

CHAPTER 4

DISTRICT REGULATIONS

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ZN 4.01 ZONING DISTRICTS.

(1) ESTABLISHMENT.

For the purpose of this Ordinance, the Village of Somers, Wisconsin is hereby divided into thirty-four (34) basic zoning districts and four (4) overlay districts as follows:

A-1	Agricultural Preservation District
A-2	General Agricultural District
A-3	Agricultural Related Manufacturing, Warehousing and Marketing District
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C-2	Upland Resource Conservancy District
FPO	Floodplain Overlay District

PUD	Planned Unit Development Overlay District
AO	Airport Overlay District
RC	Rural Cluster Development Overlay District

(2) **DISTRICT DELINEATION.**

In determining which parcels of land shall be located in the above districts so as to accomplish the intended purpose of these districts, the Village Department of Planning and Development and the Village Board shall make use of, without limitation due to enumeration, all pertinent resources, data, statistics, tables, charts and maps relating to existing land use, adjacent land use, soils, future development, and existing and proposed roads and utilities.

ZN 4.02 AGRICULTURAL DISTRICTS.

(1) **A-1 AGRICULTURAL PRESERVATION DISTRICT.**

(a) **Primary Purpose and Characteristics.** The Village Board of Trustees recognizes that the rapid conversion of farm land to urban use has lead to increasing public concern over such conversion. This concern centers on the perceived loss of the local agriculture economic base, loss of agricultural land as a valuable natural resource with the attendant loss of the aesthetic and environmental values associated with that resource, and the loss of the rural lifestyle and the unique cultural heritage which emanates from that lifestyle, and the attendant high costs of providing urban services as well as resolving potential urban-rural conflicts which arise as a result of urban encroachment into rural areas. Therefore, the A-1 Agricultural Preservation District is intended to maintain, enhance, and preserve agricultural lands historically utilized for crop production and the raising of livestock. The preservation of such agricultural lands is intended to conserve energy, prevent urban sprawl, maintain open space, retain natural systems and natural processes, control public cost, preserve the local economic base, promote local self-sufficiency, preserve the rural life-style, and maintain regional, state and national agricultural reserves. The District is further intended to prevent the premature conversion of agricultural land to scattered residential, commercial and industrial uses.

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore, it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) **Principal uses.**

- 1 Apiculture (Beekeeping)
- 2 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements

- 3 Contract sorting, grading and packaging of fruits and vegetables
- 4 Corn shelling
- 5 Dairy farming and general agriculture
- 6 Essential Services
- 7 One (1) single-family dwelling
- 8 General farm buildings including agricultural windmills, barns, silos, sheds and storage bins provided, however, that said structures are located at least one hundred (100) feet away from any off premise neighboring residential buildings
- 9 Existing residential dwellings remaining after the consolidation of farms with said dwellings not to be considered a non-conforming use, provided that the remaining lot shall conform to the yard requirements of this district and the lot area and width requirements for a second single-family farm dwelling as set forth in Section ZN 5.03(8)(b)(112) of this Ordinance
- 10 Single-family residence on lots of record created prior to the adoption of this Ordinance where said existing lot is less than thirty-five (35) acres, (see Section ZN 5.02(5))
- 11 Floriculture (cultivation of ornamental flowering plants)
- 12 Forest and game management
- 13 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements
- 14 Grazing or Pasturing
- 15 Greenhouses, not including retail sales of plants and flowers
- 16 Hay baling
- 17 Livestock raising, except commercial feed lot and fur farms
- 18 Orchards
- 19 Paddocks
- 20 Pea viners
- 21 Plant nurseries
- 22 Poultry raising, except commercial egg production and commercial poultry feed lots

- 23 Raising of grain, grass, mint and seed crops
- 24 Raising of tree fruits, nuts and berries
- 25 Riding stables and indoor riding arenas (private)
- 26 Sod farming
- 27 Threshing services
- 28 Vegetable raising
- 29 Viticulture (grape growing)

(c) Accessory Uses

- 1 Feed lot (not commercial and only for permitted farm uses)
- 2 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 3 Home occupations and professional home offices
- 4 Roadside stands (one (1) such stand permitted only for selected farm products produced on the premises and not exceeding three hundred (300) square feet in floor area)
- 5 Small wind energy system
- 6 Solar energy system
- 7 Storage, curing, drying, churning and packaging of products and crops produced on the land provided, however, such products are not processed on the land and provided further that such products are not commercially sold as part of a retail business conducted on the land
- 8 Swimming pools and spas (see also Section ZN 3.09)
- 9 Fences (see also Section ZN 3.08(2))
- 10 Decks and Patios (see also Section 3.15)

(d) Conditional Uses (see also Section ZN 5.03(8))

- 1 Air strips, landing fields and hangars for personal or agricultural related uses
- 2 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements

- 3 Concrete and asphalt batch plants temporarily located on a parcel
- 4 Event Barns
- 5 Gas and electric utility uses not requiring authorization under §196.491(3), Wis. Stats.
- 6 Housing for farm laborers or caretakers
- 7 Housing for seasonal or migratory farm workers
- 8 Kennels (Commercial or non-commercial)
- 9 A second single-family farm related residential dwelling
- 10 Large wind energy system
- 11 Storage of recreational vehicles, boats or snowmobiles
- 12 Utility substation
- 13 Bed and breakfast establishments
- 14 Riding stables and indoor riding arenas (public)
- 15 Borrow pits (temporary); stockpiling or filling of clean fill materials

(e) Parcel Area and Width.

- 1 Farm structures hereafter erected, placed, moved or structurally altered and related farm activities shall provide a contiguous area of not less than thirty-five (35) acres and no farm shall have a frontage of less than six hundred (600) feet in width.

(f) Building Type, Separation, Number, Height and Area.

- 1 No structure or improvement may be built on any land in the A-1, Agricultural Preservation District unless said structure or improvement is consistent with agricultural uses.
- 2 For purposes of farm consolidation, farm residences or structures which existed prior to the adoption of this Ordinance may be separated from a larger farm parcel.
- 3 No farm buildings or parts of farm buildings shall exceed one hundred (100) feet in height
- 4 No residential dwelling or part thereof, shall exceed thirty-five (35) feet in height
- 5 A total minimum floor area of a residential dwelling shall be a minimum of one

thousand (1,000) square feet with a minimum first floor area of one thousand (1,000) square feet. All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five/twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures.
- 4 Rear yard - not less than fifty (50) feet.

(h) Authorized Sanitary Sewer System.

- 1 On-site sewage disposal absorption system.
- 2 Public sanitary sewer.

(i) Rezoning, Conditional Uses, and Enforcement. Any rezoning of any parcel of land in the A-1 Agricultural Preservation District shall be in accordance with §91.48, Wis. Stats. Furthermore, the Department of Agriculture shall be notified of the approval of any conditional use permits in the A-1 District. Enforcement provisions necessary for the proper administration of the Farmland Preservation Act shall be as specified in Chapter 91 of the Wisconsin Statutes.

(2) **A-2 GENERAL AGRICULTURAL DISTRICT.**

(a) Primary purpose and characteristics. The A-2 General Agricultural District is intended to provide for, maintain, preserve, and enhance agricultural lands historically utilized for crop production but which are not included within the A-1 Agricultural Preservation District and which are generally best suited for smaller farm units, including truck farming, horse farming, hobby farming, orchards, and other similar agricultural related farming activity. This District is also intended to provide areas for activities normally associated with rural surroundings, such as rural estate and other existing residential development, such as existing residential development abutting town and Village roads along which further development may occur as essential services become available.

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following

list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal Uses. In addition to those principal uses permitted in the A-1 Agricultural Preservation District, the following are deemed to be principal uses in the A-2 General Agricultural District:

- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
- 2 Equestrian trails.
- 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.

(c) Accessory Uses

- 1 Those accessory uses permitted in the A-1 Agricultural Preservation District.
- 2 Small wind energy system
- 3 Solar energy system

(d) Conditional Uses (see also Section ZN 5.03(8))

- 1 Air strips, landing fields and hangars for personal or agricultural related uses
- 2 Assemblies over five thousand (5,000) or more individuals
- 3 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements
- 4 Concrete and asphalt batch plant temporarily located on a parcel
- 5 Event Barns
- 6 Housing for farm laborers or caretakers
- 7 Kennels (commercial or non-commercial)
- 8 Large wind energy system
- 9 Storage of recreational vehicles, boats and snowmobiles
- 10 Utility substations

- 11 Bed and breakfast establishments
- 12 Borrow pits (temporary); stockpiling or filling of clean fill materials
- 13 Riding stables and indoor riding arenas (public)

(e) Parcel Area and Width.

- 1 Parcels shall have a minimum area of ten (10) acres, and
- 2 All such parcels shall have a frontage of not less than three hundred (300) feet in width.

(f) Building Height and Area

- 1 No farm building or farm related building shall exceed one hundred (100) feet in height
- 2 No residential dwelling shall exceed thirty-five (35) feet in height
- 3 The total minimum floor area of a residential dwelling shall be one thousand (1,000) square feet with a minimum first floor area of one thousand (1,000) square feet
- 4 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five/twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water
- 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures
- 4 Rear yard - not less than fifty (50) feet

(h) Authorized Sanitary Sewer System

- 1 On-site sewage disposal absorption system
- 2 Public sanitary sewer

(3) **A-3 AGRICULTURAL RELATED MANUFACTURING, WAREHOUSING AND MARKETING DISTRICT.**

- (a) Primary purpose and characteristics. The primary purpose of this district is to provide for the proper location and regulation of manufacturing, warehousing, storage, and related industrial, commercial, marketing and service activities that are dependent upon or closely allied to the agricultural industry. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore, it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal Uses.

- 1 Agricultural warehousing (commercial)
- 2 Seed and grain processing and preparation
- 3 Blending and preparing of flour
- 4 Breeding services
- 5 Canning of fruits, vegetables, preserves, jams and jellies
- 6 Commercial storage, curing, drying, churning, processing and packaging of agricultural products
- 7 Contract sorting, grading and packaging services for fruits and vegetables
- 8 Cornshelling, hay baling and threshing services
- 9 Drying and dehydrating fruits and vegetables
- 10 Fluid milk processing
- 11 Fruit and vegetable pickling, vegetable sauces and seasoning, salad dressing preparation
- 12 Fur farm
- 13 Grain elevators and bulk storage of feed grains
- 14 Grist mill services

- 15 Milling of rice, vegetable and soybean oil
- 16 Poultry and small game dressing and packing providing all operations shall be conducted within an enclosed building
- 17 Poultry hatching services
- 18 Preparation of cereals
- 19 Preparation of feeds for animal and fowl
- 20 Production of chocolate and cocoa
- 21 Production of condensed and evaporated milk
- 22 Production of creamery butter
- 23 Production of flour and other grain mill product
- 24 Production of frozen fruits, fruit juices, vegetables and other specialties
- 25 Production of natural and processed cheese
- 26 Production of wine, brandy and brandy spirits
- 27 Sales or maintenance of farm implements and related equipment
- 28 Sugar processing and production
- 29 Wet milling of corn

(c) Accessory Uses.

- 1 Agricultural Windmills
- 2 Living quarters for not more than two (2) watchmen or caretakers.
- 3 Small wind energy system
- 4 Solar energy system

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Commercial egg production
- 2 Commercial feed lot

- 3 Concrete and asphalt batch plants temporarily located on a parcel
- 4 Fertilizer production, sales, storage, mixing, and blending
- 5 Gasohol and fuel related alcohol plants
- 6 Large wind energy system
- 7 Livestock sale facilities
- 8 Malt production
- 9 Meat packing, slaughterhouse and production of sausages and other meat products
- 10 Processing and packaging of animal bedding materials
- 11 Production of animal and marine fats and oils
- 12 Production of shortening, table oils, margarine and other edible fats and oils
- 13 Utility substations

(e) Parcel Area and Width.

- 1 Parcels shall have a minimum area of five (5) acres, and
- 2 All such parcels shall have a frontage of not less than three hundred (300) feet in width

(f) Building, Height, Area and Design Standards.

- 1 No building located in an A-3 district shall exceed one hundred (100) feet in height
- 2 No maximum or minimum building areas shall be required in the A-3 District due to the variety of uses within this District and the diverse building demands of each use.
- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.

- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures.
- 4 Rear yard - not less than fifty (50) feet.

(h) Authorized Sanitary Sewer System.

- 1 On-site sewage disposal absorption system
- 2 Public sanitary sewer system

(4) **A-4 AGRICULTURAL LAND HOLDING DISTRICT.**

- (a) Primary purpose and characteristics. The Village Board of Trustees recognizes that the premature piecemeal conversion of farmland to urban use has led to increasing public concern over such conversion. This concern centers on the sprawling of urban population, the increasing cost of providing urban services, and the loss of agricultural lands as a valuable natural resource. Therefore, the Agricultural Land Holding District is intended to maintain and generally preserve for a limited time period those lands where urban expansion is proposed to take place on the adopted regional land use plan or other local land use plans that refine and detail the regional land use plan. It is intended that the status of all areas placed in this district be reviewed by the Village Plan Commission no less frequently than every two (2) years to determine whether, in light of current development trends, there should be a transfer of all or any part of such areas to some other appropriate use district. Any such review will consider the need for permitting other uses on such land, the nature of the use or uses to be permitted, and the cost and availability of the public services and facilities which will be necessitated by such new use or uses.

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore, it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village's Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal uses.

- 1 Apiculture (Beekeeping)
- 2 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements
- 3 Contract sorting, grading and packaging of fruits and vegetables

- 4 Corn shelling
- 5 Dairy farming and general agriculture
- 6 Essential Services
- 7 One (1) Farm Dwelling
- 8 General farm buildings including agricultural windmills, barns, silos, sheds and storage bins provided, however, that said structures are located at least one hundred (100) feet away from any off premise neighboring residential buildings
- 9 Existing residential dwellings remaining after the consolidation of farms with said dwellings not to be considered a non-conforming use, provided that the remaining lot shall conform to the yard requirements of this district and the lot area and width requirements for a second single-family farm dwelling as set forth in Section ZN 5.03(8) of this Ordinance
- 10 Single-family residence on lots of record created prior to the adoption of this Ordinance where said existing lot is less than thirty-five (35) acres, (see Section ZN 5.02(5))
- 11 Floriculture (cultivation of ornamental flowering plants)
- 12 Forest and game management
- 13 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements
- 14 Grazing or Pasturing
- 15 Greenhouses, not including retail sales of plants and flowers
- 16 Hay baling
- 17 Livestock raising, except commercial feed lot and fur farms
- 18 Orchards
- 19 Paddocks
- 20 Pea viners
- 21 Plant nurseries
- 22 Poultry raising, except commercial egg production and commercial poultry feed lots
- 23 Raising of grain, grass, mint and seed crops

- 24 Raising of tree fruits, nuts and berries
- 25 Sod farming
- 26 Threshing services
- 27 Vegetable raising
- 28 Viticulture (grape growing)

(c) Accessory Uses.

- 1 Feed lot (not commercial and only for permitted farm uses)
- 2 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 3 Home occupations and professional home offices
- 4 Roadside stands (one (1) such stand permitted only for selected farm products produced on the premises and not exceeding three hundred (300) square feet in floor area)
- 5 Small wind energy system
- 6 Solar energy system
- 7 Storage, curing, drying, churning and packaging of products and crops produced on the land provided, however, such products are not processed on the land and provided further that such products are not commercially sold as part of a retail business conducted on the land
- 8 Swimming pools and spas (see also Section ZN 3.09)
- 9 Fences (see also Section ZN 3.08(2))
- 10 Decks and patios (see also Section ZN 3.15)

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Air strips, landing fields and hangars for personal or agricultural related uses
- 2 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements
- 3 Concrete and asphalt batch plants temporarily located on a parcel
- 4 Gas and electric utility uses not requiring authorization under §196.491(3), Wis. Stats.

- 5 Housing for farm laborers or caretakers
- 6 Housing for seasonal or migratory farm workers
- 7 A second single-family farm related residential dwelling
- 8 Storage of recreational vehicles, boats or snowmobiles
- 9 Utility substation
- 10 Large wind energy systems
- 11 Bed and breakfast establishments
- 12 Borrow pits (temporary); stockpiling or filling of clean fill materials
- 13 Riding stables and indoor arenas (public)

(e) Parcel Area and Width.

- 1 Farm structures hereafter erected, placed, moved or structurally altered and related farm activities shall provide a contiguous area of not less than thirty-five (35) acres and no farm shall have a frontage of less than six hundred (600) feet in width.

(f) Building Type, Separation, Number, Height and Area.

- 1 No structure or improvement may be built on any land in the A-4, Agricultural Land Holding District unless said structure or improvement is consistent with agricultural uses.
- 2 For purposes of farm consolidation, farm residences or structures which existed prior to the adoption of this Ordinance may be separated from a larger farm parcel.
- 3 No farm buildings or parts of farm buildings shall exceed one hundred (100) feet in height
- 4 No residential dwelling or part thereof, shall exceed thirty-five (35) feet in height
- 5 A total minimum floor area of a residential dwelling shall be a minimum of one thousand (1,000) square feet with a minimum first floor area of one thousand (1,000) square feet
- 6 All residential dwellings shall be attached to a permanent foundation, be properly connected to required utilities, have a building footprint of not less than twenty-four (24) feet in width, have a roof pitch of not less than four-twelfths (4/12), and an eave extension of at least six (6) inches.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water
- 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures
- 4 Rear yard - not less than fifty (50) feet

(h) Authorized Sanitary Sewer System.

