* All solar energy systems shall meet approval of the building inspector, consistent with the State of Wisconsin Building Code and solar thermal systems shall comply with HVAC related requirements of the Energy Code.
- (d) *Compliance with State Electric Code.* All photovoltaic systems shall comply with the Wisconsin State Electric Code.
- (e) *Compliance with State Plumbing Code.* Solar thermal systems shall comply with applicable Wisconsin State Plumbing Code requirements.
- (f) *Utility Notification.* All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.
- (g) *Rooftop Community Solar Gardens.* Rooftop community solar garden systems are a permitted accessory use in all districts where buildings are permitted.

**Secs. 20-1476 — 20-1489. - Reserved.**

## ARTICLE XII. - FLOODLANDS

### **Sec. 20-1490. - Finding of fact.**

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

(Ord. No. 2011-131S, 4-10-12)

### **Sec. 20-1491. - Statutory authorization.**

This article is adopted pursuant to the authorization in W.S.A., §§ 61.35 and 62.23, for villages and cities; §§ 59.69, 59.692, and 59.694 for counties; and the requirements in § 87.30.

(Ord. No. 2011-131S, 4-10-12)

### **Sec. 20-1492. - Statement of purpose.**

This article is intended to regulate floodplain development to:

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

(Ord. No. 2011-131S, 4-10-12)

### **Sec. 20-1493. - Title.**

This article shall be known as the Floodplain Zoning Ordinance for Racine County, Wisconsin.

(Ord. No. 2011-131S, 4-10-12)

### **Sec. 20-1494. - General provisions.**

- (1) *Areas to be regulated.* This article regulates all areas that would be covered by the regional flood or base flood as shown on the flood insurance rate map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the flood insurance study (FIS) and are shown as AE, A1-30, and AH zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional flood elevations (RFE) may be derived from other studies. If more than one (1) map or revision is referenced, the most restrictive information shall apply.
- (2) *Official maps and revisions.* The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the flood insurance study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the flood insurance rate map (FIRM) must be reviewed and approved by the DNR and FEMA through the letter of map change process (see section 20-1691) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the county public works and development services department. If more than one (1) map or revision is referenced, the most restrictive information shall apply.
- (a) *Official maps—Based on the FIS: Flood Insurance Rate Map (FIRM), panel numbers*

55101C009D,	55101C0016D,
55101C0017D,	55101C0018D,
55101C0028D,	55101C0029D,
55101C0033D,	55101C0034D,
55101C0036D,	55101C0037D,
55101C0038D,	55101C0039D,
55101C0041D,	55101C0042D,
55101C0043D,	55101C0044D,
55101C0053D,	55101C0054D,
55101C0059D,	55101C0061D,
55101C0062D,	55101C0063D,
55101C0064D,	55101C0067D,
55101C0068D,	55101C0069D,
55101C0078D,	55101C0079D,
55101C0086D,	55101C0088D,
55101C0089D,	55101C0133D,
55101C0134D,	55101C0141D,
55101C0142D,	55101C0143D,
55101C0144D,	55101C0152D,

55101C0153D,	55101C0154D,
55101C0158D,	55101C0159D,
55101C0160D,	55101C0161D,
55101C0162D,	55101C0163D,
55101C0164D,	55101C0170D,
55101C0176D,	55101C0178D,
55101C0179D,	55101C0181D,
55101C0182D,	55101C0183D,
55101C0184D,	55101C0187D,
55101C0191D,	55101C0192D,
55101C0201D,	55101C0202D,
55101C0203D,	55101C0204,
55101C0211D,	55101C0212D,
55101C0256D,	55101C0257D,
55101C0276D,	55101C0277D,

dated May 2, 2012; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated May 2, 2012, Volume numbers 55101CV001A and 55101CV002A.

(b) *Official maps—Based on other studies:* Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

1. 100-Year Hickory Lake Dam Failure Floodplain Map, dated March 14, 2003 prepared by Southeastern Wisconsin Regional Planning Commission. The general floodplain boundaries for Tributary No. 2 to the West Branch of the Root River Canal and an unnamed tributary to Tributary No. 2, both of which are located in United States Public Land Survey section 4 and 5, Township 3 North, Range 21 East, Village of Yorkville shall be determined through the use of the flood elevations.
2. Reischl Dam Failure Analysis, dated April 27, 2012, prepared by GEI Consultants.
3. Letter of Map Revision (LOMR), FEMA Case Number 11-05-2911P, dated January 17, 2012, Spring Brook, City of Burlington.

(3) *Establishment of floodplain zoning districts.* The regional floodplain areas are divided into three (3) districts as follows:

(a) The floodway district (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the

regional floodwaters and are contained within AE zones as shown on the FIRM.

- (b) The floodfringe district (FF) is that portion between the regional flood limits and the floodway and displayed as AE zones on the FIRM.
  - (c) The general floodplain district (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.
- (4) *Locating floodplain boundaries.* Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subsection (a) or (b) below. If a significant difference exists, the map shall be amended according to this article. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to section 20-1674(3) and the criteria in subsections (a) and (b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to this article.
- (a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
  - (b) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.
- (5) *Removal of lands from floodplain.* Compliance with the provisions of this article shall not be grounds for removing land from the floodplain unless it is filled at least two (2) feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to this article.
- (6) *Compliance.* Any development or use within the areas regulated by this article shall be in compliance with the terms of this article, and other applicable local, state, and federal regulations.
- (7) *Municipalities and state agencies regulated.* Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if W.S.A., § 13.48(13), applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation is exempt when W.S.A., § 30.2022, applies.
- (8) *Abrogation and greater restrictions.*

- (a) This article supersedes all the provisions of any municipal zoning ordinance enacted under W.S.A., §§ 59.69, 59.692 or 59.694 for counties; § 62.23 for cities; § 61.35 for villages; or § 87.30, which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
  - (b) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this article imposes greater restrictions, the provisions of this article shall prevail.
- (9) *Interpretation.* In their interpretation and application, the provisions of this article are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this article, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this article or in effect on the date of the most recent text amendment to this article.
- (10) *Warning and disclaimer of liability.* The flood protection standards in this article are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This article does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This article does not create liability on the part of, or a cause of action against, Racine County or any officer or employee thereof for any flood damage that may result from reliance on this article.
- (11) *Severability.* Should any portion of this article be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected.
- (12) *Annexed areas for cities and villages.* The county floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the county public works and development services department. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

(Ord. No. 2011-131S, 4-10-12; Ord. No. 2012-87, 1-8-13; Ord. No. 2012-117, 2-26-13)

**Secs. 20-1495—20-1509. - Reserved.**

**Sec. 20-1510. - General standards applicable to all floodplain districts.**

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads;

be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this article and all other requirements in section 20-1662(2). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

(Ord. No. 2011-131S, 4-10-12)

### **Sec. 20-1511. - Hydraulic and hydrologic analyses.**

- (1) No floodplain development shall:
  - (a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
  - (b) Cause any increase in the regional flood height due to floodplain storage area lost.
- (2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of this article are met.

(Ord. No. 2011-131S, 4-10-12)

### **Sec. 20-1512. - Watercourse alterations.**

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the county has notified in writing all adjacent municipalities, the department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of section 20-1511 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six (6) months after the date of the watercourse alteration or relocation and pursuant to this article, the community shall apply for a letter of map revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process. (Ord. No. 2011-131S, 4-10-12)

### **Sec. 20-1513. - W.S.A., chs. 30, 31, development.**

Development which requires a permit from the department, under W.S.A., chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to this article.

