

## **CHAPTER 3**

### **GENERAL LAND USE REGULATIONS**

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## **ZN 3.01 GENERAL PROVISIONS.**

### **(1) INTRODUCTION.**

The proper regulation of the use of certain structures, lands and waters, only through the use of the zoning districts contained within this Ordinance is neither feasible nor adequate. Therefore, the following regulations, which shall be applied in addition to the district regulations, are necessary to accomplish the intent of this Ordinance.

### **(2) COMPLIANCE.**

No structure, land, water, or air shall hereafter be used or developed and no structure or part thereof shall hereafter be located, erected, moved, placed, reconstructed, extended, enlarged, converted, demolished, or structurally altered without full compliance with the provisions of this Ordinance and all other applicable local, county and state regulations.

## **ZN 3.02 USE REGULATIONS.**

### **(1) USES ALLOWED.**

Only the following uses, structures and their essential services shall be allowed in any district:

- (a) Principal uses and structures specified for a district and permitted as a matter of right.
- (b) Accessory uses and structures are permitted as a matter of right in any district but not until their principal structure is present or under construction. Uses accessory to residential district developments shall not involve the conduct of any business, trade or industry except as may be provided in Section ZN 3.03(1) and (2) of this Ordinance. No accessory structure shall be occupied as a separate dwelling unit. Accessory uses and structures are further regulated by Section ZN 3.02(2) of this Ordinance.
- (c) Conditional uses, as defined in Section ZN 5.03(1) and their accessory uses may be permitted only in specified districts after review, public hearing and approval by the Village Board in accordance with procedures and standards established in this Ordinance.
- (d) Stipulated Shoreland Uses, as may be provided for Section ZN 3.10 of this Ordinance.
- (e) Temporary uses and structures, as may be provided for under this Ordinance.

### **(2) SITE PLAN REVIEW.**

- (a) Purpose and Intent. The purpose of this section is to provide an integrated approach toward site and building development and a process to review and approve Site Plans for land uses which are subject to a Zoning Permit for any principal use or conditional use in any district except the A-1, A-2 and A-4 agricultural districts, the R-1, R-2, R-3, R-4, R-5, R-6, R-7 and R-8 residential districts. The intent is to promote compatible development, stability of property values, and to prevent impairment or depreciation of property values of development, changes or additions to existing structures and redevelopment.

(b) Process and Submittals. The Department of Planning and shall review and approve the following plans as applicable:

- 1 Building Plan
- 2 Site Plan
- 3 Parking Plan
- 4 Landscape Plan
- 5 Lighting Plan (including photometric)
- 6 Stormwater Management Plan
- 7 Utility Plan
- 8 Traffic Impact Analysis (TIA) Plan
- 9 Natural Resources Protection Plan

Such plans are necessary to identify existing and proposed structures, architectural plans, building construction plans, neighboring uses, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewerage and water systems, location and type of lighting, type, size and location of signs, utilization of landscaping and open space, emergency vehicle accessibility, and the proposed operation for all development classified as a principal or accessory use.

(c) Standards and Principles. The following principals are established to implement and define the purpose and intents set forth above.

- 1 Building Design and Architecture. No building shall be permitted in which the design or exterior appearance is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards is so identical with those adjoining as to create excessive monotony or drabness.

Buildings shall avoid a "box like" appearance having horizontal and vertical articulation. Integration of features like cornices, staggered parapet walls, wall offsets, recessed or extended windows and entries, covered arcades or similar design elements shall be used. Building additions shall be designed to be consistent with the existing building(s) in conjunction with the principles of this section.

- 2 Building Facades. No building shall be permitted where any exposed facade is not constructed or faced with a finished material which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties by a mixture of materials, banding, textures and colors. Buildings shall have

four-sided architecture.

- 3 Building Materials. A minimum of fifty (50%) percent of a facade facing an existing or future street or a facade that is visible by the general public shall be finished with a combination of windows, brick, native or manufactured stone, textured concrete block, decorative masonry material or decorative precast concrete panels. Smooth face concrete block is only permitted as an accent band. Additions to existing buildings shall be permitted to maintain the appearance and materials of the existing facade so as to maintain a consistent appearance.
- 4 Building Scale and Mass. The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.
- 5 Building Rooflines and Roof Shapes. The visual continuity of roofs and their contributing elements (parapet walls, coping, and cornices) shall be maintained in building development and redevelopment.
- 6 Equipment and Mechanicals. Roof-mounted equipment and mechanicals shall be screened from public view, when viewed from grade level as measured from the lot lines and abutting street centerlines, in a manner matching the architecture style and materials of the building. A professional line-of-sight study may be required verifying this provision. Roof-mounted equipment and mechanicals added to an existing building shall comply with this provision. Roof drains, leaders and downspouts shall be integrated into the exterior design of the building.

Ground equipment and mechanicals shall be screened from public view with a combination of solid fencing or walls and landscaping as deemed appropriate.
- 7 Colors. Since the selection of building colors has a significant impact upon the public and neighboring properties, color shall be selected in general harmony with existing neighborhood buildings.
  - a Frequent changes in material or color shall be avoided.
  - b The use of bold, primary colors should not be used for building facades except for accent elements.
  - c The use of bright colors, including, but not limited to, fluorescent, "hot" and "dayglow" colors is prohibited.
- 8 Location and Orientation. No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area, or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining

properties.

- 9 Erosion Control and Stormwater. Appropriate erosion control and stormwater management measures shall be utilized in all new development. Buildings and uses shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. Stormwater management ponds and open drainage ways shall be designed to be visual amenities. The Department of Planning and Development or the Plan Commission may require that drainage easements be executed.
  - 10 Traffic Circulation. Buildings and uses shall provide for safe traffic circulation and safe driveway locations. Clear and identifiable patterns of circulation shall be designed to minimize conflicts between pedestrian, automobile and truck traffic.
  - 11 Site Access and Parking. Buildings and uses shall provide adequate parking and loading areas. No loading dock or overhead doors shall face upon a street right-of-way without approval of the Department of Planning and Development. Site cross-access lanes and associated easements shall be provided where deemed necessary by the Department of Planning and Development and shall be a minimum of twenty-four (24) feet wide. Subject to the requirements as set forth in Section ZN 3.06 Dimensions of Parking and Section ZN 3.06(3) Parking Requirements.
  - 12 Public Services and Utilities. Buildings and uses shall be provided with adequate public services as approved by the appropriate utility.
  - 13 Lighting. Subject to the requirements as set forth in Section ZN 3.18(1).
  - 14 Buffers and Screening. Appropriate buffers shall be provided between dissimilar uses. Dumpsters and other trash receptacles shall be screened from view with solid fencing or walls as deemed appropriate by the Department of Planning and Development.
  - 15 Landscaping and Open Space. Buildings and uses shall make appropriate use of open spaces. Subject to the requirements as set forth in Section ZN 3.19. The development applicant shall commit, in writing, to maintain all required landscaping.
- (d) Appeals. Any person or persons aggrieved by any decisions of the Zoning Director related to plan review may appeal the decision to the Zoning Board of Review pursuant to Section ZN 7.02 of this Ordinance.

### **ZN 3.03 HOME OCCUPATIONS AND PROFESSIONAL HOME OFFICES.**

#### **(1) REQUIREMENTS.**

Customary home occupations and professional home offices may be established in a dwelling or accessory buildings only in those districts which provide for such home occupations and professions. In such districts, the following requirements shall apply, in addition to all other applicable requirements of this Ordinance for the districts in which such uses are located:

- (a) The home occupation or profession shall be clearly incidental to the residential use of the dwelling and parcel and shall not change the essential residential character of the dwelling and parcel so that a typical neighbor would not be aware of such use other than for a permitted sign.
- (b) Use of the dwelling and parcel for this purpose shall be limited to twenty-five (25%) percent of one (1) floor of either the dwelling or an accessory building.
- (c) No accessory buildings shall be used in connection with the home occupation except as provided in section (b).
- (d) No outside storage shall be used in connection with the home occupation.
- (e) No chemical, mechanical or electrical equipment that is not normally a part of domestic or household equipment shall be used primarily for commercial purposes, with the exception of medical or dental equipment used for professional purposes.
- (f) Machinery that causes noises or other interference in radio or television reception shall be prohibited.
- (g) No internal or external alterations inconsistent with the residential use of the building shall be permitted.
- (h) Residents of the dwelling only may be engaged in the home occupation. In the case of professional offices, no more than one (1) non-resident may be employed on the premises.
- (i) No display of products shall be visible from the street and only articles made on the premises may be sold on the premises.
- (j) Instruction in music, dancing and similar subjects shall be limited to two (2) students at a time.
- (k) No more than three (3) vehicles used primarily as passenger vehicles only shall be permitted in connection with the conduct of the customary home occupation.
- (l) Signs shall be subject to regulations in Section ZN 3.07(1) through Section ZN 3.07(8), specifically Section ZN 3.07(5) of this Ordinance.
- (m) Subject to the issuance of a Certificate of Compliance as set forth in Section ZN 2.02(5) of this Ordinance.

(2) **PERMITTED AND PROHIBITED HOME OCCUPATIONS.**

- (a) Examples of permitted home occupations include, but are not limited to:

- 1 Artist Studio
- 2 Computer services including desk top publishing and word processing

- 3 Dressmaker or seamstress
- 4 Family day care with eight (8) or fewer children or adults
- 5 Gunsmith for service and repair of firearms licensed by the Bureau of Alcohol, Tobacco and Firearms, provided no discharging, loading of bullets, preparation of ammunition, sale, trade, lease or rental of firearms and/or ammunition takes place within the premises
- 6 Offices for construction businesses (no equipment or material storage)
- 7 Office for accountant, architect, attorney, broker, engineer, financial advisor, insurance agent, interior designer, land surveyor, marking analyst, telemarketing or transcriber
- 8 Taxidermy

(b) Examples of prohibited home occupations include, but are not limited to:

- 1 Auto body repair or maintenance
- 2 Auto or small engine repair or maintenance
- 3 Catering and food services
- 4 Construction and contractors' services
- 5 Firearms and/or ammunition sales, trade, lease or rental
- 6 Landscaping and lawn services
- 7 Tattoo and body piercing
- 8 Tree services
- 9 Welding and machining

### **ZN 3.04 SITE REGULATIONS.**

(1) **STRUCTURES PER LOT; PUBLIC ACCESS.**

All structures shall be located on a lot; and, except as otherwise provided in this Ordinance, in the A-1, A-2, A-4, R-1, R-2, R-3, R-4, R-4.5, R-5, R-6, R-7, R-8 and C-2 districts, only one (1) principal structure shall be located, erected or moved onto a lot. The number, size and type of accessory structures shall be governed as specified in each district and Section ZN 3.14 of this Ordinance. All lots shall abut upon a public street, easement of record or other officially approved means of access and no zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.

**(2) SANITARY WIDTH REQUIREMENTS.**

Except as provided for in Section ZN 3.04(3), lots serviced by a public sanitary sewer system shall have a minimum frontage of seventy-five (75) feet in width at the front lot line except in the R-6 Urban Single-Family Residential District and the R-12 Mobile Home District, and except as provided for in Section ZN 3.04(3) the width of all lots located on land with soils suitable for the use of an on-site soil absorption sewage disposal system shall not be less than one hundred-fifty (150) feet and the area of all such lots shall not be less than forty thousand (40,000) square feet per dwelling unit to be constructed on the lot. Such on-site soil absorption sewage disposal systems shall be designated in accordance with all state and local laws, regulations and ordinances. On-site sewage disposal absorption systems shall be located on the same parcel of land as the building or buildings which are serviced by it.

**(3) LOTS ABUTTING CUL-DE-SACS.**

All lots abutting cul-de-sacs and curves may reduce the frontage on a public street or other officially approved means of access as outlined in each district ONLY.

**(4) MULTIPLE DISTRICT LOTS.**

Any lot or parcel containing more than one (1) zoning district shall be considered to be entirely within the least restrictive district as defined in this Ordinance provided, however, that in no case shall a district boundary be relocated a distance greater than seventy-five (75) feet.

**(5) STORAGE AND DISCHARGE PROHIBITED.**

No waste material such as garbage, rubbish, gasoline, fuel oil, flammables, soils, tars, chemicals, greases, industrial or agricultural waste, or any other materials of such nature, quantity, obnoxiousness, toxicity, or temperature so as to contaminate, pollute, or harm the waters shall be so located, stored, or discharged in a way that would be likely to run off, seep, or wash into surface or ground waters. Nor shall any such material be allowed to accumulate on any lot of record so as to be unsightly, dangerous or so as to constitute a nuisance. No gasoline storage tanks shall be permitted in a residential district and no more than two (2) cords of firewood may be stored on any parcel located in the R-2 through R-12 Districts.

**(6) HOLDING TANKS.**

The use of holding tanks shall be regulated by the Kenosha County Sanitary Ordinance. In the case of conflict between this Ordinance and the Sanitary Ordinance, the Sanitary Ordinance shall control.

**(7) REDUCTION OR JOINT USE.**

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

**(8) LOTS ABUTTING MORE RESTRICTIVE DISTRICTS.**

Lots which abut upon more restrictive districts shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yard on the less restrictive district shall be modified for a distance of not more than seventy-five (75) feet from the district boundary line so as to equal the average of the street yards required in each district.

**(9) BACKLOT DEVELOPMENT PROHIBITED.**

Backlot development or lake lot pyramiding on lakes is prohibited. Lots abutting a lake which is zoned for single-family residential development shall be used on a continuing basis for only one (1) family. The purchase of a single lot or outlot abutting a lake shall not be used as access for subdivisions and other developments located away from the lake.

### **ZN 3.05 PERFORMANCE STANDARDS.**

**(1) INTENT.**

It is the intent of the Village Board of Trustees that the following performance standards designed to limit, restrict and prohibit the effects of those uses outside of their premises or district be imposed upon all parcels falling within the jurisdiction of this Ordinance so as to protect the quality of the environment, the safety and health of the citizens of the Village of Somers, and to alleviate, and where possible, eliminate nuisances. It is the further intent of the Village Board of Trustees that all structures, lands, air and waters shall hereafter, in addition to their use, site, shoreland and sanitary regulations, comply with the following performance standards, and all applicable standards set forth by the Wisconsin Department of Industry, Labor and Human Relations, Wisconsin Department of Natural Resources, and the Wisconsin Administrative Code.

**(2) PROCEDURE.**

- (a) Prior to construction and operation. Any application for a permit under this Ordinance or any use subject to the regulations and standards set forth herein shall be accompanied by a sworn statement by the owner of the subject property that said property and use will be operated in accordance with the performance standards hereinafter set forth.
- (b) Continued compliance. Continued compliance with the regulations and standards heretofore set forth in this section is required and enforcement of such continued compliance with these regulations and standards shall be a duty of the Department of Planning and Development.
- (c) Determination of violation. The Department of Planning and Development shall investigate any reported violation of the hereinafter noted regulations and standards and, if there is reasonable grounds for the same, shall proceed in accordance with paragraph (d) below and Section ZN 6.02 of this Ordinance.
- (d) Termination of violation. All violations, as ascertained in accordance with paragraph (c) above shall be terminated within thirty (30) days after notice of such violation and in the event that said violation is not terminated, it shall be deemed a separate violation for each date of its existence and subject to fines as set forth in this Ordinance, except that certain uses established before the effective date of this Ordinance and non-conforming as to the regulations and standards hereinafter set forth shall be given not more than one hundred eighty (180) days in which to conform therewith after the determination of the existence of such violation and in the event said violation is not terminated, it shall be deemed a separate violation for each day it existed since the effective date of this Ordinance.

**(3) REGULATION OF NUISANCE ELEMENTS.**

- (a) No land or building in any district shall be operated in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; water pollution; electrical, radioactive or other disturbances; glare; or other substance, condition or element (referred to herein as "dangerous or objectionable elements") in such amount as to adversely affect the surrounding area or premises; provided that any use permitted by this Ordinance may be undertaken and maintained if it conforms to the regulations of this subsection limiting dangerous and objectionable elements at the specified point or points of the determination of their existence.
- (b) The determination of the existence of any dangerous and objectionable elements shall be made at:
  - 1 The point or points where such elements shall be most apparent for fire and explosion hazards, for radioactivity and electrical disturbances, for smoke and other forms of air pollution.
  - 2 The property lines of the use creating such elements for noise, vibration, glare and odors.

**(4) PERFORMANCE STANDARDS TO BE ENFORCED.**

- (a) Air pollution. No activity shall emit any fly ash, dust, fumes, vapors, smoke, mists or gases in such quantities as to cause soiling or danger to the health of person, animals, vegetation or other forms of property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas nor any color visible smoke equal to or darker than number two (2) on the Ringleman Chart described in Wis. Admin. Code §NR 431 and NR 439 and amendments thereto.
- (b) Electrical, radioactive or other disturbances. No activity shall emit electrical, radioactive or other disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises. All applicable federal and state regulations shall be complied with.
- (c) Fire and explosive hazards. All activities involving the manufacturing, utilization, processing or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion with adequate firefighting and fire suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The above ground storage capacity of materials that produce flammable or explosive vapors shall not exceed the following:

<u>Closed Cup Flash Point</u>	<u>Gallons</u>
Over 187°F	400,000
105°F to 187°F	200,000
Below 105°F	100,000

- (d) Glare and heat. No activity shall emit glare or heat that is visible or measurable at the boundaries of the lot on which the principle use is located. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.
  
- (e) Noise. At the points of measurement specified in Section ZN 3.05(3)(b)2, the maximum sound pressure level radiated in each standard octave band by any use or facility (other than transportation facilities or temporary construction work) shall not exceed the values for octave bands lying within the several frequency limits given in Table I after applying the corrections shown in Table II. The sound pressure level shall be measured with a Sound Level Meter and associated Octave Band Analyzer conforming to standards prescribed by the American Standards Association, Inc., New York, N.Y. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, 224.3-1944, American Standards Association, Inc., New York, N.Y., and American Standard Specification for an Octave-Band Filter Set for the Analysis of Noise and Other Sounds, 224.10-1953, or latest approved revision thereof, American Standards Association, Inc., New York, N.Y. shall be used.)

Table I

Frequency Containing Standard Octave Bands in <u>Cycles Per Second</u>	Octave Bank Sound Pressure Level of Decibels <u>Re 0.0002 dyne/cm</u>
20-75	65
75-150	55
150-300	50
300-600	45
600-1200	40
1200-2400	40
Above 2400	35

If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m. one (1) or more of the corrections in Table II shall be applied to the octave band levels given in Table I.

Table II

Type of Location of Operation or Character of Noise	Correction In Decibels
1. Daytime operation only	5
2. Noise source operates less than	*
a. 20% of any 1 hour period	5
b. 5% of any 1 hour period	10
3. Noise of impulsive character (hammering, etc)	-5
4. Noise of periodic character (hum, screech, etc)	-5
5. Property is located in any M-District and is not within 20 feet of any R-District	10

\*Apply one of these corrections only

(f) Odors. Except in the A-1, A-2 and A-4 Districts, no activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside their premises. The guide for determining odor measurement and control shall be Wis. Admin. Code §NR 129 and amendments thereto.

(g) Erodible land regulations. In addition to any other applicable use, site or sanitary regulation, the following organic and sandy soils listed below and any other soils having an erosion factor of three (3) shall not be used for crop production or grazing unless such lands make use of contour cropping practices or strip cropping practices or crop terraces.