- 1 On-site sewage disposal absorption system
- 2 Public sanitary sewer

(5) **AE-1 AGRICULTURAL EQUESTRIAN CLUSTER SINGLE-FAMILY DISTRICT.**

(a) Primary purpose and characteristics. The AE-1 Agricultural Equestrian Cluster Single-Family District is intended to preserve rural landscape character; sensitive natural resource areas; equestrian buildings, barns, paddocks, pastures, and scenic corridors (vistas); while permitting residential estate type housing on clustered lots as a secondary use and integrated as part of an equestrian facility. The AE-1 Agricultural Equestrian Cluster Single-Family District may be served either by on-site soil absorption sewage disposal systems or by public sanitary sewer facilities. Specific objectives are as follows:

- 1 To maintain and protect rural character by preserving important landscape elements, including those areas containing unique and environmentally sensitive natural features such as woodlands, hedgerows, stream corridors, wetlands, floodplains, shorelands, prairies, ridge tops, steep slopes, and critical species habitat by setting them aside from development and allow for development of equestrian facilities.
- 2 To provide quality residential development that has direct access to equestrian facilities.
- 3 To preserve scenic views and to minimize views of new development from existing streets.
- 4 To provide for the unified and planned development of clustered single-family, low-density residential uses, incorporating large areas of permanent protected equestrian facilities, open space, and natural resources.
- 5 To provide for greater design flexibility in the siting of dwellings and equestrian features in order to minimize the disturbance of the rural landscape elements, scenic quality,

and overall aesthetic value of the landscape.

- 6 To create groups of dwellings with direct visual and physical access to open space and equestrian trails while separating vehicular traffic from the equestrian facilities.
- 7 To permit equestrian use of open space by residents of the development and the public, when appropriate.
- 8 To create a network of equestrian trails between equestrian developments and public land.

(b) Principal Uses.

- 1 Equestrian Facility, private, confined to a single lot including equestrian buildings, such as, barns, arenas, silos, storage sheds, cribs, paddocks, and stables.
- 2 Clustered single-family detached dwellings.
- 3 Community living arrangements having a capacity for eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
- 4 Essential services.
- 5 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and which are in conformance with all state statutory requirements.
- 6 Open space, including:
 - a Conservation of land in its natural state (for example, woodland, fallow field, or managed meadow.)
 - b Wildlife sanctuary, forest preserve, or similar uses designated for the protection and propagation of wildlife.
 - c Pasture for horses
 - d Passive recreation, including, but not limited to, hiking trails, bridle trails, picnic areas, community gardens, and lawn area.
 - e Easements for access, drainage, sewer and water lines, pipelines, or other public purposes.
 - f Stormwater management facilities including detention basins, retention basins, rain gardens, and other best management practices.
 - g Water supply, and sewerage systems for individual lots, cluster groups, or the entire development.

h Utility and street rights-of-way except that there land areas shall not count toward the minimum open space requirement.

(c) Residential Accessory Uses.

- 1 Accessory structures such as detached garages, sheds, gazebos, and boathouses.
- 2 Home occupations and professional home offices.
- 3 Small wind energy system.
- 4 Solar energy system.
- 5 Swimming pools and spas.
- 6 Fences.
- 7 Decks and patios (see also Section ZN 3.15).

(d) Equestrian Conditional Uses.

- 1 Private roads and gated entrances.
- 2 Public equestrian facility offering services open to the public (such as riding classes, public riding hours, and shows).
- 3 Housing for Caretakers.
- 4 Bridle equipment sales and repair (pro shop).
- 5 Utility substations.
- 6 Wind energy systems.
- 7 Solar energy systems.

(e) Residential Conditional Uses.

- 1 Private roads and gated entrances provided that said private roads: meet local unit of government road specifications and standards, are located within an access easement which shall be a minimum of sixty-six (66) feet wide, are maintained by the Homeowners Association comprised of the owners of all lots within said equestrian development and meet all safety and access standards promulgated by the local unit of government fire and rescue officials.
- 2 Community living arrangements having nine (9) but not more than fifteen (15) persons which shall be in conformance with all state statutory requirements.

- 3 Utility substations.
- 4 Wind energy systems.
- 5 Solar energy systems.
- 6 Community swimming pools.
- 7 Community center for the use of residents not including equestrian facilities.

(f) Required Facilities. The district requires that as a condition of approval there is an existing equestrian facility on the site with a minimum capacity of one hundred (100) horses, or that an equestrian facility will be built. For those circumstances when facilities are not in place there will be no zoning permits granted on the residential portion of the site until the equestrian facility is built according to submitted plan and guarantees made that it will remain for perpetuity through deed restrictions.

(g) Separation Distances for Residential Cluster Groups.

1 The outer boundaries of all residential cluster groups shall conform to the following separation distances:

From all tract boundaries	50 feet
From equestrian buildings, barns, and paddocks	50 feet
From other cluster groups	50 feet
From wetlands, floodplains, or navigable waterways	35 feet
From active recreation areas, such as courts or playing fields	50 feet

2 All separation areas for cluster groups along existing streets shall be landscaped in accordance with Chapter 18 of the Village Ordinances in order to block views of new residential development, preserve scenic views, and to protect rural landscape character.

3 The separation distances along existing arterial streets and tract boundaries may be reduced to a minimum of fifty (50) feet if the applicant can demonstrate that existing vegetation, topography or a combination of these form an effective visual screen.

(h) Overall Density and Dimensional Standards.

1	Minimum tract size	120 acres
2	Maximum density[a]	1 du/5 acres
3	Equestrian Facility/open space [b]	60 percent

a Existing dwellings that may or not be part of a farmstead shall be counted towards the total density. Housing for caretakers does not count toward

density. Acres refer to gross land area including all lands within tract, except existing street, railroad, existing trail and existing utility rights-of-way and/or easements. Only twenty (20%) percent of wetlands and floodplain may be counted toward the calculation of density.

- b In the calculation of equestrian/open space areas, the following shall be excluded: private residential lot areas; existing and/or planned public street rights-of-way and/or private street easements; existing public trail rights-of-way and/or easements; and existing railroad and existing utility rights-of-way and/or easements.

(i) Lot Density and Dimensional Standards.

1 For equestrian facility lots and residential dwelling lots:

<u>Development Standard</u>	<u>Equestrian Facilities Lot</u>	<u>Residential Lot</u>
Minimum lot area	10 acres	60,000 sq. ft.
Minimum lot width (a)	300 feet	150 feet
Street yard	40 feet	50 feet
Shore yard	Not less than 75 feet from the ordinary high water mark of any navigable water	Not less than 75 feet from the ordinary high water mark of any navigable water
Side yard	25 feet	25 feet
Rear yard	50 feet	50 feet
Accessory buildings setback and size regulation (b)	See Section ZN 3.14(7)	See Section ZN 3.14(7)
Maximum building height 65 feet for equestrian building; 35 feet for separate caretaker building - 35 feet		
Maximum building coverage	N/A	10 percent

- a Lot frontage may be reduced on lots located on a cul-de-sac, court, or curve to eighty (80) feet provided there is at least one hundred fifty (150) feet at the building setback line.
- b Accessory buildings on residential lots are not permitted in front yards.

(j) Design Standards for Equestrian Facility.

- 1 All equestrian facility, including equestrian buildings, such as, barns, arenas, silos, storage sheds, cribs, paddocks, and stables, must be contained to a single lot.

- 2 A site plan for the equestrian facility lot must be included as part of the plat and zoning petition.
- 3 A plat may contain only one (1) lot with equestrian facilities.
- 4 In locating equestrian facilities, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime agricultural soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than twenty (20%) percent of a single wooded lot is cleared for the construction of a barns, arenas, silos, storage sheds, cribs, paddocks, and stables, and onsite soil absorption system.
- 5 Equestrian facility shall abut open space to the front or rear for a distance of at least fifty (50) feet in order to provide direct access to the open space. Open space across a street located on the subject development property shall qualify for this requirement.

(k) Design Standards for Residential Cluster Groups.

- 1 All dwelling shall be grouped in clusters groups, each of which shall contain at least two (2) but not more than twelve (12) units and shall be surrounded by equestrian facility/open space.
- 2 Cluster groups may contain more than twelve (12) units, and cluster groups may be assembled into larger groupings not separated by equestrian facility/open space, provided that the applicant can demonstrate that such an alternative plan is more appropriate for the tract and will meet both the general intent and design standards of this Ordinance.
- 3 A plat may contain one (1) or more cluster groups.
- 4 Cluster groups shall be defined by the outer perimeter of contiguous lotted areas or abutting streets, and may contain lots, streets, and interior equestrian facility/open space. When the development does not contain individual lots, as in a condominium, the outer perimeter shall be defined as an area encompassed by a line drawn around the units, no point of which is closer to any unit than fifty (50) feet.
- 5 The outer boundaries of each cluster group shall meet the separation distances specified in Section ZN 4.02(5)(g).
- 6 Cluster groups shall be defined and separated by equestrian facility/open space in order to provide direct access to the equestrian facility/open space and privacy to individual lot or yard areas. Cluster groups may be separated by streets if the street right-of-way or street easement is designed as a boulevard.
- 7 All lots in a cluster group shall take access from interior streets.
- 8 All lots in a cluster group shall abut equestrian facility/open space to the front or rear

for a distance of at least fifty (50) feet. Equestrian facility/open space across a street located on the subject development property shall qualify for this requirement.

- 9 In locating cluster groups, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime agricultural soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than twenty (20%) percent of a single wooded lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and onsite soil absorption system.
- 10 Street trees shall be provided as required by the local unit of government land division or subdivision ordinance within which the development is located. If no such local unit of government land division or subdivision ordinances exists or requires the planting of street trees, street trees shall be required in cluster groups at a minimum rate of one (1) two (2) inch caliper tree per dwelling unit and shall comply with the requirements of Chapter 18 of the Village Ordinances.

(I) Design Standards for Open Space.

- 1 Open space shall consist of only those uses identified in Section ZN 4.02(5)(b)6.
- 2 The location of open space shall be consistent with the objectives of any applicable comprehensive plan or comprehensive plan component.
- 3 All open space areas shall be part of a larger contiguous and integrated open space system. At least seventy-five (75%) percent of the open space shall be contiguous to another open space area. For the purpose of this section, contiguous shall be defined as located within fifty (50) feet across which access is possible, for example on opposite sides of an internal street.
- 4 Open space shall, to the greatest extent possible, protect site features identified in the site inventory and analysis as having particular value in the context of preserving rural character, in compliance with the intent of this Ordinance. Primary and secondary environmental corridors and isolated natural areas as identified by the Southeastern Wisconsin Regional Planning Commission are of particular significance for protection.
- 5 Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, or restore their overall condition and natural processes, as recommended by professionals in the area being modified. Permitted modifications may include woodland management, reforestation, meadow management, wetlands management, stream bank protection, and buffer area landscaping.
- 6 All wetland, floodplain, unique wildlife habitat areas, steep slopes over twelve (12%) percent, one hundred (100%) percent of lowland environmental corridor and at least eighty (80%) percent of upland primary environmental corridors shall be contained in open space.

- 7 Common boundaries with existing or future open space on adjacent tracts, when shown in an applicable comprehensive plan or comprehensive plan component, shall be established whenever possible.
- 8 To preserve scenic views, ridge tops and hill tops should be contained within open space wherever possible. Trees shall not be removed from ridge tops or hill tops.
- 9 At least eighty (80%) percent of the area of existing woodlands shall be contained within open space; twenty (20%) percent of the area of existing woodlands may be used for lot areas and residential development. This limitation may be exceeded under the following conditions:
 - a The site is primarily wooded and development at permitted density would not be possible without encroaching further on woodlands.
 - b Any encroachment on woodlands beyond twenty (20%) percent shall be the minimum needed to achieve maximum permitted density.
- 10 No open space shall be less than ten thousand (10,000) square feet in area, with the exception of landscape islands in cul-de-sac streets, and not less than thirty (30) feet in width at any point. Open space not meeting this standard shall not be counted toward the total required percentage of open space.
- 11 The boundaries of open space shall be marked by natural features wherever possible, such as hedgerows, edges of woodlands, streams, or individual large trees. Where no such natural demarcations exist, additional plantings, fences, or other landscape features shall be added to enable residents or the public, if applicable, to distinguish where open space ends and private lot areas begin. Where structural demarcations, such as fences or fence posts, are used, they shall be the minimum needed to accomplish the objective.
- 12 Trails in open space that abut residential lots in cluster groups shall be identified by plantings, fences, or other landscape features.
- 13 Under no circumstances shall all open space be isolated in one (1) area of the development. Open space shall be distributed appropriately throughout the development to properly serve and enhance all dwelling units, cluster groups, and other common facilities.
- 14 Open space shall include lands located along existing public roadways in order to preserve existing rural landscape character as seen from these roadways, and shall, in no case, contain less than the required buffer, setback area, or separation distance.
- 15 Safe and convenient pedestrian access and access for maintenance purposes shall be provided to open space areas. At least one (1) access point per cluster group shall be provided, having a width equal to or greater than fifty (50) feet. This width may be reduced to no less than thirty (30) feet if the applicant can demonstrate that, meeting

the lot width requirement would run counter to the objectives of this Ordinance.

(m) Ownership and Maintenance of Common Facilities and Open Space.

1 The following methods may be used, either singly or in combination, to own any common facilities (i.e. community swimming pools and community center) and/or open space. Common facilities and open space shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no change in the common facilities and open space. Ownership methods shall conform to the following:

a Owners Association. Common facilities and/or open space shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein. The homeowners association shall be governed according to the following:

- 1) The applicant shall provide to the Village Department of Planning and Development a description of the organization, including its bylaws and all documents governing maintenance requirements and use restrictions for common facilities and/or open space.
- 2) The organization shall be established by the owner or applicant and shall be operating (with financial subsidy by the applicant, if necessary) prior to the sale of any dwelling units in the development.
- 3) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.
- 4) The organization shall be responsible for maintenance and insurance of common facilities and/or open space.
- 5) The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities and/or open space.
- 6) The organization shall have or hire adequate personnel to administer, maintain, and operate common facility and/or open space.
- 7) The applicant for any tract proposed to contain common facilities and/or open space shall arrange with the Village Assessor a method of assessment of the common facilities and/or open space which will allocate to each tax parcel in the development a share of the total tax assessment for such common facilities and/or open space. Real estate taxes shall be paid by the individual unit owner directly to the Village.
- 8) Written notice of the proposed transfer of common facilities and/or open space by the homeowners association or the assumption of

maintenance of common facilities and/or open space must be given at all members of the organization and to the Village at least thirty-nine (39) days prior to such event.

- b Condominium. Common facilities and/or equestrian facilities shall be controlled through the use of condominium agreements. Such agreements shall be approved by the Village Attorney and shall be in conformance with the “Condominium Ownership Act” of 1977 (Chapter 703, Wisconsin Statutes), as amended. All open space and other common facilities shall be held as “common element” by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.
- c Fee simple dedication to a public agency. The Village or other public entity acceptable to the Village may, but shall not be required to, accept any portion of the common facilities and/or open space, provided that:
 - 1) There shall be no cost of acquisition (other than costs incidental to the transfer of ownership, such as title insurance);
 - 2) Any facilities so dedicated shall be accessible to the residents of Village, if the Village so chooses;
 - 3) The Village or other public entity shall maintain such common facilities and/or open space.
 - 4) The equestrian facility owner shall hold a conservation easement on the land and facilities so dedicated, protecting the common facilities and/or open space from development in perpetuity.
- d Dedication of conservation easements to a public agency. The Village or other public agency acceptable to the Village may, but shall not be required to, accept easements for public use of any portion of the common facilities and/or open space, title of which is to remain in private ownership, provided that:
 - 1) There shall be no cost of easement acquisition (other than costs incidental to the transfer of ownership, such as title insurance);
 - 2) A satisfactory maintenance agreement shall be reached between the owner and the Village.
 - 3) Lands under a Village easement may or may not be accessible to the residents of the Village.
- e Fee simple dedication to a private conservation organization. An owner may dedicate any portion of the common facilities to a private, not-

for-profit conservation organization, provided that:

- 1) The organization is acceptable to the Village and is a bona fide conservation organization;
- 2) The conveyance contains appropriate provisions for proper reverter or retransfers in the event that the organization becomes unwilling or unable to continue carrying out its functions.
- 3) A maintenance agreement acceptable to the Village is established between the owner and the organization.

f Transfer of easements to a private conservation organization.

- 1) The organization is acceptable to the Village and is a bona fide conservation organization;
- 2) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.
- 3) A maintenance agreement acceptable to the Village is established between the owner and the organization.

g Ownership retained by the original landowner and/or equestrian facility owner.

- 1) The Village and the residents of the development shall hold conservation easements on the land protecting it from any further development.
- 2) Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.

h Other methods acceptable to the Village Department of Planning and Development.

2 Maintenance and operation of common facilities and open space.

a A plan and narrative for the use, maintenance, and insurance of all common facilities and open space, including provisions for funding, shall be provided to and approved by the Village Department of Planning and Development prior to preliminary plan approval. Such plan shall:

- 1) Define ownership;
- 2) Establish necessary regular and periodic operation and maintenance

responsibilities, including mowing schedules, weed control, planting schedules, clearing and cleanup.