## **Sec. 20-1514. - Public or private campgrounds.**

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

- (1) The campground is approved by the department of health services;
- (2) A conditional use permit for the campground is approved by the appropriate county board of supervisors development committee;
- (3) The character of the river system and the campground elevation are such that a seventy-two-hour warning of an impending flood can be given to all campground occupants;
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
- (5) This agreement shall be for no more than one (1) calendar year, at which time the agreement shall be reviewed and updated, by the officials identified in subsection (4), to remain in compliance with all applicable regulations, including those of the state department of health services and all other applicable regulations;
- (6) Only camping units that are fully licensed, if required, and ready for highway use are allowed;
- (7) The camping units shall not occupy any site in the campground for more than one hundred eighty (180) consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of twenty-four (24) hours;
- (8) All camping units that remain on site for more than thirty (30) days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed one hundred eighty (180) days and shall ensure compliance with all the provisions of this section;
- (9) The county shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
- (10) All camping units that remain in place for more than one hundred eighty (180) consecutive days must meet the applicable requirements in either sections 20-1531, 20-1559, or 20-1570 for the floodplain district in which the structure is located;

- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and
- (12) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

**Secs. 20-1515—20-1530. - Reserved.**

**Sec. 20-1531. - Floodway district (FW).**

**Sec. 20-1532. - Applicability.**

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to section 20-1574.

(Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1533. - Permitted uses.**

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

- They are not prohibited by any other ordinance;
  - They meet the standards in sections 20-1534 and 20-1535; and
  - All permits or certificates have been issued according to section 20-1662.
- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture, grazing, sod farms, truck farming, and wild crop harvesting.
  - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
  - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of section 20-1534(4).
  - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with sections 20-1534 and 20-1535.
  - (5) Extraction of sand, gravel or other materials that comply with section 20-1534(4).
  - (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with W.S.A., chs. 30 and 31.
  - (7) Public utilities, streets and bridges that comply with section 20-1534(3).

(8) Accessory structures for navigation controls and aids and bridge approaches may be permitted by conditional use;

(9) Conditional uses. (See section 20-1631.)  
(Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1534. - Standards for developments in the floodway.**

(1) *General.*

- (a) Any development in the floodway shall comply with section 20-1510 and have a low flood damage potential.
- (b) Applicants shall provide the following data to determine the effects of the proposal according to section 20-1511:
  - 1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
  - 2. An analysis calculating the effects of this proposal on regional flood height.
- (c) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subsection (b) above.

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

- (a) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
- (b) Shall have a minimum of two (2) openings on different walls having a total net area not less than one (1) square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one (1) foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
- (c) Must be anchored to resist flotation, collapse, and lateral movement;
- (d) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
- (e) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

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

- (a) Adequate floodproofing measures are provided to the flood protection elevation; and
  - (b) Construction meets the development standards of section 20-1511.
- (4) *Fills or deposition of materials.* Fills or deposition of materials may be allowed by permit if:
- (a) The requirements of section 20-1511 are met;
  - (b) No material is deposited in navigable waters unless a permit is issued by the department pursuant to W.S.A., ch. 30, and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;
  - (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
  - (d) The fill is not classified as a solid or hazardous material.

(Ord. No. 2011-131S, 4-10-12)

#### **Sec. 20-1535. - Prohibited uses.**

All uses not listed as permitted uses in section 20-1533 are prohibited, including the following uses:

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

- (8) any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

(Ord. No. 2011-131S, 4-10-12)

**Secs. 20-1536—20-1569. - Reserved.**

**Sec. 20-1570. - General floodplain district (GFP).**

**Sec. 20-1571. - Applicability.**

The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.  
(Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1572. - Permitted uses.**

Pursuant to section 20-1574, it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the floodway (section 20-1533) are allowed within the general floodplain district, according to the standards of section 20-1573, provided that all permits or certificates required under section 20-1662 have been issued. (Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1573. - Standards for development in the general floodplain district.**

- (1) In AO/AH zones the structure's lowest floor must meet one of the conditions listed below, whichever is higher:
  - (a) At or above the flood protection elevation; or
  - (b) Two (2) feet above the highest adjacent grade around the structure; or
  - (c) The depth as shown on the FIRM.
- (2) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

(Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1574. - Determining floodway and floodfringe limits.**

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

- (1) Require the applicant to submit two (2) copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures, and the flood zone as shown on the FIRM.

- (2) Require the applicant to furnish any of the following information deemed necessary by the department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
  - (a) A hydrologic and hydraulic study as specified in section 20-1662(2)(c).
  - (b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
  - (c) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(Ord. No. 2011-131S, 4-10-12)

**Secs. 20-1575—20-1590. - Reserved.**

**Sec. 20-1591. - FFO urban floodplain fringe overlay district.**

**Sec. 20-1592. - Purpose.**

The FFO urban floodplain fringe overlay district is intended to provide for and encourage the most appropriate use of land and water in the urban or urbanizing areas of the county subject to periodic flooding and to minimize flood damage to people and property. The FFO district shall not be utilized in any area of the county except where used to complement the FW district and only where public sanitary sewer facilities are currently available or are programmed to be made available within twenty-four (24) months and where the elevation of the regional flood elevation has been increased by two (2) or more feet since such elevation was originally established.

The FFO urban floodplain fringe overlay district is located in select locations around or near the tri-lake area (Wind Lake, Long Lake, and Waubeesee Lake) within the Town of Norway. The FFO includes the following sections and quarter-sections of T4N, R20E: 3 (NW, SW  $\frac{1}{4}$ ), 4 (NW, NE, SW, SE  $\frac{1}{4}$ ), 5 (SW  $\frac{1}{4}$ ), 6 (SE  $\frac{1}{4}$ ), 7 (NE, SE  $\frac{1}{4}$ ), 8 (NW, NE, SW, SE  $\frac{1}{4}$ ), 9 (NW, SW, SE  $\frac{1}{4}$ ), 10 (NW, SW  $\frac{1}{4}$ ), 16 (NW, NE  $\frac{1}{4}$ ), 17 (NW, NE  $\frac{1}{4}$ ), and 18 (NE  $\frac{1}{4}$ ). FFO maps are available for review at the county public works and development services department.

Overlay districts provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements; the more restrictive of the conflicting requirements shall apply.

(Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1593. - Permitted uses.**

The uses permitted in the FFO urban floodplain fringe overlay district are as follows:

- (1) *Principal uses.* Any use of land, including structures, that is permitted in the underlying basic use district. Examples of such use would be croplands in an

agricultural district; required yards in a residential district; or parking or loading areas in a commercial or industrial district, provided that inundation depths for parking and loading areas do not exceed two (2) feet above the regional flood elevation.

(2) *Conditional uses.* (See section 20-1631.)

(Ord. No. 2011-131S, 4-10-12)

#### **Sec. 20-1594. - Incompatible uses prohibited.**

Lands lying within the FFO urban floodplain fringe overlay district shall not be used for any solid or hazardous waste disposal site, on-site soil absorption sanitary sewage disposal site or the construction of any well which is used to obtain water for ultimate human consumption.