133 - BmB, BmC2	416 - Ry
316 - BmB, BmC2	417 - CrD2, CrE
359 - MxD2	419 - SfB
414 - BmB, BmC2	451 - Ht

(h) Soil capability regulations. In addition to any other applicable use, site, or sanitary regulation, the following restrictions or regulations shall apply to the following soils as shown on the Operational Soil Survey Maps prepared by the USDA Natural Resources Conservation Service for the Southeastern Wisconsin Regional Planning Commission and which are on file with the Department of Planning and Development;

Because of their erodibility and very low agricultural capabilities, tillage is permitted on the following rough, broken, sandy, stony or escarpment soils only when conducted in accordance with sound soil conservation practices and after review by the Natural Resources Conservation Service:

75 - CcB, CrC, CrD2, CrE	417 - CrD2, CrE
282 - CeB, CrC, CrD2, CrE	419 - SfB
416 - Ry	

Farm drainage systems may be installed on the following soils, which soils are subject to a flooding hazard and which have generally unsuitable soil characteristics for an operative drainage system, only if installed in accordance with sound soil conservation practices and after review by the Natural Resources Conservation Service:

4 - Mf	11 - Am
5W - Sg	11W - Ww
7 - Dh	54 - Lp
10 - Am	419 - SfB
10W - Ww	452 - Ac

Because of very severe limitations for pasturing, grazing is permitted on the following soils when conducted in accordance with sound soil conservation practices and after review by the Natural Resources Conservation Service:

4 - Mf	419 - SfB
416 - Ry	462 - Ht

- (i) Steep land regulations. In addition to any other applicable use, site, shoreland, or sanitary regulation, the following restrictions and regulations shall apply to all lands having slopes of twelve (12%) percent or greater (see illustration #1) as shown on the Operational Soil Survey Maps prepared by the USDA Natural Resources Conservation Service in cooperation with the Southeastern Wisconsin Regional Planning Commission and which are on file with the Department of Planning and Development:
- 1 Tillage and grazing of lands with slopes of twelve (12%) percent or greater shall be permitted only if such tilling and grazing make use of contour cropping practices, strip cropping practices or cropping terraces. Spreading the manure or fertilizer on frozen ground and establishment of feed lots shall be prohibited when such practice would cause direct run off of pollutants into a drainage way or water course.
  - 2 Tree cutting and shrubbery clearing for the purpose of changing land use from wildlife or wood lot management on lands with slopes of twelve (12%) percent or greater shall be conducted so as to minimize erosion and sedimentation and promote the preservation of scenic beauty.
- (j) Vibrations. No activity in any district except the M-1, M-2 and M-3 districts shall emit vibrations which are discernible without instruments outside its premises. No activity in the M-1, M-2 or M-3 districts shall emit vibrations which exceed the following displacement measured with a 3-component measuring system:

Frequency (Cycles per Second)	Displacement (Inches)	
	Outside the Premises	Outside the District
0 to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and over	.0002	.0001

(k) Water quality protection.

- 1 No activity shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that would be likely to run off, seep, percolate or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness or be harmful to human, animal, plant or aquatic life.
- 2 In addition, no activity shall discharge any liquid, gaseous or solid materials so as to exceed or contribute toward the exceeding of the minimum standards and those other standards and the application of those standards set forth in Wis. Admin. Code §NR 102 and amendments thereto for all navigable waters in the Village.

**ZN 3.06 TRAFFIC, PARKING AND ACCESS.**

(1) **TRAFFIC VISIBILITY** (Vision Triangle).

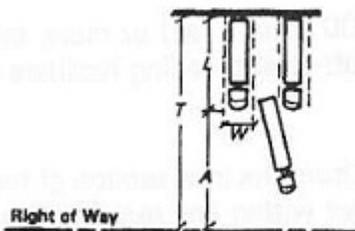
- (a) No obstructions, such as structures, fences, parking or vegetation shall be permitted in any business, manufacturing or institutional district between the heights of two (2) feet and ten (10) feet above the plane through the centerline of the road within the triangular space formed by any two (2) 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 the road right-of-way. (See illustration No. 2).
- (b) In the case of any federal, state or county highway or town road intersection with any other federal, state or county highway or town road or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

(2) **OFF-STREET LOADING STANDARD.**

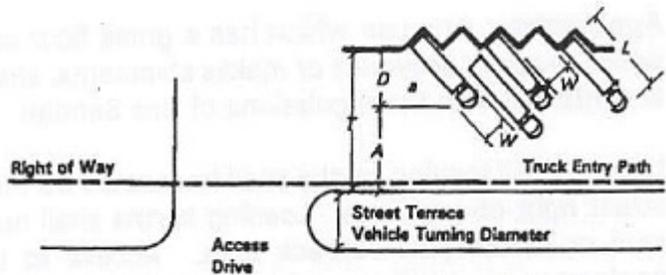
- (a) Purpose. The purpose of this section is to prevent congestion of public rights-of-way and private lots so as to promote the safety and general welfare of the public by establishing minimum requirements for the provision of loading facilities on various sites.
- (b) Applicability. Any use which has a gross floor area of six thousand (6,000) square feet or more and which requires deliveries or makes shipments, shall provide off-street loading facilities in accordance with the regulations of this section.
- (c) Location. Loading berths shall not face upon any public right-of-way without approval by the Department of Planning and Development. If approval is obtained, a twenty (20) foot landscape buffer shall be required. Access to the loading berth shall be located in conformance with the table below. All loading areas shall be located on private lands and shall not be located within, or so as to interfere with, any public right-of-way.
- (d) Size of Loading Area. All required loading berths shall have a minimum vertical clearance of fourteen (14) feet. The following standards shall be the minimum used to design loading areas:

Loading Standards						
Design Vehicle	Length in Feet (L)	Dock Angle (a)	Clearance in Feet (D)	Berth Width in Feet (W)	Apron Space in Feet (A)	Total Offset in Feet (T)
WB-40	50	90°	50	10	63	113
				12	63	113
				14	63	113
		60°	44	10	46	90
				12	40	84
				14	35	79
		45°	36	10	37	73
				12	32	68
				14	29	65
WB-50	55	90°	55	10	77	132
				12	77	132
				14	77	132
		60°	48	10	55	103
				12	51	99
				14	46	94
		45°	39	10	45	84
				12	40	79
				14	37	76

**90 DEGREE DOCKS**



**SAWTOOTH DOCKS**



- (e) Access to Loading Area. Each loading berth shall be located so as to facilitate access to a public street or alley, and shall not interfere with other vehicular or pedestrian traffic, and shall not interfere with the function of parking areas. In no instance shall loading areas rely on backing movements into public right-of-way.
- (f) Surfacing and Marking. All required loading areas shall be paved and maintained in a dust free condition at all times. Said surface shall be marked in a manner which clearly indicates required loading areas.
- (g) Use of Required Loading Areas. The use of all required loading areas shall be limited to the loading and unloading of vehicles. Said area shall not be used to provide minimum required parking spaces.
- (h) Lighting. All loading areas shall be lit so as to comply with Section ZN 3.05 Exterior Lighting Standards.
- (i) Signage. All signage located within, or related to, loading areas shall comply with the requirements of Section ZN 3.07 Signs and the requirements of Section ZN 3.02(2) Site Plan Review.
- (j) Screening. All loading areas shall be screened from public view by use of architectural walls, fences, berms, and/or landscaping. The method of screening shall be reviewed and approved by the Department of Planning and Development.
- (k) Depiction on Required Site Plan. Any and all required loading areas proposed to be located on the property being developed or redeveloped shall be depicted as to their location and configuration on the site plan required for the development of the property.
- (l) Loading Requirements.
  - 1 In all districts adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public rights-of-way and so that all vehicles need not back onto any public rights-of-way.
  - 2 On every lot on which a business, trade, or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way.
    - a Businesses. One (1) space of at least 10 x 25 feet for each three thousand (3,000) square feet of floor area or part thereof.
    - b Wholesale and Industrial. One (1) space of at least 10x50 feet for each ten thousand (10,000) square feet of floor area or part thereof.
    - c Bus and Truck Terminals. Sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loaded or unloaded at the terminal at any one time.

(3) **PARKING REQUIREMENTS.**

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 following:

(a) Number of Off-Street Parking Stalls.

**Residential Uses**

Single-Family dwellings including manufactured and mobile homes	2 spaces per dwelling
Two-Family Dwellings	4 spaces for each bldg.
Multiple-Family Dwellings	2 spaces for one and two-bedroom units; 2.5 spaces for three or more bedroom units; plus one space for every eight units for guest parking
Assisted Living Arrangements/Community Based Residential Facilities	1 space for each six patient beds, plus 1 space for each employee on the largest shift, plus 1 space per staff member and visiting doctor

<b><u>Commercial Uses</u></b>	<b><u>1 Space/Sq. Ft.</u></b>	<b><u>Space/Employee</u></b>	<b><u>Special Criteria</u></b>
Automatic Teller Machine			2 per machine
Auto Part Store	400	Largest work shift	
Automotive Body Repair or Service	250	Full-time employee	2 per service bay
Automobile Sales or Rental, Farm Equipment Sales or Service	100		1 per 500 outdoor display area
Bank/Financial Institutions	300		6 stacking/drive-up

Brew/Tavern/Coffee Shop	100	Largest work shift (2)	
Barber/Beauty Shop		Full-time employee (2)	1 per chair
Bed and Breakfast		2/owner or operator	1 per bedroom rented
Bookstore	300	Full-time employee	
Car Wash (self-serve)		2 per bay	2 stacking for each bay
Car Wash (automatic)		1 per bay	5 stacking before & 2 stacking after each bay
Contractors Yard	1,000		1 per company vehicle
Convenience Store	200		
Day Care Center		Largest work shift	1 for every six children & 14' safety zone
Physical Fitness Facilities	100	Largest work shift	
Funeral Home	500		
Garden Centers, including Greenhouse or Nursery	200	Largest work shift	2 for each 3 employees
Gas Station/No Store		Largest work shift	No less than 3
Gas Station/Store	200	Largest work shift	
Gas Station/Store & Restaurant	150	Largest work shift	8 stacking
Greenhouse or Nursery	150		1 per 500 outside sales & display area
Grocery/Retail Store	200 (<50,000) 250 (50,000-100,000)		
Hotel/Motel		Largest work shift	1 per guest room

Medical, Dental and Other Professional Health Service Offices	250		
Night Club	400		
Professional Offices	400		
Restaurant, Standard	100	Largest work shift	1 per 3 seats at maximum capacity
Restaurant, Drive-in or Fast Food	50	Largest work shift	8 stacking & no <50 for drive-in
Restaurant, Pick-up/ Takeout	50	Largest work shift	No fewer than 8 spaces
Self-Storage/Mini-Warehouse		Full-time employee	1 per 10 storage units
Department Stores/ Shopping Centers	200 (<50,000) 250 (50,000-1,000,000) 300 (>1,000,000)		
Veterinary Clinic		Full-time employee	4 per doctor
Zoo/Botanical Gardens	2,000 lot area		

**Industrial Uses**

**Space/Sq. Ft.**

**Space/Employee**

**Special Criteria**

Contractors Yard	1,000		1 per fleet vehicle
Manufacturing		Largest work shift	plus 5
Warehousing/Distribution Center	2,000	Full-time employee (2)	

**Institutional Uses**

Administrative Government Center	300		
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Cemetery		Full-time employee	
Colleges & High Schools		Largest work shift	1 per 5 students
Elementary & Junior High Schools		Largest work shift	1 per 2 classrooms
Hospitals/Nursing Homes		Largest work shift	1 per bed & 1 per 5 outpatients
Libraries, Museums and Gallery	400		
Sororities/Dorms/Boarding House			1 per bed
Worship Facility		Largest work shift	1 per every 4 seats
<b><u>Recreation and Entertainment</u></b>	<b><u>Space/Sq. Ft.</u></b>	<b><u>Space/Employee</u></b>	<b><u>Special Criteria</u></b>
Amusement Center, Arcades, Aquariums, Banquet Halls, Exhibition Halls			1 space per 3 person at maximum capacity
Athletic Field			10 per field
Bowling Alley		Full-time employee	5 per bowling lane
Golf Course		Largest work shift (2)	3 per hole
Golf Driving Range			2 per tee
Indoor Shooting Range		Full-time employee	1 per shooting lane
Marina			1.5 per boat slip
Miniature Golf Course		Largest work shift	1 per hole

Park/Recreation Areas/ Community Centers	Full-time employee (2)	TBD by P&D
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Skating Rinks/Swimming Pools	Full-time employee (2)	1 per 3 persons based on maximum capacity
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**Uses Not Listed**

Provisions for a similar  
use shall apply as  
approved by P&D

- (b) Handicap Parking Requirements. In addition to any other requirements relating to parking spaces contained in this Ordinance, Wis. Admin. Code §346.503 sections adopted pursuant thereto, are hereby adopted by reference and are made applicable to all parking facilities whenever constructed.
- (c) Uses Not Listed. In the case of structures or uses not listed, the provisions for a use which is similar shall apply as determined by Planning & Development.
- (d) Adjustments to Number of Required Parking. In all commercial, institutional, residential, and industrial districts, the minimum number of required parking spaces may be adjusted by the Department of Planning & Development on a case-by-case basis. The petition for such adjustment shall show that adequate parking will be provided for customers, clients, visitors, and employees. The following provisions and factors shall be used as a basis to adjust parking requirements:
  - 1 Evidence, such as peak versus off-peak demand, those actual parking demands will be less than the ordinance requirements. The petitioner shall submit written documentation that the operation will require less parking than the ordinance requires.
  - 2 Availability of shared parking. The petitioner shall submit written documentation that shared parking spaces are available to satisfy the parking demand on either the same or an adjacent parcel.
    - a Shared parking agreements shall provide evidence that either parking lots are large enough to accommodate multiple users or that parking spaces will be shared at certain times of the day (i.e. a church uses parking on Sundays, when other businesses are closed).
  - 3 Space set aside for reduced parking. The site plan for proposed use shall be designed to provide sufficient open space on the subject site to accommodate the additional parking spaces otherwise required by this Ordinance. The open space shall be provided which, if converted to parking spaces, would provide off-street parking to meet the full requirements of this Ordinance along with all related open space requirements,

stormwater management standards, and any other code regulation or adopted standards.

- 4 Changes in occupancy or use. When the use of a building, structure, or land is changed to another use or occupant that requires more parking spaces than required for the use existing immediately prior to such change, additional parking spaces shall be constructed for the new use or occupant in the amount necessary to conform to this Ordinance.
  - 5 Changes in intensity of use. When the intensity of use of a building, structure or land is increased by an addition of employees, gross floor area, seating capacity, or other unit of measurement, additional parking spaces shall be constructed for such additions in the amount necessary to conform to this Ordinance.
- (e) Combinations of uses. Combinations of any of the above uses shall provide the total of the number of spaces required for each individual use.
  - (f) Interconnecting Parking Lots. Interconnecting parking lots may be required to promote safe and controlled access points. All required setbacks shall apply. The connecting aisles shall have a maximum width of twenty-four (24) feet. A cross access easement agreement, including a legal description, specific use and maintenance responsibilities, shall be approved by the Department of Planning & Development and recorded in the Register of Deeds Office.
  - (g) Adequate Access. Adequate access to a public or private roadway shall be provided for each parking space. Driveways for all single-family and two-family residential uses shall be a minimum of ten (10) feet in width and not exceed twenty-four (24) feet at the property line. For all other properties, vehicular ingress and egress shall not exceed thirty-five (35) feet in width at the property line.
  - (h) Size. The minimum area of each parking space shall be nine (9) feet wide by eighteen (18) feet long, exclusive of the area required for ingress and egress. Parking space width shall exclude the curb gutter width. Parking space length can include the curb gutter width up to the curb face.
  - (i) Location. The location of each parking space shall be on the same lot or parcel as the principal use, and all parking lots shall have the same zoning district as the principal use.
  - (j) Setback. Except for a single-family or two-family residence, parking spaces and driveways shall be a minimum of twenty (20) feet from the established highway right-of-way, a minimum of ten (10) feet from all rear and side lot lines and a minimum of seventy-five (75) feet from the Ordinary High Water Mark of a navigable water body. When abutting a residential district or a planned residential district (based on a Village's adopted Land Use Plan), driveways or parking lots shall be a minimum of twenty (20) feet to the property line.
  - (k) Surfacing. All off-street parking areas for more than five vehicles shall be graded and surfaced with asphalt or concrete and properly drained.

- (l) Markings. Any parking area for more than five (5) vehicles shall have the aisles and spaces identified by surface markings and shall be maintained in a manner so as to be readily visible and accessible at all times. Such markings shall be arranged to provide for orderly and safe loading, unloading, parking and storage of vehicles. Marking shall be maintained in a highly visible condition including striping, directional arrows, lettering on signs and in handicapped-designated areas.
- (m) Curbs or Barriers. Curbs or barriers shall be installed so as to prevent vehicles from extending beyond the parking setback requirements. Landscaped islands and planting strips shall be required to be curbed.
- (n) Aisle widths. The aisle width within parking lots shall be a minimum of twenty-four (24) feet between the ends of parking spaces, except for one-way aisles which shall be eighteen (18) feet for sixty (60°) degree spaces.
- (o) Screening from abutting residential uses. Those parking areas for five (5) or more vehicles if, abutting a residential use, shall be screened from such use by a solid wall, fence, berm, evergreen planting of equivalent visual density or other effective means, built and maintained at a minimum height of four feet at the time of planting or installation.
- (p) Landscaping. Those requirements as described in Section ZN 3.19 of this Ordinance shall apply.
- (q) Lighting. Lighting fixtures shall be provided in all parking areas and driveways, except for single-family and two-family residential districts and then according to the requirements as set forth in Section ZN 3.18 Exterior Lighting Standards. A photometric plan of all parking areas and driveways shall be submitted to Planning and Development for review and approval.
- (r) Vehicle Parking and/or Storage in a Residential District.
  - 1 Semi-truck cabs shall not be parked and/or stored on a parcel in any residential district for more than a total of four (4) days in a thirty (30) day period. A day is counted if the semi-truck cab is parked and/or stored for any length of time within in a normal twenty-four (24) hour day.
  - 2 The following vehicles shall not be parked and/or stored on a parcel in any residential district:
    - a Semi-trailers, tow trucks, garbage trucks, septic waste trucks and aerial lift trucks.
    - b Dump trucks, flatbed trucks, box trucks, panel trucks, high cube vans, and step vans with licenses rated for a gross weight equal to or greater than twelve thousand (12,000) pounds.
    - c Specialized construction type equipment and vehicles such as, but not limited to backhoes, bulldozers, bobcats, skid loaders, and chippers.

- 3 Exceptions.
  - a One (1) dump truck, flatbed truck, box truck, panel truck, high cube van, or step van with licenses rated for a gross weight less than twelve thousand (12,000) pounds.
  - b One (1) local electrical power utility emergency response truck is permitted on a parcel with approval by the Department of Planning and Development.

(s) Vehicle Parking and/or Storage in an Agricultural or Conservation District.

- 1 The following vehicles shall not be parked and/or stored on a parcel in any agricultural or conservation district:
  - a Tow trucks, garbage trucks, septic waste trucks and aerial lift trucks.
  - b Dump trucks, flatbed trucks, box trucks, panel trucks, high cube vans, and step vans with licenses rated for a gross weight equal to or greater than twelve (12,000) pounds, except when they are engaged in the production, storage, trucking and/or transport of products grown on the property.
  - c Specialized construction type equipment and vehicles such as, but not limited to backhoes, bulldozers, bobcats, skid loaders, and chippers, except when they are engaged in the production, storage, trucking and/or transport of products grown on the property.
- 2 The following vehicles may be parked and/or stored on a parcel in any agricultural or conservation district.
  - a One (1) semi-truck cab and one (1) related semi-trailer is permitted to be parked and/or stored on a parcel for every resident of the parcel who is engaged in the profession of over-the-road transport, with a maximum of two (2). Verification of residency and profession may be required by the Department of Planning and Development.
  - b Semi-truck cabs and related semi-trailer parking and/or storage are permitted on a parcel when they are engaged in the production, storage, trucking and/or transport of products grown on the property, with a maximum total of four (4).
  - c No semi-trailer shall be used for storage or parked for any reason for more than thirty (30) days in a three hundred sixty-five (365) day period, except as stated in a and b. of this section.
  - d One (1) local electrical power utility emergency response truck is permitted on a parcel with approval by the Department of Planning and Development.

(t) Semi-Trailer Storage or Parking in a Business, Manufacturing, or Institutional District.

- 1 Semi-trailer storage or parking is permitted without exception only within permitted transshipment depots and trucking facilities.
- 2 No semi-trailer shall be used for storage or parked for any reason for more than thirty (30) days in a three hundred sixty-five (365) day period, except as stated in 1. of this section.

(u) Recreational Vehicle Parking.

- 1 Recreational vehicles shall include but are not limited to the following: boats, jet skis, mini-bikes, trail bikes, off-road vehicles, motor homes, travel trailers, camping trailers, and boat, motor bike, snowmobile, or vehicle trailers.
- 2 Recreational vehicles are permitted in any district except for in the Floodplain Districts where recreational vehicles are not permitted subject to the following:
  - a Parking and/or storage of recreational vehicles are permitted inside an enclosed accessory structure.
  - b Parking and/or storage of recreational vehicles shall not be permitted on any vacant lot.
  - c No more than two (2) recreational vehicles shall be parked and/or stored in the side or rear yard outside of an enclosed structure. No recreational vehicles shall be parked and/or stored in the street yard. Recreational vehicles stored outside of an enclosed structure shall be owned by the property owner or resident on whose property the vehicle is parked and/or stored, except for approved commercial storage facilities.
- 3 Recreational vehicles shall not be used as follows:
  - a As a dwelling unit or temporary housing at any time, including use during construction of a permanent dwelling.
  - b As an accessory structure for storage.