- 3) Include a manure management plan.
 - 4) Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
 - 5) At the discretion of the Village Department of Planning and Development, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities and open space for a maximum of one (1) year.
- b In the event that the organization(s) established to own and/or maintain common facilities and open space, or any successor organization thereto, fails to maintain all or any portion of the aforesaid common facilities in reasonable order and condition in accordance with the development plan and all applicable laws, rules and regulations, the Village may serve written notice upon such organization, and upon the residents and owners of the uses related thereto, setting forth the manner in which the organization has failed to maintain the aforesaid common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this Ordinance, and any permits may be revoked or suspended. The Village may enter the premises and take corrective action.
- c The costs of corrective action by the Village shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and open space and shall become a lien on said properties. The Village, at the time of entering upon such common facilities and open space for the purpose of maintenance, shall file a notice of such lien in the office of the Village Register of Deeds upon the properties affected by such lien.
- 3 Leasing of common facilities and/or open space. Common facilities and/or open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:
- a The residents of the development shall at all times have access to such leased lands, except in the case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.
 - b The common facilities and/or open space lands to be leased shall be maintained for the purpose set forth in the ordinance.
 - c The operation of such leased common facilities and/or open space lands may

be for the benefit of the residents of the development only, or may be open to the public, if so determined by the residents.

- d The lease, and any transfer of assignment thereof, shall be subject to the approval of the Village Board.
 - e Lease agreements so entered upon shall be recorded in the office of the Village Register of Deeds within thirty (30) days of their execution, and a copy of the recorded lease shall be filed with the Village Board.
- 4 Conservation. Common facilities and open space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the Village Department of Planning and Development and duly recorded in the office of the Village Register of Deeds.

ZN 4.03 RESIDENTIAL DISTRICTS.

(1) R-1 RURAL RESIDENTIAL DISTRICT.

- (a) Primary Purpose and Characteristics. The R-1 Rural Residential District is intended to provide for single-family residential development, in a predominantly rural setting, at densities not to exceed 0.2 dwelling units per developable net acre.
- (b) Principal Uses.
 - 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements
 - 2 Essential Services
 - 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements
 - 4 One (1) single-family dwelling
- (c) Accessory Uses
 - 1 Accessory buildings, such a detached garages, sheds and gazebos, and boathouses
 - 2 Home occupations and professional home offices
 - 3 Small wind energy system
 - 4 Solar energy system

- 5 Swimming pools and spas (see also Section ZN 3.09)
 - 6 Fence (see also Section ZN 3.08)
 - 7 Decks and patios (see also Section ZN 3.15)
- (d) Conditional Uses (see also Section ZN 5.03(8))
- 1 Community living arrangements having nine (9) but not more than fifteen (15) persons which shall be in conformance with all state statutory requirements
 - 2 Large wind energy system
 - 3 Model single-family homes and related temporary real estate sales office located within the model unit
 - 4 Utility substations
 - 5 Bed and breakfast establishments
- (e) Lot Area and Width.
- 1 Lots shall have a minimum area of five (5) acres
 - 2 All lots shall have a frontage of not less than three hundred (300) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to one hundred fifty (150) feet of frontage provided there is at least three hundred (300) feet of width at the required building setback line
- (f) Building, Height, Area and Design Standards.
- 1 No building or parts of a building shall exceed thirty-five (35) feet in height
 - 2 The total minimum floor area of a dwelling shall be one thousand four hundred (1,400) square feet with a minimum first floor area of one thousand (1,000) square feet
 - 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than 5/12, and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.
- (g) Yards.
- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk highways and not less than forty (40) feet from the right-of-way of all

other roads

- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water
- 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures
- 4 Rear yard - not less than fifty (50) feet

(h) Authorized Sanitary Sewer System.

- 1 On-site sewage disposal absorption system
- 2 Public sanitary sewer

(2) **R-2 SUBURBAN SINGLE-FAMILY RESIDENTIAL DISTRICT.**

(a) Primary Purpose and Characteristics. The R-2 Suburban Single-Family Residential District is intended to provide for single-family residential development, at densities not to exceed 1.1 dwelling units per developable net acre, served by on-site soil absorption sanitary sewage systems (septic tanks) and private wells.

(b) Principal Uses.

- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements
- 2 Essential Services
- 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements
- 4 One (1) single-family dwelling

(c) Accessory Uses.

- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 2 Home occupations and professional home offices
- 3 Small wind energy system
- 4 Solar energy system
- 5 Swimming pools and spas (see also Section ZN 3.09)
- 6 Fences (see also Section ZN 3.08)

7 Decks and patios (see also Section ZN 3.15)

(d) Conditional Uses (see also Section ZN 5.03(8)).

1 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements

2 Model single-family home and related temporary real estate sales office located within the model unit

3 Utility substations

4 Bed and breakfast establishments

(e) Lot Area and Width

1 Lots shall have a minimum area of forty thousand (40,000) square feet

2 All lots shall be not less than one hundred fifty (150) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to seventy-five (75) feet of frontage provided there is at least one hundred fifty (150) feet of width at the required building setback line

(f) Building, Height, Area and Design Standards.

1 No building or parts of a building shall exceed thirty-five (35) feet in height

2 The total minimum floor area of the dwelling shall be one thousand two hundred (1,200) square feet with a minimum first floor area of eight hundred (800) square feet

3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than thirty (30) feet from the right-of-way of all other roads.

2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.

3 Side yard - not less than fifteen (15) feet in width on each side of all structures.

4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer System.

1 On-site sewage disposal absorption system

2 Public sewer system

(3) **R-3 URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT.**

(a) Primary Purpose and Characteristics. The R-3 Urban Single-Family Residential District is intended to provide for single-family residential development, at densities not to exceed 2.2 dwelling units per developable net acre, served only by public sanitary sewage facilities.

(b) Principal Uses.

1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements

2 Essential Services

3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements

4 One (1) single-family dwelling

(c) Accessory Uses.

1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses

2 Home occupations and professional home offices

3 Small wind energy system

4 Solar energy system

5 Swimming pools and spas (see also Section ZN 3.09)

6 Fences (see also Section ZN 3.08)

7 Decks and patios (see also Section ZN 3.15)

(d) Conditional Uses (see also Section 5.03(8)).

1 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements

- 2 Model single-family homes and model single-family condominiums and related temporary real estate sales office located within the model unit
- 3 Utility substation
- 4 Bed and breakfast establishments

(e) Lot Area and Width.

- 1 Lots shall have a minimum area of twenty thousand (20,000) square feet
- 2 All lots shall be not less than one hundred (100) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to fifty (50) feet of frontage provided there is at least one hundred (100) feet of width at the required building setback line

(f) Building, Height, Area and Design Standards.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height
- 2 The total minimum floor area of a dwelling shall be one thousand two hundred (1,200) square feet with a minimum first floor area of eight hundred (800) square feet
- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than thirty (30) feet from the right-of-way of all other roads
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water
- 3 Side yard - not less than ten (10) feet in width on each side of all structures
- 4 Rear yard - not less than twenty-five (25) feet

(h) Authorized Sanitary Sewer System.

- 1 Public sanitary sewer

- 2 On-site sewage disposal absorption system on lots of record created prior to adoption or amendment of this Ordinance, provided that Section ZN 2.2(1)(d) of this Ordinance is fully complied with.

(4) **R-4 URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT.**

(a) Primary Purpose and Characteristics. The R-4 Urban Single-Family Residential District is intended to provide for single-family residential development at densities not exceeding 2.9 dwelling units per developable net acre served by public sanitary sewage facilities.

(b) Principal Uses.

- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements
- 2 Essential Services
- 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements
- 4 One (1) single-family dwelling

(c) Accessory Uses.

- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 2 Home occupations and professional home offices
- 3 Small wind energy system
- 4 Solar energy system
- 5 Swimming pools and spas (see also Section ZN 3.09)
- 6 Fences (see also Section ZN 3.08)
- 7 Decks and patios (see also Section ZN 3.15)

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements
- 2 Model single-family homes and model single-family condominiums and related temporary real estate sales office located within the model unit.
- 3 Utility substations

4 Bed and breakfast establishments

(e) Lot Area and Width.

- 1 Lots shall have a minimum of fifteen thousand (15,000) square feet
- 2 All lots shall be not less than ninety (90) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to forty-five (45) feet of frontage provided there is at least ninety (90) feet of width at the required building setback line
- 3 Unsewered lots in the shoreland. The minimum lot area shall be twenty thousand (20,000) square feet and the minimum average lot width shall be one hundred (100) feet.

(f) Building, Height, Area and Design Standards.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height
- 2 The total minimum floor area of a dwelling shall be one thousand two hundred (1,200) square feet with a minimum first floor area of eight hundred (800) square feet
- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than ten (10) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer System.

- 1 Public sanitary sewer
- 2 On-site sewage disposal absorption system on lots of record created prior to adoption or amendment of this Ordinance, provided that Section ZN 2.02(1)(d) of this Ordinance

is fully complied with.

(5) **R-4.5 URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT.**

(a) **Primary Purpose and Characteristics.** The R-4.5 Urban Single-Family Residential District is intended to provide for single-family residential development, at densities not exceeding 3.4 dwelling units per developable net acre, served by public sanitary sewage facilities.

(b) **Principal Uses.**

- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
- 2 Essential Services.
- 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
- 4 One (1) single-family dwelling.

(c) **Accessory Uses.**

- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 2 Home occupations and professional home offices.
- 3 Swimming pools and spas (see also Section ZN 3.09).
- 4 Fences (see also Section ZN 3.08).

(d) **Conditional Uses (see also Section ZN 5.03(8)).**

- 1 Community living arrangements having nine (9) but not more than fifteen (15) person and in conformance with all state statutory requirements.
- 2 Model single-family homes and model single-family condominiums and related temporary real estate sales office located within the model unit.
- 3 Utility substations.
- 4 Bed and breakfast establishments.

(e) **Lot Area and Width.**

- 1 Lots shall have a minimum of twelve thousand (12,000) square feet.
- 2 All lots shall be not less than ninety (90) feet in width unless located on a cul-de-sac or

curve in which case the lot frontage may be reduced to forty-five (45) feet of frontage provided there is at least ninety (90) feet of width at the required building setback line.

(f) Building, Height, Area and Design Standards.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 The total minimum floor area of a dwelling shall be one thousand four hundred (1,400) square feet with a minimum first floor area of eight hundred (800) square feet with a minimum of fifty (50%) percent masonry exterior.
- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk Highways and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than ten (10) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer System.

- 1 Public sanitary sewer.
- 2 On-site sewage disposal absorption system on lots of record created prior to adoption or amendment of this Ordinance, provided that Section ZN 2.02(1)(d) of this Ordinance is fully complied with.

(6) **R-5 URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT.**

(a) Primary Purpose and Characteristics. The R-5 Urban Single-Family Residential District is intended to provide for single-family residential development, at densities not exceeding 4.4 dwelling units per developable net acre, served by public sanitary sewage facilities.

(b) Principal Uses.

- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
- 2 Essential Services.
- 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
- 4 One (1) single-family dwelling.

(c) Accessory Uses.

- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 2 Home occupations and professional home offices.
- 3 Small wind energy system.
- 4 Solar energy system.
- 5 Swimming pools and spas (see also Section ZN 3.09).
- 6 Fences (see also Section ZN 3.08).
- 7 Decks and patios (see also Section ZN 3.15).

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements.
- 2 Model single-family homes and model single-family condominiums and related temporary real estate sales office located within the model unit.
- 3 Utility substations.

(e) Lot Area and Width.

- 1 Lots shall have a minimum of ten thousand (10,000) square feet.
- 2 All lots shall be not less than seventy-five (75) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to forty (40) feet of frontage provided there is at least seventy-five (75) feet of width at the required building setback line.
- 3 Unsewered lots in the shoreland. The minimum lot area shall be twenty thousand (20,000) square feet and the minimum average lot width shall be one hundred (100)

feet.

(f) Building, Height, Area and Design Standards.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 The total minimum floor area of a dwelling shall be one thousand (1,000) square feet with a minimum first floor area of eight hundred (800) square feet.
- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than 5/12, and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than ten (10) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer System

- 1 Public sanitary sewer.
- 2 On-site sewage disposal absorption system on lots of record created prior to adoption or amendment of this Ordinance, provided that Section ZN 2.02(1)(d) of this Ordinance is fully complied with.

(7) R-6 URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT.

- (a) Primary Purpose and Characteristics. The R-6 Urban Single-Family Residential District is intended to accommodate existing single-family development where densities may reach 7.3 dwelling units per developable net acre in order that residences in these districts shall not be rendered non-conforming uses. The district further provides for new development to fill in voids in existing small lot subdivisions. All R-6 residential development should preferably be served by public sanitary sewage systems. Any additional lands or new subdivisions shall be considered for rezoning into this district only if the parcel in question abuts a city of the second class and furthermore abuts a residential subdivision located within the city of the second class

and only if the individual parcels in the aforementioned subdivision are six thousand (6,000) square feet per unit or less and served by public sanitary sewer.

(b) Principal Uses.

- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
- 2 Essential Services.
- 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
- 4 One (1) single-family dwelling.

(c) Accessory Uses.

- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 2 Home occupations and professional home offices.
- 3 Small wind energy system.
- 4 Solar energy system.
- 5 Swimming pools and spas (see also Section ZN 3.09).
- 6 Fences (see also Section ZN 3.08).
- 7 Decks and patios (see also Section ZN 3.15).

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements.
- 2 Utility substations.

(e) Lot Area and Width

- 1 Lots shall have a minimum area of six thousand (6,000) square feet
- 2 All lots shall be not less than sixty (60) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to thirty (30) feet of frontage provided there is at least sixty (60) feet of width at the required building setback line.
- 3 Unsewered lots in the shoreland. The minimum lot area shall be twenty thousand

(20,000) square feet and the minimum average lot width shall be one hundred (100) feet.

- 4 Sewered lots in the shoreland. The minimum lot area shall be ten thousand (10,000) square feet and the minimum average lot width shall be sixty-five (65) feet.

(f) Building, Height, Area and Design Standards.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 The total minimum floor area of a dwelling shall be eight hundred (800) square feet with a minimum first floor area of eight hundred (800) square feet.
- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than thirty (30) feet from the right-of-way of all Federal, State Trunk, or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than eight (8) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer System.

- 1 On-site sewage disposal absorption system only for lots of record existing at the time of adoption of this Ordinance
- 2 Public sanitary sewer

(8) R-7 SUBURBAN TWO-FAMILY AND THREE-FAMILY RESIDENTIAL DISTRICT.

- (a) Primary Purpose and Characteristics. The R-7 Suburban Two-Family and Three-Family Residential District is intended to provide for two-family and three-family residential development in areas where public sanitary sewage facilities are not available, and densities do not exceed 1.1 dwelling units per developable net acre for two-family development and 1.3 dwelling units per net acre for three-family development.

(b) Principal Uses.

- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
- 2 Essential Services.
- 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
- 4 One (1) two-family dwelling or one (1) three-family dwelling.

(c) Accessory Uses.

- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 2 Home occupations and professional home offices.
- 3 Small wind energy system.
- 4 Solar energy system.
- 5 Swimming pools and spas (see also Section ZN 3.09).
- 6 Fences (see also Section ZN 3.08).
- 7 Decks and patios (see also Section 3.15).

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements.
- 2 Model two-family homes and model two-family condominiums and related temporary real estate sales office located within the model unit.
- 3 Utility substations.

(e) Lot Area and Width.

- 1 Lots shall have a minimum area of eighty thousand (80,000) square feet for a two-family dwelling, and a minimum area of one hundred thousand (100,000) square feet for a three-family home.
- 2 All lots shall be not less than one hundred fifty (150) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to seventy-five (75) feet of frontage provided there is at least one hundred fifty (150) feet of width at the

required building setback line.

(f) Building, Height, Area and Design Standards.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 The total minimum floor area of a two-family residential structure shall be two thousand (2,000) square feet or one thousand (1,000) square feet per unit. The minimum first floor area of the structure shall be one thousand five hundred (1,500) square feet.
- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than twenty (20) feet in width on each side of all structures
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer System.

- 1 On-site sewage disposal absorption system.

(9) **R-8 URBAN TWO-FAMILY RESIDENTIAL DISTRICT.**

- (a) The R-8 Urban Two-Family Residential District is intended to provide for two-family residential development at densities not to exceed 4.4 dwelling units per developable net acre served by public sanitary sewage facilities.

(b) Principal Uses.

- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
- 2 Essential services.

3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.

4 One (1) two-family dwelling.

(c) Accessory Uses.

1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses

2 Home occupations and professional home offices.

3 Small wind energy system.

4 Solar energy system.

5 Swimming pools and spas (see also Section ZN 3.09).

6 Fences (see also Section ZN 3.08).

7 Decks and patios (see also Section ZN 3.15).

(d) Conditional Uses (see also Section ZN 5.03(8)).

1 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements.

2 Model two-family homes and model two-family condominiums and related temporary real estate sales office located within the model unit.

3 Utility substations.

(e) Lot Area and Width.

1 Lots shall have a minimum area of twenty thousand (20,000) square feet; and

2 All lots shall be not less than one hundred (100) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to fifty (50) feet of frontage provided there is at least one hundred (100) feet of width at the required building setback line.