(Ord. No. 2011-131S, 4-10-12)

#### **Sec. 20-1595. - Standards for development in the FFO.**

Section 20-1511 shall apply in addition to the following requirements according to the use requested. Any existing structure in the FFO urban floodplain fringe overlay district must meet the requirements of section 20-1643, Nonconforming uses in floodlands.

- (a) Residential, commercial, and institutional structures shall be permitted in the FFO urban floodplain fringe overlay district provided that the structure is permitted in the underlying basic use district and subject to the standards of subsection (b).
- (b) Residential uses. Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of section 20-1643, Nonconforming uses in floodlands.
  - 1. The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of section subsection (2) can be met. The fill shall be one (1) foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure. If fifteen (15) feet is unattainable due to lot configuration retaining walls may be utilized. The county public works and development services department recommends that the project be designed or reviewed by a registered engineer who can certify that the retaining walls are functionally and structurally adequate for the project. This approval does not warrant the retaining walls against design or structural failure, and the county will accept no liability through approval or through the issuance of a zoning permit. The retaining walls are the landowner's responsibility. If the retaining walls become damaged or destroyed, it is the property owner's responsibility to repair or replace the walls.
  - 2. The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation.

3. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (4).
  4. In developments where existing street or sewer line elevations make compliance with subsection (3) impractical, the county may permit new development and substantial improvements where roads are below the regional flood elevation, if:
    - i. the municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
    - ii. the municipality has a DNR-approved emergency evacuation plan. The Town of Norway Floodplain Emergency Action Plan has been adopted pursuant to this article and is in effect for the area encompassed by the town sanitary district in the Town of Norway.
  5. Conditional uses. (See section 20-1631.)
- (c) Accessory structures associated with agricultural, residential, commercial, institutional, or industrial uses in the FFO urban floodplain fringe overlay district are permitted, provided that all structures, when permitted, are not attached to the principal structure, are not designed for human occupancy or the confinement of animals, have a low flood damage potential, are constructed and placed to provide minimum obstruction to flood flows (whenever possible, accessory structures shall be placed with their longitudinal axis parallel to the flow of floodwaters), are firmly anchored to prevent them from floating away and restricting bridge openings, and have all service facilities (such as electrical and heating equipment) at an elevation at least two (2) feet above the regional flood elevation.
1. Except as provided in subsection (2), an accessory structure which is not connected to the principal structure may be constructed with its lowest floor at or above the regional flood elevation.
  2. An accessory structure which is not connected to the principal structure and which is less than six hundred (600) square feet in size and valued at less than then thousand dollars (\$10,000.00) may be constructed with its lowest floor no more than two (2) feet below the base flood elevation; it meets all the provisions of section 20-1534, and materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, or aquatic life be stored at or above the flood protection elevation or floodproofed. Adequate measures shall be taken to ensure that such material will not enter the water body during flooding.
- (d) In commercial and institutional areas, any structure or building which is to be erected, constructed, reconstructed, altered or moved into the floodfringe area shall meet the requirements for residential use, subsection (b). Storage yards, parking lots, and other accessory structures or land uses may be at lower elevation, subject to the storage requirements of section 20-1531 et seq. However, no such area in general use by the public shall be inundated to a depth greater than two (2) feet. Inundation of such yards or parking areas exceeding two (2) feet may be allowed provided that an adequate warning system exists to protect life and property.

- (e) Industrial structures in the FFO urban floodplain fringe overlay district are permitted provided that the structure is permitted in the underlying district and provided that the fill requirements and dryland access requirements for residential structures in the FFO district comply with subsection (b). However, when the intent and purpose of this chapter cannot be fulfilled by filling the floodplain fringe due to existing and committed development, and when the appropriate county board of supervisors development committee has made a finding to this effect, all new structures and all additions to existing structures in the FFO urban floodplain fringe overlay district shall be floodproofed in accordance with the standards set forth in section 20-1666 of this article to a point two (2) feet above the regional flood elevation.
- (f) Mobile home parks and mobile home units located within a mobile home park in the FFO urban floodplain fringe overlay district are permitted, provided that the use is permitted in the underlying use district and that a conditional use permit pursuant to section 20-1201 et seq. has been granted. Mobile home parks and mobile home units are also subject to the requirements of subsection (k).
- (g) Storage of materials. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with section 20-1666. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (h) All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and
  - a. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with section 20-1666.
  - b. Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (i) All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to section 20-1666(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.
- (j) All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to section 20-1666(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- (k) Manufactured homes or mobile homes.
  - 1. Owners or operators of all manufactured/mobile home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

2. In existing manufactured/mobile home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
    - i. Have the lowest floor elevated to the flood protection elevation; and
    - ii. Be anchored so they do not float, collapse or move laterally during a flood.
  3. Outside of existing manufactured/mobile home parks, including new manufactured/mobile home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured/mobile homes shall meet the residential development standards for the floodfringe in subsection (b).
- (l) All mobile recreational vehicles that are on site for one hundred eighty (180) consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in subsection (k)(1) and (2). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions. Recreational vehicles shall not be considered to be manufactured/mobile homes.
- (m) A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions. Recreational vehicles shall not be considered to be manufactured/mobile homes.
- (Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1596. - Preservation of drainageways.**

No permit granted for filing or development in the FFO urban floodplain fringe overlay district shall be permitted to adversely affect the channels, floodways, or shorelands of any navigational water in the county, or other land lying outside the floodlands.

(Ord. No. 2011-131S, 4-10-12)

**Secs. 20-1597—20-1615. - Reserved.**

**Sec. 20-1616. - Limited floodplain boundary adjustments.**

- (a) Limited floodplain boundary adjustments by a combination of excavating and filling may be permitted in the GFP general floodplain district provided that:
1. The excavation shall take place prior to or simultaneously with the filling and be in areas either within or contiguous to the floodland.
  2. At a minimum, the area removed from the floodplain shall be the same or less than the area created.
  3. The fill must be at least two (2) feet above the regional or base flood elevation; the fill must be contiguous to land outside the floodplain and the map must be amended pursuant to section 20-1682.

4. The excavated earth material, if suitable for reuse in the area to be filled, shall be so used and, if not suitable or if insufficient in quantity for the fill required, the applicant may be permitted to utilize suitable fill obtained from land other than that which is being excavated.
  5. There shall be created by the excavation floodwater storage and conveyance capacity at least equal to that which shall be lost by filling.
  6. If it is determined that the floodplain boundary adjustment will be located in the floodway as determined by section 20-1616, then hydrologic and hydraulic analyses will need to be completed per section 20-1511 to determine no increase to base flood elevations.
- (b) It is the express legislative intent that this section allow, after careful review, limited excavation and filling in and immediately adjacent to floodlands so as to create more usable and functional parcels in and adjacent to floodlands while not reducing the floodwater storage and conveyance capacity then existing in the floodlands.
- (c) Before issuing a conditional use permit under this section, the appropriate county board of supervisors development committee shall make a specific written determination that the proposed excavation and filling complies with each of the foregoing four (4) standards as well as the standards applicable to conditional uses under section 20-1182. In making such determinations, the committee may request an advisory review by a duly constituted watershed committee of the Southeastern Wisconsin Regional Planning Commission.
- (d) A limited floodplain boundary adjustment requires department of natural resources (DNR) and federal emergency management agency (FEMA) approval before a conditional use permit may be issued.
- (Ord. No. 2011-131S, 4-10-12)

**Secs. 20-1617—20-1630. - Reserved.**

**Sec. 20-1631. - Floodland uses.**

Floodland uses are conditional uses and may be permitted by the appropriate county board of supervisors development committee.