(4) **DRIVEWAYS AND HIGHWAY ACCESS.**

All driveways installed, altered, changed, replaced, or extended after the effective date of this Ordinance shall meet the following requirements:

- (a) Openings for vehicular ingress and egress shall not exceed thirty (30) feet at the street line and thirty-five (35) feet at the roadway.
- (b) Vehicle entrances and exits to drive-in theaters, banks, restaurants, motels, funeral homes, vehicle sales and service, car washes, service stations, garages, or public parking lots shall be

not less than three hundred (300) feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park playground, library, or other place of public assembly.

- (c) No direct public or private access shall be permitted to the existing or proposed rights-of-ways of freeways, interstate highways, and interchanges and their entrances or exit ramps nor within five hundred (500) feet of the most remote end of the taper of the entrances or exit ramp. (see illustration #3).
- (d) No direct public or private access shall be permitted to any existing or proposed Federal, State Trunk, or County Trunk Highway within two hundred fifty (250) feet of its intersection with another street or highway right-of-way.
- (e) Access barriers, such as curbing, fencing, ditching, landscaping, or other topographic barriers, shall be erected to prevent unauthorized vehicle ingress or egress to the above specified streets or highways.
- (f) Temporary access to the rights-of-way in subsections (c), (d) and (e) above may be granted by the Board of Adjustments after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

### **ZN 3.07 SIGNS.**

The purpose of this section is to provide for and regulate the type, construction, image, maintenance and placement of signs in a manner that will ensure that such signs are compatible with surrounding land uses, are aesthetic in design and structure, and express the identity of individual proprietors and the community as a whole. It is the further intent by these regulations to avoid depreciation of property values through indiscriminate location and design of signs, to lessen threats to public safety from poorly constructed and maintained signs to protect against hazards to vehicular traffic movement through improper placement of signs and to clarify the rights and duties of owners and users of non-conforming signs.

#### **(1) PERMIT REQUIRED.**

- (a) No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit, except those signs permitted under Section ZN 3.07(2) and (3), and further excepting the refacing of existing signs as defined in this Ordinance, without being in conformity with the provisions of this Ordinance, Section 84.30, Wis. Stats., as hereinafter amended or recreated. The sign shall also meet all the structural requirements of local and state building codes.
- (b) Before any sign for which a permit is required by this Ordinance is erected, there shall be submitted to the Department of Planning and Development the written consent of the owner of the land upon which the sign is to be located that permission has been so granted, a scale drawing of the proposed sign indicating its location on the premises and its relationship to other structures and property lines, and a computation of the display area as defined in this Ordinance.

- (c) Back to back signs or V-shaped signs shall constitute but one sign within the meaning of this Ordinance.
- (d) All street sign setbacks shall be from the outer edge of the highway, street or road right-of-way.
- (e) All side and rear setbacks shall be those of the district of which the sign is located.

(2) **SIGNS PROHIBITED.**

No signs or any part thereof or sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe, and no sign or any part of any sign or any anchor, brace, or guide rod shall be erected, relocated, put up, or maintained so as to hinder or prevent ingress or egress from public or private driveways, parking lots or fire escapes or through a door, doorway, or window or so as to hinder or prevent pedestrian traffic on a sidewalk or so as to hinder or prevent the raising or placing of ladders against a building by the fire department as necessity therefore may require. No sign shall be placed so as to obstruct or interfere with traffic visibility nor be lighted in such a way as to cause glare or impair driver visibility upon public right-of-ways.

- (a) Any sign that creates a hazard or dangerous distraction to vehicle traffic or a nuisance to adjoining property.
- (b) Any sign resembling, imitating or approximating the shape, size, form or color of railroad or traffic signs, signals or devices, or obstructing or interfering with the effectiveness of said devices.
- (c) Any sign that moves or has moving, rotating or animated parts.
- (d) Inflatable signs.
- (e) Any temporary, spring-action metal advertising sign used, for example, to advertise cigarette or gasoline prices.
- (f) Any sign located within a vision triangle as defined by Section ZN 3.06(1).
- (g) Any sign installed or constructed within the right-of-way, except for official signs.
- (h) Any sign containing statements, words or pictures classified as "obscene material" as defined by §944.21, Wis. Stats.
- (i) Roof signs.
- (j) Any sign mounted on wheels, trailers, motor vehicles or any other non-permanent structure parked within sight of a street for the purpose of advertising. This section does not apply to signs which are incidental to the identification of such motor vehicle.
- (k) Any sign that produces sound, causes interference with radio, telephone, television or other communication transmissions; produces or reflects motion pictures or video; emits visible smoke, vapor, particles, or odor.

- (l) Obsolete signs.
- (m) Signs which are deteriorated, dilapidated, structurally dangerous or unsafe, as determined by local building inspector.
- (n) Off-premise signs, except for unified business center signs.
- (o) Any sign exceeding thirty (30) feet in height.

**(3) SIGNS PERMITTED IN ALL DISTRICTS WITHOUT A ZONING PERMIT.**

The following types of signs shall be permitted in all districts without a zoning permit, located on the premises upon the following conditions:

**(a) Agricultural District Signs.**

- 1 Number: Limited to one (1) sign per highway frontage.
- 2 Area: Maximum of twenty (20) square feet per sign.
- 3 Height: Fifteen (15) feet.
- 4 Street Setback: Fifteen (15) feet
- 5 Lighting: Full cut-off top down directional.
- 6 Landscaping: None required
- 7 Lighting: None permitted.
- 8 Landscaping: None required

**(b) Blade and Suspended Signs**

- 1 Number: One (1) per business/tenant.
- 2 Area: Maximum of four (4) square feet.
- 3 Height: At least eight (8) feet above the public sidewalk or thoroughfare.
- 4 Lighting: Full cut-off; top down directional or internal.
- 5 Landscaping: None required.

**(c) Agricultural District Signs.**

- 1 Number: Limited to one (1) sign per highway frontage.

- 2 Area: Maximum of twenty (20) square feet per sign.
- 3 Height: Fifteen (15) feet.
- 4 Street Setback: Fifteen (15) feet
- 5 Lighting: Full cut-off top down directional.
- 6 Landscaping: None required

(d) Flagpoles.

- 1 Number: Three (3) flagpoles per property in any non-residential district.
- 2 Area: No maximum
- 3 Height: Forty (40) feet.
- 4 Street Setback: Equal to the height of the flagpole.
- 5 Lighting: Shall be designed and shielded so as not to direct any light or produce glare onto any adjacent residential districts and shall also be so arranged so as to not adversely affect driver visibility with stray light or glare on adjacent rights-of-way.
- 6 Landscaping: None required.

(e) On-Site Informational Signs.

- 1 Drawings showing the specific design, appearance and location of the sign(s) shall be submitted to the Department of Planning and Development for approval.
- 2 Number: No limit.
- 3 Area: Maximum of nine (9) square feet per sign.
- 4 Height: Five (5) feet.
- 5 Street Setback: Two (2) feet.
- 6 Lighting: Full cut-off; top down directional or internal.
- 7 Landscaping: None required.

(f) Temporary Signs.

- 1 Area: Maximum of nine (9) square feet per side of sign, or if located on a county or state trunk highway shall not exceed thirty-two (32) square feet per side of sign,

maximum sixty-four (64) square feet maximum for all sides.

2 Height: Five (5) feet, or if on a county or state trunk highway ten (10) feet.

3 Street Setback: Fifteen (15) feet.

4 Lighting: None permitted.

5 Landscaping: None required.

(g) Window Signs. Provided not more than fifty (50%) percent of each window is covered by signs or graphics and is located on the inside of the window.

(4) **SIGNS PERMITTED IN ALL DISTRICTS WITH A PERMIT.**

Except as provided in Section ZN 3.07(2) and (3), the following signs shall be permitted in all districts with a permit:

(a) Temporary Development Signs. A sign for the purpose of designating or promoting a new building, development, business/industrial park or subdivision may be permitted for a limited period of time with the approval of the Department of Planning and Development and subject to the following:

1 Drawings showing the specific design, appearance and location of the sign.

2 The sign shall be located in the development site. Such sign may be permitted for a period up to two (2) years, and extension may be permitted for a period not to exceed six (6) years total.

3 Number: Two (2).

4 Area: Fifty (50) square feet per side of sign.

5 Height: Fifteen (15) feet.

6 Street Setback: Fifteen (15) feet.

7 Lighting: Full cut-off; top down directional or ground mounted directional.

8 Landscaping: As contained elsewhere in this Ordinance.

(b) Permanent Development Signs. A sign which is permanently located at entrances or along streets or highways which designates a development, business/industrial park or subdivision with the approval of the Department of Planning and Development and subject to the following:

1 Drawings showing the specific design, appearance and location of the sign.

- 2 Only the name of the development shall be permitted on the sign. The sign shall be located in the development site.
- 3 Number: One (1).
- 4 Area: One-hundred-fifty (150) square feet per side.
- 5 Height: Ten (10) feet.
- 6 Street Setback: Fifteen (15) feet. If located in an island boulevard the sign shall not be less than fifteen (15) feet from the back of the curb of the center boulevard island adjacent to the intersection, highway or street right-of-way and furthermore shall not be less than four (4) feet from the back of the curb of the boulevard island.
- 7 Lighting: Full cut-off; top down directional or ground mounted directional.
- 8 Landscaping: As contained elsewhere in this Ordinance.

**(5) SIGNS PERMITTED IN RESIDENTIAL DISTRICTS.**

Except as provided in Sections ZN 3.07(2) and (3), the following signs are permitted only in the residential districts with a permit and only on the premises and subject to the following regulations:

- (a) Freestanding Signs. Signs for home occupations permitted under Sections ZN 3.03(1) and (2), provided:

- 1 Number: One (1).
- 2 Area: Maximum of four (4) square feet.
- 3 Height: Eight (8) feet.
- 4 Street Setback: Fifteen (15) feet.
- 5 Lighting: Full cut-off; top down directional or ground mounted directional.
- 6 Landscaping: None required

**(6) SIGNS PERMITTED IN ALL BUSINESS, MANUFACTURING, INSTITUTIONAL, AND PARK-RECREATIONAL DISTRICTS.**

Except as provided in Sections ZN 3.07(2) and (3), the following signs are permitted only in the business, manufacturing, institutional, and park recreation districts with a permit and only on the premises and subject to the following regulations:

- (a) Awning and Canopy Signs.

- 1 Number: One (1).

- 2 Area: Maximum of fifteen (15) percent per side of each face.
- 3 Height: At least eight (8) feet above the public sidewalk or thoroughfare.
- 4 Lighting: Full cut-off; top down directional or internal.
- 5 Landscaping: None required.

(b) Menu Boards. Drawings showing the specific design, appearance and location of the sign(s) shall be submitted to the Department of Planning and Development for approval.

- 1 Number: Subject to approval of Planning & Development
- 2 Area: Thirty-six (36) square feet per sign
- 3 Height: Eight (8) feet
- 4 Street Setback: Fifteen (15) feet
- 5 Lighting: Full cut-off; top down directional or internal
- 6 Landscaping: None required

(c) Monument Signs.

- 1 Number: Limited to one (1) per street frontage or drive entrance, provided that no monument sign is located closer than a minimum of three hundred (300) feet to another monument sign on the same property.
- 2 Area: Eighty (80) square feet per side of sign, one-hundred sixty (160) square feet maximum for all sides.
- 3 Height: Ten (10) feet.
- 4 Street Setback: Five (5) feet.
- 5 Lighting: Full cut-off; top down directional, ground mounted directional or internal.
- 6 Landscaping: As contained elsewhere in this Ordinance.

(d) Freestanding Signs

- 1 Number: Limited to one (1) per street frontage or drive entrance, provided that no freestanding sign is located closer than a minimum of three hundred (300) feet to another freestanding sign on the same property.
- 2 Area: One-hundred fifty (150) square feet per side of sign, three-hundred (300) square

feet maximum for all sides, except for freestanding signs within an area between Interstate Highway 94 and a distance fifty (50) feet beyond the outermost right-of-way edge of the Frontage Road may be up to three-hundred (300) square feet per side of sign and six-hundred (600) square feet maximum for all sides.

- 3 Height: Twenty (20) feet, except for freestanding signs within an area between Interstate Highway 94 and a distance fifty (50) feet beyond the outermost right-of-way edge of the Frontage Road may be up to thirty (30) feet.
- 4 Street Setback: Fifteen (15) feet.
- 5 Lighting: Full cut-off; top down directional, ground mounted directional or internal.
- 6 Landscaping: As contained elsewhere in this Ordinance.
- 7 Signs with exposed poles or posts shall be individually enclosed or covered.

(e) Portable Signs

- 1 Number: One (1).
- 2 Area: Thirty-two (32) square feet.
- 3 Height: Six (6) feet.
- 4 Street Setback: Fifteen (15) feet.
- 5 Lighting: Internal. No flashing or traveling lights.
- 6 Landscaping: None required.

(f) Projecting Signs

- 1 Number: One (1).
- 2 Area: One-hundred (100) per side.
- 3 Height: Twenty (20) feet above the mean centerline street grade and shall not be less than ten (10) feet above a sidewalk or other pedestrian way, nor fifteen (15) feet above a driveway or an alley.
- 4 Street Setback: Fifteen (15) feet.
- 5 Other Setback: Shall not extend more than six (6) feet in any required yard; shall not be less than ten (10) feet from all lot lines.
- 6 Lighting: Full cut-off top down directional or internal.

7 Landscaping: None required.

(g) Unified Business Center Sign

- 1 Number: Limited to one (1) per street frontage and/or entrance. An additional Unified Business Center Sign is permitted per four hundred (400) feet of street frontage, with a maximum of two (2) signs permitted per street frontage.
- 2 Area: Three-hundred (300) square feet per side, six-hundred (600) square feet maximum for all sides.
- 3 Height: Thirty (30) feet.
- 4 Street Setback: Fifteen (15) feet.
- 5 Lighting: Full cut-off; top-down directional, ground-mounted directional or internal.
- 6 Landscaping: As contained elsewhere in this Ordinance.
- 7 Signs with exposed poles or posts shall be individually enclosed or covered.

(h) Wall Signs

1 Single-Tenant Buildings

- a Number: One (1) per public entrance or wall/facade which fronts upon a public right-of-way or private drive.
- b Area: Limited to one and one-half (1.5) times the length of the wall on which the sign is to be placed, up to a maximum of six-hundred (600) square feet.
- c Height: Twenty (20) feet in height above the mean centerline street grade.
- d Extension: Shall not extend more than twelve (12) inches outside of a building's wall surface.
- e Lighting: Full cut-off; top-down directional, or internal.
- f Landscaping: None required.

2 Multi-Tenant Buildings and Shopping Centers

- a Number: One (1) per tenant, plus each tenant may place one (1) wall sign per public entrance or wall/facade which fronts upon a public right-of-way or private drive and contained within the tenant's internal wall space or end cap wall area.

- b Area: Limited to one and one-half (1.5) times the length of the wall on which the sign is to be placed, up to a maximum of six-hundred (600) square feet.
- c Height: Twenty (20) feet in height above the mean centerline street grade.
- d Extension: Shall not extend more than twelve (12) inches outside of a building's wall surface.
- e Lighting: Full cut-off; top-down directional or internal.
- f Landscaping: None required.

(i) Search Lights. The temporary use of search lights for advertising purposes may be permitted provided that the search light will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property, and will not cause a hazard to traffic or adjoining properties. Search light permits shall not be granted for a period of more than twelve (12) days in any six (6) month period.

**(7) SIGNS PERMITTED IN FLOODPLAIN DISTRICT.**

No signs shall be permitted in the Floodplain District.

**(8) CONSERVANCY DISTRICT SIGNS.**

No commercial advertising sign shall be permitted in the C-1 or C-2 Districts.

**(9) EXISTING NON-CONFORMING SIGNS.**

Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued or refaced, as defined in this Ordinance, although the use, size, or location does not conform with the provisions of this Ordinance. However, it shall be deemed a non-conforming use or structure and the provisions of Section ZN 5.02(7) or Section ZN 5.02(8) shall apply as applicable.

**(10) GENERAL SIGN CONSTRUCTION STANDARDS AND REQUIREMENTS.**

(a) Electronic Message Centers (EMCs). A freestanding sign, monument sign or wall sign may contain an EMC, provided it does not display video. All EMCs are required to have automatic dimming capability that adjusts the brightness to the ambient light at all times of the day and night.

Any EMC that malfunctions, fails, or ceases to operate in its usual or normal programmed manner, thereby causing motion, movement, flashing or any other similar effects, shall be repaired or disconnected within twenty-four (24) hours by the owner or operator of such sign.

- 1 Area: Maximum of sixty-six (66%) percent of total permitted display area.
- 2 Brightness: Not to exceed three-tenths (0.3) footcandles over ambient lighting conditions when measured as detailed in the International Sign Association's "Recommended Night-time Brightness Levels for On-Premise Electronic Message Centers (EMC's)", dated October 2013.

- 3 Message Hold Time: Maximum of five (5) seconds.
- 4 Transition Duration: Maximum of one (1) second.
- (b) Wind Pressure and Dead Load Requirements. All signs and other advertising structures shall be designed and constructed to withstand wind pressure of not less than forty (40) pounds per square foot of area.
- (c) Protection of the Public. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration, or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated.
- (d) Maintenance. Except for non-conforming signs, the owner of any sign shall keep a sign in good maintenance and repair which includes restoring, repainting, or replacing a worn or damaged sign to its original condition. The owner of all conforming and non-conforming signs shall, however, maintain the premises on which the sign is erected in a clean, safe, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass.
- (e) Supporting Members or Braces. All signs shall be constructed of galvanized iron, properly treated steel, copper, brass, or other non-corrosive incombustible material or properly treated and structurally sound wood. All signs, if placed at a right or other angle to the wall or roof of any building, shall be attached by such non-corrosive metal bolts, anchors, cable, or other metal attachments as shall ensure permanent and safe construction, and shall be maintained free from rust or other defects.
- (f) Compliance with Electrical Codes. All electric signs shall comply with applicable local and state electrical codes.
- (g) External Lighting. All external lighting of signs shall be designed and shielded so as not to direct any light or produce glare onto any adjacent residential districts and shall also be so arranged so as to not adversely affect driver visibility with stray light or glare on adjacent rights-of-ways.
- (h) Landscape Requirements. All freestanding or monument signs shall meet the landscape requirements as contained elsewhere in this Ordinance.

### **ZN 3.08 FENCES.**

(1) **PERMIT REQUIRED.**

No fence, except those fences provided for in Section ZN 3.08(2), shall hereinafter be located, directed, moved, reconstructed, extended enlarged, converted or structurally altered without a zoning permit and without being in conformity with the provisions of this Ordinance, State Statutes and the Wisconsin Administrative Code. The fence shall also meet all the structural requirements of local and State codes. All fences shall be constructed in a manner that the finished side of the fence faces the neighboring property.

(2) **FENCES PERMITTED WITHOUT A ZONING PERMIT.**

The following fences are permitted as specified without a zoning permit subject to the following restrictions and providing that said fence does not in any way interfere with traffic visibility:

- (a) A snow fence shall be permitted in all districts when comprised of wooden pickets bound together by wire or molded plastic mesh and not exceeding four feet in height and removed between May 1 and November 1 of each year. No privately-owned snow fence shall extend beyond the highway right-of-way line.
  - (b) Fences to be installed around swimming pools shall be governed by the provisions of Section ZN 3.09(7).
  - (c) Agricultural fences in the A-1, A-2, A-3 and A-4 Districts shall be permitted provided that they do not extend beyond the highway or road right-of-way.
  - (d) Decorative fences not exceeding two (2) feet in height shall be permitted in all districts.
  - (e) Wire strand fences for agricultural purposes may be constructed or placed within the required shore yard and/or C-1 Lowland Resource Conservancy District
- (3) **FENCES OR WALLS FOR WHICH A ZONING PERMIT IS REQUIRED.**

- (a) Residential fences or walls are permitted up to the side and rear property lines and not closer than two (2) feet to any public right-of-way in residential districts, but shall not be greater than six (6) feet in height in the side yard and rear yard, nor greater than four (4) feet in height in the street yard. Residential fences or walls may be six (6) feet in height in the rear street yard of a double frontage lot or in the side street yard of a corner lot not closer than fifteen (15) feet to the right of way of the side street yard. No fence or wall greater than two (2) feet in height shall be placed within the vision triangle. No fence or wall which incorporates barbed wire shall be permitted in a residential district. Residential fences may be constructed or placed within the required shore yard in any district provided the fence is not more than four (4) feet in height, is a split-rail or board type with minimum openings of at least one (1) foot by eight (8) foot, and is at least two (2) feet from the ordinary high water mark of any navigable waterway.
- (b) Security fences or walls are permitted in all districts other than residential districts. Security fences or walls may be placed on side and rear property lines, but shall not be located closer than two (2) feet to a public right-of-way line. Security fences or walls shall not exceed ten (10) feet in height. No fence or walls greater than two (2) feet in height shall be placed within the vision triangle. Security fences shall not be constructed or placed within the required shore yard in any district or within the one hundred (100) year recurrence interval floodplain.