(f) Building, Height, Area and Design Standards.

1 No building or parts of a building shall exceed thirty-five (35) feet in height.

2 The total minimum floor area of a two-family residential structure shall be two thousand (2,000) square feet or one thousand (1,000) square feet per unit. The minimum first floor area of the structure shall be one thousand five hundred (1,500)

square feet.

- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than ten (10) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer System.

- 1 Public sanitary sewer

(10) **R-9 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

- (a) Primary Purpose and Characteristics. The R-9 Multiple-Family Residential District is intended to provide for multiple-family residential development, at densities not to exceed 8.7 dwelling units per developable net acre, served by public sanitary sewage facilities. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

(b) Principal Uses.

- 1 Community living arrangements having a capacity of fifteen (15) or fewer persons and which shall be in conformance with all state statutory requirements.
- 2 Essential services.
- 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.

(c) Accessory Uses.

- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses

- 2 Small wind energy system.
- 3 Solar energy system.
- 4 Swimming pools and spas (see also Section ZN 3.09).
- 5 Fences (see also Section ZN 3.08).
- 6 Decks and patios (see also Section ZN 3.15).

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Community living arrangements for sixteen (16) or more persons and which are in conformance with all state statutory requirements.
- 2 Model apartments and model condominiums and related temporary real estate sales office located within the model unit.
- 3 Multiple family dwellings not to exceed eight (8) units per structure with densities not to exceed 8.7 units per net acre served by public sanitary sewage facilities.
- 4 Utility substations.

(e) Lot Area and Width.

- 1 Lots shall have a minimum area of the larger of ten thousand (10,000) square feet or five thousand (5,000) square feet per unit.
- 2 All lots shall have a minimum width of one hundred (100) feet unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to fifty (50) feet of frontage provided there is at least one hundred (100) feet of width at the required building setback line.

(f) Building, Height, Area and Design Standards.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height
- 2 The minimum total floor area of a multiple-family residential structure shall be one thousand five hundred (1,500) square feet, and the minimum first floor area of a multiple-family structure shall be one thousand (1,000) square feet. In addition thereto:
 - a efficiency or one (1) bedroom apartments shall have a minimum floor area per dwelling unit of five hundred (500) square feet
 - b two (2) bedroom apartments shall have a minimum floor area per dwelling unit of seven hundred fifty (750) square feet, and

c three (3) or more bedroom apartments shall have a minimum floor area per dwelling unit of one thousand (1,000) square feet.

3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.

2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.

3 Side yard - not less than fifteen (15) feet in width on each side of all structures

4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer System.

1 Public Sanitary Sewer.

(11) **R-10 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

(a) Primary Purpose and Characteristics. The R-10 Multiple-Family Residential District is intended to provide for multiple-family residential development, at densities not to exceed 10.8 dwelling units per developable net acre served by public sanitary sewage facilities. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

(b) Principal Uses.

1 Community living arrangements having a capacity of fifteen (15) or fewer persons and which shall be in conformance with all state statutory requirements.

2 Essential services.

3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.

(c) Accessory Uses.

- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 2 Small wind energy system.
- 3 Solar energy system.
- 4 Swimming pools and spas (see also Section ZN 3.09).
- 5 Fences (see also Section ZN 3.08).
- 6 Decks and patios (see also Section ZN 3.15).

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Community living arrangements for sixteen (16) or more persons and which are in conformance with all state statutory requirements.
- 2 Multiple-family dwellings not to exceed eight (8) units per structure.
- 3 Model apartments and model condominiums and related temporary real estate sales office located within the model unit.
- 4 Utility substations.

(e) Lot Area and Width.

- 1 Lots shall have a minimum area of twelve thousand (12,000) square feet or four thousand (4,000) square feet per unit, whichever is larger; and
- 2 All lots shall have a minimum width of one hundred twenty (120) feet unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to sixty (60) feet of frontage provided there is at least one hundred twenty (120) feet of width at the required building setback line.

(f) Building, Height, Area and Design Standards.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 The minimum total floor area of a multiple-family residential structure shall be two thousand (2,000) square feet, and in addition thereto:
 - a the minimum floor area per dwelling unit for an efficiency or one (1) bedroom apartment shall be four hundred (400) square feet;
 - b the minimum floor area per dwelling unit of a two (2) bedroom apartment shall be six hundred (600) square feet;

c and the minimum floor area per dwelling unit of a three (3) or more bedroom apartment shall be eight hundred (800) square feet.

3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.

2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water

3 Side yard - not less than fifteen (15) feet in width on each side of all structures.

4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer System.

1 Public Sanitary Sewer.

(12) **R-11 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

(a) Primary Purpose and Characteristics. The R-11 Multiple-Family Residential District is intended to provide for multiple-family residential development, at densities not to exceed 12.4 dwelling units per developable net acre, served by public sanitary sewage facilities. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

(b) Principal Uses.

1 Community living arrangements having a capacity of fifteen (15) or fewer persons and which shall be in conformance with all state statutory requirements.

2 Essential services.

3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.

(c) Accessory Uses.

- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 2 Small wind energy system.
- 3 Solar energy system.
- 4 Swimming pools and spas (see also Section ZN 3.09).
- 5 Fences (see also Section ZN 3.08).
- 6 Decks and patios (see also Section ZN 3.15).

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Community living arrangements for sixteen (16) or more persons and which are in conformance with all state statutory requirements.
- 2 Multiple-family dwellings.
- 3 Three (3) Housing for the elderly.
- 4 Model apartments and model condominiums and related temporary real estate sales office located within the model unit.
- 5 Utility substations.

(e) Lot Area and Width.

- 1 Lots shall have a minimum area of twenty thousand (20,000) square feet or three thousand (3,000) square feet per unit, whichever is larger; and
- 2 Lots shall have a minimum width of one hundred twenty (120) feet unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to sixty (60) feet of frontage provided there is at least one hundred twenty (120) feet of width at the required building setback line.

(f) Building, Height, Area and Design Standards.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 The minimum total floor area of a multiple-family residential structure shall be three thousand (3,000) square feet, and in addition thereto:
 - a the minimum floor area per dwelling unit for an efficiency or one (1) bedroom apartment shall be three hundred (300) square feet;

- b the minimum floor area per dwelling unit of a two (2) bedroom apartment shall be five hundred (500) square feet;
- c and the minimum floor area per dwelling unit for a three (3) or more bedroom apartment shall be six hundred (600) square feet.

3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than 5/12, and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than fifteen (15) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer System.

- 1 Public sanitary sewer.

(13) **R-12 MOBILE HOME/MANUFACTURED HOME PARK/SUBDIVISION RESIDENTIAL DISTRICT.**

(a) **Primary Purpose and Characteristics.** The R-12 Mobile Home/Manufactured Home Park/Subdivision Residential District is intended to provide for the location of mobile home/manufactured home parks and mobile home/manufactured home subdivisions in the residential setting that is compatible with adjacent land uses. Mobile homes are declared herein to be residential dwellings and entitled to the same protection from incompatible uses as is afforded in other residential districts. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

(b) Principal Uses.

- 1 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
- 2 Essential services.

- 3 One (1) individual mobile home or manufactured home on a lot in a mobile home park or subdivision.

(c) Accessory Uses

- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 2 Small wind energy system.
- 3 Solar energy system.
- 4 Swimming pools and spas (see also Section ZN 3.09).
- 5 Fences (see also Section ZN 3.08).
- 6 Decks and patios (see also Section ZN 3.15).

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Mobile home/manufactured home parks/subdivisions.
- 2 Model mobile home/manufactured home and related temporary real estate sales office located within the model unit.
- 3 Utility substations.

(e) Lot Area and Width.

- 1 Lots in a mobile home/manufactured home park or subdivision shall have a minimum of seven thousand five hundred (7,500) square feet in area.
- 2 All lots shall be not less than fifty (50) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to thirty (30) feet of frontage provided there is at least fifty (50) feet of width at the required building setback line.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed fifteen (15) feet in height.
- 2 The minimum floor area shall be six hundred (600) square feet.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk, and Village Trunk highways; and not less than forty (40) feet from the right-of-way of all other roads.

- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
 - 3 Side yard - not less than ten (10) feet in width on each side of all structures.
 - 4 Rear yard - not less than ten (10) feet.
- (h) Authorized Sanitary Sewer System.
- 1 Public sanitary sewer.
 - 2 On-site sewage disposal absorption system on lots of record created prior to adoption or amendment of this Ordinance, provided that Section ZN 2.02(1)(d) of this Ordinance is fully complied with.

ZN 4.04 BUSINESS DISTRICTS.

(1) **B-1 NEIGHBORHOOD BUSINESS DISTRICT.**

- (a) Primary Purpose and Characteristics. The B-1 Neighborhood Business District is intended to provide for existing and proposed retail establishments that are located within primarily residential areas and intended to serve the convenience needs of the surrounding neighborhood. To insure that such uses shall have a character, appearance, and operation compatible with the residential areas they serve, the size of such individual establishment shall be limited. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal Uses.

- 1 Bakeries.
- 2 Barber shops, beauty shops and salons.
- 3 Bicycle shops.
- 4 Bookstores.

- 5 Cafe/Coffee shops.
- 6 Computer sales and repair shops.
- 7 Bars/Taverns and wine taps (without outdoor dining entertainment or recreation—i.e. volleyball, horseshoes, etc.).
- 8 Drug stores.
- 9 Dry cleaning and laundry establishments.
- 10 Flower shops.
- 11 Grocery stores and convenience stores.
- 12 Hardware stores.
- 13 Hobby, toy and game shops.
- 14 Liquor stores.
- 15 Professional offices.
- 16 Record and pre-recorded tape stores.
- 17 Restaurants (not including fast food and drive-ins).
- 18 Shoe repair stores.
- 19 Variety stores.

(c) Accessory Uses.

- 1 Garages for the storage of vehicles used in conjunction with the operation of the business.
- 2 Off-street parking and loading.
- 3 Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.
- 4 Small wind energy system.
- 5 Solar energy systems.

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Flea Markets.
- 2 Fueling stations.
- 3 Utility substations.

(e) Lot Area and Width.

- 1 Individual businesses served by public sanitary sewage facilities shall provide a minimum lot area of ten thousand (10,000) square feet and a minimum lot frontage of seventy-five (75) feet in width.
- 2 Individual businesses served by on-site soil absorption sewage disposal systems or other approved private means of sewage disposal, shall provide a minimum lot area of forty thousand (40,000) square feet and a minimum lot frontage of one hundred fifty (150) feet in width.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 Buildings which are individual retail stores shall not exceed two thousand five (2,500) square feet in area and customer service establishments or offices shall not exceed one thousand five hundred (1,500) square feet in area

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than fifteen (15) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer Systems.

- 1 Public sanitary sewer.
- 2 On-site sewage disposal absorption system.
- 3 Holding tank on lots of record created prior to July 1, 1980.

(2) **B-2 COMMUNITY BUSINESS DISTRICT.**

- (a) **Primary Purpose and Characteristics.** The B-2 Community Business District is intended to provide for the orderly development of business activities, such as retail stores, office buildings and services in the Village. These "downtown" areas should be developed in a manner that would contribute to their role as the center of the community. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

- (b) **Principal Uses.**

- 1 Any principal use permitted in the B-1 Neighborhood Business District.
- 2 Antique and second hand stores (excluding pawnshops).
- 3 Appliance and furniture stores without related warehousing.
- 4 Automotive and marine supply stores.
- 5 Bowling alleys.
- 6 Building supply stores.
- 7 Cafe/Coffee shops.
- 8 Camera and photographic supply stores.
- 9 Carpet and flooring stores.
- 10 Caterers.
- 11 Christmas tree sales.
- 12 Civic, social and fraternal associations.
- 13 Clinics.
- 14 Clothing, apparel and footwear stores.
- 15 Commercial recreational facilities (indoor) such as bowling alleys, skating rinks, athletic

clubs, tennis and handball courts, swimming pools.

- 16 Delicatessens.
- 17 Department stores.
- 18 Essential services.
- 19 Financial institutions.
- 20 Funeral homes
- 21 Gift stores
- 22 Hotels and motels.
- 23 Jewelry stores.
- 24 Limited Adult Media Stores, as provided in Section ZN 4.04(6).
- 25 Meat and fish markets.
- 26 Music stores.
- 27 Nightclubs and dance halls.
- 28 Office supply stores.
- 29 Optical stores.
- 30 Paint, glass and wallpaper stores.
- 31 Parking lots (off-site).
- 32 Personal service establishments.
- 33 Pet shops.
- 34 Photocopying and duplicating services.
- 35 Physical fitness facilities.
- 36 Racquet ball and tennis courts (indoor).
- 37 Radio-T.V. broadcast studios.
- 38 Restaurants, including fast food and drive-in restaurants and associated micro-brewery.

- 39 Sign and banner shops.
- 40 Sporting goods stores.
- 41 Supermarkets.
- 42 Theaters.
- 43 Tobacco shops.
- 44 Upholstery shops.

(c) Accessory Uses.

- 1 Garages for storage of vehicles used in conjunction with the operation of the business.
- 2 Off-street parking and loading areas.
- 3 Residential quarters for the owner or proprietor, or rental apartments on a non-ground floor level, provided that there shall be a minimum floor area of three hundred (300) square feet for an efficiency or one (1) bedroom apartment, five hundred (500) square feet for a two (2) bedroom or larger apartment. There shall be no more than two (2) rental apartments per parcel above a B-2 district store or office.
- 4 Small wind energy system.
- 5 Solar energy systems.

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Animal hospitals, shelters and kennels and veterinary services.
- 2 Automotive sales, service, and mechanical repairs.
- 3 Boat launches.
- 4 Bus depots.
- 5 Car washes.
- 6 Commercial recreational facilities (outdoor).
- 7 Flea Markets.
- 8 Fueling stations.
- 9 Railroad depots.

10 Restaurants, bars or taverns with outdoor dining, recreation, entertainment (i.e., volleyball, horseshoes, etc.).

11 Tattoo and body piercing establishments.

12 Utility substations.

(e) Lot Area and Width.

1 Individual businesses served by public sanitary sewage facilities shall provide a minimum lot area of ten thousand (10,000) square feet and a minimum frontage of seventy-five (75) feet in width.

2 Individual businesses served by on-site soil absorption sewage disposal system or other approved private means of sewage disposal, shall provide a minimum lot area of forty thousand (40,000) square feet and a minimum frontage of one hundred fifty (150) feet in width.

(f) Building Height.

1 No building or parts of a building shall exceed thirty-five (35) feet in height, and

2 No maximum or minimum building area shall be required in the B-2 District due to the variety of uses within the District and the diverse building demands of each user.

(g) Yards.

1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.

2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.

3 Side yard – not less than ten (10) feet in width on each side of all structures

4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer Systems.

1 Public sanitary sewer.

2 On-site soil absorption disposal system.

3 Holding tank on lots of record created prior to July 1, 1980.

(3) **B-3 HIGHWAY BUSINESS DISTRICT.**

- (a) **Primary Purpose and Characteristics.** The B-3 Highway Business District is intended to provide for the orderly and attractive grouping and appropriate business location along principal highway routes as defined in this Ordinance of those businesses and customer services which are logically related to and dependent upon highway traffic and which are specifically designed to serve the needs of such traffic and businesses which generate a high volume of vehicle traffic with a corresponding demand for large parking areas. The uses intended for this District typically do not rely upon an interchange of customers with each other as do uses in the B-4 District and furthermore tend to locate in strip fashion along the highway thereby impeding traffic flow thereon with numerous access points and therefore requiring review of plans and specifications to regulate highway access and to encourage properly planned site layout and development for such individual businesses. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) **Principal Uses.**

- 1 Any principal use permitted in the B-1 Neighborhood Business District, B-2 Community Business District or B-4 Planned Business District.
- 2 Adult establishments, as provided in Section ZN 4.04(6).
- 3 Appliance and furniture stores with related warehousing.
- 4 Garden supply stores.
- 5 Gunsmith shop.

(c) **Accessory Uses.**

- 1 Garages for the storage of vehicles used in conjunction with the operation of the business.
- 2 Off-street parking and loading.
- 3 Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.
- 4 Small wind energy system.

5 Solar energy systems.

(d) Conditional Uses (see also Section ZN 5.03(8)).

1 Arenas and stadiums.

2 Automotive body repair.

3 Automotive and marine sales, service and repairs including related towing

4 Car washes.

5 Concrete and asphalt batch plants temporarily located on a parcel.

6 Convenient cash businesses.

7 Drive-in theater.

8 Flea markets.

9 Fueling stations.

10 Indoor shooting ranges.

11 Large wind energy systems.

12 Pawnshops.

13 Recreational vehicle, motor home, farm implement or similar large size vehicle or equipment sales involving extensive outdoor display and storage.

14 Restaurants, bars or taverns with outdoor dining, entertainment or recreation (i.e., volleyball, horseshoes, etc.).

15 Self-storage facilities.

16 Tattoo and body piercing establishments.

17 Truck stops, sales and service.

18 Utility substations.

(e) Lot Area and Width.

1 Individual businesses served by either public sanitary sewage facilities or on-site soil absorption sewage disposal systems or other approved private means of sewage disposal, shall provide a minimum lot area of forty thousand (40,000) square feet and a

minimum lot frontage of one hundred fifty (150) feet in width.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 No maximum or minimum building area shall be required in the B-3 District due to the variety of uses within the District and the diverse building demands on each user.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than fifteen (15) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer Systems.