- (a) Open space and related uses may be permitted in any floodplain zoning district for the following uses provided that the applicant shall show that such use or improvement will not impeded drainage, will not cause ponding, will not obstruct the floodway according to the requirements in section 20-1511, will not increase flood flow velocities, will not increase the flood stage, and will not retard the movement of the floodwaters. When permitted, all structures shall be floodproofed in accordance with the standards set in section 20-1666 of this division and constructed so as not to catch or collect debris nor be damaged by floodwaters. All floodproofed structures shall be securely anchored to protect them from large floods. Certification of floodproofing shall be made to the zoning administrator and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the regional flood elevation.

1. Navigational structures.
  2. Public water measuring and control facilities.
  3. Bridges and approaches.
  4. Marinas.
  5. Utility poles, towers, and underground conduit for transmitting electricity, telephone, natural gas and similar products and services.
  6. Park and recreational areas, not including structures.
  7. Parking lots and loading areas accessory to permitted uses in adjacent districts, not including new or used vehicle sales or storage areas, provided that such uses shall not be subject to inundation depths greater than two (2) feet or flood velocities greater than two (2) feet per second.
  8. Filing as authorized by the department to permit the establishment of approved bulkhead lines.
  9. Other open space uses consistent with the purpose and intent of the district and compatible with uses in adjacent districts, not including structures.
- (b) The thin mantle spreading of spoils resulting from the cleanout and/or dredging of existing drainage ditches or canals may be permitted in floodplain zoning districts provided that the spreading does not result in an increase in the regional flood elevation; the spoils are leveled to a maximum depth of twelve (12) inches; and provided that such spreading will not have a significant adverse impact upon the criteria established by the department in NR 116.07. Applicants are required to complete hydrologic and hydraulic analyses per section 20-1511 unless the applicant can demonstrate the spoils are being placed to pre-existing elevations (i.e. due to settlement or erosion).
- (c) Municipal water supply and sanitary sewerage systems may be permitted provided that the system is floodproofed, in accordance set forth in section 20-1666 of this article, to an elevation at least two (2) feet above the regional flood elevation and is designed to eliminate or minimize infiltration of floodwaters into the system. All floodproofed utilities shall be anchored to prevent floatation. Certification of floodproofing shall be made to the zoning administrator and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths and other factors associated with the regional flood elevation for the particular stream reach. Municipal water supply and sanitary sewerage systems are prohibited in the floodway.

(Ord. No. 2011-131S, 4-10-12)

**Secs. 20-1632—20-1642. - Reserved.**

**Sec. 20-1643. - Nonconforming uses in floodlands.**

## Sec. 20-1644. - General.

- (1) Applicability. If these standards conform with W.S.A., § 59.69(10), for counties or W.S.A., § 62.23(7)(h), for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this article or any amendment thereto.
- (2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this article may continue subject to the following conditions:
  - (a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this article. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed two hundred (200) square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (b) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this article.
- (c) The county shall keep a current file of all nonconforming uses and shall to the extent practical, be maintained by the zoning administrator listing the following: owners name and address, use of structure, land, or water, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- (d) No modification or addition to any floodland nonconforming structure or any floodland structure with a nonconforming use, which over the life of the structure would equal or exceed fifty (50) percent of its present equalized assessed value of the structure, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 20-1595(b). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the

flood protection elevation are excluded from the fifty (50) percent provisions of this paragraph;

- (e) No maintenance to any floodland nonconforming structure or any structure with a floodland nonconforming use, the cost of which would equal or exceed fifty (50) percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 20-1595(b).
- (f) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds fifty (50) percent of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 20-1595(b).
- (g) Except as provided in subsection (h), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds fifty (50) percent of the structure's present equalized assessed value.
- (h) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

1. *Residential structures.*

- a. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of section 20-1666(2).
- b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
- c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent

water from entering or accumulating within the components during conditions of flooding.

- d. In A zones, obtain, review and utilize any flood data available from a federal, state or other source.
- e. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 20-1573(1).
- f. in AO zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

2. *Nonresidential structures.*

- a. Shall meet the requirements of subsection 1.a—b and e—f.
- b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in section 20-1666(1) or (2).
- c. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 20-1573(1).

- (3) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with section 20-1534(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with section 20-1666 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of subsection (2)(h)1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

(Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1645. - Floodway district.**

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the floodway district, unless such modification or addition:
- (a) Has been granted a permit or variance by the county which meets all ordinance requirements;
  - (b) Meets the requirements of section 20-1644;
  - (c) Shall not increase the obstruction to flood flows or regional flood height;

- (d) Any addition to the existing structure shall be floodproofed, pursuant to section 20-1666, by means other than the use of fill, to the flood protection elevation; and
- (e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
  - 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two (2) openings must be provided with a minimum net area of at least one (1) square inch for every one (1) square foot of the enclosed area. The lowest part of the opening can be no more than twelve (12) inches above the adjacent grade;
  - 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
  - 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  - 4. The use must be limited to parking, building access or limited storage.
- (2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the floodway district. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, section 20-1666(3) and ch. SPS 383, Wis. Adm. Code.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in the floodway district. Any replacement, repair or maintenance of an existing well in the floodway district shall meet the applicable requirements of all municipal ordinances, section 20-1645(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

(Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1646. - Floodfringe District.**

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of section 20-1595 except where subsection (2) is applicable.
- (2) Where compliance with the provisions of subsection (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of

adjustment/appeals, using the procedures established in section 20-1664, may grant a variance from those provisions of subsection (1) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

- (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
  - (b) Human lives are not endangered;
  - (c) Public facilities, such as water or sewer, shall not be installed;
  - (d) Flood depths shall not exceed two (2) feet;
  - (e) Flood velocities shall not exceed two (2) feet per second; and
  - (f) The structure shall not be used for storage of materials as described in section 20-1595(g).
- (3) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, section 20-1666(3) and ch. SPS 383, Wis. Adm. Code.
- (4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this article, section 20-1666(3) and ch. NR 811 and NR 812, Wis. Adm. Code.

(Ord. No. 2011-131S, 4-10-12)

### **Secs. 20-1647—20-1660. - Reserved.**

### **Sec. 20-1661. - Administration.**

Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under W.S.A., §§ 59.69, 59.692 or 62.23(7), these officials shall also administer this article.

(Ord. No. 2011-131S, 4-10-12)

### **Sec. 20-1662. - Zoning administrator.**

- (1) *Duties and powers.* The zoning administrator is authorized to administer this article and shall have the following duties and powers:
- (a) Advise applicants of the article provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.