### **ZN 3.09 SWIMMING POOLS.**

(1) **COMPLIANCE.**

It shall be unlawful to construct, install, enlarge, or alter any swimming pool as defined in the Ordinance, in the Village of Somers except in compliance with all of the provisions of this section.

(2) **DISTRICTS.**

Swimming pools may be installed in all districts except the C-1 Lowland Resource Conservancy District, the Floodplain District or on any parcel on which an Adult Establishment is located.

(3) **PERMIT REQUIRED.**

It shall be unlawful to proceed with the construction, installation, enlargement or alteration of any private residential swimming pool and accessories thereto within the Village unless permits therefore shall have first been obtained from the Department of Planning and Development.

(4) **APPLICATION.**

All drawings and plans for the construction, installation, enlargement or alteration of any such swimming pool and the accessories thereto shall first be presented to the Department of Planning and Development for examination and approval as to proper location and construction.

All such plans and drawings shall be drawn to scale and shall indicate thereon all distances and dimensions so as to accurately and explicitly show all lot lines, and all information pertaining to the pool, walk, deck, fence construction, water supply system, drainage and water disposal systems, and all accessories pertaining to the swimming pool. Such plans shall also indicate the vertical elevations of the pool.

All private residential swimming pools and accessories thereto, water supply and drainage systems shall be constructed in conformity with the approved plans.

(5) **LOCATION.**

Swimming pools and spas shall only be installed in the rear yard of a premise. In the case of a double frontage lot, swimming pools and spas may be installed only in the secondary street yard of the premises so long as the required minimum street yard setback is maintained. No portion of a swimming pool or spa outside a building, including a surrounding deck and fence, pumps, filters, and related pool equipment shall be located at a distance of less than eight (8) feet from any side or rear property line or building line. Such pool shall also comply with any and all state or local regulations with respect to the distances from an on-site sewage disposal absorption system and private well.

(6) **AREA.**

Such pool may be constructed provided however it does not occupy more than forty (40%) percent of the usable area of the rear yard excluding all garages or other accessory structures located in such area.

(7) **SAFETY FEATURES.**

No swimming pool shall be installed or maintained unless:

- (a) In the case of an in ground pool, there shall be erected and maintained a good quality safety fence not less than four (4) feet in height completely surrounding the pool or surrounding the yard in which the pool is located.
- (b) In the case of an above ground pool, one (1) of the following must be met:
  - 1 Erect and maintain a good quality safety fence of not less than four (4) feet in height completely surrounding the pool or surrounding the yard in which the pool is located,

or

- 2 The total wall height of the pool and surrounding deck/railing must be at least six (6) feet above yard grade.
- (c) In the case of a spa/hot tub, a locked safety cover meeting American Society for Testing Materials Specifications may be used, or a spa must be completely enclosed in a structure with locking windows and doors.
- (d) Safety fencing must be so constructed as not to have voids, holes or openings larger than four inches in one dimension.
- (e) Every gate or other opening in the fence enclosing the pool or yard (including spa safety covers) except an opening to the dwelling or other building shall be kept securely closed and locked at all times when the owner or occupant of the premises is not present at such pool/spa. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate.
- (f) The swimming pool shall not be filled with water until all safety features are in place.
- (8) **LIGHTING.**  
No lighting may be installed in connection with the pool which shall throw any rays beyond such property lines.
- (9) **WATER DRAINAGE.**  
No water drained from a pool shall be discharged over or near any septic tank, septic field or well.
- (10) **INSPECTION.**  
The Village Building Inspector shall inspect all swimming pools to determine whether or not the provisions of this Ordinance are being complied with.

### **ZN 3.10 SHORELAND REGULATIONS.**

#### **(1) REGULATIONS**

All applicable use, site, or sanitary restrictions and regulations shall apply to shorelands in addition to those listed below. Shoreland regulations apply to all the lands in the incorporated areas of the Village of Somers which are:

- (a) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages.
- (b) 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.
- (c) Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate office of the Wisconsin Department of Natural Resources for a final determination

of navigability or ordinary high-water mark.

- (d) Under §281.31(2m), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:
- 1 Lands adjacent to farm drainage ditches if such lands are not adjacent to a natural navigable stream or river or those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching.
  - 2 Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

(2) **TREE CUTTING, SHRUBBERY CLEARING AND IMPERVIOUS SURFACE.**

- (a) To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the Village ordinance shall designate land that extends from the ordinary high water mark to a minimum of thirty-five (35) feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows:
- 1 The Village may allow routine maintenance of vegetation.
  - 2 The Village may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. The viewing corridor may be at least thirty-five (35) feet wide for every one hundred (100) feet of shoreline frontage. The viewing corridor may run contiguously for the for the entire maximum width or shoreline frontage owned.
  - 3 The Village may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with ten (10) or more acres of forested land consistent with “generally accepted forestry management practices” as defined in Wis. Admin. Code §NR 1.25(2)(b), and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.
  - 4 The Village may allow removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.
  - 5 The Village may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit shall require that all management activities comply with detailed plans approved by the Village and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area that meets the

standards found in Section ZN 3.10(8) (Mitigation). The permit also shall require an enforceable restriction to preserve the newly restored area.

- (b) Impervious Surface. Impervious surface standards were established to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. Village impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any non-riparian lot or parcel that is located entirely within three hundred (300) feet of the ordinary high-water mark of any navigable waterway.
- 1 Calculation of Percentage of Impervious Surface. Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within three hundred (300) feet of the ordinary high-water mark by the total surface area of that lot or parcel, and multiplied by one hundred (100). Impervious surfaces described in Section ZN 3.10(2)(d) shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.
    - a General Impervious Surface Standards. A shoreland property owner not on a highly developed shoreland listed in Section ZN 3.10(2) shall be allow up to fifteen (15%) percent impervious surface on the portion of a lot or parcel that is within three hundred (300) feet of the ordinary high-water mark.
  - 2 Maximum Impervious Surface Standard.
    - a A property owner in a highly developed shoreland listed in Section ZN 3.10(2) may have more than thirty (30%) percent impervious surface but not more than forty (40%) percent impervious surface for residential land uses. For commercial, industrial or business land uses a property owner may have more than forty (40%) percent impervious surface but not more than sixty (60%) percent impervious surface.
    - b For properties where the general impervious surface standard applies under Section ZN 3.10(2)(b)1a, a property owner may have more than fifteen (15%) percent impervious surface but not more than thirty (30%) percent impervious surface on the portion of a lot or parcel that is within three hundred (300) feet of the ordinary high-water mark.
    - c For properties that exceed the standard under Section ZN 3.10(2)(b)2a and b but do not exceed the maximum standard under Section ZN 3.10(2)(b)2a and b a zoning permit can be issued for development with an approved shoreland permit that details the mitigation plan that meets the standards found in Section ZN 3.10(8) (Mitigation), unless exempt under Section ZN 3.10(2)(b)2f.
    - d Treated Impervious Surfaces. Impervious surfaces that can be documented to

demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under Section ZN 3.10(2)(b)1:

- 1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.
- 2) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil, such as pervious pavement.

e Existing Impervious Surfaces. For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in Section ZN 3.10(2)(b) or the maximum impervious surface standard in Section ZN 3.10(2)(b)2, the property owner may do any of the following:

- 1) Maintain and repair the existing impervious surfaces;
- 2) Replace existing impervious surfaces with similar surfaces within the existing building envelope;
- 3) Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the Village shoreland ordinance, and the impervious surface meets the applicable setback requirements.
- 4) The impervious surface standards in this Ordinance shall not be construed to supersede other provisions in the Village shoreland ordinance. All of the provisions of the Village shoreland ordinance still apply to new or existing development.

f Vegetated Buffer Exemptions. In accordance with the provisions of §59.692(1f), Wis. Stats. This Ordinance shall not require a person to do any of the following:

- 1) Establish a vegetative buffer zone on previously developed land;
- 2) Expand an existing vegetative buffer zone.

### (3) EARTH MOVEMENTS.

Earth movements such as construction, altering or enlargement of waterways, removal of stream or lake bed materials, channel clearing, dredging, lagooning, grading, topsoil removal, filling, road cutting and ditching require a permit in accordance with Section ZN 3.10(7) of this Ordinance in addition to the permit required from the state agency accordance with the provisions of Wis. Admin. Code §NR 115.04, the requirements of ch. 30, Wis. Stats., and other state and federal laws where applicable, and only if

done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to Section ZN 8.03(4), 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

**(4) STRUCTURES.**

All structures, except navigational aids, piers, boat launching facilities and boat houses, and steps and stairs located above the ordinary high water mark and necessary for access to the shoreline, shall not be closer than the shore yard distance as specified in each district of this Ordinance. See Section ZN 5.01(2) for more information.

(a) The Village shall not establish shoreland zoning standards that requires any of the following:

- 1 Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.
- 2 Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.

(b) The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if:

- 1 The department has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283, Wis. Stats..

A "facility" means any property or equipment of a public utility, as defined in §196.01 (5), Wis. Stats., or a cooperative association organized under ch. 185, Wis. Stats., for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power.

**(5) SOIL CONSERVATION PRACTICES, TILLAGE AND GRAZING.**

(a) Soil conservation practices such as tiles terraces, runoff diversions, and grassed waterways used for erosion control shall not require a permit under Section ZN 3.10(7) of this Ordinance when designed and constructed to Natural Resources Conservation Service technical standards.

(b) Tillage, grazing, livestock watering, and feeding and application of fertilizers shall be prohibited unless conducted in accordance with applicable County, State and Federal laws and regulations and unless conducted in such a manner as to safe-guard the health, safety and welfare of individuals, animal and aquatic life, in the surrounding environment.

**(6) WISCONSIN SHORELAND MANAGEMENT PROGRAM.**

The use of any parcel of land located within the Village's designated Shoreland-Floodplain area shall be conducted in accordance with the provisions of Wis. Admin. Code §NR 115, Wisconsin's Shoreland Management Program, and in the case of conflict between this Ordinance and the Wis. Admin. Code §NR 115 the provision with the greater restriction shall apply.

**(7) STIPULATED SHORELAND PERMITS.**

Notwithstanding the other requirements set forth in this section, the Department of Planning and Development may issue a stipulated Shoreland Permit for those uses listed in Section ZN 3.10(2) and Section ZN 3.10(6) without requiring a conditional use permit provided that the use shall not be susceptible to flooding, concentrated runoff, inadequate drainage, adverse soil and topographic conditions or any other features likely to be harmful to the environment or the public interest. The Department of Planning and Development shall not issue the stipulated shoreland permit until the applicant agrees to the stipulations and such stipulated shoreland permit is filed and recorded in the Office of Register of Deeds. The Department of Planning and Development shall notify the Wisconsin Department of Natural Resources and the Village Board of the issuance of all stipulated shoreland permits.

**(8) MITIGATION.**

(a) General Standards. (§59.692(1 v), Wis. Stats., Wis. Admin. Code §NR 115.05 (1)(e)3, Wis. Admin. Code §NR115.05(1)(g)5, and Wis. Admin. Code §NR 115.05(1)(g)6). When the Village issues a permit requiring mitigation in accordance with sections Section ZN 3.10(2) or Section ZN 5.02(11) of this Ordinance the property owner must submit a mitigation plan application that is reviewed and approved by the Village. The application shall include the following:

- 1 A site plan that describes the proposed mitigation measures:
  - a The site plan shall be designed and implemented to restore natural functions lost through development and human activities.
  - b The mitigation measures shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty.
- 2 An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures.
  - a The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds.

(b) Mitigation Options.

- 1 Vegetative buffer required as mitigation under open sided provision. The property owner shall choose and implement two (2) of the following:
  - a Restoration of native primary vegetative buffer to Village vegetative buffer standards per Section ZN 3.10(8)(d).

- b The associated private onsite waste treatment system must be evaluated and upgraded as appropriate in compliance with Wis. Admin. Code §SPS 383.
      - c Stormwater management practices (e.g., stormwater ponds, constructed wetlands, infiltration basins, rain gardens, pervious pavers, bio-swales, water diversions of overland flow or other approved engineered systems).
- 2 Lateral expansion of a non-conforming principal structure located between thirty-five (35) and seventy-five (75) feet from the ordinary high-water mark and which is less than thirty-five (35) feet in height Section ZN 5.02(11)(b), or the replacement or relocation of principal structure located between thirty-five (35) and seventy-five (75) feet from the ordinary high-water mark and which is less than thirty-five (35) feet in height; or new impervious surface area greater than fifteen (15%) percent and/or less than or equal to thirty (30%) percent, and greater than thirty (30%) for highly developed shorelands Section ZN 3.10(2)(b).
  - a Removal of all non-conforming accessory structures located in the shore setback area. This requirement shall not apply to a detached garage which is in good repair and located at least as far from the ordinary high-water mark as the principal structure on the property.
  - b The property owner shall choose and implement two (2) of the following:
    - 1) Restoration of native primary vegetative buffer to Village vegetative buffer standards per Section ZN 3.10(8)(d).
    - 2) The associated private onsite waste treatment system must be evaluated and upgraded as appropriate in compliance with Wis. Admin. Code §SPS 383.
    - 3) Stormwater management practices (e.g., stormwater ponds, constructed wetlands, infiltration basins, rain gardens, pervious pavers, bio-swales, water diversions of overland flow or other approved engineered systems).
- (c) Implementation Schedule. The approved Shoreland Buffer Restoration Site Plan must be started within one (1) year from the issue date of the applicable permit. All plantings and any other activities in the Shoreland Buffer Restoration Site Plan must be completed within two (2) years of the permit issue date.
- (d) Establishment of a Vegetation Buffer Zone.
  - 1 The owner(s) or their agent must submit a plan that will be implemented by the owner of the property to establish, preserve, enhance, and/or restore a vegetative buffer zone that covers at least seventy (70%) percent of the half of the shoreland setback area that is nearest to the water. The plan must be approved by the Village of Somers.

- 2 To be considered for approval a plan to establish, preserve, enhance, and/or restore a vegetative buffer zone following the VEGETATIVE BUFFER STANDARDS described in Appendix "D" and shall, at a minimum, contain:
  - a A binding agreement with the owner, his/her heirs, successors, and assignees, must authorize entrance onto the property by zoning staff for inspections to assure compliance with the plan. The agreement shall be written and recordable on forms provided by the Village of Somers and recorded with the Register of Deeds. This also applies to preservation of an existing natural buffer.
  - b A description of how the landowner intends to carry out the project, including methods, materials, and equipment to be used.
  - c A proposed schedule and sequence of work activities.
  - d The names, descriptions, and densities of native species to be utilized in the restoration work, including ground cover, shrubs, and tree layers.
  - e A description of the site before the project begins and a description of the proposed site once the buffer is completed.
  - f The erosion control measures that will be used during construction of the permitted structure and vegetative buffer zone to control sediment, runoff, and protect water quality.
- 3 Removal of the shoreyard structure will not relinquish the recorded agreement or permit the removal, destruction, degradation, and/or reduction in size of the shoreland vegetative buffer.
- 4 Failure to comply with the plan and/or subsequent removal of vegetation from the vegetative buffer zone will cause the Village of Somers to revoke the permit and order the removal of any structure(s) authorized under the zoning permit.

### **ZN 3.11 MOBILE TOWER SITING REGULATIONS.**

**(1) PURPOSE.**

The purpose of this section of the ordinance is to regulate by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification to an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification to an existing support structure and mobile service facilities.

It is intended that the Village shall apply these regulations to accomplish to the greatest degree possible the following: (1) minimize adverse effects of mobile service facilities and mobile service support structures; (2) maintain and ensure that a non-discriminatory, competitive and broad range of mobile services and high quality mobile service infrastructure consistent with the Federal Telecommunications

Act of 1996 are provided to serve the community; and (3) provide a process of obtaining necessary zoning permits for mobile service facilities and support structures while at the same time protecting the legitimate interests of Village of Somers citizens.

The Village of Somers encourages the use of alternative support structures, co-location of new antennas on existing support structures and construction of supports structures with the ability to locate at least three (3) additional users (minimum of four (4) total users required for each mobile tower facility).

It is not the intent of this section to regulate residential satellite dishes or residential television antennas that are used privately. Additionally, it is not intended to regulate satellite dishes or antennas whose regulation is prohibited by §59.69(4)(d), Wis. Stats., as it may be amended from time to time.

(2) **DEFINITIONS.**

All definitions contained in §66.0404(1), Wis. Stats., as amended from time to time, are hereby incorporated by reference.

(3) **EXCEPTIONS.**

The following shall be exempt from the requirements to obtain a zoning permit, unless otherwise noted.

- (a) Amateur Radio and/or Receive-Only antennas. This Ordinance shall not govern the installation of any antenna that is owned and/or operated by a federally licensed amateur radio operator and used for amateur radio purposes or is used exclusively for receive-only purposes.
- (b) Mobile services providing public information coverage of news events of a temporary or emergency nature.
- (c) Utility pole mounted antenna if the height of the antenna is thirty (30) feet or less above the highest part of the utility pole.

(4) **SITING AND CONSTRUCTION.**

Siting and Construction of Any New Mobile Service Support Structure and Facilities and Class 1 Collocation:

- (a) Application Process. A zoning permit is required for the siting and construction of any new mobile service support structure and facilities for a Class 1 Collocation if the following substantial modifications are added to the existing 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 ten (10%) percent 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.
- (b) A zoning permit application must be completed by any applicant and submitted to the Department. The application must contain the following information:
- 1 The name, business address and phone number of the contact individual for the applicant. The applicant should include an email address if available.
  - 2 The location of the proposed affected support structure.
  - 3 The location of the proposed mobile service facility.
  - 4 If the applicant does not own the site or the tower, the applicant must provide an agent letter or lease agreement that provides consent from the property owner. The applicant should also provide the legal descriptions and amount of property leased.
  - 5 If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the 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. The construction plan shall include a sketch concept or rendering of the site and a scaled site plan which shows property lines, lease areas, setback distances, structures including support structure, buildings, equipment pads, and fencing.
  - 6 If the application is to construct a new mobile service support structure, 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. The construction plan shall include a sketch concept or rendering of the site and a scaled site plan which shows property lines, lease areas, setback distances, structures including support structure, buildings, equipment pads, and fencing. The Department may also request the submittal of propagation maps.
  - 7 If an application is to construct a new mobile service support structure, 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 has responsibility 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 technically infeasible; or is economically burdensome to the mobile service provider.
- (c) An application for a zoning permit shall be made available by the Department upon request by any applicant.
- (d) Completed Applications. If an applicant submits to the Department an application for a zoning permit to engage in an activity described in this Ordinance, which contains all of the information

required under this Ordinance, the Department shall consider the application complete. If the Department does not believe that the application is complete, the Department shall notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

- (e) In the event the department determines that it is necessary to consult with a third party in considering a zoning permit application, 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 department shall be grounds for denial or revocation of the zoning permit.
- (f) Department Responsibilities. Within ninety (90) days of its receipt of a complete application, the Department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Department 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 Village's zoning ordinance.
  - 2 Make a final decision whether to approve or disprove the application.
  - 3 Notify the applicant, in writing, of its final decision.
  - 4 If the decision is to disprove the application, include with the written notification substantial evidence which supports the decision.
- (g) Disapproval. The Department may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under Section ZN 3.11(4)(b)6.
- (h) Application of Set Back/Fall Zone. If an applicant provides the Department with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone areas required in a zoning ordinance (Section ZN 5.01(1)(b)) that zoning ordinance does not apply to such a structure unless the Department provides the applicant with substantial evidence that the engineering certification is flawed.
- (i) Fees. The fee for a zoning permit relating to construction of a new mobile service support structure and facility or for a Class 1 Collocation is listed in the Department's Fee Schedule.
- (j) Limitations. The zoning permits for Siting and Construction of any new mobile service support structure and facilities and for any Class 1 Collocation shall only be granted provided the following conditions exist:
  - 1 The applicant has obtained Federal Communications Commission (FCC) license numbers and registration numbers if applicable.

- 2 The applicant and/or agent have copies of Findings of No Significant Impacts (FONI) statement from the Federal Communications Commission (FCC) or Environmental Assessment or Environmental Impact Study (EIS), if applicable.
- 3 The applicant and /or agent have copies of the determination of no hazard from the Federal Aviation Administration (FAA) including any aeronautical study determination or other findings, if applicable.
- 4 The applicant and/or agent have copies of an Affidavit of Notification indicating that all operators and owners of public or private airports and landing strips located within five (5) miles of the proposed site have been notified via certified mail.
- 5 If the location of the proposed mobile service support structure or mobile service facility is on leased land, the lease agreement does not preclude the lessee from entering into leases on the site with other provider(s) and there is no other lease provision operating as a bar to collocation of other providers.