- 1 Public sanitary sewer.
- 2 On-site sewage disposal absorption system.
- 3 Holding tank on lots of record created prior to July 1, 1980.

(4) **B-4 PLANNED BUSINESS DISTRICT.**

- (a) Primary Purpose and Characteristics. The B-4 Planned Business District is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, shops, offices, and customer service establishments in a "shopping center" or "mall" setting on a single parcel of land and intended to serve the larger community or regional area. The size and location of such districts shall be based upon evidence of justifiable community need, of adequate customer potential, of satisfactory relationship to the circulation system and other related facilities, and of potential contribution to the economic welfare of the community. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore, it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this

Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal Uses. Any principal use allowed in the B-1 Neighborhood Business District, B-2 Community Business District or B-3 Highway Business District.

(c) Accessory Uses.

- 1 Garages for storage of vehicles used in conjunction with the operation of the business.
- 2 Off-street parking and loading areas.
- 3 Small wind energy system.
- 4 Solar energy system.

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Flea Markets.
- 2 Fueling stations.
- 3 Large wind energy systems.
- 4 Utility substations.

(e) Lot Area and Width.

- 1 Groupings of shops and businesses in the B-4 Business District shall provide a minimum area of two (2) acres and a minimum frontage of two hundred (200) feet in width.
- 2 Individual shops within a grouping shall provide an area sufficient to accommodate the principal and all accessory structures, off-street parking and loading areas, the disposal of sanitary waste if a public sanitary sewage system is not available and the required yards.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed sixty (60) feet in height.
- 2 No maximum or minimum building area shall be required in the B-4 District due to the variety of uses within the District and the diverse building demands of each user.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way

of all other roads.

- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not closer than forty-five (45) feet to any other lot line.
- 4 Rear yard - not closer than forty-five (45) feet to any other lot line.

(h) Authorized Sanitary Sewer System.

- 1 Public sanitary sewer.
- 2 On-site sewage disposal absorption system.
- 3 Holding tanks on lots of record created prior to July 1, 1980.

(5) **B-5 WHOLESALE TRADE AND WAREHOUSING DISTRICT.**

- (a) Primary Purpose and Characteristics. The B-5 Wholesale Trade and Warehousing District is intended to provide for the orderly and attractive grouping at appropriate locations of commercial activities of a wholesale nature, bulk sales, and for the storage of goods and wares. The size and location of such districts shall be based upon relationships to the total community need and economy. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal Uses.

- 1 Wholesale and bulk sales, and warehousing of the following products, provided that no outdoor storage is permitted:
 - a Air conditioning, refrigerated equipment, and supplies.
 - b Apparel, footwear and accessories.
 - c Appliances, furniture and home furnishings.
 - d Automobile equipment.

- e Beer, wine, and distilled alcoholic beverages.
 - f Commercial and industrial machinery, equipment, and supplies.
 - g Confectionery.
 - h Drugs and pharmaceuticals.
 - l Electronics.
 - j Food and groceries (dairy products, fish and seafood, fruit and vegetables, meat and meat products not including slaughtering and outdoor confinement).
 - k Hardware.
 - l Household goods.
 - m Lumber and construction materials.
 - n Metals and minerals.
 - o Paint and varnishes.
 - p Paper and paper products.
 - q Plumbing and heating equipment and supplies.
 - r Professional equipment and supplies.
 - s Service establishment equipment and supplies.
 - t Textiles and fabrics.
 - u Tires and tubes.
 - v Tobacco and tobacco products.
 - w Transportation equipment and supplies.
- 2 Mail order distribution centers.
 - 3 Printing and publishing houses.
 - 4 Refrigerated warehousing.
- (c) Accessory Uses.

- 1 Garages for storage of vehicles used in conjunction with the operation of a business.
- 2 Off-street parking and loading.
- 3 Office areas customary to the operation of the business.
- 4 Small wind energy system.
- 5 Solar energy system.

(d) Conditional Uses (See also Section ZN 5.03(8)).

- 1 Animal hospitals, shelters, veterinary services, and kennels accessory to a veterinarian or animal hospital.
- 2 Automotive sales, service and repairs including related towing.
- 3 Construction services including building contractors; carpentering; wood flooring; concrete services; landscaping, lawn care, tree trimming and plowing services; masonry, stonework, tile setting and plastering services; roofing, siding and sheet metal services; septic tank installers; window installers; and water well drilling services.
- 4 Freight terminals, yards, freight forwarding services, packing and crating services and related equipment storage and maintenance facilities.
- 5 Fuel oil, bottled gas, and ice dealers.
- 6 Fueling stations, automobile servicing and repair.
- 7 Indoor shooting ranges.
- 8 Laboratories for testing, research, and experimental purposes.
- 9 Large wind energy system.
- 10 Millwork, lumber yards, saw mills, and planing mills.
- 11 Petroleum stations and terminals.
- 12 Self-storage facilities.
- 13 Water storage tanks and towers, radio and television transmitting and receiving towers, and microwave relay stations.

(e) Lot Area and Width.

- 1 Individual wholesale and warehousing establishments served by public sanitary sewer

facilities shall provide a minimum lot area of ten thousand (10,000) square feet and a minimum frontage of seventy-five (75) feet in width.

- 2 Individual wholesale and warehousing establishments served by on-site soil absorption sewage disposal systems or other approved private means of sewage disposal shall provide a minimum lot area of forty thousand (40,000) square feet and a minimum frontage of one hundred fifty (150) feet in width.

(f) Building Height and Area.

- 1 No building and parts of a building shall exceed thirty-five (35) feet in height.
- 2 No maximum or minimum building area shall be required in the B-5 District due to the variety of uses within the District and the diverse building demands of each user.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk, or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not closer than twenty-five (25) feet to any other lot line.
- 4 Rear yard - not closer than twenty-five (25) feet to any other lot line.

(6) **ADULT ESTABLISHMENTS.**

- (a) Intent. The intent of this Ordinance is to regulate Adult Establishments and related activities to protect the health, safety, morals, and general welfare of the citizens of the Village of Somers to further preserve the quality of family life as well as the rural and urban characteristics of its neighborhoods in the Village of Somers to prevent adverse and deleterious effects contributing to the blight and downgrading of neighborhoods, to avoid the effects of adult entertainment upon minors and the violation of civil rights of many persons partaking in such entertainment, mitigate criminal activity and disruption of public peace associated with such establishments, and also to prevent the unsanitary and unhealthful conditions associated with such establishments. The intent is to establish reasonable and uniform provisions to regulate Adult Establishments within the Village of Somers. It is not the intent or effect to restrict or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Additionally, it is not the intent or effect to limit or restrict the lawful activities permitted under Chapter 125 of the Wisconsin Statutes "Alcohol Beverages", Village of Somers Code of Ordinances Chapter 12 "Licenses and Permits". By the enactment of this Ordinance, the Village Board of Trustees does not intend to give any explicit, implicit or tacit approval or condone any activity relating to adult entertainment.

The Village Board of Trustees seeks to improve the effectiveness of existing and previously adopted regulations for the purposes of limiting the secondary effects of Adult Establishments and related activities. Where developments in the law have subsequently rendered prior regulations ineffective, the intent of this ordinance is to effectuate zoning regulations to accomplish the intent outlined in this subsection.

(b) Findings. Premised on evidence showing the adverse secondary effects of Adult Establishments on the community, this ordinance recognizes and seeks to reduce the following impacts of Adult Establishments while fully protecting the constitutional rights of citizens:

- 1 Adult business establishments can and do impair the character and quality of surrounding neighborhoods, the value of surrounding properties, the economic welfare of communities, and the quality of life of residents.
- 2 Adult Establishments lend themselves to ancillary unlawful and unhealthy activities that are not presently effectively controlled by the operators of the establishments.
- 3 Adult Establishments contribute to the physical deterioration and blight of nearby neighborhoods, with greater adverse impacts on residential than on non-residential properties, and have other adverse secondary effects on property up to at least one thousand (1,000) feet from the Adult Establishments.
- 4 Neighborhoods where adult business establishments are located have increased levels of criminal activities, especially sex-related crimes.
- 5 Prostitution, sexual assaults, and other criminal activity occur at Adult Establishments and persons frequent certain adult theaters or other Adult Establishments for the purpose of engaging in sex within the premises.
- 6 Video viewing booths are often used by patrons of adult business establishments for engaging in sexual acts, including masturbation, intercourse, sodomy, and oral copulation, resulting in unsafe and unsanitary conditions in the booths. Bodily fluids, including semen and urine, are often found in such booths. These fluids, prostitution and other activities that occur in Adult Establishments may spread communicable diseases, including, but not limited to, syphilis, gonorrhea, genital chlamydia trachomatis, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infection, and shigella infections.
- 7 Adult establishments have operational characteristics that should be reasonably regulated in order to protect those substantial governmental concerns including, but not limited to, the general welfare, health, morals, and safety of the citizens of the Village.

(c) Definitions. For the purpose of this section:

- 1 Adult Bookstore. An establishment having at least twenty-five (25%) percent of its:

- a Retail flood space used for the display of adult products; or
- b Stock in trade consisting of adult products; or
- c Weekly revenue derived from adult products.

For purposes of this definition, the phrase adult products means books, films, magazines, motion pictures, periodicals or other printed matter, or photographs, video cassettes, Compact Discs (CDs), DVDs, Blu-Ray Discs, slide, tapes records or other forms of visual or audio representations that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. For purposes of this definition, the phrase adult products also means a device designed or marketed as useful primarily for the stimulation of human genital organs, or for sadomasochistic use or abuse. Such devices shall include, but are not limited to, bather restraints, body piercing implements (excluding earrings or other decorative jewelry), chains, dildos, muzzles, non-medical enema kits, phallic shaped vibrators, racks, whips and other tools of sadomasochistic abuse.

2 Adult Cabaret. A night club, bar, theater, restaurant or similar establishment that regularly features:

- a Live performances by bottomless and/or topless dancers, exotic dancers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.
- b Films, motion pictures, slides, video cassettes, CDs, DVDs, Blu-Ray Discs or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.
- c Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customer.

3 Adult Drive-In Theater. An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of films, motion pictures, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

4 Adult Establishment. An Adult Bookstore, Adult Cabaret, Adult Drive-In Theater, Adult Live Entertainment Arcade, Adult Mini Motion Pictures Theater, Adult Motel, Adult Motion Picture Arcade, Adult Motion Picture Theater or Adult Services Establishment.

5 Adult Live Entertainment Arcade. Any building or structure which contains or is used

for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed, screened area, or booth a series of live dance routines or strip performances, or other gyrational choreography, which choreography, performances or routines are distinguished or characterized by an emphasis on specified sexual activities or by exposure to specified anatomical areas.

- 6 Adult Mini Motion Picture Theater. An enclosed building with a capacity of more than five (5) but less than fifty (50) persons, used for presenting films, motion pictures, slides, video cassettes, or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical for observation by patrons therein.
- 7 Adult Motel. A hotel, motel or similar establishment offering public accommodations, for any form of consideration, that offers a sleeping room for rent for a period of time that is less than ten (10) hours or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours, and that provides patrons, upon request, with closed-circuit television transmission, films, motion pictures, slides, video cassettes, or other photographic reproductions that are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- 8 Adult Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images or five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.
- 9 Adult Motion Picture Theater. An enclosed building with a capacity of fifty (50) or more persons used for presenting films, motion pictures, slides, video cassettes, CDs, DVDs, Blu-Ray Discs, or similar photographic reproduction in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
- 10 Adult Service Establishment. Any building, premises, structure or other facility, or part thereof, under common ownership or control which provides a preponderance of services involving specified activities, display of specified anatomical areas, or massage of specified anatomical areas, not performed or operated by a medical practitioner, professional physical therapist, or massage therapist licensed or registered by the State of Wisconsin.
- 11 Enlargement (pertaining to Adult Establishment only). An increase in the size of the building, structure or premises in which the Adult Establishment is conducted by either construction or use of an adjacent building or any portion thereof whether located on

the same or an adjacent lot or parcel of land.

- 12 Establishing an Adult Establishment. Shall mean and include any of the following:
 - a The opening or commencement of any such business as a new business.
 - b The conversion of an existing business, whether or not an Adult Establishment, to any of the Adult Establishments defined herein.
 - c The relocation of any such business.
- 13 Non-Conforming Adult Establishment. Any building, structure or land lawfully occupied by an Adult Establishment or lawfully situated at the time of passage of this ordinance, adopted on July 14, 2020, or amendments to this ordinance, that does not conform after the passage of this ordinance or amendments thereto with the regulations of this chapter.
- 14 Reconstruction (pertaining to Adult Establishment only). The rebuilding or restoration of any non-conforming Adult Establishment that was damaged or partially destroyed by an exercise of the power of eminent domain, or by fire, flood, wind, explosion or other calamity or act of God, if the damage or destruction exceeds fifty (50%) percent of the assessed value of the structure or the facilities affected as of January 1 of the year in which damage occurred.
- 15 Resumption (pertaining to Adult Establishment only). Shall mean the reuse of reoccupation of a non-conforming Adult Establishment that has been discontinued for a period of six (6) or more consecutive months.
- 16 Sensitive Land Use. Any of the following:
 - a Property zoned or used for residential purposes.
 - b Property zoned or used for religious institutional purposes.
 - c An educational institution for students in twelfth grade or below.
 - d A library or museum.
 - e A public or private park, recreation area, playground or nature center.
 - f A day care center.
 - g A historic district.
 - h A facility predominantly serving individuals with a "developmental disability," as that term is defined in §51.01(5)(a) and (b), Wis. Stats., and subsequent amendments thereto.

- i A private youth development organization such as, but not limited to, YMCA, Junior Achievement, Boys Club of America and Campfire Girls.

17 Specified Anatomical Areas. Any of the following:

- a Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola.
- b Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

18 Specified Activities. Any of the following:

- a Human genitals in a state of sexual stimulation or arousal.
- b Acts of human masturbation, sexual intercourse or sodomy.
- c Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

(d) Principal Uses. Adult Establishments are permitted by the underlying zoning in B-3 Highway Business Adult Establishment.

(e) Accessory Uses. Any accessory use authorized by the underlying zoning district may be an accessory use to an Adult Establishment. In no case shall an Adult Establishment be an accessory use to any principal use designated by any section of this ordinance.

(f) Underlying District Standards. Adult Establishments shall comply with the standards of the zoning districts in which they are located, including, but not limited to, standards relating to lot area and width, building height and area, yard requirements and sanitary sewer systems and with the use-specific standards applicable to that use category and use.

(g) General Requirements and Restrictions Governing Adult Establishments. Except as provided below, all Adult Establishments shall comply with the following requirements and restrictions:

- 1 Parking shall be provided in a lighted area, in conformity with applicable lighting and parking standards provided elsewhere in these ordinances.
- 2 No Adult Entertainment Establishment shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decorations, sign, show window or other opening from any public view.
- 3 Signs advertising Adult Establishment shall conform to Section ZN 3.07(5) of this ordinance and with the further exception that signs will not depict Specified Anatomical Areas or Specified Sexual Activities.

- 4 No Adult Establishment patron shall be permitted at any time to enter into any of the non-public portions of any Adult Establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of Adult Establishment employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the permitted premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.
- 5 Signs at least one (1) square foot in area stipulating that persons under the age of eighteen (18) are not permitted inside the establishment, shall be posted at all public entrances to the establishment, and persons under the age of eighteen (18) shall not be permitted inside the establishment.
- 6 The cashier's or manager's station shall be located so that someone working there can quickly move to physically halt any attempted or accidental entry by a minor. An employee shall occupy the station at all times when patrons are in and on the premises.
- 7 The Adult Establishment shall clearly post and enforce a no loitering policy.
- 8 The owner and/or operator of the Adult Establishment shall agree to comply with all State, Federal and Local laws and ordinances, including obscenity, liquor and cabaret laws. Solicitation for purposes of prostitution shall be strictly prohibited. Conduct in violation of §944.21, Wis. Stats., or Village of Somers Code of Ordinances, including the exhibition of "obscene material" and "obscene performances," as those terms are defined in §944.21(2), Wis. Stats., and the Village of Somers Code of Ordinances, shall be strictly prohibited.
- 9 The hours of operation of Adult Establishments shall be limited to the same hours of operation for bars and taverns within the Village of Somers within which the Adult Establishment is located.
- 10 No residential quarters shall be allowed on premises with an Adult Establishment.

(h) Location Requirements and Restrictions.

- 1 The establishment, enlargement, reconstruction, resumption or structural alteration of any Adult Establishment is prohibited if such business is within one thousand (1,000) feet of another Adult Establishment.
- 2 The establishment, enlargement, reconstruction, resumption or structural alteration of any Adult Establishment is prohibited if such business is within one thousand (1,000) feet of any existing Sensitive Land Use within the Village of Somers.
- 3 No Adult Establishment shall be established, enlarged, reconstructed, resumed or structurally altered unless the site or proposed site is located in a B-2 Community Business District or B-3 Highway Business Zoning District.