- (b) Issue permits and inspect properties for compliance with provisions of this article and issue certificates of compliance where appropriate.
  - (c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
  - (d) Keep records of all official actions such as:
    - 1. All permits issued, inspections made, and work approved;
    - 2. Documentation of certified lowest floor and regional flood elevations;
    - 3. Floodproofing certificates;
    - 4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;
    - 5. All substantial damage assessment reports for floodplain structures; and
    - 6. List of nonconforming structures and uses.
  - (e) Submit copies of the following items to the department regional office:
    - 1. Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
    - 2. Copies of case-by-case analyses and other required information, including an annual summary of floodplain zoning actions taken; and
    - 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
  - (f) Investigate, prepare reports, and report violations of this article to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.
  - (g) Submit copies of amendments and biennial reports to the FEMA regional office.
- (2) *Zoning permit.* A zoning permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:
- (a) *General information.*

1. Name and address of the applicant, property owner and contractor.
  2. Legal description, proposed use, and whether it is new construction or a modification.
- (b) *Site development plan.* A site plan drawn to scale shall be submitted with the permit application form and shall contain:
1. Location, dimensions, area and elevation of the lot;
  2. Location of the ordinary highwater mark of any abutting navigable waterways;
  3. Location of any structures with distances measured from the lot lines and street center lines;
  4. Location of any existing or proposed on-site sewage systems or private water supply systems;
  5. Location and elevation of existing or future access roads;
  6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
  7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study, either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
  8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of section 20-1531 or 20-1595 are met; and
  9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 20-1511. This may include any of the information noted in section 20-1534(1).
- (c) *Hydraulic and hydrologic studies to analyze development.* All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the state. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the department.
1. *Zone A floodplains.*
    - a. *Hydrology.*
      - i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code,

Hydrologic Analysis: Determination of Regional Flood Discharge.

- b. *Hydraulic modeling.* The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, Hydraulic Analysis: Determination of Regional Flood Elevation and the following:
- i. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study;
  - ii. Channel sections must be surveyed;
  - iii. Minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping;
  - iv. A maximum distance of five hundred (500) feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location;
  - v. The most current version of HEC\_RAS shall be used;
  - vi. A survey of bridge and culvert openings and the top of road is required at each structure;
  - vii. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than five hundred (500) feet;
  - viii. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices; and
  - ix. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies.

The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

- c. *Mapping.* A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
  - i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
  - ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

2. *Zone AE floodplains.*

- a. *Hydrology.* If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.
- b. *Hydraulic model.* The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, Hydraulic Analysis: Determination of Regional Flood Elevation and the following:
  - i. Duplicate effective model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
  - ii. Corrected effective model. The corrected effective model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for department review.

- iii. Existing (pre-project conditions) model. The existing model shall be required to support conclusions about the actual impacts of the project associated with the revised (post-project) model or to establish more up-to-date models on which to base the revised (post-project) model.
  - iv. Revised (post-project conditions) model. The revised (post-project conditions) model shall incorporate the existing model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
  - v. All changes to the duplicate effective model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
  - vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The effective model shall not be truncated.
- c. *Mapping.* Maps and associated engineering data shall be submitted to the department for review which meet the following conditions:
- i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or flood boundary floodway maps (FBFMs), construction plans, bridge plans.
  - ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
  - iii. Annotated FIRM panel showing the revised one (1) percent and two-tenths (0.2) percent annual chance floodplains and floodway boundaries.

- iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and state plane coordinate system in accordance with FEMA mapping specifications.
  - v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
  - vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
  - vii. Both the current and proposed floodways shall be shown on the map.
  - viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.
- (d) *Expiration.* All permits issued under the authority of this article shall expire no more than one hundred eighty (180) days after issuance. The permit may be extended for a maximum of one hundred eighty (180) days for good and sufficient cause.
- (3) *Certificate of compliance.* No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:
- (a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this article;
  - (b) Application for such certificate shall be concurrent with the application for a permit;
  - (c) If all article provisions are met, the certificate of compliance shall be issued within ten (10) days after written notification that the permitted work is completed;
  - (d) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of section 20-1266 are met.

- (4) *Other permits.* Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

(Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1663. - Zoning agency.**

- (1) The appropriate county board of supervisors development committee shall:
  - (a) Oversee the functions of the office of the zoning administrator; and
  - (b) Review and advise the governing body on all proposed amendments to this article, maps and text.
- (2) The appropriate county board of supervisors development committee shall not:
  - (a) Grant variances to the terms of the article in place of action by the board of adjustment/appeals; or
  - (b) Amend the text or zoning maps in place of official action by the governing body.

(Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1664. - Board of adjustment.**

The board of adjustment/appeals, created under W.S.A., § 59.694, for counties or W.S.A., § 62.23(7)(e), for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this article. The board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the board.

- (1) *Powers and duties.* The board of adjustment/appeals shall:
  - (a) *Appeals.* Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article;
  - (b) *Boundary disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and
  - (c) *Variances.* Hear and decide, upon appeal, variances from the article standards.
- (2) *Appeals to the board.*
  - (a) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within thirty (30) days unless otherwise provided by the rules of the

board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

(b) Notice and hearing for appeals including variances.

1. *Notice.* The board shall:

- a. Fix a reasonable time for the hearing;
- b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
- c. Assure that notice shall be mailed to the parties in interest and the department regional office at least ten (10) days in advance of the hearing.

2. *Hearing.* Any party may appear in person or by agent. The board shall:

- a. Resolve boundary disputes according to this chapter;
- b. Decide variance applications according to this chapter; and
- c. Decide appeals of permit denials according to this chapter.

(c) *Decision.* The final decision regarding the appeal or variance application shall:

1. Be made within a reasonable time;
2. Be sent to the department regional office within ten (10) days of the decision;
3. Be a written determination signed by the chairman or secretary of the board;
4. State the specific facts which are the basis for the board's decision;
5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.

(3) *Boundary disputes.* The following procedure shall be used by the board in hearing disputes concerning floodplain district boundaries:

- (a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;
- (b) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board; and
- (c) If the boundary is incorrectly mapped, the board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to this article.

(4) *Variance.*

- (a) The board may, upon appeal, grant a variance from the standards of this article if an applicant convincingly demonstrates that:
  - 1. Literal enforcement of the article will cause unnecessary hardship;
  - 2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
  - 3. The variance is not contrary to the public interest; and
  - 4. The variance is consistent with the purpose of this article in section 20-1492.
- (b) In addition to the criteria in subsection (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
  - 1. The variance shall not cause any increase in the regional flood elevation;
  - 2. Variances shall only be granted for lots that are less than one-half ( $\frac{1}{2}$ ) acre and are contiguous to existing structures constructed below the RFE; and
  - 3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the article.
- (c) A variance shall not:
  - 1. Grant, extend or increase any use prohibited in the zoning district;

2. Be granted for a hardship based solely on an economic gain or loss;
3. Be granted for a hardship which is self-created;
4. Damage the rights or property values of other persons in the area;
5. Allow actions without the amendments to this article or map(s) required in 20-1681; and
6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

- (d) When a floodplain variance is granted the board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to twenty-five dollars (\$25.00) per one hundred dollars (\$100.00) of coverage. A copy shall be maintained with the variance record.

(Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1665. - To review appeals of permit denials in floodland districts.**

- (1) The zoning agency (section 20-1663) or board shall review all data related to the appeal. This may include:
  - (a) Permit application data listed in section 20-1662(2);
  - (b) Floodway/floodfringe determination data in section 20-1574;
  - (c) Data listed in section 20-1534(1)(b) where the applicant has not submitted this information to the zoning administrator; and
  - (d) Other data submitted with the application, or submitted to the board with the appeal.
- (2) For appeals of all denied permits the board shall:
  - (a) Follow the procedures of section 20-1664;
  - (b) Consider zoning agency recommendations; and
  - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the board shall:
  - (a) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of section 20-1681; and

- (b) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

(Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1666. - Floodproofing standards for nonconforming structures or uses.**

- (1) No permit or variance shall be issued for a nonresidential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA floodproofing certificate.
- (2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
  - (a) Certified by a registered professional engineer or architect; or
  - (b) Meets or exceeds the following standards:
    - 1. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
    - 2. The bottom of all openings shall be no higher than one (1) foot above grade; and
    - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (3) Floodproofing measures shall be designed, as appropriate, to:
  - (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
  - (b) Protect structures to the flood protection elevation;
  - (c) Anchor structures to foundations to resist flotation and lateral movement;
  - (d) Minimize or eliminate infiltration of flood waters; and
  - (e) Minimize or eliminate discharges into flood waters.

**Sec. 20-1667. - Public information.**

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.

- (3) Real estate transfers should show what floodplain district any real property is in.

**Secs. 20-1668—20-1680. - Reserved.**

**Sec. 20-1681. - Amendments.**

Obstructions or increases may only be permitted if amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 20-1682.

- (1) In AE zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 20-1682. Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) In A zones increases equal to or greater than one (1.0) foot may only be permitted if the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain maps, floodway lines, and water surface profiles, in accordance with section 20-1682.

(Ord. No. 2011-131S, 4-10-12)

**Sec. 20-1682. - General.**

The governing body shall change or supplement the floodplain zoning district boundaries and this article in the manner outlined in section 20-1683 below. Actions which require an amendment to the article and/or submittal of a letter of map change (LOMC) include, but are not limited to, the following:

- (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (3) Any changes to any other officially adopted floodplain maps listed in section 20-1494(2)(b);
- (4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- (5) Correction of discrepancies between the water surface profiles and floodplain maps;
- (6) Any upgrade to a floodplain zoning ordinance text required by § NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and

- (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

(Ord. No. 2011-131S, 4-10-12)

### **Sec. 20-1683. - Procedures.**

Article amendments may be made upon petition of any party according to the provisions of W.S.A., § 62.23 for cities and villages, or § 59.69 for counties. The petitions shall include all data required by sections 20-1574 and 20-1662(2). The land use permit shall not be issued until a letter of map revision is issued by FEMA for the proposed changes.

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of W.S.A., § 62.23 for cities and villages, or § 59.69 for counties.
- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

(Ord. No. 2011-131S, 4-10-12)

### **Sec. 20-1684. - Enforcement and penalties.**

Any violation of the provisions of this article by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than fifty dollars (\$50.00), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this article is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to W.S.A., § 87.30. (Ord. No. 2011-131S, 4-10-12)

### **Secs. 20-1685—20-1700. - Reserved.**

## **ARTICLE XIII. - ANIMAL WASTE MANAGEMENT<sup>[21]</sup>**

Footnotes:

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**Editor's note**— Ord. No. 2012-24, adopted June 26, 2012, set out provisions intended for use as Art. XII. Inasmuch as there were already provisions so designated, these provisions have been included as Art. XIII, §§ 20-1701—20-1721, at the direction of the county.

**Sec. 20-1701. - Authority.**

This article is adopted under authority granted by W.S.A., §§ 59.02, 59.70(1), 92.07, 92.15, and 92.16.

(Ord. No. 2012-24, 6-26-12)

**Sec. 20-1702. - Title.**

This article shall be known as, referred to, and may be cited as the Racine County Animal Waste Management Ordinance and is hereinafter referred to as the article.

(Ord. No. 2012-24, 6-26-12)

**Sec. 20-1703. - Findings and declaration of policy.**

The county board of supervisors finds that unregulated animal waste storage facilities not meeting current technical design and construction standards may cause pollution of the surface water and groundwater of Racine County, and may result in actual or potential harm to the health of county residents, transients, livestock, aquatic life and other animals and plants and decrease the property tax base of Racine County. The county board of supervisors also finds that improper management of animal waste storage facilities and utilization of animal wastes, including but not limited to the land application of animal waste, may cause pollution of the surface water and groundwater of Racine County. The county board of supervisors further finds that the technical standards developed by the United States Department of Agriculture - Natural Resources Conservation Service and adopted by the county economic development and land use planning committee provide effective, practical and environmentally safe methods of storing and managing animal waste.

(Ord. No. 2012-24, 6-26-12)

**Sec. 20-1704. - Purpose.**

The purpose of this article is to regulate the location, design, construction, installation, operation, alteration, closure and use of animal waste storage facilities; the transfer systems that convey waste into an animal storage facility; and the abandonment of an idle animal waste storage facility in order to prevent water pollution, and thereby protect the health and safety of residents and transients, prevent the spread of disease, and promote the prosperity and general welfare of the citizens of Racine County. It is also intended to provide for the administration and enforcement of the article and to provide penalties for its violation.

(Ord. No. 2012-24, 6-26-12)

**Sec. 20-1705. - Interpretation.**

The provisions of this article shall be considered to be minimum requirements and shall be liberally construed in favor of Racine County, and not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

(Ord. No. 2012-24, 6-26-12)

## **Sec. 20-1706. - Applicability.**

This article shall apply to all unincorporated areas of Racine County and to all animal waste storage facilities constructed therein. Animal waste storage facilities shall comply with all federal, state, and local laws, rules, and regulations.

(Ord. No. 2012-24, 6-26-12)

## **Sec. 20-1707. - Definitions.**

The following definitions shall apply to this article, and for purposes of this article only, shall supersede any definition in section 20-1 that is inconsistent with the definitions in this section.

*Animal waste* shall mean excreta from livestock, poultry, and other materials such as bedding, rain, or other water, soil, hair, feathers, and other debris normally included in animal waste handling operations.

*Animal waste storage facility* shall mean a concrete, steel, or otherwise fabricated structure, excavated pit or earthen impoundment, or any structure used to temporarily store, manure, waste water, and contaminated runoff.

*Applicant* shall mean any person who applies for a permit under this article.

*Closure* shall mean removal and proper disposal of accumulated wastes and proper abandonment of an animal waste storage facility.

*Direct runoff* shall mean a discharge of a significant amount of pollutants to waters of the state.

*Land conservation committee* shall mean the sub-committee of the economic development and land use planning committee, who by authority of W.S.A., ch. 92, is responsible for county-wide soil and water conservation activities conducted by the land conservation division. The sub-committee shall be referred to hereinafter as "LCC."

*Land conservation division* shall mean the division of the public works and development services department which is responsible for administering and enforcing this article. The division shall be referred to hereinafter as "LCD."

*Livestock* shall mean domestic animals such as cattle, horses, sheep, hogs, goats, poultry, fish, etc., or exotic animals such as llamas, ostriches, etc.

*Livestock operation* shall mean a feedlot or other facility or a pasture where animals are fed, confined, maintained, or stabled.

*Milking center waste* shall mean all wastewater, cleaning ingredients, and waste milk that is discharged from a milkhouse or milking parlor.

*Nutrient management plan* shall mean a plan that balances the nutrient needs of a crop with the nutrients available from legume crops, manure, fertilizer or other sources. Management includes the rate, method, and timing of application of all sources of nutrients to minimize the

amount of nutrients entering surface and groundwater. The requirements for a nutrient management plan are as established in ATCP 50.04(3).