(5) **CLASS 2 COLOCATION.**

- (a) A zoning permit is required for a class 2 collocation. A class 2 collocation is a permitted use, but still requires the issuance of a zoning permit.
- (b) A zoning permit application must be completed by any applicant and submitted to the Department. The application must contain the following information:
  - 1 The name, business address and the phone number of the contact individual for the applicant. The applicant should include an email address if available.
  - 2 The location of the proposed or affected mobile service support structure.
  - 3 The location of the proposed mobile service facility.
- (c) A zoning permit application will be provided by the Department upon request to any applicant.
- (d) Requirements. A class 2 collocation is subject to the same requirements for the issuance of a zoning permit to which any other type of commercial development or land use development is subject.

This will require construction plans which describe the proposed equipment and network components including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the existing mobile service support structure. The construction plan shall include a scaled site plan which shows property lines, lease areas, structures including support structure, buildings, equipment pads, and fencing.

- (e) Completed Applications. If an applicant submits to the Department an application for a zoning permit to engage in an activity described in this Ordinance, which contains all of the information required under this Ordinance, the Department shall consider the application complete. If any

of the required information is not in the application, the Department shall notify the applicant in writing, within five (5) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

(f) Department Requirements. Within forty-five (45) days of its receipt of a completed application, the Department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Department may agree in writing to an extension of the forty-five (45) day period:

- 1 Make a final decision whether to approve or disprove the application.
- 2 Notify the applicant, in writing, of its final decision.
- 3 If the application is approved, issue the applicant the relevant zoning permit.
- 4 If the decision is to disprove the application, include with the written notification substantial evidence which supports the decision.

(g) Fees. The fee for a zoning permit relating to a Class 2 Colocation is listed in the Department's Fee Schedule.

(6) **ABANDONMENT, REMOVAL AND SECURITY FOR REMOVAL.**

(a) The recipient of a zoning permit allowing a mobile service support structure and facility under this section, or the current owner or operator, shall notify the Department within forty-five (45) days of the date when the mobile service facility is no longer in operation.

(b) Abandonment: any antenna, mobile service facility, or mobile service support structure that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Upon application, the Village Board may extend the time limit to abandon once for an additional twelve (12) month period. Such extension shall be based on the finding that the owner or zoning permit holder is actively seeking tenants for the site.

If abandonment is determined to have occurred, the owner of such antenna, mobile service facility or mobile service support structure shall remove said antenna, mobile service facility or mobile service support structure, including all supporting equipment, building(s) and foundations to the depth as otherwise herein required within ninety (90) days of receipt of notice from the Department notifying the owner of such abandonment. If removal to the satisfaction of the Department does not occur within said ninety (90) days, the Planning and Zoning Director may order removal utilizing the established bond or letter of credit discussed below. If there are two (2) or more users of a single tower, abandonment shall not be determined to have occurred until all operation of the tower ceases by all users.

(c) Removal. It is the express policy of the Village and this Ordinance that mobile service support structures be removed once they are no longer in use and not a functional part of providing mobile service and that it is the mobile service support structure owner's responsibility to

remove such mobile service support structures and restore the site to its original condition or a condition approved by the Department. After a mobile service support structure is no longer being used for mobile service that is in operation, the mobile service support structure owner shall have ninety (90) days to effect removal and restoration unless weather prohibits such efforts. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the mobile service support structure down to five (5) feet below the surface. The owner shall record a document with the Kenosha County Register of Deeds showing the existence of any subsurface structure remaining below grade. Such recording shall accurately set forth the location and describe the remaining structure.

- (d) Security for Removal. Before the issuance of any zoning permit, a performance bond or letter of credit shall be provided to the Village to guarantee that a structure that has ceased being used for mobile services facilities is removed. The bond amount shall be the lesser of Twenty Thousand (\$20,000.00) Dollars or an amount based on a written estimate of a person qualified to remove such structures. The Village of Somers will be named as the recipient of the bond or letter of credit and the Village is entitled to approve the bonding company. If necessary, the Village may require an increase in the bond amount after five (5) year intervals to reflect increases in the Consumer Price Index, but at no point shall the bond amount exceed Twenty Thousand (\$20,000.00) Dollars.

**(7) MOBILE SERVICE SUPPORT STRUCTURE, ANTENNA AND FACILITIES REQUIREMENTS.**

All mobile service facilities and mobile service support structures, except exempt facilities as defined in Section ZN 3.11(3), shall be designed as follows:

- (a) Mobile Service support structures shall be constructed of metal or other non-flammable material, unless specifically permitted by the Department to be otherwise.
- (b) Mobile service support structures towers, guy wires, appurtenant equipment, and buildings shall comply with the yard and setback requirements of the zoning district in which they are located.
- (c) Mobile service facilities, support structures and antennas shall be designed and constructed in accordance with all other applicable local, state and federal codes.
- (d) Equipment compounds shall meet the site plan requirements set forth in Section ZN 3.02(2) and this shall be applicable in all zoning districts.
- (e) Mobile service facilities and support structures shall not interfere with or obstruct existing or proposed public safety, fire protection or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the Village.
- (f) All mobile service facilities and support structures, except exempt facilities, shall be designed to blend into the surrounding environment to the greatest extent feasible. The tower location shall provide for the maximum amount of screening of the facilities. The site shall be landscaped and maintained with a buffer of plant materials that effectively screen the view of all facility structures, equipment and improvements at ground level from adjacent properties.

The standard buffer shall consist of a landscaped strip of at least four (4) feet wide outside the perimeter of the area where the tower accessory structures and equipment are located at ground level. In locations where the visual impact of the facility would be minimal the landscaping requirements may be reduced or waived by the Department. Existing mature vegetation and natural landforms on the site shall be preserved to the maximum extent possible or replaced with vegetative screening meeting the intent of this section. Upon project completion, the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping during the current growing season.

- (g) Access to the mobile service facilities and support structures must be provided by an all weather gravel or paved driveway.
- (h) The applicant has obtained a report prepared by an engineer licensed by the State of Wisconsin certifying the structural design of the tower and its ability to accommodate three (3) additional antennas.
- (i) Accessory buildings, structures, cabinets and other accessory facilities may be allowed and shall not exceed fifteen (15) feet in height, measured from the original grade, and two hundred fifty (250) square feet in area. All visible surfaces shall be constructed of non-reflective materials and designed to blend with the existing architecture in the area to the greatest extent feasible.
- (j) Noise and Traffic. All mobile service facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end the following measures shall be implemented for all mobile service facilities, except exempt facilities as defined in Section ZN 3.11(3):
  - 1 Noise producing construction activities shall take place only on weekdays (Monday through Saturday, non-holiday) between the hours of 6:00 a.m. and 6:00 p.m., except in times of emergency repair.
  - 2 Backup generators, if present, shall be operated only during power outages and for testing and maintenance purposes. Emergency back-up generators shall be completely enclosed on all sides and other efforts to mitigate noise from such generators may be required.
- (k) The facility or colocation is designed to promote site sharing, such that space is reasonably available to colocators and such that telecommunication towers and necessary appurtenances, including but not limited to parking areas, access road, and utilities, are shared by site users whenever possible.

**(8) LOCATION AND SEPARATION REQUIREMENTS.**

A good faith effort should be made to have mobile service support structures separated by a minimum of five thousand two hundred eighty (5,280) feet, measured from the base of the existing structure to the base of the proposed structure. Two (2) mobile service support structures may be permitted to be located closer if the applicant provides a sworn statement to the Department from an individual who has responsibility over the placement of the mobile service support structure attesting that colocation within the applicant's search ring would not result in the same mobile service functionality, coverage

and capacity, is technically infeasible, or is economically burdensome to the mobile service provider. The Department may request other supporting documentation, drawings and information to evaluate the applicant's request and/or assist in a third-party review.

A mobile service facility is encouraged to locate on existing mobile towers or on alternative support structures, such as clock towers, chimneys, steeples, barns, 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.

(9) **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.

(10) **LIABILITY.**

The Department does not warrant any mobile service support structure against design or structural failure. The Department does not certify that the design is adequate for any tower and the Department hereby accepts no liability through the issuance of a zoning permit.

(11) **TRANSFERABILITY OF MOBILE TOWER SITING ZONING PERMITS.**

Zoning permits granted under this section go with the land and are transferable. Zoning permits granted under this section are not limited in duration. All section and zoning permit requirements shall apply to subsequent owners. The department shall be notified of any change in ownership including, but not limited to facility leases, mortgages, liens or other instruments which may affect title to the property.

### **ZN 3.12 SMALL WIND ENERGY SYSTEMS.**

(1) **PURPOSE.**

The purpose of this section is to adopt and incorporate the requirements of §66.0401, Wis. Stats. and Wis. Admin. Code §PSC 128 as a local ordinance and to establish local regulations on the installation and use of small wind energy systems that are authorized by, compliant with, and no more restrictive than the rules promulgated by the Wisconsin Public Service Commission and that serve to preserve or protect the public health or safety, do not significantly increase the cost of the system or significantly decrease its efficiency, or allow for an alternative system of comparable cost or efficiency.

(a) Statutes, Regulations and Rules.

- 1 This section is subject to the provisions of the Wisconsin Statutes and all regulations and rules promulgated thereunder.
- 2 Section 66.0401, Wis. Stats. and Wis. Admin. Code §PSC 128 are adopted and incorporated by reference.

(2) **DEFINITIONS.**

All definitions contained in §66.0401, Wis. Stats. and Wisconsin Admin. Code §PSC 128 as amended

from time to time, are hereby incorporated by reference.

(3) **ZONING PERMIT REQUIRED.**

- (a) An owner must apply for and receive a zoning permit from the Department of Planning and Development (hereinafter referred to as the “Department”) before installing, constructing, or expanding any small wind energy system.
- (b) The owner must pay an application fee at the time the application for a small wind energy system is filed with the Department.
- (c) A zoning permit issued by the Department expires if construction of the small wind energy system is not commenced within eighteen (18) months from the date of the permit or if the small wind energy system is not installed and functioning within twelve (12) months from the date construction begins.

(4) **APPLICATION REQUIREMENTS.**

- (a) The owner must file an application that contains the information specified in Wis. Admin. Code §PSC 128.30, except as modified by Wis. Admin. Code §PSC 128.61(6).
- (b) A plan shall be submitted that includes information specified in Section ZN 2.02(1)(h). The owner must also provide the following additional information on the plan or as part of the permit application:
  - 1 Location of any overhead utility lines on or adjacent to the property.
  - 2 Description and specifications of the components of the small wind energy system, including the manufacturer, model, capacity, blade length, and total height of the small wind energy system; and
  - 3 Blueprints or drawings which have been approved by a registered professional engineer for any tower and tower foundation.

(5) **FILING REQUIREMENTS.**

- (a) Any document or paper required to be filed with the Village pursuant to Wis. Admin. Code §PSC 128 or this Ordinance must be filed at or delivered to the Department’s office.
- (b) Any document, paper, or other material submitted to the Village that relates to an application must be delivered to the Department’s office.
- (c) Any document or paper filed or otherwise submitted by an owner or any other interested party that relates to an application must be 8-1/2 x 11 inches in size. A person who wishes to submit a paper that is larger than 8-1/2 x 11 inches in size shall also submit reduced copy that is 8-1/2 x 11 inches in size.

(6) **CONDITIONS REQUIRED FOR APPROVAL.**

- (a) An owner shall provide information showing that it has complied with the notification requirements of Wis. Admin. Code §PSC 128.105(1), as modified by Wis. Admin. Code §PSC 128.61(1).
- (b) An owner shall provide information showing that it has complied with the notification requirements specified in Wis. Admin. Code §PSC 128.14(6), as modified by Wis. Admin. Code §PSC 128.61(4).

(7) **ABANDONMENT AND DECOMMISSIONING.**

- (a) A small wind energy system that does not generate electricity for a continuous period of five hundred forty (540) days will be deemed abandoned and the Department may issue a Notice of Abandonment to the owner.
- (b) If, within thirty (30) days of receipt of a Notice of Abandonment, the owner provides the Department with information showing that the small wind energy system has not been abandoned, the Department will withdraw the Notice.
- (c) Unless the Department withdraws the Notice of Abandonment, a small wind energy system tower must be decommissioned as prescribed by Wis. Admin. Code §PSC 128.19. If the owner fails to remove a small wind energy system and reclaim the site, the Village may remove or cause the removal of the small wind energy system and arrange for the reclamation of the site. The cost of removal and reclamation will become a lien upon the property and may be collected in the same manner as property taxes.

(8) **CODE COMPLIANCE.**

A small wind energy system must comply with the National Electrical Code and all applicable state construction and electrical codes. The owner must provide certification from a state licensed inspector showing that the small wind energy system complies with all applicable codes before placing the small wind energy system into operation.

(9) **ELECTRICAL WIRES.**

All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, must be located underground.

(10) **EMERGENCY COMMUNICATIONS CORRIDORS.**

- (a) An owner may not construct wind energy systems facilities within an emergency communication corridor, which is defined as the area within an existing line-of-sight communication path that is used by a government or military entity to provide services essential to protect public safety.
- (b) An owner shall provide information showing that wind energy systems facilities will be in compliance with sub. (a).

- (c) Village will provide the locations of emergency communication services and line-of-site corridors that are essential to protect public safety.

(11) **EQUIPMENT ACCESS.**

All ground-mounted electrical and control equipment must be labeled and secure to prevent unauthorized access.

- (a) An owner shall take appropriate measures to ensure that a wind turbine is not readily climbable except by authorized personnel.
- (b) An owner shall ensure that all wind turbine access doors and electrical equipment are locked when authorized personnel are not present.
- (c) An owner shall place appropriate warning signage on or at the base of each wind turbine.
- (d) An owner shall clearly mark guy wires and supports for a wind energy system, meteorological tower or other device for measuring wind speeds so that the wires and supports are visible to low flying aircraft under fair weather conditions.

(12) **LIGHTING.**

A small wind energy system may be artificially lighted only if lighting is required by the Federal Aviation Administration.

An owner shall use shielding or control systems approved by the federal aviation administration to reduce visibility of light to individuals on the ground.

(13) **NOISE.**

- (a) The noise generated by the operation of a small wind energy system may not exceed 50 db(A) during the daytime hours and 45 db(A) during the nighttime hours as measured at the outside wall of a non-participating residence or occupied community building that existed when the owner gave notice pursuant to Wis. Admin. Code §PSC 128.105(1) or for which complete publicly available plans for construction were on file with a political subdivision within thirty (30) days of the date when the owner gave notice pursuant to Wis. Admin. Code §PSC 128.105(1).
- (b) The owner of an adjacent non-participating residence or adjacent occupied community building may relieve the owner of the small wind energy system of the requirement to meet any of the noise limits in this section by written contract as provided in Wis. Admin. Code §PSC 128.14(5) and (6).
- (c) The owner shall provide the notice as prescribed by Wis. Admin. Code §PSC 128.61(4).
- (d) If an owner receives a complaint of a violation of the noise standards contained in Wis. Admin. Code §PSC 128.14 and the owner has not provided the Department with the results of an accurate test conducted within two (2) years prior to the date of the complaint showing that the small wind energy system is in compliance with the noise standard at the location relating

to the complaint, the owner shall promptly conduct a noise study to evaluate compliance with the noise standards at that location using the most current version of the noise measurement protocol as described in Wis. Admin. Code §PSC 128.50(2).

**(14) OWNERSHIP CHANGE.**

- (a) An owner shall provide the Village with notice of any change in ownership of the small wind energy system on or before the effective date of the change.

**(15) STATE AND FEDERAL PERMITS.**

- (a) An owner shall submit a copy of all necessary state and federal permits and approvals to the Department.

**(16) SETBACKS.**

- (a) A small wind energy system must be set back at least one (1) times the maximum blade tip height from any non-participating property line, non-participating residence, occupied community building or overhead communication and electrical transmission line, not including utility service lines to individual houses or outbuildings.
- (b) The owner of an adjacent non-participating residence or adjacent occupied community building may waive the required setback distance.

**(17) SIGNAL INTERFERENCE**

- (a) An owner shall use reasonable efforts to avoid causing interference with commercial and personal communications in use when the wind energy system begins operation to the extent practicable.
- (b) If necessary, an owner shall, under a protocol established by Wis. Admin. Code §PSC 128.50(2), implement a new technology solution that becomes commercially available before the small wind energy system is decommissioned to address interference.

**(18) UTILITY INTERCONNECTION.**

- (a) A small wind energy system that connects to the electric utility must comply with Wis. Admin. Code §PSC 119, Rules for Interconnecting Distributed Generation Facilities.

**(19) CONSTRUCTION, OPERATION AND MAINTENANCE STANDARDS.**

An owner shall construct, operate, repair, maintain and replace wind energy system facilities as needed to keep the wind energy system in good repair and operating condition in a manner that protects individuals from injury.

An owner shall notify the Village of the occurrence and nature of a wind energy system emergency within twenty-four (24) hours of the wind energy system emergency.

(20) **APPLICATION PROCESSING.**

- (a) The application for a zoning permit will be processed following the procedures set forth in §66.0403, Wis. Stats.
- (b) An owner shall, on the same day that it files an application for a small wind energy system, use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located adjacent to the small wind energy system. The notice shall contain the information specified in Wis. Admin. Code §PSC 128.30(5).
- (c) Upon receipt of an application, the Department shall publish the notice required by §66.0401(4)(a)(1), Wis. Stats. and Wis. Admin. Code §PSC 128.30(5)(b).
- (d) The Department will accept written comments on the application for a period of ten (10) days following the date of the published notice.
- (e) If the permit application is denied, the Department will notify the owner in writing and provide a written statement of the reason why the application was denied. The owner may appeal the Department's decision to the Board of Review as provided by these Ordinances.

(21) **COMPLETENESS REVIEW.**

- (a) An application is complete if it complies with the filing requirements of this Ordinance and of Wis. Admin. Code §PSC 128.30(2) and Wis. Admin. Code §128.50(1).
- (b) An application is considered filed the day the owner notifies the Department in writing that all the application materials have been filed.
- (c) The Department shall determine the completeness of an application and shall notify the owner in writing of the completeness determination no later than forty-five (45) days after the day the application is filed.
- (d) If the Department determines that the application is incomplete, it shall provide the owner with written notice stating the reasons for the determination. The owner shall provide additional information specified in the notice, and an additional forty-five (45) day completeness review period will begin the day after the Department receives responses to all items identified in the notice.
- (e) If the owner fails to provide additional information specified in the notice of an incomplete application within ninety (90) days, the application will be deemed abandoned. The owner may re-file the application at a later date, subject to payment of a new application fee. There is no limit to the number of times that an owner may re-file an application.
- (f) If the Village does not make a completeness determination within the applicable review period, the application is considered to be complete.

(22) **REQUESTS FOR ADDITIONAL INFORMATION.**

- (a) The Department may request additional information necessary to understand the small wind energy system after determining that an application is complete.
- (b) An owner shall provide additional information in response to all reasonable requests.
- (c) An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete and accurate manner.
- (d) If the owner fails to provide additional information requested within ninety (90) days, the application will be deemed abandoned. The owner may re-file the application at a later date, subject to the payment of a new application fee. There is no limit to the number of times that an owner may re-file an application.

(23) **APPROVAL REVIEW.**

- (a) The Department shall have ninety (90) days from the date that it notifies the owner that the application is complete in which to approve or disapprove the application.
- (b) The review period may be extended upon written notice to the applicant for one or more of the following reasons; but the total time for all extensions may not exceed an additional ninety (90) days:
  - 1 Up to forty-five (45) days if additional information is needed.
  - 2 Up to ninety (90) days if the applicant makes a material modification to the application.
  - 3 Up to ninety (90) days for other good cause specified in writing.
- (c) If the Department fails to act within the ninety (90) days, or within any extended time period, the application will be considered approved.

(24) **WRITTEN DECISION.**

- (a) The Department shall issue a written decision to grant or deny an application for a small wind energy system. The written decision must include findings of fact supported by evidence in the record. If an application is denied, the decision must specify the reason for the denial.
- (b) The Department shall provide a duplicate original of its written decision to the owner and the public services commission (hereinafter referred to as the “commission”).
- (c) The owner shall record the duplicate original of a decision approving an application with the register of deeds.

(25) **MODIFICATIONS.**

- (a) An owner shall comply with Wis. Admin. Code §PSC 128.35 before making any material change

to a small wind energy system.

- (b) The Department will conduct a review of any application for a material change in a small wind energy system as provided for in Wis. Admin. Code §PSC 128.35(2).