- 4 An Adult Establishment lawfully operating as a conforming use is not rendered a non-conforming use by the subsequent location of a sensitive land use is located within one thousand (1,000) feet of the Adult Establishment.
 - 5 All Adult Establishments shall be located within three hundred (300) feet of State and County Trunk Highway right-of-ways (Maintained & Traveled) as indicated on the map of the official layout of the State Trunk Highway System and the Kenosha County Highway System and as currently on file with the Village Clerk/Treasurer and as subsequently amended.
 - 6 The distance between one (1) Adult Establishment and another Adult Establishment shall be measured in a straight line without regard to intervening structures or objects, from the closest exterior structural wall of each such business. The distance between an Adult Establishment and any Sensitive Land Use shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of the Adult Establishment to the nearest property line of the Sensitive Land Use.
- (i) Additional Restrictions and Requirements Applicable to Adult Establishments. Adult establishments shall comply with certain additional restrictions and requirements as set forth below:
- 1 Adult Cabarets.
 - a Adult cabarets shall be regulated by the Village of Somers cabaret license procedures pursuant to Section 12.15 of the ordinances.
 - b All live performers in an adult cabaret shall perform only on a stage elevated no less than thirty-six (36) inches above floor level. There shall be a metal railing attached to the floor by bolts surrounding the stage which shall keep patrons at least forty-eight (48) inches from the stage. There shall also be a metal railing attached to the floor by bolts at the edge of the stage.
- (j) Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. This ordinance shall take effect and be in force from and after its passage, as provided by law.
- (7) **BP-1 BUSINESS PARK DISTRICT.**
- (a) Primary Purpose and Characteristics. The purpose of the Business Park District is to provide for the development of business parks that are established in a campus like setting with landscaping and architectural amenities that create a sense of place and an aesthetically attractive and integrated planned development. It is intended that the business park district provide for the grouping and clustering of single- and multi-tenant professional offices, commercial uses, non-hazardous research and development facilities and high-technology manufacturing that functionally interact well together that are not intended to be opened to or

visited by the general public. The business park district is intended to be located primarily on collector streets and arterial highways to provide for good accessibility. Development standards of this district are intended to provide compatibility with and protection to surrounding residential and commercial properties by minimizing traffic congestion, noise, glare, vibration, odors, airborne particulate, and toxic substances.

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal Uses .

- 1 Accounting, auditing, and bookkeeping services.
- 2 Architectural services.
- 3 Business/light industrial incubators.
- 4 Commercial bakeries and trade and contractor's offices.
- 5 Computer programming and other software services.
- 6 Corporate headquarters, manufacturing offices, and sales and distribution centers.
- 7 Data processing
- 8 Drafting services or quick reproduction services.
- 9 Financial institutions.
- 10 Food, beverage, and milk processing and soft drink bottling plants.
- 11 Laboratories (scientific, medical, chemical), applied physics, mechanical, electronic, biological, genetic or other similar experimental research, product development or testing facilities.
- 12 Light manufacturing and assembling of electronic components, precision instruments and devices.
- 13 Light manufacturing, assembling or packaging of products from previously prepared materials, such as cloth, plastic, paper, leather, precious or semiprecious metals or stones.

- 14 Light industrial plants such as required for production of millwork, machine tools, paper containers, light metal fabrication, and similar small industries.
- 15 Manufacturing and bottling of non-alcoholic beverages.
- 16 Office supplies.
- 17 Packaging, processing & assembly of confections, cosmetics, electrical appliances, foods (except garbage, fish and fish products, meat and meat products), instruments, jewelry, tobacco and toiletries.
- 18 Printing, lithographing, blueprinting, photocopying, and publishing establishments.
- 19 Processing or compounding and packaging of drugs and other medical and pharmaceutical products.
- 20 Professional offices which include the following professional and semiprofessional occupations: accountants, architects, attorneys, dentists, engineers, insurance agents, medical clinics, real estate agents, personal or family counselors, chiropractors, physical therapists, physicians, public secretaries, surgeons, or any other offices or professions which are of the same general character as the foregoing, but specifically excludes veterinarians, veterinary hospitals, animal grooming salons, dog kennels, and funeral homes.
- 21 Refrigerated warehousing.
- 22 Research and development offices and testing laboratories.
- 23 Scientific or engineering school facilities or institutions.
- 24 Scientific and precision instruments.
- 25 Telecommunication and call centers.
- 26 Testing centers.
- 27 Travel agencies.
- 28 Warehousing completely within an enclosed building, but specifically excluding self-storage facilities.
- 29 Vocational, trade, technical, or industrial schools.
- 30 Wholesalers and distributors.

(c) Accessory Uses.

- 1 Off-street parking in conjunction with any permitted use in this district. Provisions for the parking of automobiles, provided that such provisions within one hundred (100) feet of a residentially zoned district shall be screened.
- 2 Associated retail sales or products manufactured or services provided, on the conditions that such accessory sales/services shall not exceed twenty-five (25%) percent of the building area and/or tenant area devoted to the principal use.
- 3 Independent uses that are customarily principal uses that provide support to businesses and employees of principal uses within the district, on the conditions that such uses shall not exceed twenty-five (25%) percent of the building area and/or tenant area devoted to the principal use. Examples of such are: office supply stores, copy centers, travel agencies, and daycare centers.
- 4 Small wind energy system.
- 5 Solar energy system.

(d) Conditional Uses.

- 1 Utility substations.
- 2 Large wind energy system.
- 3 Parking structures.

(e) Density and Dimensional Standards.

- | | | |
|---|--------------------|------------|
| 1 | Minimum tract size | 35 acres |
| 2 | Minimum lot area | 3 acres |
| 3 | Minimum lot width | 150 feet |
| 4 | Minimum open space | 25 percent |
- a In the calculation of open space areas, the following shall be excluded: private lot areas, public or private street right-of-way, and railroad and utility rights-of-way.
 - b Or if the local municipality has a more restrictive standard.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed sixty (60) feet in height.
- 2 No maximum or minimum building area shall be required due to the variety of uses

within the district and the diverse building demands of each user.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard and rear yard - not less than forty (40) feet in width on each side of all structures thirty-five (35) feet or less in height, and not less than fifty (50) feet in width on each side of all structures greater than thirty-five (35).

(h) Authorized Sanitary Sewer Systems.

- 1 Public Sanitary Sewer.
- 2 On-site sewage disposal absorption system.
- 3 Holding tanks.

(8) **B-94 INTERSTATE HIGHWAY 94 SPECIAL USE BUSINESS DISTRICT.**

- (a) Primary Purpose and Characteristics. The B-94 Interstate Highway Business District is intended to provide for the orderly and attractive grouping of appropriate businesses along Interstate Highway 94 at a density where a full range of urban services is available for an intense office, retail, and customer service area dependent upon highway traffic and which are specifically designed to serve the needs of such traffic and businesses which generate a high volume of vehicle traffic with a corresponding demand for large parking areas and dense development. The uses intended for this District may provide for taller buildings requiring a high level of public services including public sewer and water facilities and safety services such as police and fire protection within easy access. The B-94 Interstate Highway 94 Special Use Business District boundaries shall be limited to lands located within one thousand (1,000) feet of the right-of-way and adjacent to Interstate Highway 94 (I-94), or within one thousand (1,000) feet of the right-of-way and adjacent to the frontage roads of I-94. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal Uses.

- 1 Corporate Headquarters.
- 2 Hotels, conference and convention centers.
- 3 Financial institutions.
- 4 Professional Offices.

(c) Accessory Uses.

- 1 Bakeries.
- 2 Barber shops and beauty shops.
- 3 Bookstores.
- 4 Camera and photographic supply stores.
- 5 Caterer.
- 6 Clinics.
- 7 Clothing and apparel stores.
- 8 Delicatessens.
- 9 Dime stores and variety stores.
- 10 Drug stores.
- 11 Dry cleaning and laundry establishments.
- 12 Florists.
- 13 Garages for the storage of vehicles used in conjunction with the operation of the business.
- 14 Gift stores.
- 15 Hobby and craft shops.
- 16 Indoor recreation such as bowling alleys, skating rinks, athletic & health clubs, tennis, racquetball and handball courts, swimming pools.
- 17 Jewelry stores.

- 18 Liquor stores.
- 19 Music stores.
- 20 Nightclubs and dance halls.
- 21 Off-street parking and loading.
- 22 Optical stores.
- 23 Restaurants, bars and taverns (without live entertainment)
- 24 Small wind energy system.
- 25 Solar energy system.
- 26 Sporting goods stores.
- 27 Theaters.
- 28 Tobacco shops.

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Outdoor dining, entertainment or recreation (i.e., volleyball, horseshoes, swimming pools etc.).
- 2 Utility substations.
- 3 Large wind energy systems.
- 4 Parking structures.

(e) Lot Area and Width.

- 1 Individual businesses served by public sanitary sewage facilities shall provide a minimum lot area of two and one-half (2.5) acres and a minimum lot frontage of one hundred fifty (150) feet in width.
- 2 Required minimum open space of thirty-five (35%) percent, or if the local municipality has a more restrictive standard.
 - a In the calculation of open space areas, the following shall be excluded: public or private street right-of-way, and railroad and utility rights-of-way.

(f) Building Height and Area.

- 1 Hotel, banks, and office buildings in the B-94 business district may not exceed a total height of one hundred (100) feet including any architectural roof features.
- 2 No maximum or minimum building area shall be required in the B-94 District due to the variety of uses within the District and the diverse building demands on each user.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard and rear yard - not less than fifteen (15) feet in width on each side of all structures thirty-five (35) feet or less in height, and not less than thirty (30) feet in width on each side of all structures greater than thirty-five (35) in height but less than seventy-five (75) feet in height, and not less than forty (40) feet in width on each side of all structures seventy-five (75) feet or greater in height.

(h) Authorized Sanitary Sewer Systems.

- 1 Public sanitary sewer.

ZN 4.05 MANUFACTURING DISTRICTS.

(1) M-1 LIMITED MANUFACTURING DISTRICT.

- (a) Primary Purpose and Characteristics. The M-1 Limited Manufacturing District is intended to provide for manufacturing, industrial and related uses of a limited nature in size and for situations where such uses are not located in basic industrial groupings and where their relative proximity to other uses requires more restrictive regulation as to hours of operation, method of manufacturing, traffic patterns, storage of materials and products, shipment of materials and products, etc., so as to better provide for the health, safety and welfare of the public. There shall be strict compliance with the performance standards set forth in Section ZN 3.05(1) through (4) of this Ordinance. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and

accessory uses listed below.

(b) Principal Uses. The processing, manufacturing and/or storage of the following including office buildings, office parks, and ancillary uses shall constitute the principal uses permitted in the M-1 Limited Manufacturing District:

- 1 Agricultural and general warehousing.
- 2 Apparel and findings.
- 3 Automatic temperature controls.
- 4 Baked goods and bakery products.
- 5 Blank books, loose-leaf binders and devices.
- 6 Blending and preparing of flour.
- 7 Books; publishing, printing and binding.
- 8 Boot and shoe cut, stock and findings.
- 9 Bottling and canning soft drinks and carbonated waters.
- 10 Brooms and brushes.
- 11 Candy and other confectionery products.
- 12 Canned, frozen and preserved fruits, vegetables, seafood and food specialties.
- 13 Canvas products.
- 14 Coffee roasting and coffee products.
- 15 Commercial storage, curing, drying, churning, processing and packaging of agricultural products.
- 16 Contract sorting, grading and packaging services for fruits and vegetables.
- 17 Corn, wet milling.
- 18 Costume jewelry, costume novelties, buttons, and miscellaneous notions.
- 19 Curtains and draperies.
- 20 Dental equipment and supplies.

- 21 Drying and dehydrating fruits and vegetables.
- 22 Electro typing and stereo typing.
- 23 Engineering, laboratory, and scientific (other than chemical) and research instruments and associated equipment.
- 24 Envelopes.
- 25 Fabrics.
- 26 Feeds prepared for animals and fowl.
- 27 Flavor extracts and flavoring syrups.
- 28 Flour and other grain mill products.
- 29 Fluid milk processing.
- 30 Footwear.
- 31 Fresh or frozen fruits, fruit juices, vegetable and specialties.
- 32 Fruit and vegetable pickling, vegetable sauces and seasoning, salad dressing preparation.
- 33 Fur goods.
- 34 Grain elevators and bulk storage of feed grains.
- 35 Handbags and other personal leather goods.
- 36 Hats, caps and millinery.
- 37 Household furniture and furnishings.
- 38 Ice.
- 39 Ice cream and frozen desserts.
- 40 Industrial leather, belting and packing.
- 41 Jeweler's findings and materials.
- 42 Jewelry and precious metals.
- 43 Lamps and lamp shades.

- 44 Leather and sheeplined clothing.
- 45 Leather gloves and mittens.
- 46 Luggage.
- 47 Macaroni, spaghetti, vermicelli, fettuccini, lasagna, angel hair and noodles.
- 48 Malt liquors.
- 49 Manifold business forms.
- 50 Mechanical measuring and controlling instruments.
- 51 Mens, youths and boys furnishings, work clothing and allied garments.
- 52 Milling of rice, vegetable and soybean oil.
- 53 Morticians' supplies.
- 54 Motion picture and video production.
- 55 Musical instruments and parts.
- 56 Newspapers; publishing, and printing.
- 57 Office furniture.
- 58 Office buildings, office parks, and ancillary uses, with or without space for principal or accessory manufacturing, assembly, repair or warehousing uses. Ancillary uses within office building or office parks include, but are not limited to: financial services such as banks, credit unions, savings and loan associations, and stock brokers; professional services such as medical, legal, and accounting services; personal services such as day care centers, dry cleaners, barbers and beauty shops; fast service printing and communication; food services such as restaurants and delicatessens; and convenience item retail stores.
- 59 Ophthalmic goods.
- 60 Optical instruments and lenses.
- 61 Orthopedic, prosthetic and surgical appliances and supplies.
- 62 Paperboard and cardboard.
- 63 Paper coating and glazing.

- 64 Partitions, shelving, lockers and office and store fixtures.
- 65 Office and artists supplies.
- 66 Photoengraving and photographic equipment and supplies.
- 67 Pleating, decorative and novelty stitching.
- 68 Poultry and small game dressing and packing providing all operations shall be conducted within an enclosed building.
- 69 Preparation of cereals.
- 70 Preparation of feeds for animals and fowl.
- 71 Printing, commercial.
- 72 Production of chocolate and cocoa.
- 73 Production of condensed and evaporated milk.
- 74 Production of creamery butter.
- 75 Production of flour and other grain mill products.
- 76 Production of frozen fruits, fruit juices, vegetables and other specialties.
- 77 Production of natural and processed cheese.
- 78 Production of wine, brandy, and brandy spirits.
- 79 Raincoats and other waterproof outer garments.
- 80 Sanitary paper products.
- 81 Sausages and other prepared meat products provided that all activities are conducted within an enclosed building.
- 82 Seed and grain processing and preparation.
- 83 Self-storage facilities.
- 84 Signs and advertising displays.
- 85 Sugar processing and production.
- 86 Surgical and medical instruments and apparatus.

- 87 Tobacco products.
- 88 Toys, amusement, sporting and athletic goods.
- 89 Typesetting.
- 90 Umbrellas, parasols, and canes.
- 91 Vegetable oil milling.
- 92 Venetian blinds and shades.
- 93 Wallpaper.
- 94 Watches, clocks, clockwork operated devices, and parts.
- 95 Wet milling of corn.
- 96 Women's, misses, Jr. girls and infants furnishings, work and dress clothing and allied garments.
- 97 Yarns and threads.

(c) Accessory Uses.

- 1 Garages for storage of vehicles used in conjunction with the operation of the industry.
- 2 Office, storage, power supply and other uses normally auxiliary to the principal industrial operations.
- 3 Off-street parking and loading areas.
- 4 Small wind energy system.
- 5 Solar energy system.

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Auto-truck body and engine repair and painting.
- 2 Concrete and asphalt batch plants located on a parcel.
- 3 Flea Markets.
- 4 Freight terminals, yards, freight forwarding services, packing and crating services and related equipment storage and maintenance facilities.

- 5 Malt production.
- 6 Millwork, lumber yards, saw mills and planing mills.
- 7 Packing and crating services.
- 8 Petroleum bulk stations and terminals.
- 9 Processing of hardwood dimension, flooring, veneer, and plywood.
- 10 Retail or wholesale sales of manufactured products on premises.
- 11 Utility substations.
- 12 Large wind energy systems.

(e) Lot Area and Width.

- 1 Individual industries served by public sanitary sewage facilities shall provide a minimum lot area of ten thousand (10,000) square feet and a minimum frontage of seventy-five (75) feet in width.
- 2 Individual industries served by on-site soil absorption sewage disposal systems or other approved private means of sewage disposal, shall provide a minimum lot area of forty thousand (40,000) square feet and a minimum frontage of one hundred fifty (150) feet in width.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 No maximum or minimum building area shall be required in the M-1 Limited Manufacturing District due to the variety of uses within this district and the diverse building demands of each use.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than fifteen (15) feet in width on each side of all structures
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer Systems.

- 1 Public sanitary sewer.
- 2 On-site soil absorption system.
- 3 Holding tank on lots of record created prior to July 1, 1980.