*Permit* shall mean the signed, written statement issued by the LCD under this article.

*Permittee* shall mean any person to whom a permit is issued under this article.

*Substantially altered* shall mean a change to a structure or facility that results in relocation or a significant change in size, depth or configuration including; replacement of a liner, an increase in the volumetric capacity by greater than twenty (20) percent, or a change in livestock management from one (1) species of livestock to another, such as cattle to horses.

*Technical standards* shall mean the Wisconsin version of the United States Department of Agriculture, Natural Resources Conservation Service field office Technical Guide as adopted by the LCC.

*Unconfined manure pile* shall mean a quantity of manure, at least one hundred seventy-five (175) cubic feet in volume that covers the ground surface to a depth of at least two (2) inches and is not confined within a manure storage facility, livestock housing facility or barnyard runoff control facility.

*Water pollution* shall mean contaminating or rendering unclean or impure the ground or surface waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life.

*Water quality management areas* shall mean the area within one thousand (1,000) feet from the ordinary high water mark of navigable waters that consist of lake, pond or flowage; the area within three hundred (300) feet from the ordinary high water mark of navigable waters that consist of a river or stream; and a site that is susceptible to groundwater contamination, or that has the potential to be a direct conduit for contamination to reach groundwater.

(Ord. No. 2012-24, 6-26-12)

## **Sec. 20-1708. - Activities subject to regulation.**

- (a) *General requirement.* Any person who locates, installs, moves, reconstructs, extends, enlarges, converts, substantially alters or changes use of an animal waste storage facility or parts thereof; or who employs another to do the same, on land subject to this article, shall be subject to the provisions of this article.
- (b) *Compliance with permit requirements.* A person is in compliance with this article, who receives review and a permit from the land conservation division before commencing activities subject to regulation under this section, and complies with the requirements of the permit. If construction is not completed within twelve (12) months, a permit will be required under this article to continue construction. Repair, enlargement, alteration, abandonment, or temporary abandonment of pre-existing facilities requires a permit that is subject to all terms of this article.

(Ord. No. 2012-24, 6-26-12)

## **Sec. 20-1709. - Standards.**

- (a) *Standards for animal waste storage facilities.* The standards for design and construction of animal waste storage facilities and or abandonment/closure are those found in technical standards 313 (waste storage facility), 360 (waste facility closure) and 634 (waste transfer) of the technical guide as it existed on the date of the adoption of this article including any and all future standards amended thereto.
- (b) *Standards for animal waste management and utilization.* The standards for management of animal waste storage facilities and utilization of animal waste are those in technical standard 590 (nutrient management) of the technical guide, including any and all existing and future standards amended thereto.
- (c) *Septage.* Human waste and associated wastewater shall not be discharged into animal waste storage facilities unless permitted by applicable federal, state, or local regulations for the disposal of human waste and wastewater.
- (d) *Standards for implementing prohibitions.* Prior to issuance of a permit under this article, compliance with the prohibitions, as identified in W.S.A., § 281.16(3), and any amendments thereto, shall be addressed. The prohibitions are:
  - (1) A livestock operation may have no overflow of an animal waste storage structure.
  - (2) A livestock operation may have no unconfined manure pile in a water quality management area.
  - (3) A livestock operation may have no direct runoff from a feedlot or stored manure into the waters of the state.
  - (4) A livestock operation may not allow unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod cover.

## **Sec. 20-1710. - Application for and issuance of permits.**

- (a) *Permit required.* Except as hereinafter provided, no person may undertake activity subject to this article without first obtaining a new animal waste storage facility permit, a substantially altered facility permit, or a closure of existing facility permit from the county LCD.
- (b) *Exception to permit requirement.* Emergency minor repairs such as fixing a broken pipe or equipment, leaking dikes, or the removal of stoppages may be performed without a permit. If such repairs alter the original design and construction of the facility, work shall be reported to the LCD as soon as possible for a determination on whether a permit will be required for any additional alteration or repair to the facility.
- (c) *Permit fees.* The fee for a permit under this article shall be determined annually by the LCC during the annual LCD budget development cycle. The fee shall be nonrefundable and payable in advance to the LCD. Temporary abandonment of an animal waste storage facility is exempt from the fee schedule.

- (d) *Animal waste storage facility and nutrient management plan required.* Each application for a permit under this article shall include an animal waste storage facility plan. The plan shall include:
- (1) The number and kinds of animals for which storage is provided.
  - (2) A sketch of the facility and its location in relation to buildings within two hundred fifty (250) feet and homes within five hundred (500) feet of the proposed facility. The sketch will be drawn to scale, with a scale no smaller than one (1) inch equals one hundred (100) feet. Include the scale of the drawing and north arrow.
  - (3) The structural details, including dimensions, cross sections, and concrete thickness.
  - (4) The location of any wells within three hundred (300) feet of the facility.
  - (5) The soil test pit locations and soil descriptions to a depth of at least three (3) feet below the planned bottom of the facility.
  - (6) The elevation of groundwater or bedrock if encountered in the soil profile and the date of any such determinations.
  - (7) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and ground water. If a navigable body of water lies within five hundred (500) feet of the facility, the location and distance to the body of water shall be shown.
  - (8) A time of schedule for construction of the proposed facility.
  - (9) A description of the method in transferring animal waste into and from the facility.
  - (10) A nutrient management plan which meets the 590 technical standard and the agricultural performance standards as listed under section 20-1709.
  - (11) An unconfined manure pile may not be located within twenty (20) feet of a neighboring property line. A greater distance may be required depending on slope, soil type and runoff potential as determined by the LCD.
- (e) *Substantially altered facility permit.* Each application for a permit under this article shall include the facility alteration plan as listed in section 20-1710.
- (f) *Closure of existing facility permit.* Each application for a permit under this article shall include the facility closure plan as listed in section 20-1710.
- (g) *Review of application.* The LCD shall receive and review all permit applications. The LCD shall determine if the proposed facility meets the required standards set forth in section 20-1709. Within thirty (30) days after receiving the completed application and fee, the LCD shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the LCD shall so notify the permit applicant. The LCD has thirty (30) days from the receipt of the additional information to

approve or disapprove the application. If the LCD fails to approve or disapprove the permit application in writing with thirty (30) days of receipt of the permit application or additional information, as appropriate, the application shall be deemed approved and the applicant may proceed as if the permit had been issued.