(26) **DECOMMISSIONING REVIEW.**

- (a) An owner shall file a notice of decommissioning completion with the Village and any political subdivision within which its small wind energy systems facilities are located when a small wind energy system approved by the Village has been decommissioned and removed.
- (b) The Department shall conduct a decommissioning review to determine whether the owner has decommissioned and removed the small wind energy system as required by Wis. Admin. Code §PSC 128.19(1)(a).
- (c) The owner shall cooperate with the Village by participating in the decommissioning review process.

(27) **APPEALS.**

- (a) A decision by the Department that the application is incomplete, or to approve or disapprove the application, or to impose a restriction on a small wind energy system may be appealed in accordance with the procedures set forth in Section ZN 7.01(1) to Section ZN 7.01(8) or by appealing to the commission under §66.0401(5), Wis. Stats.
- (b) Any action by the Village to enforce a restriction on a small wind energy system may be appealed to the commission.
- (c) An appeal must be filed with the commission within thirty (30) days after the date of the decision or the start of the enforcement action that is being appealed.

(28) **COMPLAINT PROCESS.**

- (a) An aggrieved person who has made a complaint to an owner in accordance with Wis. Admin. Code §PSC 128.40 may petition the Village for review of the complaint if it has not been resolved within forty-five (45) days of the day the owner received the original complaint.
- (b) The petition for review must be filed with the Department within ninety (90) days of the date of the original complaint.
- (c) The petition must include the following:
  - 1 Name, address, and telephone number of the person filing the petition
  - 2 Copy of the original complaint to the owner
  - 3 Copy of the owner's initial response

- 4 Statement describing the unresolved complaint
  - 5 Statement describing the desired remedy
  - 6 Any other information the complainant deems relevant to the complaint
  - 7 Notarized signature of the person filing the petition.
- (d) The Department shall forward a copy of the petition to the owner by certified mail within ten (10) days of the Department's receipt of the petition.
- (e) The owner shall file an answer to the petition with the Department and provide a copy of its answer to the complainant within thirty (30) days of its receipt of the petition.
- (f) The answer must include the following:
- 1 Name, address and telephone number of the person filing the answer
  - 2 Statement describing the actions taken by the owner in response to the complaint
  - 3 Statement of the reasons why the owner believes that the complaint has been resolved or why the complaint remains unresolved
  - 4 Statement describing any additional action the owner plans or is willing to take to resolve the complaint
  - 5 Any other information the owner deems relevant to the complaint
  - 6 Notarized signature of the person filing the answer.
- (g) The complainant and the owner may, within thirty (30) days following the owner's filing of its answer, file such additional information with the Department as each deems appropriate.
- (h) The Department may request such additional information from the complainant and the owner as it deems necessary to complete its review.
- (i) The Department may retain such consultants or experts as it deems necessary to complete its review.
- (j) The Department shall issue a written decision and may take such enforcement action as it deems appropriate with respect to the complaint.
- (k) The Department's decision and enforcement action is subject to review under §66.0401(5). Wis. Stats.

### **ZN 3.13 LARGE WIND ENERGY SYSTEMS.**

(1) **PURPOSE.**

The purpose of this section is to adopt and incorporate the requirements of §66.0401, Wis. Stats. and Wis. Admin. Code §PSC 128 as a local ordinance and to establish local regulations on the installation and use of large wind energy systems that are authorized by, compliant with, and no more restrictive than the rules promulgated by the Wisconsin Public Service Commission and that serve to preserve or protect the public health or safety, do not significantly increase the cost of the system or significantly decrease its efficiency, or allow for an alternative system of comparable cost and efficiency. Local regulations on the installation and use of small wind energy systems are contained in Section ZN 3.12(1).

(a) Statutes, Regulations and Rules.

- 1 This section is subject to the provisions of the Wisconsin Statutes and all regulations and rules promulgated thereunder.
- 2 Section 66.0401, Wis. Stats. and Wis. Admin. Code §PSC 128 are adopted and incorporated by reference.

(2) **DEFINITIONS.**

All definitions contained in §66.0401, Wis. Stats. and Wisconsin Admin. Code §PSC 128 as amended from time to time, are hereby incorporated by reference.

(3) **ZONING PERMIT REQUIRED.**

- (a) An owner must obtain the Village's approval before constructing a wind energy system or expanding an existing or previously approved wind energy system, and no wind turbine may be installed, constructed, or expanded without a zoning permit issued for a principal commercial structure by the Department under Section ZN 2.02(1).
- (b) The owner must pay an application fee at the time the application for a wind energy system is filed with the Department. See Section ZN 3.13(22) for additional required fees.
- (c) A zoning permit issued by the Department expires if construction of the wind energy system is not commenced within twenty-four (24) months from the date of the permit.

(4) **APPLICATION REQUIREMENTS.**

- (a) An owner shall file an original application which contains the information required by Wis. Admin. Code §PSC 128.30(2) with the Division of Planning and Development (hereinafter referred to as the "Department.")
- (b) The owner shall submit eleven (11) copies of the application to the Department and one copy of the application to the clerk of each municipality in which any wind energy system facility is proposed to be located.
- (c) The owner may submit one (1) digital copy of the application to the Department in a format

that is acceptable to the Department.

- (d) Each copy of the application shall include all documents, drawings, maps, worksheets, and other materials that are included in the original application.

(5) **FILING REQUIREMENTS.**

- (a) Any document or paper required to be filed with the Village pursuant to Wis. Admin. Code §PSC 128 or this Ordinance must be filed at or delivered to the Department's office.
- (b) Any document, paper, or other material submitted to the Village that relates to an application must be delivered to the Department's office or submitted to the Department on the record at a public hearing.
- (c) Any document or paper filed or otherwise submitted by an owner or any other interested party that relates to an application must be 8-1/2 x 11 inches in size. A person who wishes to submit a paper that is larger than 8-1/2 x 11 inches in size shall also submit a reduced copy that is 8-1/2 x 11 inches in size.

(6) **CONDITIONS REQUIRED FOR APPROVAL.**

- (a) An owner shall provide information about whether it has consulted with and received any non-binding recommendations for construction, operating, or decommissioning the wind energy system from any federal or state agency and whether the owner has incorporated the non-binding recommendation into the design of the wind energy system.
- (b) An owner shall cooperate with any study of the effects of wind energy systems that is coordinated by a state agency.
- (c) An owner shall submit a copy of all necessary state and federal permits and approvals to the Village.
- (d) An owner shall provide information showing that it has complied with the notification requirements specified in Wis. Admin. Code §PSC 128.105(1), §PSC 128.14(6) and §PSC 128.15(5).
- (e) An owner shall provide information showing that it has complied with the financial responsibility requirements specified in Section ZN 3.13(10).
- (f) An owner shall submit a copy of all necessary state and federal permits and approvals to the Village within thirty (30) days of the owner's receipt of any permit or approval that was not provided with the owner's application.

(7) **AERIAL SPRAYING.**

An owner shall offer an agreement that includes monetary compensation to a farm operator farming on a non-participating property located within one-half (½) mile of a constructed wind turbine if the farm operator demonstrates all of the following:

- (a) Substantial evidence of a history, before the wind energy system owner gives notice under Wis. Admin. Code §PSC 128.105(1), of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans, or sweet corn on all or part of the farm field located within one-half (½) mile of a constructed wind turbine.
- (b) A material reduction in potato, pea, snap bean, or sweet corn production or a material increase in application costs on all or part of a farm field located within one-half (½) mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.

**(8) ANNUAL REPORTS**

An owner shall, on or before January 31 of each year, file an annual report with the Department documenting the operation and maintenance of the wind energy system during the previous calendar year.

**(9) EMERGENCY PROCEDURES**

- (a) An owner shall establish and maintain a liaison with each political subdivision within which its wind energy system facilities are located and with fire, police, and other appropriate first responders serving the area in which the wind energy system facilities are located in order to create effective emergency plans as required by Wis. Admin. Code §PSC 128.18(4)(b).
- (b) An owner shall distribute a copy of its emergency plans to the following:
  - 1 Kenosha County Office of Emergency Management  
Attn: Emergency Management Director  
1000 55<sup>th</sup> Street  
Kenosha, WI 53140-3707
  - 2 Kenosha County Sheriff's Department  
Attention: Kenosha County Sheriff  
1000 55<sup>th</sup> Street  
Kenosha, WI 53140
  - 3 Clerk for any town or village within which its wind energy system facilities are located or that are within one-half (½) mile of any of its wind energy systems facilities.
  - 4 Clerk for any city within one-half (½) mile of any of its wind energy systems facilities.
  - 5 Any fire, police, or other first responder identified by the county's emergency management director or the clerk of any city, village, or town who has received a copy of the owner's emergency plans.
- (c) An owner shall provide annual training for the county's emergency management department, sheriff's department, and any other fire, police, or other first responder identified in the owner's emergency plans. An owner shall provide at least eight (8) hours of training during each calendar year and is responsible for all direct training costs.

(d) If an owner is required to implement its emergency plans as the result of a wind energy system emergency, it shall conduct a review of employee activities to determine whether the procedures were effectively followed. The owner shall provide the county's emergency management director with a copy of its review. If the review results in any changes to its emergency plans, the owner shall distribute the revised emergency plans as provided in sub. (b).

(e) An owner shall notify the county of the occurrence and nature of a wind energy system emergency within twenty-four (24) hours of the wind energy system emergency.

(10) **FINANCIAL RESPONSIBILITY.**

(a) An owner with a nameplate capacity of one megawatt or larger shall provide the Village with financial assurance of the owner's ability to pay the actual and necessary cost to decommission the wind energy system before commencing major civil construction activities.

(b) An owner shall provide the Village with three (3) estimates of the actual and necessary cost to decommission the wind energy system. The cost estimates shall be prepared by third parties agreeable to the owner and the Village. The amount of financial assurance required by the Village will be the average of the three (3) estimates.

(c) An owner shall establish financial assurance that is acceptable to the Village and that places the Village in a secured position. The financial assurance must provide that the secured funds may only be used for decommissioning the wind energy system until such time as the Village determines that the wind energy system has been decommissioned, as provided for in Wis. Admin. Code §PSC 128.19(5)(b), or the Village approves the release of the funds, whichever occurs first. The financial assurance must also provide that the Village may access the funds for the purpose of decommissioning the wind energy system if the owner does not decommission the system when decommissioning is required.

(d) The Village may periodically request information from the owner regarding industry costs for decommissioning the wind energy system. If the Village finds that the future anticipated cost to decommission the wind energy system is at least ten (10%) percent more or less than the amount of financial assurance provided under this section, the Village may correspondingly increase or decrease the amount of financial assurance required.

(e) The Village may require an owner to submit a substitute financial insurance of the owner's choosing if an event occurs that raises material concern regarding the viability of the existing financial assurance.

(11) **INFORMATION.**

(a) An owner shall, within thirty (30) days of consulting with any federal or state agency about the construction, operation, or decommissioning of the wind energy system, provide the Village with information about the reason for the consultation.

(b) An owner shall, within thirty (30) days of receiving any non-binding recommendation for the

construction, operation, or decommissioning of the wind energy system from any federal or state agency, provide the Village with information about the consultation and recommendation and whether the owner has incorporated the non-binding recommendation into the design of the wind energy system.

**(12) EQUIPMENT ACCESS AND CONDITION.**

- (a) An owner shall take appropriate measures to ensure that a wind turbine is not readily climbable except by authorized personnel.
- (b) All ground-mounted electrical and control equipment must be labeled and secure to prevent unauthorized access. An owner shall ensure that all wind turbine access doors and electrical equipment are locked when authorized personnel are not present.
- (c) An owner shall place appropriate warning signage on or at the base of each wind turbine.
- (d) An owner shall post and maintain up-to-date signs containing a twenty-four (24) hour emergency contact telephone number, information identifying the owner, and sufficient information to identify the location of the sign within the wind energy system. An owner shall post these signs at every intersection of a wind energy system access road with a public road and at each wind turbine location.
- (e) An owner shall clearly mark guy wires and supports for a wind energy system, meteorological tower or other device for measuring wind speeds so that the wires and supports are visible to low flying aircraft under fair weather conditions.
- (f) An owner shall construct, operate, repair, maintain and replace wind energy system facilities as needed to keep the wind energy system in good repair and operating condition in a manner that protects individuals from injury.

**(13) LIGHTING.**

An owner shall use shielding or control systems approved by the federal aviation administration to reduce visibility of light to individuals on the ground.

**(14) MONETARY COMPENSATION FOR NON-PARTICIPATING RESIDENCES.**

- (a) An owner shall offer an agreement to the owner of a non-participating residence, if the residence is located within one-half (½) mile of a constructed wind turbine, that includes the following initial annual monetary compensation of Six Hundred (\$600.00) Dollars for one (1) turbine located within one-half (½) mile of a non-participating residence, Eight Hundred (\$800.00) Dollars for two (2) turbines located within one-half (½) mile of a non-participating residence, and One Thousand (\$1,000.00) Dollars for three (3) or more turbines located within one-half (½) mile of a non-participating residence.
- (b) The initial annual monetary compensation under this subsection shall apply to agreements entered into in 2014. For agreements entered into in 2015 and thereafter, the initial annual amounts shall increase each year by the greater of two (2%) percent or the increase in the

Consumer Price Index, as described in §196.374(5)(bm)2, Wis. Stats., from the previous year.

- (c) An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under this Ordinance or Wis. Admin. Code §PSC 128 and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under this Ordinance or Wis. Admin. Code §PSC 128.

(15) **NOISE.**

If an owner receives a complaint of a violation of the noise standards contained in Wis. Admin. Code §PSC 128.14 and the owner has not provided the Department with the results of an accurate test conducted within two (2) years of the date of the complaint showing that the wind energy system is in compliance with the noise standard at the location relating to the complaint, the owner shall promptly conduct a noise study to evaluate compliance with the noise standards at that location using the most current version of the noise measurement protocol as described in Wis. Admin. Code §PSC 128.50(2)

(16) **OWNERSHIP CHANGE.**

- (a) An owner shall provide the Village with notice of any change in ownership of the wind energy system on or before the effective date of the change.
- (b) A notice of change in ownership of the wind energy system shall include information showing that the financial responsibility requirements specified in Section ZN 3.13(10) will be met following the change in ownership.

(17) **SIGNAL INTERFERENCE.**

- (a) An owner shall use reasonable efforts to avoid causing interference with commercial and personal communications in use when the wind energy system begins operation to the extent practicable.
- (b) An owner shall use reasonable and commercially available technology to mitigate interference with personal communications that were in use when the wind energy system began commercial operations. An owner shall also use reasonable and commercially available technology to mitigate interference with personal communications that were not in use when the wind energy system began commercial operations, if the wind energy system is causing the interference and the interference occurs at a location at least one-half mile from a wind turbine.
- (c) An owner shall use reasonable and commercially available technology to mitigate interference caused by a wind energy system with commercial communications in use when a wind energy system begins operation.
- (d) Before implementing mitigation measures, the owner shall consult with the affected parties regarding the preferred mitigation solution for personal and commercial communications interference problems. Except as provided in sub. (e), an owner shall mitigate personal communications interference caused by the wind energy system by making the affected party's preferred reasonable mitigation solution effective until either the wind energy system is

decommissioned or the communication is no longer in use, whichever is earlier.

- (e) An owner shall, under a protocol established by Wis. Admin. Code §PSC 128.50(2), implement a new technology solution that becomes commercially available before the wind energy system is decommissioned to address interference for which mitigation is required under Wis. Admin. Code §PSC 128.16(2) and (3) and for which the original mitigation solution is only partially effective.

(18) **EMERGENCY COMMUNICATIONS CORRIDORS.**

- (a) Wind energy system facilities shall not be located within an emergency communication corridor, which is defined as the area within an existing line-of-sight communication path that is used by a government or military entity to provide services essential to protect public safety.
- (b) The Village of Somers will provide the locations of emergency communication services and line-of-site corridors that are essential to protect public safety.

(19) **SOIL AND DRAINAGE SYSTEM PROTECTION.**

- (a) An owner shall utilize all applicable best practices in the placement, construction, operation, and maintenance of its wind energy facilities in order to minimize soil compaction, protect the topsoil, prevent topsoil mixing, and avoid and repair any damage to drainage systems on agricultural land.
- (b) An owner shall describe the applicable best practices that it intends to use in the placement, construction, operation, and maintenance of its wind energy facilities in its application.

(20) **STUDIES.**

An owner shall cooperate with any study of the effects of wind energy systems that is coordinated by a state agency.

(21) **COSTS AND FEES.**

- (a) An applicant shall pay an application fee to the Village at the time that it files its application. The fee will be applied to the cost of reviewing the application.
- (b) An applicant is responsible for paying all costs incurred by the Village in connection with the review and processing of the application, including the cost for services provided by outside attorneys, engineers, environmental specialists, planners, and other consultants and experts.
- (c) An owner is responsible for paying all costs incurred by the Village in connection with monitoring compliance during construction and assessing when wind energy facilities are not maintained in good repair and operation condition.
- (d) The Village shall invoice the applicant or owner for the actual and necessary costs incurred pursuant to this Ordinance. The applicant or owner shall reimburse the Village for those costs within fifteen (15) days of the date of invoice.

(22) **CONSULTANTS.**

- (a) The Department is authorized to contract with one (1) or more engineers, environmental specialists, planners, and other consultants and experts to perform necessary services in connection with this Ordinance.
- (b) The corporation counsel is authorized to contract with outside attorneys to perform necessary services in connection with this Ordinance.

(23) **COMPLETENESS REVIEW.**

- (a) An application is complete if it complies with the filing requirements of this Ordinance and of Wis. Admin. Code §PSC 128.30(2) and 128.50(1).
- (b) An application is considered filed the day the owner notifies the Department in writing that all the application materials have been filed.
- (c) The Department shall determine the completeness of an application and shall notify the owner in writing of the completeness determination no later than forty-five (45) days after the day the application is filed.
- (d) If the Department determines that the application is incomplete, it shall provide the owner with written notice stating the reasons for the determination. The owner shall provide additional information specified in the notice, and an additional forty-five (45) day completeness review period will begin the day after the Department receives responses to all items identified in the notice.
- (e) If the owner fails to provide additional information specified in the notice of an incomplete application within ninety (90) days, the application will be deemed abandoned. The owner may re-file the application at a later date, subject to payment of a new application fee. There is no limit to the number of times that an owner may re-file an application.
- (f) If the Village does not make a completeness determination within the applicable review period, the application is considered to be complete.

(24) **REQUESTS FOR ADDITIONAL INFORMATION.**

- (a) The Department may request additional information necessary to understand the wind energy system after determining that an application is complete.
- (b) An owner shall provide additional information in response to all reasonable requests.
- (c) An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete, and accurate manner.
- (d) If the owner fails to provide additional information requested within ninety (90) days, the application will be deemed abandoned. The owner may re-file the application at a later date,

subject to the payment of a new application fee. There is no limit to the number of times that an owner may re-file an application.

(25) **APPROVAL REVIEW.**

- (a) The Department shall have ninety (90) days from the date that it notifies the owner that the application is complete in which to approve or disapprove the application.
- (b) The review period may be extended upon written notice to the applicant for one (1) or more of the following reasons; but the total time for all extensions may not exceed ninety (90) days:
  - 1 Up to forty-five (45) days if additional information is needed.
  - 2 Up to ninety (90) days if the applicant makes a material modification to the application.
  - 3 Up to ninety (90) days for other good cause specified in writing.
- (c) If the Department fails to act within the ninety (90) days, or within any extended time period, the application will be considered approved.
- (d) The Plan Commission shall hold one public hearing during the initial ninety (90) day application review period for the purpose of receiving public comments on the application. A hearing notice will be published and the hearing will normally be held at the first commission meeting following notice to the applicant that the application is complete.
- (e) Written comments will be accepted for ten (10) days following the close of the hearing.

(26) **WRITTEN DECISION.**

- (a) The Department shall issue a written decision to grant or deny an application for a wind energy system. The written decision must include findings of fact supported by evidence in the record. If an application is denied, the decision must specify the reason for the denial.
- (b) The Department shall provide a duplicate original of its written decision to the owner and the commission.
- (c) The owner shall record the duplicate original of a decision approving an application with the Register of Deeds.

(27) **MODIFICATIONS.**

- (a) An owner shall comply with Wis. Admin. Code §PSC 128.35 before making any material change to a wind energy system.
- (b) The Department will conduct a review of any application for a material change in a wind energy system as provided for in Wis. Admin. Code §PSC 128.35(2).

(28) **THIRD-PARTY CONSTRUCTION INSPECTOR.**

The Department may contract with a third-party inspector to monitor and report to the Department regarding the owner's compliance with permit requirements during construction as provided for in Wis. Admin. Code §PSC 128.36(2). The owner shall reimburse the Village for the actual and necessary cost of the inspector.