(2) **M-2 HEAVY MANUFACTURING DISTRICT.**

- (a) Primary Purpose and Characteristics. The M-2 Heavy Manufacturing District is intended to provide for manufacturing and industrial development of a more general nature than in the M-1 Limited Manufacturing District in those areas where the relationship to surrounding land use would create fewer problems of compatibility. Such districts should not normally abut directly upon residential districts nor be less than ten (10) acres in area. All uses in the M-2 Heavy Manufacturing District shall comply with the performance standards set forth in Sections ZN 3.05(1) through Section ZN 3.05(4) of this Ordinance. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore, it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

- (b) Principal Uses. In addition to those industrial and office uses permitted in the M-1 Limited Manufacturing District (together with M-1 district ancillary uses), the processing, manufacturing and/or storage of the following shall constitute principal uses permitted in the M-2 Heavy Manufacturing District:

- 1 Aircraft and parts.
- 2 Aluminum, primary production.
- 3 Aluminum, rolling, drawing and extruding.
- 4 Asphalt, felts and coating.
- 5 Automobile manufacturing.
- 6 Batteries.
- 7 Bedding.
- 8 Biological products.

- 9 Blast furnaces, steel works, and the rolling of ferrous metals.
- 10 Bleach.
- 11 Bone.
- 12 Bottling of alcoholic beverages.
- 13 Brass works.
- 14 Brick and structural clay tile.
- 15 Candles.
- 16 Canneries.
- 17 Carbon black.
- 18 Carpeting.
- 19 Celluloid.
- 20 Cement.
- 21 Ceramic floor and wall tile.
- 22 Charcoal.
- 23 Clay building material and refractories.
- 24 Coal-tar.
- 25 Coke.
- 26 Coding, engraving and allied services.
- 27 Cold, rolled steel sheets, strips and burrs.
- 28 Cold storage warehouses, commercial service facility.
- 29 Communications equipment.
- 30 Concrete and concrete products.
- 31 Condensories.
- 32 Construction and prefabrication of wood buildings and structures, mobile homes and

- construction of wooden containers.
- 33 Construction, mining, and materials handling machinery and equipment.
- 34 Copper, drawing and extruding.
- 35 Copper, primary smelting and refining.
- 36 Cordage.
- 37 Creameries.
- 38 Cutlery, hand tools, and general hardware.
- 39 Dextrin.
- 40 Disinfectant.
- 41 Electrical lighting and wiring equipment.
- 42 Electrical industrial apparatus.
- 43 Electrical transmission and distribution equipment.
- 44 Electro metallurgical products.
- 45 Electronic components and accessories.
- 46 Engines and turbines.
- 47 Excelsior.
- 48 Farm machinery and equipment.
- 49 Feed mills.
- 50 Felt.
- 51 Fine earthenware, table and kitchen articles.
- 52 Fish by-products.
- 53 Food locker plants.
- 54 Fur dressing and dyeing furs.
- 55 Gelatin.

- 56 Glass manufacturing.
- 57 Glue and gelatin.
- 58 Guns and related equipment.
- 59 Gypsum products.
- 60 Hair products.
- 61 Heating apparatus and plumbing fixtures.
- 62 Household appliances.
- 63 Ice.
- 64 Ink, printing.
- 65 Lime.
- 66 Lime products.
- 67 Linoleum, asphalt-base and other hard surface floor coverings.
- 68 Lithographing.
- 69 Matches.
- 70 Meat (frozen storage).
- 71 Metal cans.
- 72 Metal products, fabricated structural.
- 73 Metal stamping.
- 74 Metal working machinery.
- 75 Motor vehicles and motor vehicle equipment.
- 76 Motorcycles, bicycles and parts.
- 77 Musical and sound equipment.
- 78 Non-ferrous metals, rolling, drawing and extruding.
- 79 Non-ferrous wire, drawing and insulating.

- 80 Office, computing and accounting machines.
- 81 Oil cloth.
- 82 Paper.
- 83 Pea viners.
- 84 Perfume, cosmetics and other toilet preparations.
- 85 Pharmaceutical preparations.
- 86 Plaster of paris.
- 87 Polish.
- 88 Porcelain electrical supplies.
- 89 Potash.
- 90 Pulp.
- 91 Pyroxylin.
- 92 Radio and television receiving sets.
- 93 Railroad equipment.
- 94 Reclaiming rubber, metal, paper and other resources.
- 95 Rope.
- 96 Rubber products.
- 97 Screw machine products and bolts, nuts, screws, rivets and washers.
- 98 Service industry machines.
- 99 Shoddy.
- 100 Shoe and ramp blacking.
- 101 Signaling and fire control equipment.
- 102 Size.
- 103 Soap and detergents.

- 104 Special cleaning, polishing and sanitation preparations.
- 105 Starch.
- 106 Steel wire drawing, and steel rails and spikes.
- 107 Sugar.
- 108 Textiles and fabric finishing mills.
- 109 Tires and innertubes.
- 110 Tool and die making.
- 111 Trade and contractor offices.
- 112 Vitreous china plumbing fixtures, china, earthenware fittings and bathroom fixtures.
- 113 Warehousing.
- 114 Weaving.
- 115 Wire products, fabrication.
- 116 Wood pressing.

(c) Accessory Uses.

- 1 Garages for storage of vehicles used in conjunction with the operation of the industry.
- 2 Offices, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
- 3 Off-street parking and loading areas.
- 4 Retail stores and service facilities, such as retail outlet stores, surplus goods stores, and restaurants and food service facilities when established in conjunction with the permitted manufacturing or processing facility.
- 5 Small wind energy systems.
- 6 Solar energy system.
- 7 Wholesale stores.

(d) Conditional Uses (see also Section ZN 5.03(8)). In addition to those industrial conditional uses permitted in the M-1 Limited Manufacturing District, the following shall constitute conditional

uses in the M-2 Heavy Manufacturing District:

- 1 Abrasives.
- 2 Animal reduction.
- 3 Bus terminals and related equipment storage and maintenance buildings.
- 4 Chemicals determined to be non-toxic by the U.S. Environmental Protection Agency and the Kenosha Village Office of Emergency Services.
- 5 Coal and bone distillation.
- 6 Concrete and asphalt batch plants.
- 7 Contractor storage yards.
- 8 Dye.
- 9 Electrical and steam generating plants.
- 10 Fertilizer production, sales, storage, mixing and blending. Said fertilizers shall be determined to be non-toxic by the Kenosha Village Office of Emergency Services.
- 11 Flea Markets.
- 12 Forges.
- 13 Foundries.
- 14 Fuel.
- 15 Gasohol and fuel-related alcohol plants.
- 16 Insulating materials determined to be non-toxic by the U.S. Environmental Protection Agency and the Kenosha Village Office of Emergency Services.
- 17 Laboratories.
- 18 Lacquer, paint, stain.
- 19 Large wind energy system.
- 20 Livestock sale facilities.
- 21 Living quarters for watchmen or caretakers.

- 22 Lubricating oils and grease.
- 23 Manufacturing, processing and storage of building materials, explosives, dry ice, fat, flammables, glue, grains, grease, lard, plastic, radioactive materials, shellac, soap, tires, turpentine, vinegar and yeast.
- 24 Meat packing, slaughterhouse and production of sausages and other meat products.
- 25 Motor Freight.
- 26 Offal.
- 27 Outside storage and manufacturing.
- 28 Plastic materials and synthetic resins, synthetic rubber, and synthetic and other man-made fibers and products.
- 29 Power and heat generating plants.
- 30 Production of animal and marine fats and oils.
- 31 Production of shortening, table oils, margarine, and other edible fats and oils.
- 32 Railroad terminals and freight yards.
- 33 Refineries.
- 34 Rendering plants.
- 35 Road test facilities.
- 36 Salvage yards.
- 37 Sewage treatment plants.
- 38 Ship and boat building and repair.
- 39 Smelting and refining of all metals and alloys.
- 40 Stockyards.
- 41 Tanneries.
- 42 Utility substations.
- 43 Towing with outside storage.

(e) Lot Area and Width.

- 1 Lots shall have a minimum area of forty thousand (40,000) square feet, and
- 2 All such lots shall have a frontage of not less than one hundred fifty (150) feet in width.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed sixty (60) feet in height.
- 2 No maximum or minimum building area shall be required in the M-2 district due to the variety of uses within this district and the diverse building demands of each use.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer Systems.

- 1 Public sanitary sewer.
- 2 On-site soil absorption disposal system.
- 3 Holding tank on lots of record created prior to July 1, 1980.

(3) M-3 MINERAL EXTRACTION DISTRICT.

(a) Primary Purpose and Characteristics. The M-3 Mineral Extraction District is intended to provide for the orderly continuation of existing quarries and related operations and to provide for new operations that provide maximum protection to the natural environment. This district further provides for the restoration of quarries in a manner that will not deteriorate the natural environment in the Village. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

(b) Principal Uses. No principal uses shall be permitted in the M-3 Mineral Extraction District and all uses within this district shall be principal uses.

(c) Accessory Uses.

- 1 Parking areas and storage garages
- 2 Related office facilities and power supplies
- 3 Small wind energy system
- 4 Solar energy system

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Caretaker's quarters
- 2 Concrete and asphalt batch plants
- 3 Large wind energy system
- 4 Manufacturing of cement or concrete products
- 5 Manufacturing of lime, gypsum or plaster of paris
- 6 Quarry or other non-metallic mining operations
- 7 Storage of mineral products or machinery
- 8 Storage and stockpiling of clean fill
- 9 Utilities and substations
- 10 Washing, refining or processing of rock, slate, gravel, sand or minerals processed from the top soil

(e) Lot Area and Width.

- 1 Lots in the M-3 Mineral Extraction District shall provide sufficient area for all structures, the extractive industrial operation, off-street parking and loading as required in Sections ZN 3.06(2) and (3) of this Ordinance and all required yards.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed sixty (60) feet in height, and
- 2 No maximum or minimum building area shall be required in the M-3 Mineral Extraction District due to the variety of uses within the district and the diverse building demands of each use.

(g) Yards.

- 1 Extractive industrial operations shall be set back a minimum of two hundred (200) feet from the right-of-way of all highways or roads, and all property lines.
- 2 Utilities, and accessory uses such as offices, parking areas and stockpiles shall be set back a minimum of one hundred (100) feet from the right-of-way of all highways or roads and all property lines.

(h) Authorized Sanitary Sewer Systems.

- 1 On-site soil absorption disposal system
- 2 Public Sanitary Sewer System
- 3 Holding tank on lots of record created prior to July 1, 1980

(4) **M-4 SANITARY LANDFILL AND HAZARDOUS WASTE DISPOSAL DISTRICT.**

- (a) **Primary Purpose and Characteristics.** The purpose of the M-4 Sanitary Landfill and Hazardous Waste Disposal District is to regulate land uses associated with the handling of materials that may be hazardous or harmful to public health and to the environment. These include micro-organism cultures, pesticides, biological products, infectious agents, and other toxic and hazardous substances. In order to provide for assurance, accountability, monitoring, and proper review of site operations and conditions involved in the handling of hazardous and potentially hazardous wastes, the M-4 Sanitary Landfill and Hazardous Waste Disposal District is created. This district is also intended to provide for the protection of the public, public safety, public welfare, health and convenience resulting from discharge of hazardous materials into the environment. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practical to list all of the principal and accessory uses that are hazardous, in fact, or potentially hazardous. Accordingly, the following list of principal, accessory, and conditional uses is illustrative only. Any individual aggrieved by the failure to list a particular use may file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity or dissimilarity of any use.

- (b) **Principal Uses.** No principal use shall be permitted as a matter of right in the M-4 Sanitary Landfill and Hazardous Waste Disposal District.
- (c) **Conditional Uses.**
- 1 Sanitary landfills operated in accordance with the provisions of Chapters NR 500 through NR 551 of the Wisconsin Administrative Code and amendments thereto

- 2 Manufacture of substances where EPA certified priority pollutants such as Naphthalene, Phenols, and Polychlorinated Biphenyls (PCB's) may be a byproduct of such operation
 - 3 Hazardous waste warehousing and transfer stations
 - 4 Garbage incineration or waste reduction
 - 5 Large wind energy system
 - 6 Medical waste incineration or waste processing
 - 7 Recycling centers and warehousing of recovered resources
- (d) Lot Area and Width.
- 1 Lots shall have a minimum area of ten (10) acres, and
 - 2 Lots shall have a frontage of not less than six hundred sixty (660) feet in width
- (e) Building Height.
- 1 No building or parts of a building shall exceed sixty (60) feet in height
- (f) Yards.
- 1 Street Yard - not less than two hundred (200) feet from the right-of-way of all Federal, State, and Village Trunk highways, and the right-of-way of all other roads
 - 2 Shore Yard - not less than two hundred (200) feet from the ordinary high water mark of any navigable water
 - 3 Side Yard - not less than two hundred (200) feet to an adjacent property line
 - 4 Rear Yard - not less than two hundred (200) feet to an adjacent property line
- (g) Authorized Sanitary Sewer Systems.
- 1 Public sanitary sewer
 - 2 On-side soil absorption sewage disposal system
 - 3 Holding tank on lots of record created prior to July 1, 1980

ZN 4.06 PUBLIC DISTRICTS.

- (1) **I-1 INSTITUTIONAL DISTRICT.**

- (a) **Primary Purpose and Characteristics.** The I-1 Institutional District is intended to provide for areas which are under private or public ownership and where the uses in those areas for public purposes or institutional purposes, whether public or private, are anticipated to be permanent. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

- (b) **Principal Uses.**

- 1 Churches
- 2 Hospitals, sanitariums, nursing homes and clinics
- 3 Libraries, museums and art galleries
- 4 Private youth development organizations such as YMCA, Junior Achievement, Boys Club of America and Campfire Girls
- 5 Public or private schools, colleges and universities
- 6 Public administrative offices and public service buildings including fire and police stations, community centers, public emergency shelters
- 7 Public utility offices

- (c) **Accessory Uses.**

- 1 Garages for storage of vehicles used in conjunction with the operation of the principal use.
- 2 Residential quarters for caretakers or clergy
- 3 Service buildings and facilities normally accessory to the principal uses
- 4 Solar energy system
- 5 Small wind energy system

- (d) **Conditional Uses.** (see also Section ZN 5.03(8))

- 1 Airport, heliport pads, aircraft hangars for storage and equipment maintenance; aircraft sales and service.
- 2 Bus terminals
- 3 Cemeteries
- 4 Large wind energy system
- 5 Penal, reform, disciplinary and mental institutions
- 6 Power and heat generating plants
- 7 Railroad depots
- 8 School auditoriums, gymnasiums and stadiums
- 9 Utility substations
- 10 Water storage tanks and towers and radio and television transmitting and receiving towers, microwave relay stations

(e) Lot Area and Width.

- 1 Institutional uses served by public sanitary sewage facilities shall provide a minimum lot area of ten thousand (10,000) square feet and a minimum lot frontage of seventy-five (75) feet in width, and
- 2 Institutional uses served by on-site soil absorption sewage disposal systems or other approved private means of sewage disposal, shall provide a minimum lot area of forty thousand (40,000) square feet and a minimum lot frontage of one hundred fifty (150) feet in width.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed sixty (60) feet in height.
- 2 No maximum or minimum building area shall be required in the I-1 Institutional District due to the variety of uses within this district and the diverse building demands of each use.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village trunk highways and not less than thirty (30) feet from the right-of-way of all other roads.

- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than ten (10) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer Systems.

- 1 Public sanitary sewer systems
- 2 On-site sewage disposal absorption system

(2) **PR-1 PARK-RECREATIONAL DISTRICT.**

- (a) Primary Purpose and Characteristics. The PR-1 Park-Recreational District is intended to provide for areas where the recreational needs, both public and private, of the populous can be met without undue disturbance of natural resources and adjacent uses. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal Uses.

- 1 Bike trails
- 2 Boat rental and boat access sites
- 3 Botanical gardens
- 4 Cross country ski trails
- 5 Fairgrounds
- 6 Historic monuments or sites
- 7 Hiking and nature trails and walks
- 8 Hunting and fishing clubs

- 9 Neighborhood tot lots
- 10 Outdoor skating rinks
- 11 Parks and playgrounds
- 12 Picnicking areas
- 13 Playfields or athletic fields
- 14 Ski hills without facilities
- 15 Sledding, skiing or tobogganing
- 16 Tennis courts

(c) Accessory Uses.

- 1 Bathhouses and locker rooms
- 2 Equipment storage facilities
- 3 Pavilion and restroom facilities
- 4 Solar energy system
- 5 Small wind energy system

(d) Conditional Uses. (see also Section ZN 5.03(8))

- 1 Amusement Parks, carnivals, circus, fairground and exposition grounds
- 2 Archery and firearm ranges (outdoors)
- 3 Arena, stadium, coliseums, auditoriums and gymnasiums
- 4 Assemblies over five thousand (5,000)
- 5 Beaches, and public swimming pools
- 6 Campgrounds (rental)
- 7 Conversion of a resort into a residential condominium
- 8 Golf Courses
- 9 Golf driving ranges

- 10 Large wind energy system
- 11 Marinas and marine sales and services
- 12 Minibike trails
- 13 Recreational vehicle (RV) campground or subdivisions
- 14 Resorts
- 15 Skeet and trap shooting ranges
- 16 Ski hills with restaurants and ski shops
- 17 Snowmobile trails
- 18 Sportsmen clubs
- 19 Summer theaters and amphitheaters or band shells
- 20 Zoological and botanical gardens

(e) Lot Area and Width.

- 1 Lots in the PR-1 Park-Recreational District shall provide sufficient area for the principal structure or use and accessory structures, off-street parking and loading, the disposal of sanitary waste if a public sanitary sewage system is not available, and required yards

(f) Building Height and Area.