(Ord. No. 2012-24, 6-26-12)

### **Sec. 20-1711. - Permit conditions.**

All permits issued under this article shall be subject to the following conditions and requirements:

- (1) Animal waste storage facility design, construction, modification, closure and management shall be carried out in accordance with the construction plan or closure plan and applicable standards specified in this article.
- (2) Any person applying for an animal waste storage facility permit or substantially altered facility permit under this article must develop a nutrient management plan as part of the application process to demonstrate their ability to utilize animal waste in an environmentally safe manner. This condition may require the applicant to hire a crop consultant to prepare the nutrient management plan.
- (3) The permittee must certify in writing that all other local, city, county, state, or federally required permits have been or will be obtained from the appropriate authorities. The LCD may require proof of any permit known to be needed prior to issuing an animal waste storage facility permit, substantially altered facility permit, or closure of existing facility permit.
- (4) Any change to an approved permit shall be approved in writing by the LCD. Written approval shall occur only after a registered professional engineer, DATCP engineer, or local agency staff having the appropriate engineering certification, has reviewed and approved the proposed modifications.
- (5) The permittee shall give no less than two (2) days notice before starting any construction activity authorized by the permit.
- (6) Activities authorized by this permit shall be completed within two (2) years from the date of issuance after which such permit shall expire.
- (7) The permittee shall certify in writing, by a registered professional engineer, DATCP engineer, or local agency staff having the appropriate engineering certification that the animal waste storage was installed or closed as planned. A copy of the certification sheet shall be given to the LCD within one (1) month of completion of installation, alteration or closure. Any approved changes made to the design shall be specified in the certification. LCD personnel may conduct site inspections during and following construction to determine that the facility was installed, altered or closed as planned and designed. (Ord. No. 2012-24, 6-26-12)

**Sec. 20-1712. - Permit revocation.**

The LCD may revoke the permit issued under this article if the holder of the permit has misrepresented any material fact in the permit application or plans, or if the holder of the permit violates any conditions of the permit.

(Ord. No. 2012-24, 6-26-12)

**Sec. 20-1713. - Delegation of authority.**

The county board hereby designates the county land conservation division to administer and enforce this article.

(Ord. No. 2012-24, 6-26-12)

**Sec. 20-1714. - Administrative duties.**

In the administration and enforcement of this article, the LCD shall:

- (1) Keep an accurate record of all permit applications, animal waste facility plans, nutrient management plans, alteration plans, closure plans, extensions issued and other official actions.
- (2) Review permit applications and issue permits in accordance with sections 20-1710—20-1712.
- (3) Periodically inspect animal waste storage facility construction to insure the facility is being constructed, altered or closed according to plan specifications.
- (4) Investigate complaints relating to compliance with this article.
- (5) Perform other duties as specified in this article.

(Ord. No. 2012-24, 6-26-12)

**Sec. 20-1715. - Inspection authority.**

The LCD is authorized to enter upon any lands affected by this article to inspect the land prior to or after permit issuance to determine compliance with this article. If permission cannot be received from the applicant or permittee, entry shall be according to W.S.A., § 66.0119. Refusal to grant permission to enter lands affected by this article for purposes of inspection may be grounds for denial of a permit or revocation thereof.

(Ord. No. 2012-24, 6-26-12)

**Sec. 20-1716. - Enforcement authority.**

The LCD is authorized to post an order stopping work upon land that has had a permit revoked or on land currently undergoing activity in violation of this article. Notice is given by both posting

upon the land where the violation occurs one or more copies of a poster stating the violation, and by mailing a copy of the order by certified mail to the person whose activity is in violation of this article. The order shall specify that the activity must cease or be brought into compliance.

Any permit revocation or order stopping work shall remain in effect until retracted by the LCD, or by a court of general jurisdiction. The LCD is authorized to refer any violation of this article or of an order stopping work issued pursuant to this article, to the county corporation counsel for commencement of further legal proceedings.

#### **Sec. 20-1717. - Violations.**

- (a) *Penalties.* Any person who violates, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this article shall be subject to a forfeiture of not less than two hundred dollars (\$200.00) and costs of prosecution for each violation. An unlawful violation includes failure to comply with any standard of this article or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense.
- (b) *Enforcement by injunction.* As a substitute for or an addition to forfeiture actions, the county may seek enforcement of any part of this article by court actions seeking injunctions or restraining orders.
- (Ord. No. 2012-24, 6-26-12)

#### **Sec. 20-1718. - Appeals.**

Under the authority of W.S.A., ch. 68, the county land conservation committee, created under W.S.A., § 59.878, and acting as an appeal authority under W.S.A., § 68.09(2), is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination by the LCD in administering this article.

(Ord. No. 2012-24, 6-26-12)

#### **Sec. 20-1719. - Procedure.**

The rules, procedures, duties, and powers of the LCC and provisions of W.S.A., ch. 68, shall apply to this article.

(Ord. No. 2012-24, 6-26-12)

#### **Sec. 20-1720. - Who may appeal.**

Appeals may be taken by any person having a substantial interest which is adversely affected by the order, requirement, decision, or determination made by the LCD.

(Ord. No. 2012-24, 6-26-12)

#### **Sec. 20-1721. - Variances.**

The LCC may upon appeal authorize a variance from the requirements of this article. The granting of a variance shall:

- (1) Be consistent with the spirit and purpose of this chapter as stated in section 20-1704.

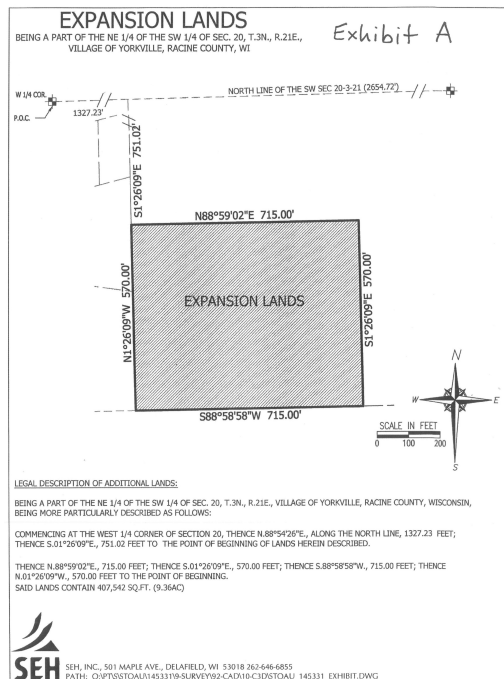
- (2) Not permit an activity or practice that may fail structurally or otherwise and cause significant water pollution or other offsite impacts.
- (3) Be due to unique circumstances and not to the general conditions of the area.
- (4) Not be granted unless it is shown that the variance will not be contrary to the public interest and will not be damaging to the rights of other persons.
- (5) Not be granted solely on the basis of economic gain or loss.
- (6) Not be granted solely on the fact that certain conditions existed prior to the effective date of the ordinance from which this article is derived.

The LCC may consider decisions made by the LCD, in accordance with local ordinance provisions, when making its determination whether to accept or deny the variance. (Ord. No. 2012-24, 6-26-12)

**Sec. 55-3. Zoning Map.**

The Village Board, having adopted the Racine County Zoning Code as existing at the time of adoption of Village Ordinance 2018-04, has as its official Zoning Map those maps and districts referenced in Section 20-212 of the Racine County Zoning Code. Zoning Map amendments going forward shall be determined by the Village Board for the Village of Yorkville. The following amendments have been approved by the Village:

- (a) The land comprising a 9.36-acre section of Tax Parcel #018-03-21-20-040-000 is rezoned from A-2 General Farming and Residential District II to B-3 Commercial Service District, located at 18917 Spring Street (CTH C), Village of Yorkville, Racine County, Wisconsin, as depicted on Exhibit A.



- (b) The land comprising tax parcels ID # 018-03-21-01-019-000 and ID # 018-03-21-01-020-000 from A-2 General Farming and Residential District II to M-3 Heavy Industrial District, located at 2232 North Sylvania Avenue and the vacant parcel immediately South of this parcel, Village of Yorkville, Racine County, Wisconsin, as depicted on Exhibit A.