(29) **POST-CONSTRUCTION FILING REQUIREMENT.**

Within ninety (90) days of the date a wind energy system commences operation, the owner shall file with the Department and the commission an as-built description of the wind energy system and all other information described in Wis. Admin. Code §PSC 128.34(3).

(30) **COMPLIANCE MONITORING.**

(a) An owner shall maintain a maintenance log for each wind turbine. The log must contain the following information regarding any maintenance performed on the wind turbine:

- 1 date and time maintenance was performed.
- 2 nature of the maintenance performed.
- 3 reason for the maintenance.

(b) An owner shall, at the owner's expense, provide the Department with a copy of the maintenance log for each wind turbine for each month within five (5) calendar days after the end of the month.

(c) The Department may retain such consultants or experts as it deems necessary to assess and determine whether the wind energy system facilities are compliant or to assess whether the wind energy system facilities are being maintained in good repair and operating condition.

(31) **ABANDONMENT AND DECOMMISSIONING.**

(a) A large wind energy system that does not generate electricity for a continuous period of three hundred sixty (360) days will be deemed abandoned and the Department may issue a Notice of Abandonment to the owner.

(b) If within thirty (30) days of receipt of Notice of Abandonment, the owner provides the Department with information showing that the large wind system has not been abandoned, the Department will withdraw the notice.

(c) Unless the Department withdraws the Notice of Abandonment, the large wind energy system must be decommissioned as prescribed by Wis. Admin. Code §PSC 128.19. If the owner fails to remove the large wind system and reclaim the site, the Village may remove or cause the removal of the large wind energy system and arrange for reclamation of the site. The cost of removal and reclamation will become a lien upon the property and may be collected in the same manner as property taxes.

(32) **DECOMMISSIONING REVIEW.**

- (a) An owner shall file a notice of decommissioning completion with the Village and any political subdivision within which its wind energy systems facilities are located when a wind energy system approved by the Village has been decommissioned and removed.
- (b) The Department shall conduct a decommissioning review to determine whether the owner has decommissioned and removed the wind energy system as required by Wis. Admin. Code §PSC 128.19(1)(a) and whether the owner has complied with its site restoration obligation under Wis. Admin. Code §PSC 128.19(4).
- (c) The owner shall cooperate with the Village by participating in the decommissioning review process.

(33) **APPEALS.**

- (a) A decision by the Department that the application is incomplete, to approve or disapprove the application, or to impose a restriction on a wind energy system may be appealed in accordance with the procedures set forth in Section ZN 7.01(1) to Section ZN 7.01(11) or by appealing to the commission.
- (b) Any action by the Village to enforce a restriction on a wind energy system may be appealed to the commission.
- (c) An appeal must be filed with the commission within thirty (30) days after the date of the decision or the start of the enforcement action that is being appealed.

(34) **COMPLAINT NOTICE REQUIREMENTS.**

- (a) An owner shall comply with the notice requirements contained in Wis. Admin. Code §PSC 128.42(1) and (2).
- (b) An owner shall, before construction of a wind energy system begins, provide the Department with a copy of the notice issued pursuant to Wis. Admin. Code §PSC 128.42(1), along with a list showing the name and address of each person to whom the notice was sent and a list showing the name and address of each political subdivision to which the notice was sent.
- (c) An owner shall, before construction of a wind energy system begins, file with the Department the name and telephone number of the owner's contact person for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning. The owner shall keep the name and telephone number of the contact person on file with the Department current.

(35) **COMPLAINT MONITORING.**

- (a) An owner shall maintain a complaint log as required by Wis. Admin. Code §PSC 128.40(2)(d).

- (b) An owner shall, at the owner's expense, provide the Department with a copy of the complaint log for each month within five (5) calendar days after the end of the month.
- (c) An owner shall, before construction of a wind energy system begins, provide the Department with a written copy of the owner's complaint resolution process. An owner shall provide the Department with a written copy of any changes to the complaint resolution process at least thirty (30) days prior to implementing the change.

(36) **COMPLAINT PROCESS.**

- (a) An aggrieved person who has made a complaint to an owner in accordance with Wis. Admin. Code §PSC 128.40 may petition the Village for review of the complaint if it has not been resolved within forty-five (45) days of the day the owner received the original complaint.
- (b) The petition for review must be filed with the Department within ninety (90) days of the date of the original complaint.
- (c) The petition must include the following:
  - 1 name, address, and telephone number of the person filing the petition.
  - 2 copy of the original complaint to the owner.
  - 3 copy of the owner's initial response.
  - 4 statement describing the unresolved complaint.
  - 5 statement describing the desired remedy.
  - 6 any other information the complainant deems relevant to the complaint.
  - 7 notarized signature of the person filing the petition.
- (d) The Department shall forward a copy of the petition to the owner by certified mail within ten (10) days of the Department's receipt of the petition.
- (e) The owner shall file an answer to the petition with the Department and provide a copy of its answer to the complainant within thirty (30) days of its receipt of the petition.
- (f) The answer must include the following:
  - 1 name, address, and telephone number of the person filing the answer.
  - 2 statement describing the actions taken by the owner in response to the complaint.
  - 3 statement of the reasons why the owner believes that the complaint has been resolved or why the complaint remains unresolved.

- 4 statement describing any additional action the owner plans or is willing to take to resolve the complaint.
  - 5 any other information the owner deems relevant to the complaint.
  - 6 notarized signature of the person filing the answer.
- (g) The complainant and the owner may, within thirty (30) days following the owner's filing of its answer, file such additional information with the Department as each deems appropriate.
- (h) The Department may request such additional information from the complainant and the owner as it deems necessary to complete its review.
- (i) The Department may retain such consultants or experts as it deems necessary to complete its review.
- (j) The Department shall issue a written decision and may take such enforcement action as it deems appropriate with respect to the complaint.
- (k) The Department's decision and enforcement action is subject to review under §66.0401(5), Wis. Stats.

### **ZN 3.14 ACCESSORY BUILDING REGULATIONS.**

(1) **PERMIT REQUIRED.**

No accessory building shall hereinafter be located, directed, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and without being in conformity with the provisions of this Ordinance, and State Statutes and the Wisconsin Administrative Code. The accessory building shall also meet all the structural requirements of local and State codes.

(2) **DISTRICTS.**

Accessory buildings may be located in all districts except the C-1 Lowland Resource Conservancy District and Floodplain District.

(3) **APPLICATION.**

All drawings and plans for the construction, installation, enlargement or alteration of any such accessory building shall first be presented to the Village for examination and approval as to proper size, location and construction.

All such plans and drawings shall be drawn to scale and shall indicate thereon all distances and dimensions so as to accurately and explicitly show all lot lines, and all information pertaining to the accessory building. Such plans shall also include vertical elevations of the accessory building.

(4) **CLASSIFICATION.**

Agricultural buildings, on lots of at least ten (10) acres, such as barns, silos, bins, sheds, and farm machinery sheds in the A-1, A-2, A-3 and A-4 agricultural districts shall not be considered accessory

buildings. Such buildings are principal agricultural buildings and shall comply with the yard and height requirement of the agricultural districts.

Buildings on non-conforming lots in the A-1, A-2, A-3, or A-4 districts less than ten (10) acres shall be considered accessory buildings and shall comply with the provisions of this section.

**(5) LOCATION.**

Accessory buildings shall be detached from the principal structure, provided that the accessory building:

- (a) Is on the same lot and then permitted only after their principal structure is present or under construction.
- (b) Shall be located in the side or rear yard only.

**(6) SIZE.**

Accessory building size is based upon lot size according to table in Section ZN 3.14(12).

**(7) SETBACKS.**

Accessory buildings shall have the following setbacks. (see table in Section ZN 3.14(12)).

- (a) A building separation of at least ten (10) feet between all buildings and structures.
- (b) A minimum five (5) foot side and rear yard setback on lots equal to or less than thirty-nine thousand nine hundred ninety-nine (39,999) square feet, unless zoned R-9, R-10 or R-11 in which case the setback shall be ten (10) feet.
- (c) A minimum ten (10) foot side and rear yard setback on lots equal to or greater than forty thousand (40,000) square feet.
- (d) Detached accessory buildings in all other districts shall meet the minimum setback requirements as outlined in each district.

**(8) HEIGHT.**

Accessory buildings shall have the following height. (see table in Section ZN 3.14(12))

- (a) A maximum height of fifteen (15) feet for buildings (shed, gazebos, pool house) equal to or less than one hundred fifty (150) square feet.
- (b) A maximum height of seventeen (17) feet for buildings greater than one hundred fifty (150) square feet and equal to or less than seven hundred twenty (720) square feet
- (c) A maximum height of twenty (20) feet for buildings greater than seven hundred twenty (720) square feet.
- (d) A maximum height of twenty-four (24) feet for buildings greater than three thousand (3,000) square feet.

**(9) NUMBER OF BUILDINGS.**

The number of accessory buildings permitted per lot are as follows: (see table in Section ZN 3.14(12)).

- (a) One (1) of each: shed, gazebo, pool house equal to or less than one hundred fifty (150) square feet.
- (b) One (1) accessory building, greater than one hundred fifty (150) square feet, on lots equal to or less than seventy-nine thousand nine hundred ninety-nine (79,999) square feet.
- (c) Two (2) accessory buildings, greater than one hundred fifty (150) square feet, on lots equal to or greater than eighty thousand (80,000) square feet.
- (d) If the total number of detached accessory buildings existing on a parcel exceeds the total number permitted in the district, no additional buildings or additions to existing buildings shall be permitted unless buildings in excess of the district standard are removed.

**(10) OPEN SIDED/SCREENED STRUCTURES (BUILDINGS) SUCH AS GAZEBOS AND SCREEN HOUSES.**

Open sided and/or screened structures (buildings) such as gazebos, and screen houses are permitted in the shoreyard setback area provided that the following is satisfied in accordance with §59.692(1v), Wis. Stats.

- (a) The part of the structure (building) that is nearest to the water is located at least thirty-five (35) feet landward from the ordinary high water mark.
- (b) The floor area of all structures (buildings) in the shoreland setback area shall not exceed two hundred (200) square feet.
- (c) The structure (building) has no sides or has open or screened sides.
- (d) The structure (building) shall not exceed ten (10) feet in height.
- (e) Submittal of a plan, approved by the Village, that will be implemented by the owner of the property to preserve or establish a vegetative shoreland buffer area that covers at least seventy (70%) percent of the width at least thirty-seven and one-half (37.5) feet landward from the ordinary high water mark.
- (f) Shoreland buffer area shall be established and maintained with applicable shoreland cutting provisions of Section ZN 3.10(2).

**(11) BOATHOUSES.**

- (a) Boathouses, accessory to permitted uses, may be located within a shore yard and entirely within the access and viewing corridor, but shall not be closer to a lake, stream, pond, or wetland than the ordinary high water mark. A boathouse is a non-habitable structure and shall be designed and used exclusively for marine equipment and shall meet the following requirements:

- 1 used by the owner or occupant of the parcel;
- 2 one (1) boathouse per shoreland lot;
- 3 not to be closer than three (3) feet to any side lot line; and the boathouse shall be constructed in such manner as to orient the main opening of the boathouse toward the lake;
- 4 not exceed four hundred and fifty (450) square feet measured outside wall to outside wall;
- 5 not to exceed one story, with a minimum wall height of ten (10) feet;
- 6 maximum height of twelve (12) feet above the existing shoreline grade except when bluff and/or steep slope conditions exist, (in such cases, it shall not exceed the height of the top grade elevation of said shoreland lot);
- 7 maximum width parallel to the shore of fifteen (15) feet;
- 8 not to contain fireplaces, patio doors, plumbing, heating, air conditioning, cooking facilities or other features inconsistent with the use of the structure exclusively as a boathouse;
- 9 no attached or detached decks or patios;
- 10 maximum of ten (10) square feet of window surface may be allowed on each side;
- 11 no more than one service door not to exceed thirty-six (36) inches in width. The service door shall not be on the water body side of the structure;
- 12 no more than one garage style access door not exceeding ten (10) feet in width and no less than eight (8) feet in width. The garage style door shall be on the water body side of the structure.

(b) The roof of a boathouse may be used as a deck provided that:

- 1 The boathouse has a flat roof.
- 2 The roof has no side walls or screens.
- 3 The roof may have a railing that meets the Department of Safety and Professional Services standards.

(12) **SUMMARY OF REGULATIONS FOR DETACHED ACCESSORY BUILDINGS.**

Lot Size	Maximum Number of Buildings	Maximum Size (Square Feet)	Maximum Height (Feet)	Yard Location	Side/rear Setback
<15,000 sf	1	150	12	Side or Rear	5 Feet
	1	720	17	Side or Rear	5 Feet
15,000-19,999 sf	1	150	12	"	"
	1	1000	20	"	"
20,000-39,999 sf	1	150	12	"	"
	1	1,500	20	"	"
40,000-79,999 sf	1	150	12	"	10 Feet
	1	2,000	20	"	10 Feet
80,000-119,999 sf	1	150	12	"	
	2	2,500	20	"	
120,000-159,999 sf	1	150	12	"	"
	2	3,000	24	"	"
160,000-4.9 ac	1	150	12	"	"
	2	3,500	24	"	"
5-5.9 ac	1	150	12	"	"
	2	4,000	24	"	"
6-6.9 ac	1	150	12	"	"
	2	4,500	24	"	"
7-7.9 ac	1	150	12	"	"
	2	5,000	24	"	"
8-8.9 ac	1	150	12	"	"
	2	5,500	24	"	"
9-9.9 ac	1	150	12	"	"
	2	6,000	24	"	"
>10 ac	No Limit	No Limit	24	Side, Rear, Street	25 Feet/ 50 Feet
R-9	No Limit	No Limit	20	Side or Rear	"
R-10	No Limit	No Limit	20	Side or Rear	"
R-11	No Limit	No Limit	20	Side or Rear	"
R-12	1	150	12	Side or Rear	5 Feet
	1	720	17	Side or Rear	5 Feet

### **ZN 3.15 DECKS & PATIOS.**

**(1) COMPLIANCE.**

It shall be unlawful to construct, install, enlarge, or alter any deck or patio as defined in this Ordinance, except in compliance with the provisions of this Ordinance, and State Statutes and the Wisconsin Administrative Code.

**(2) DISTRICTS.**

Decks may be located in all districts except the C-1 Lowland Resource Conservancy District and FPO Floodplain District.

Patios may be located in all districts except in the C-1 Lowland Resource Conservancy District.

(3) **PERMIT REQUIRED.**

All decks and only patios within the shoreyard setback, shall not be located, directed, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit from the Village and without being in conformity with the provisions of this Ordinance, and State Statutes and the Wisconsin Administrative Code.

(4) **APPLICATION.**

All drawings and plans for the construction, installation, enlargement or alteration of any such deck and/or patio shall first be presented to the Village for examination and approval as to proper size, location and construction.

All such plans and drawings shall be drawn to scale and shall indicate thereon all distances and dimensions so as to accurately and explicitly show all lot lines, and all information pertaining to the deck and/or patio. In the case of a deck, such plans shall also include vertical elevations of the accessory building.

(5) **SETBACK – DECK.**

A deck is permitted in any yard subject to the following:

- (a) Street Yard – as required by the district.
- (b) Side Yard – ten (10) feet into any required setback, but not less than five (5) feet.
- (c) Rear Yard – ten (10) feet into any required setback, but not less than fifteen (15) feet.
- (d) Shore Yard – permitted in the required setback, in accordance with §59.692(1v), Wis. Stats., and subject to the following:
  - 1 Not less than thirty-five (35) feet from the ordinary high water mark
  - 2 Not greater than two hundred (200) square feet in area, inclusive of patios, gazebos and screen houses within this setback.
  - 3 Submittal of a plan, approved by the Village, that will be implemented by the owner of the property to preserve or establish a vegetative shoreland buffer area that covers at least seventy (70%) percent of the width at least thirty-seven and one-half (37.5) feet landward from the ordinary high water mark. The shoreland buffer area shall be established and maintained with applicable shoreland cutting provisions of Section ZN 3.10(2).

(6) **SETBACK – PATIO.**

A patio is permitted in any yard subject to the following:

- (a) Street Yard – as required by the district.

- (b) Side Yard – five (5 )feet.
- (c) Rear Yard – five (5 )feet.
- (d) Shore Yard – permitted in the required setback, in accordance with §59.692(1v), Wis. Stats., and subject to the following:
  - 1 Not less than thirty-five (35) feet from the ordinary high water mark
  - 2 Not greater than two hundred (200) square feet in area, inclusive of patios, gazebos and screen houses within this setback.
  - 3 Submittal of a plan, approved by the Village, that will be implemented by the owner of the property to preserve or establish a vegetative shoreland buffer area that covers at least seventy (70%) percent of the width at least thirty-seven and one-half (37.5) feet landward from the ordinary high water mark. The shoreland buffer area shall be established and maintained with applicable shoreland cutting provisions of Section ZN 3.10(2).

### **ZN 3.16 ACCESSORY LIVING UNIT.**

**(1) PERMIT REQUIRED.**

It shall be unlawful to proceed with the construction, installation, enlargement or alteration of an Accessory Living Unit, as defined in this Ordinance, without a zoning permit from the Village and without being in conformity with the provisions of this Ordinance, State Statutes and the Wisconsin Administrative Code.

**(2) DISTRICTS.**

Accessory Living Units may be located in the A-1, A-2, C-2, R-1, R-2, R-3, R-4, R-4.5, R-5, R-6 Districts.

**(3) APPLICATION.**

All drawings and plans for the construction, installation, enlargement or alteration of any such Accessory Living Unit shall first be presented to the Village for examination.

All such plans and drawings shall be drawn to scale and shall indicate thereon all distances and dimensions so as to accurately and explicitly show all floor plans, lot lines and all information pertaining to the Accessory Living Unit.

**(4) REQUIREMENTS.**

The following rules apply to an Accessory Living Unit.

- (a) Only one (1) Accessory Living Unit is permitted per single-family dwelling.
- (b) The Accessory Living Unit shall not exceed six hundred (600) square feet in area.
- (c) No more than two (2) people may reside in the Accessory Living Unit.

- (d) The entire structure must appear or continue to appear as a single-family dwelling. A separate garage or driveway is not permitted.
- (e) No separate address is permitted.
- (f) No separate utility connections and/or meters are permitted.
- (g) A physical access between the main living unit and the accessory living unit must be present within the single-family dwelling unit. The required connection may not be through an attic, basement, garage, porch or other non-living area. A door may be used to separate the accessory living unit from the rest of the single-family dwelling unit.
- (h) In addition to the internal physical connection required above, only one separate outdoor side or rear access, being a patio door, may be provided; however, the structure shall continue to appear as a typical single-family dwelling.
- (i) An external stairway which serves the Accessory Living Unit is prohibited.
- (j) The Accessory Living Unit may contain a separate bathroom, laundry, living, efficiency kitchen, sleeping (one bedroom) and recreation areas, including exterior porches, patios, and/or decks.
- (k) The Accessory Living Unit shall be occupied by a resident related through blood, marriage or adoption to the resident occupant of the single-family dwelling.
- (l) An Accessory Living Unit should be considered and regulated as part of, or as a permitted addition to, a single-family dwelling. It shall not require conditional use approval or special site plan review.
- (m) When an application is submitted for a zoning permit to accommodate what is explicitly listed as, or could possibly be, an Accessory Living Unit, the building plan shall be marked as "Not a separate dwelling unit nor apartment."
- (n) A standardized affidavit affecting real estate shall be attached to the zoning permit and recorded in the Register of Deeds.

### **ZN 3.17 TEMPORARY USES.**

#### **(1) PURPOSE.**

As permitted in Section ZN 3.02(1)(e) of this Ordinance, the temporary use regulations of this section are intended to allow such 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. The nature, character or circumstances of temporary uses are unique and dependent upon specific conditions. Therefore, specifying all temporary uses and associated standards, regulations or conditions necessary or appropriate for a temporary use permit to be granted is not practical.

(2) **TEMPORARY USES NOT REQUIRING A ZONING PERMIT.**

Although it is recognized that it is neither possible nor practical to list all of the temporary uses not needing a zoning permit, the following are allowed subject to the listed conditions:

(a) Handicap Ramp. A temporary handicap ramp is allowed to be constructed to provide access to a residential dwelling that does not meet the setback requirements of this Ordinance.

1 The temporary handicap ramp shall be used solely for the purpose of handicapped accessibility to the residential dwelling. Any additional uses other than handicapped accessibility are prohibited (i.e. recreational decks defined as any landing area larger than four (4) feet by six (6) feet).

2 The temporary handicap ramp shall be designed to have the least deviation of applicable setbacks.

3 The property owner is responsible for removing the temporary handicapped ramp when it is no longer required by the occupants of the dwelling

4 Additional conditions may be imposed to ensure compliance with the provisions of this Ordinance and all local, state and federal requirements.

(b) On-site Construction Trailers.

1 Construction trailer(s) shall be located on the same property in which the construction project it services is taking place.

2 The site on which the construction trailer(s) is proposed to be located shall have an active zoning, erosion control or stormwater permit issued by the Department of Planning and Development.

3 Construction trailer(s) shall be located in an area which is accessible for emergency vehicles.

4 Construction trailer(s) shall comply with all local, State and Federal requirements.

5 Construction trailer(s) shall be removed from the property prior to the issuance of a Certificate of Compliance for which the building or related site improvements have occurred. Where a project does not require the issuance of a Certificate of Compliance, construction trailer(s) shall be removed from the property prior to the expiration of the permit relative to the project.

(c) Temporary Portable Storage Containers. A temporary portable storage container (such as, but not limited to, those available from PODS or U-Haul) is a purpose-built, fully enclosed, box-like container to provide residential property owners temporary storage space for home remodeling, relocating, fire and/or water damage; and cleaning out attics, basements, garages or other attached storage areas. A temporary portable storage container is not a storage shed, roll-off container, dumpster, cargo/shipping container or the trailer portion of a tractor-trailer.

- 1 Temporary portable storage containers shall only be permitted on lots with a principal building or structure.
- 2 Temporary portable storage containers shall not be used in conjunction with a home occupation or used as a principal use or principal building or structure.
- 3 All temporary portable storage containers shall display the container provider's contact information. Signs shall not contain other advertising for any other product or services.
- 4 Temporary portable storage containers shall not be inhabited.
- 5 Containers may not be placed in any road right-of-way, vision triangle, sidewalk, and landscape or drainage easement.
- 6 Due to the temporary nature of temporary portable storage containers, location in a driveway or yard may be acceptable.
- 7 Temporary portable storage containers shall be permitted on a lot for a period not to exceed thirty (30) consecutive days within a six (6) month period. For extensive construction projects a written extension may be granted by Planning & Development.
- 8 Maximum cumulative size of all temporary portable storage containers on a property may not exceed one hundred thirty (130) square feet.
- 9 Portable storage containers may not exceed a height of eight and one-half (8½) feet. The height of such structures is measured from the lowest ground level adjacent to the structure to the top of the structure. Stacking of containers is prohibited.

(d) Yard Sales.

- 1 Not to exceed four (4) days in duration.
- 2 No more than one (1) yard sale in any two (2) month period.

(3) **TEMPORARY USES REQUIRING A ZONING PERMIT.**

It shall be unlawful to proceed with the construction, installation, enlargement or alteration of a temporary use, as defined in this Ordinance, without a zoning permit from the Department of Planning & Development and without being in conformity with the provisions of this Ordinance and local, State and Federal requirements. Although it is recognized that it is neither possible nor practical to list all the temporary uses for which a zoning permit is required, the following are allowed subject to the listed conditions:

- (a) Two (2) single-family dwellings on one (1) property. A new single-family dwelling is allowed to be constructed on an existing lot with an existing single-family dwelling.
  - 1 The underlying zoning district allows for a single-family dwelling.

- 2 The existing single-family dwelling is razed no later than a mutually agreed date determined by the Village and the applicant. Such action may require a raze permit from the Village.
- 3 The occupant(s) of the existing dwelling is (are) allowed to live in the existing dwelling while the new single-family dwelling is being constructed on the property.
- 4 Only one (1) dwelling shall be occupied at a time.
- 5 The new single-family dwelling shall comply with all setback requirements of the underlying zoning district and shall be located a minimum of ten (10) feet from the existing dwelling.
- 6 A standardized affidavit affecting real estate, referencing the mutually agreed date the second single-family dwelling is to be razed, shall be attached to the zoning permit and recorded in the register of deeds.

(b) Temporary residence during reconstruction of a single-family dwelling due to natural disaster in only the A-1 and A-2 zoning districts. A manufactured home may be used as a temporary dwelling while the existing single-family dwelling is being reconstructed due to a natural disaster.

- 1 Such use shall only be permitted in the A-1 or A-2 zoning district and then only when there is proven need to provide twenty-four (24) hour presence on the property for the raising of livestock or horses.
- 2 Such use shall be granted for six (6) months unless approved for an additional six (6) months.
- 3 The manufactured home shall be removed from the property within thirty (30) days of obtaining an occupancy permit from the Village or by the expiration date of the zoning permit for the single-family residence to be reconstructed, whichever comes first.
- 4 Only the occupant(s) of the existing single-family dwelling are allowed to live in the manufactured home while the single-family dwelling is being reconstructed on the property.
- 5 Only one (1) dwelling shall be occupied at a time.
- 6 The manufactured home shall comply with all setback requirements of the underlying zoning district and shall be located a minimum of ten (10) feet from the existing dwelling.
- 7 All sanitary codes shall be complied with.
- 8 A standardized affidavit affecting real estate shall be attached to the zoning permit and

recorded in the register of deeds.

**(4) TEMPORARY USES REQUIRING APPROVAL BY THE BOARD OF APPEALS.**

It shall be unlawful to proceed with the operation, construction, installation, enlargement or alteration of a temporary use, as defined in this Ordinance, without first obtaining approval from the Village Board of Appeals and also obtaining any applicable zoning permit or certificate of compliance from the Village being in conformity with the provisions of this Ordinance, and local, State and Federal requirements. Although it is recognized that it is neither possible nor practical to list all the temporary uses for which Board of Appeals approval is needed, the following are allowed subject to Board of Appeals approval:

- (a) Circus, Concerts and Festival events less than five thousand (5,000) people
- (b) Christmas Tree sales
- (c) Classrooms
- (d) Fireworks Stands
- (e) Food Stands
- (f) Fruit and Vegetable Stands
- (g) Horse Shows and Rodeos
- (h) Model Home Sales Office
- (i) Real Estate Sales Offices
- (j) Recreational Vehicle Races and Events
- (k) Sales Office
- (l) Vacant Lot Tent Sales

**ZN 3.18 LIGHTING.**

**(1) EXTERIOR LIGHTING STANDARDS**

The requirements of this section apply to all private exterior lighting within the business, manufacturing, institutional and park-recreational districts, except as may be modified by a Development Agreement entered into by a property owner and the Village, in which case the provisions of the Development Agreement shall control.

- (a) Orientation of Fixtures. Except for security lighting, outdoor recreational facility lighting or flag lighting, in no instance shall an exterior lighting fixture be oriented so that the lighting element (or a transparent shield) is visible from any abutting right-of-way or adjacent property. The use

of fully shielded fixtures (as defined in the Wisconsin Model Exterior Lighting Ordinance) is required and careful fixture placement and maintenance is encouraged so as to facilitate compliance with this requirement.

- 1 Building Lighting. Ground-mounted light fixtures for building lighting shall be carefully located, aimed and shielded so that light is directed only onto the building facade.
  - 2 Service Station Canopy Lighting. Light fixtures mounted on the bottom surface of service station canopies shall be recessed so that the lens cover is flush with the bottom surface (ceiling) of the canopy.
  - 3 Wall Lighting. Wall-mounted light fixtures shall be aimed and shielded so that illumination is directed below a horizontal plane through the top of the lighting fixture.
- (b) Intensity of Illumination. In no instance shall the amount of illumination attributable to exterior lighting as measured at the property line exceed one-half (0.5) footcandles above ambient lighting conditions on a cloudless night. This will be verified by a photometric plan of the property.
- (c) Minimum Parking Lot Lighting. All areas designated on required site plans for vehicular parking, loading or circulation and used for any such purpose shall provide artificial illumination in those areas at a minimum average intensity of two (2) footcandles.
- (d) Height. Light fixtures shall not be more than twenty-five (25) feet above ground level for parking lots serving twenty (20) or fewer parking spaces, nor more than thirty (30) feet above ground level for parking lots with more than twenty (20) spaces.
- (e) Flashing, Flickering and Other Distractive Lighting. Flashing, flickering and/or other lighting which may distract motorists is prohibited.
- (f) Non-conforming Lighting. All lighting fixtures existing prior to the effective date of this Section and that do not comply with the provisions of this Section shall be considered as legal non-conforming uses. The replacement of non-conforming fixtures after the effective date of this Section shall be done so with fixtures which fully comply with the provisions of this Section.
- (g) Exemptions. Lighting placed in a public right-of-way for public safety shall be exempt from the provisions of this Section.
- (h) Special Uses. Lighting for outdoor recreational facilities such as athletic fields, courts, tracks, golf courses and driving ranges, shooting ranges, swimming pools, ski hills or amusement parks and fairgrounds may be exempt from the provisions of this Section, but shall meet accepted minimum design standards for the intended use. Lighting plans for outdoor recreational facilities shall be subject to review and approval by the Village.

### **ZN 3.19 LANDSCAPING.**

(1) **PURPOSE.**

The purpose of this subchapter is to indicate the minimum requirements for the landscaping of new development and redevelopment of any multi-family residential, business, manufacturing, and institutional district except for development requiring the platting process, in which case the landscaping plan shall be included with the submittal of all preliminary plats to be approved during the platting process by the Village.

(2) **LANDSCAPE PLAN REQUIRED.**

A landscape plan shall be prepared by a registered Landscape Architect for all new development or redevelopment. The landscape plan shall provide for and address landscaping for open yard area, landscaping for building foundations, landscaping for street frontage, and landscaping for paved areas including loading areas. The Landscape Architect shall stamp and certify in writing that the plan is complete and accurately depicts and complies with the standards set forth in this Ordinance.

Following installation of landscaping, a written certification shall be submitted by the Landscape Architect certifying that all the required landscape materials specified on the plan have been installed in conformance with the landscape plan as approved by the Village. The development applicant shall commit, in writing, to maintain all required landscaping. The requirement that landscape plans and specifications be certified by a Landscape Architect may be waived by the Village. The requirements of this Section U may be modified by written Development Agreement between the Village and the Owner, in which case the requirements of the Development Agreement shall control.

The landscape plan shall be drawn on a site plan that includes:

- (a) A graphic scale (not smaller than one (1) inch = forty (40) feet).
- (b) A North arrow.
- (c) Date drafted.
- (d) Property lines, easements, and street rights-of-way with dimensions.
- (e) Location and dimensions of all landscaped areas; location and botanical name and size of all plant materials and ground cover; and the location of pertinent landscape features.
- (f) Location of existing and proposed utility improvements.
- (g) Proposed layout of vehicular use areas including the location, dimensions of parking spaces, parking lot islands, interior plantings, pedestrian walkways and circulation aisles.
- (h) Location of all existing significant trees on the site that the applicant proposes to remove; the location of all existing trees with a diameter breast height (dbh) greater than five (5) inches which are to be retained and counted towards minimum requirements.
- (i) The location, design, height and building material of proposed walls, planter boxes, and fences.
- (j) The direction of street and parking lot traffic using one-way or two-way arrows.

- (k) The location and extent of all waterways, wetlands and water features.
- (l) The location and extent of all primary and secondary environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission (SEWRPC).

**(3) PRESERVATION OF EXISTING VEGETATION.**

Every attempt shall be made by the developer/applicant to preserve existing trees with a diameter breast height (dbh) of at least five (5) inches and significant trees which are to be counted towards minimum requirements. Significant tree(s) are any tree or grouping of trees which has been determined to be of high value by the Village staff and/or consultants because of its size (twenty-four (24) inches or greater DBH), age, historic significance or other professional criteria. When it is necessary to remove significant trees, the developer shall replace twenty-four (24) inches caliper or larger deciduous trees with six three (3) inches caliper deciduous trees, Conifers twenty-four (24) inches caliper or larger may be replaced with two (2) ten (10) foot tall conifers or three (3) six (6) foot to eight (8) foot coniferous trees. Existing trees to be saved during construction shall have a protective fence placed around the tree at the drip line.

**(4) HARDSCAPING.**

On unique site or sites with unique design opportunities, or properties located within the Village, hard landscaping features (such as sculptures or statues, walls, foundations, benches, scenic viewpoints, and scenic walkways) may be incorporated into a landscape in lieu of plantings, subject to review by the Village staff. Landscaping provided by hardscaping shall not preclude the need to provide plantings in other areas of the development.

**(5) LANDSCAPING REQUIRED FOR OPEN YARD AREAS.**

All lots shall provide a minimum amount of landscaping provided on the basis of open yard area which shall provide a combination of deciduous, evergreen, ornamental trees and shrubs. Landscaping for open yard area is intended to provide yard shade and to screen detached exterior appurtenances such as HVAC, utility boxes, standpipes, stormwater discharge pipes and other pipes. Landscaping for this purpose is most effective if located away from buildings. Landscaping for open yard area shall be:

- (a) In Multi-Family Residential Districts (not requiring the platting process): A minimum of two (2) evergreen or deciduous trees per one thousand (1,000) square feet of open yard area; two (2) ornamental trees or two (2) shrubs shall equal one (1) evergreen or deciduous tree.
- (b) In Business, Manufacturing and Institutional Districts: A minimum of one (1) evergreen or deciduous trees per one thousand (1,000) square feet of open yard area; two (2) ornamental trees or two (2) shrubs shall equal one (1) evergreen or deciduous tree.

**(6) LANDSCAPING REQUIRED FOR BUILDING FOUNDATIONS.**

All lots shall provide a minimum amount of landscaping for building foundations which shall provide a combination of ornamental trees and shrubs Landscaping required for building foundations shall be placed so that, at maturity, the plant's drip line is located within ten (10) feet of the building's foundation. Larger trees shall not be used to meet this requirement. The intent is to provide a visual break in the mass of buildings and to provide a visual for all appurtenances such as HVAC, utility boxes, standpipes, stormwater discharge pipes and other pipes extending from the building. Landscaping for

building foundations shall be:

- (a) In Multi-Family Residential Districts (not requiring the platting process): A minimum of one (1) ornamental tree per twenty (20) feet of building foundation. Two (2) shrubs shall equal one (1) ornamental tree.
- (b) In Business, Manufacturing and Institutional Districts: A minimum of one (1) ornamental tree per twenty (20) feet of building foundation. Two (2) shrubs shall equal one (1) ornamental tree.

**(7) LANDSCAPING REQUIRED FOR STREET FRONTAGE.**

All lots shall provide a minimum of landscaping in those areas that abut the right-of-way of a public highway, street or road to visually soften the appearance of development, which shall provide a combination of deciduous, evergreen, ornamental trees and shrubs. Front yard landscaping shall not, however, impede vehicle or pedestrian visibility and shall comply with the traffic visibility (vision triangle) requirements of Section ZN 3.06(1). Shrubs shall not be used to meet this requirement.

- (a) In Multi-Family Residential Districts (not requiring the platting process): A minimum of one (1) evergreen or deciduous trees per thirty (30) feet of street frontage. Two (2) ornamental trees or two (2) shrubs shall equal one (1) evergreen or deciduous tree.
- (b) In Business, Manufacturing and Institutional Districts: A minimum of one (1) evergreen or deciduous trees per fifty (50) feet of street frontage. Two (2) ornamental trees or two (2) shrubs shall equal one (1) evergreen or deciduous tree

**(8) LANDSCAPING REQUIRED FOR PARKING AREAS.**

All parking areas shall provide a minimum of landscaping around the perimeter, which shall provide a combination of deciduous, evergreen, ornamental trees and shrubs. All landscaped areas located adjacent to a parking lot shall be separated from the paved area by a continuous minimum four (4) inch curb which is constructed of concrete. The use of berms shall constitute over seventy-five (75%) percent of the parking areas abutting a right-of-way. The berm shall be designed to be meandering and undulating with a minimum height of four (4) feet with slopes no greater than 4:1. Landscaping for parking lot perimeters shall be:

- (a) In Multi-Family Residential Districts (not requiring the platting process): A minimum of one (1) evergreen or deciduous trees per twenty-five (25) feet. Two (2) ornamental trees or four (4) shrubs shall equal one (1) evergreen or deciduous tree.
- (b) In Business, Manufacturing and Institutional Districts: A minimum of one (1) evergreen or deciduous trees per twenty-five (25) feet. Two (2) ornamental trees or four (4) shrubs shall equal one (1) evergreen or deciduous tree.
- (c) In (a) and (b) above, when abutting a residential district or use, deciduous and ornamental trees and/or shrubs are not permitted.

**(9) LANDSCAPING REQUIRED IN PARKING AREA INTERIORS.**

All off-street parking areas in which the parking aisle or parking bay does not terminate with a landscaped buffer yard shall have a landscaped island. The minimum size of each landscaped island

shall be one hundred sixty (160) square feet and contain at least one (1) deciduous or ornamental tree. At a minimum, every third parking bay (defined grouping of parking stalls) shall have a continuous landscaped planting strip of not less than eight (8) feet in width running the entire length of the parking bay and shall contain at least one (1) deciduous or ornamental tree per fifty (50) feet.

Location of landscaped areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance shall be subject to approval by the Village staff. All plans for proposed parking areas shall include a topographic survey and grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of required minimum landscaped area.

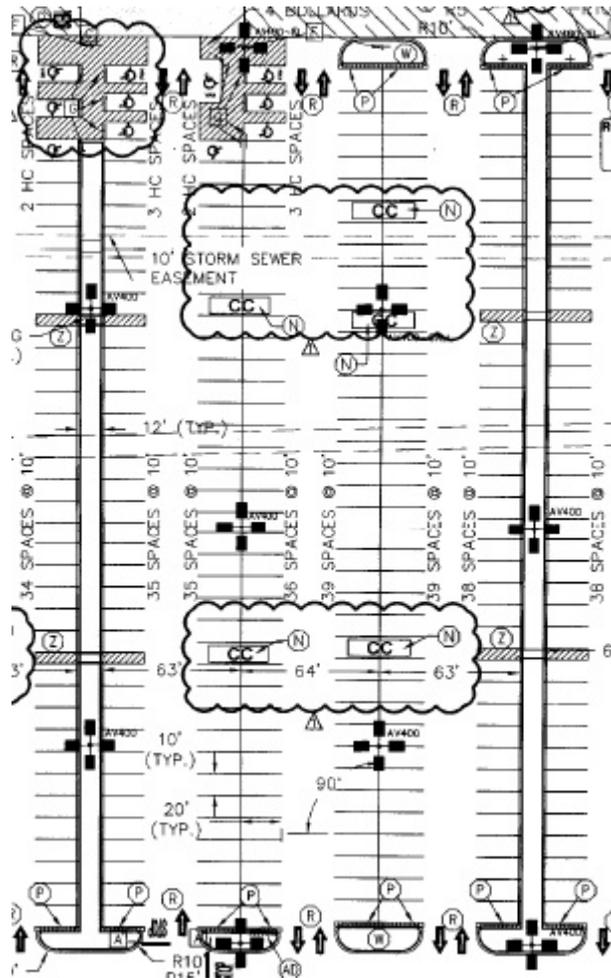
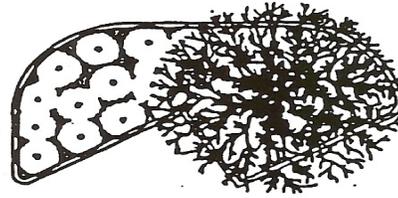
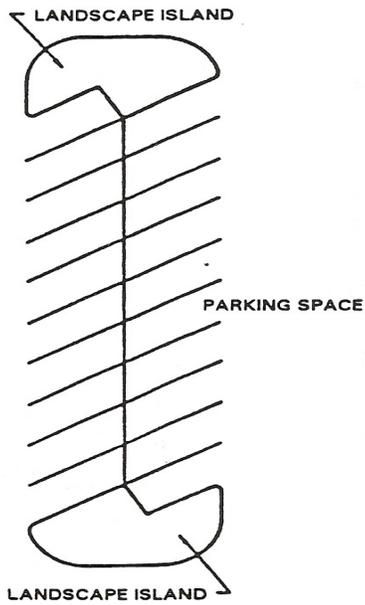
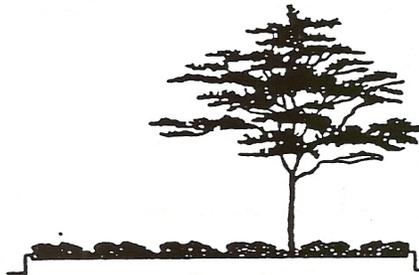


ILLUSTRATION OF A TYPICAL  
PARKING LOT LANDSCAPE ISLAND

TYPICAL PARKING LOT



LANDSCAPE ISLAND  
(PLAN VIEW)



LANDSCAPE ISLAND  
(CROSS-SECTION)

(10) **REQUIREMENTS FOR SINGLE-FAMILY, TWO-FAMILY AND MULTI-FAMILY RESIDENTIAL DEVELOPMENT.**

The landscaping plan shall be included with the submittal of all preliminary plats to be approved during the platting process by the Village.