- 1 No building or part of a building shall exceed one hundred (100) feet in height
- 2 No maximum or minimum building area shall be required in the PR-1 Park-Recreational District due to the variety of uses within this district and the diverse building demands of each use.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State trunk or Village trunk highways; and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than forty (40) feet in width on each side of all structures

- 4 Rear yard - not less than forty (40) feet
- (h) Authorized Sanitary Sewer Systems.
- 1 Public sanitary sewer
 - 2 On-site sewage disposal absorption system
 - 3 Holding tank

ZN 4.07 CONSERVANCY DISTRICTS.

(1) C-1 LOWLAND RESOURCE CONSERVANCY DISTRICT.

- (a) Primary Purpose and Characteristics. The C-1 Lowland Resource Conservancy District is intended to be used to prevent destruction of valuable natural or manmade resources and to protect water courses and marshes including the shorelands of navigable waters, and areas that are not naturally drained, or which are subject to periodic flooding, where development would result in hazards to health or safety or would deplete or destroy natural resources or be otherwise incompatible with public welfare.
- (b) Designation of Lowland Conservancy Areas. For the purpose of determining which areas are to be located in the C-1 Lowland Resource Conservancy District, the Village Department of Planning and Development shall develop district maps reflecting the best data available. The district delineation process shall make use of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer or other maps that reflect the best data available. This District includes all shoreland areas that are considered wetlands as defined in this Ordinance and as mapped and/or determined as wetlands in this Ordinance. Shoreland/wetlands designated on the Wisconsin Wetland Inventory Maps prepared by the WDNR as also depicted on the Department of Natural Resources Surface Water Data Viewer are also referred to as being located in the "Shoreland-Wetland Zoning District" as defined in this Ordinance. Said shoreland/wetlands are subject to the regulations of this section.
- (c) Mapping Disputes in the C-1 District. Whenever it is alleged that a discrepancy exists between a Lowland Resource Conservancy District delineation and actual field conditions, the staff of the Village Department of Planning and Development shall resolve the discrepancy in the following manner:
- 1 The Village Department of Planning and Development staff shall request that the staff of the Wisconsin Department of Natural Resources make a field inspection of the disputed lot and stake the limits of the Lowland Resource Conservancy District.

- 2 The Village Department of Planning and Development shall notify the property owner of the preliminary results of the field investigation. The property owner shall determine, within thirty (30) days, whether he will pursue a final wetland determination on the property.
- 3 Should the property owner decide to pursue a final wetland determination, he shall have a plat of survey prepared by a Wisconsin Registered Land Surveyor. The plat of survey shall show all property lines, structures on the lot or parcel, and the location of the wetland boundary as staked in the field. The plat of survey shall be filed with the Village Department of Planning and Development.
- 4 The Village Department of Planning and Development shall institute the appropriate action to change the Zoning Map to conform to the plat of survey. No fee shall be required of the property owner for this action.

(d) Principal Uses.

- 1 The following uses provided they do not involve filling, flooding, draining, dredging, ditching, tiling, or excavation:
 - a Hiking, fishing, trapping, hunting, swimming, and boating, unless otherwise prohibited by law.
 - b The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - c The pasturing of livestock;
 - d The cultivation of agricultural crops;
 - e The practice of silviculture, including the planting, thinning, and harvesting of timber; and
 - f The construction or maintenance of duck blinds.
- 2 The following uses which may involve filling, flooding, draining, dredging, ditching, tiling, and excavating but only to the extent specifically provided below:
 - a Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;

- b The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries;
- c The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;
- d The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
- e The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
- f The maintenance, repair, replacement or reconstruction of existing Village and Village highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

(e) Conditional Uses. (see also Section ZN 5.03(8)) No conditional uses shall be permitted in the C-1 Lowland Resource Conservancy District except:

- 1 Roads necessary to conduct silvicultural and agricultural cultivation activities.
- 2 Non-residential buildings for wildlife management.
- 3 Park and recreation areas.
- 4 Railroad lines.
- 5 Utilities.
- 6 Wildlife ponds.

(f) Lot Area. Where a lot or parcel is located partially within a C-1 Lowland Resource Conservancy District and partially within an adjoining use district, that area of the lot or parcel in the C-1 District may not be used to meet the lot area requirement of the adjoining district where public sanitary sewerage facilities are available. Where public sanitary sewerage facilities are not available, the area of the lot or parcel in the C-1

District may be used to meet the lot area requirement provided that at least forty thousand (40,000) square feet is provided outside the C-1 District.

- (g) Structures. No structure shall be permitted, except those permitted by conditional use grant, in the C-1 Lowland Resource Conservancy District. Furthermore, no on-site soil absorption sanitary sewage system, holding tank, or private well used to obtain water for ultimate human consumption shall be constructed in the C-1 Lowland Resource Conservancy District.
- (h) Platting Subdivisions. When platting new subdivisions, every effort shall be made to contain lands zoned C-1 Lowland Resource Conservancy District in outlots to be owned and controlled by a community association.
- (i) Prohibited Uses. Any use not listed in Section ZN 4.07(1)(d) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this Ordinance in accordance with Section ZN 4.07(1)(c) of this Ordinance and §59.69(5)(e), Wis. Stats.

(2) C-2 UPLAND RESOURCE CONSERVANCY DISTRICT.

(a) Primary Purpose and Characteristics. The C-2 Upland Resource Conservancy District is intended to preserve, protect, enhance and restore all significant woodlands, areas of rough topography, and related scenic areas. Regulation of these areas will serve to control erosion and sedimentation and will promote and maintain the natural beauty of the Village.

(b) Principal Uses.

- 1 Agricultural uses
- 2 Hunting and fishing
- 3 Preservation of scenic, historic and scientific areas
- 4 Forest and game management
- 5 Park and recreation areas
- 6 One (1) single-family dwelling

(c) Accessory Uses.

- 1 Gardening, tool and storage sheds incidental to the residential use
- 2 General farm buildings, including barns, silos, stables, sheds, and storage bins

- 3 Home occupations and professional home offices
 - 4 Private garages and carports
 - 5 Small wind energy system
 - 6 Solar energy system
- (d) Conditional Uses. (see also Section ZN 5.03(8))
- 1 Utility substations
 - 2 Large wind energy system
 - 3 Bed and breakfast establishments
- (e) Lot Area and Width.
- 1 Parcels shall have a minimum area of five (5) acres
 - 2 All such parcels have a frontage of not less than three hundred (300) feet in width except on a cul-de-sac or curve in which case the lot frontage may be reduced to one hundred fifty (150) feet of frontage provided there is at least three hundred (300) feet of width at the required building setback line
- (f) Building, Height, Area and Design Standards.
- 1 No building or part of a building shall exceed thirty-five (35) feet in height
 - 2 The total minimum floor area of a dwelling shall be one thousand four hundred (1,400) square feet with a minimum first floor area of one thousand (1,000) square feet
 - 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than 5/12, and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.
- (g) Yards.
- 1 Street yards - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk highways and not less than forty (40) feet from

the right-of-way of all other roads.

- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures
- 4 Rear yard - not less than fifty (50) feet.

(h) Authorized Sanitary Sewer System.

- 1 On-site sewage disposal absorption system
- 2 Public sanitary sewer

ZN 4.08 OVERLAY DISTRICTS.

(1) **FLOODPLAIN OVERLAY DISTRICT REGULATIONS.**

(a) Statutory Authorization, Finding of Fact, Statement of Purpose, Title and General Provisions.

- 1 Statutory Authorization. This Ordinance is adopted pursuant to the authorization in §61.35 and §62.23, Wis. Stats., for villages and cities and the requirements in §87.30, Wis. Stats.
- 2 Finding of Fact. Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.
- 3 Statement of Purpose. This Ordinance is intended to regulate floodplain development to:
 - a Protect life, health and property;
 - b Minimize expenditures of public funds for flood control projects;
 - c Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
 - d Minimize business interruptions and other economic disruptions;
 - e Minimize damage to public facilities in the floodplain;
 - f Minimize the occurrence of future flood blight areas in the floodplain;

- g Discourage the victimization of unwary land and home buyers;
 - h Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
 - i Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.
- 4 Title. This Ordinance shall be known as the Floodplain Overlay District Ordinance for the Village of Somers, Kenosha County, Wisconsin.
- 5 General Provisions.
- a Areas to Be Regulated. This Ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A, and AH Zones on the FIRM. Regional Flood Elevations (RFE) may be derived from other studies if approved by the DNR and FEMA. If more than one (1) map or revision is referenced, the most restrictive information shall apply.
 - b Official Maps & Revisions. The boundaries of all floodplain districts are designated as AE, A and AH Zones based on flood elevations derived from the flood profiles in the Flood Insurance Study (FIS) volume numbers 55059CV001B and 55059CV002B, effective March 7, 2017 Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see sub. (f) *Amendments*) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Village Clerk of the Village of Somers. If more than one (1) map or revision is referenced, the most restrictive information shall apply.
 - 1) All areas covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM), as approved by DNR and FEMA. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) volume numbers 55059CV001B and 55059CV002B, effective March 7, 2017 and are shown as AE, A, and AH Zones on the FIRM. The FIRM Map Panels affected are: 55059C0062D, 55059C0064D, 55059C0066D, 55059C0067D, 55059C0068D, 55059C0069D, 55059C0086D, 55059C0087D, 55059C0088D, 55059C0089D, 55059C0091D, 55059C0093D, 55059C0177D, 55059C0181D, 55059C0182D, 55059C0201D, 55059C0202D dated June 19, 2012 and FIRM Map Panel 55059C0184E dated March 7, 2017.

These official floodplain maps and studies were approved by the DNR and FEMA and are on file in the office of the Village Clerk of the Village

of Somers. If more than one (1) map or revision is referenced, the most restrictive information shall apply.

- c Establishment of Floodplain Zoning Districts. The regional floodplain area contains one (1) Floodplain Zoning district:
 - 1) The Floodplain Overlay District (FPO) is the regional flood limits and displayed as AE, A and AH Zones on the FIRM.

- d Locating Floodplain Boundaries. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in sub. 1) or 2) below. If a significant difference exists, the map shall be amended according to sub. (f) *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to sub. (e)3c and the criteria in 1) and 2) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to sub. (f) *Amendments*.
 - 1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
 - 2) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

- e Removal of Lands from Floodplain. Compliance with the provisions of this Ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two (2) feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to sub. (f) *Amendments*.

- f Compliance. Any development or use within the areas regulated by this Ordinance shall be in compliance with the terms of this Ordinance, and other applicable local, state, and federal regulations.

- g Municipalities and State Agencies Regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Ordinance and obtain all necessary permits. State agencies are required to comply if §13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when §30.2022, Wis. Stats., applies.

- h Abrogation and Greater Restrictions.
 - 1) This Ordinance supersedes all the provisions of any municipal zoning ordinance enacted under §59.69, §59.692 or §59.694, Wis. Stats. for counties; §62.23, Wis. Stats. for cities; §61.35, Wis. Stats. for villages; or §87.30, Wis. Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
 - 2) This Ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.
- i Interpretation. In their interpretation and application, the provisions of this Ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this Ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this Ordinance or in effect on the date of the most recent text amendment to this Ordinance.
- j Warning and Disclaimer of Liability. The flood protection standards in this Ordinance are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This Ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This Ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this Ordinance.
- k Severability. Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.
- l Annexed Areas for Cities and Villages. The Kenosha County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation location.

(b) General Standards Applicable to the Floodplain Overlay District. The community shall review all

permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation data for any development that meets the subdivision definition of this Ordinance and all other requirements in sub. (e)1b. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

- 1 Hydraulic and Hydrologic Analyses.
 - a No FPO development shall:
 - 1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
 - 2) Cause any increase in the regional flood height due to floodplain storage area lost.
 - b The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (f) *Amendments* are met.
- 2 Watercourse Alterations. No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of sub. (b)1 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six (6) months after the date of the watercourse alteration or relocation and pursuant to sub. (f) *Amendments*, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.
- 3 Chapter 30, 31, Wis. Stats., Development. Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits

are obtained and amendments to the floodplain zoning ordinance are made according to sub. (f) *Amendments*.

(c) Floodplain Overlay District (FPO).

- 1 Applicability. This section applies to all areas of the floodplain zoning maps.
- 2 Permitted Uses. The following open space uses are allowed in the Floodplain Overlay District, if they are not prohibited by any other ordinance; they meet the standards in sub. (c)3 and (c)4; and all permits or certificates have been issued according to sub. (e)1.
 - a Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - b Non-structural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - c Non-structural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of sub. (c)3d.
 - d Uses or structures accessory to open space uses, or classified as historic structures that comply with sub. (c)3 and (c)4.
 - e Extraction of sand, gravel or other materials that comply with sub. (c)3d.
 - f Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Wis. Stats.
 - g Public utilities, streets and bridges that comply with sub. (c)3c.
 - h Fences, split rail, barbed wire or wire strand fences for agricultural purposes or other fencing that comply with sub. (c)3 and (c)4.
- 3 Standards for Developments in the FPO.
 - a General.
 - 1) Any development in the floodplain shall comply with sub. (b) and have a low flood damage potential.
 - 2) Applicants shall provide the following data to determine the effects of the proposal according to sub. (b)1:

- a)
 - a) A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - b) An analysis calculating the effects of this proposal on regional flood height.
 - 3) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for sub. 2) above.
- b) Structures. Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
- 1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
 - 2) Shall have a minimum of two (2) openings on different walls having a total net area not less than one (1) square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one (1) foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - 3) Must be anchored to resist flotation, collapse, and lateral movement;
 - 4) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - 5) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- c) Public Utilities, Streets and Bridges. Public utilities, streets and bridges may be allowed by permit, if:
- 1) Adequate floodproofing measures are provided to the flood protection elevation; and
 - 2) Construction meets the development standards of sub. (b)1.
 - 3) Conditional use permits for bridges and approaches shall not be granted unless the applicant shall show that such use or improvement shall not impede drainage, will not cause ponding, will not obstruct the floodway, will not increase flood flow velocities, will not increase the flood stage by 0.00 foot or more unless easements or other appropriate legal measures, as may be approved by the Wisconsin Administrative

Code, have been taken and approved, and will not retard the movement of flood waters. When permitted such structures shall be floodproofed and shall be constructed so as not to catch or collect debris nor be damaged by flood waters. Certification of the structure shall be made to the Department of Planning and Development and shall consist of a plan or document certified by a registered professional engineer that the structure is consistent with the flood velocities, forces, depths and other factors associated with the one hundred (100) year recurrence interval flood.

- 4) The conditional use permit shall not be granted unless there is assurance of compliance with the provisions of the floodplain zoning ordinance, the purpose and objective of floodplain management, as enumerated in Wis. Admin. Code §NR 116.01 and local comprehensive plans in other land use controls.
- 5) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

d Fills or Deposition of Materials. Fills or deposition of materials may be allowed by permit, if:

- 1) The requirements of sub. (b)1 are met;
- 2) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Wis. Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;
- 3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- 4) The fill is not classified as a solid or hazardous material.

4 Prohibited Uses. All uses not listed as permitted uses in sub. (c)2 are prohibited, including the following uses:

- a Habitable structures, including manufactured homes, structures with high flood damage potential, or those not associated with permanent open-space uses;
- b Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

- c Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- d Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;
- e Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- f Any solid or hazardous waste disposal sites;
- g Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- h Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodplain which complies with the regulations for the floodplain area occupied; and
- i Any campgrounds and mobile recreational vehicles (RV).

(d) Non-conforming Uses.

1 General.

- a Applicability. If these standards conform with §87.30, Wis. Stats. and ch. NR 116.15, Wis. Adm. Code and 44 CFR 59-72, they shall apply to all modifications or additions to any non-conforming use or structure and to the use of any structure or premises which was lawful before the passage of this Ordinance or any amendment thereto.
- b The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this Ordinance may continue subject to the following conditions:
 - 1) No modifications or additions to a non-conforming use or structure shall be permitted unless they comply with this Ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other non-structural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered

maintenance.

The construction of a deck that does not exceed two hundred (200) square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- 2) If a non-conforming use or the use of a non-conforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this Ordinance;
- 3) The municipality shall keep a record which lists all non-conforming uses and non-conforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- 4) No modification or addition to any non-conforming structure or any structure with a non-conforming use, which over the life of the structure would equal or exceed fifty (50%) percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this Ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with sub. (b). The costs of elevating the lowest floor of a non-conforming building or a building with a non-conforming use to the flood protection elevation are excluded from the fifty (50%) percent provisions of this paragraph;
- 5) No maintenance to any non-conforming structure or any structure with a non-conforming use, the cost of which would equal or exceed fifty (50%) percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this Ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with sub. (b).
- 6) If on a per event basis the total value of the work being done under 4) and 5) above equals or exceeds fifty (50%) percent of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this Ordinance. Contiguous dry land access must be provided for

residential and commercial uses in compliance with sub. (c)3a.

7) Except as provided in sub. 8) below, if any non-conforming structure or any structure with a non-conforming use is destroyed or is substantially damaged in the Floodplain Overlay District, it cannot be replaced, reconstructed or rebuilt. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds fifty (50%) percent of the structure's present equalized assessed value.

8) For non-conforming buildings that are substantially damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such non-conforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

a) Residential Structures

- i) Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of sub. (e)5b.
- ii) Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
- iii) Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- iv) In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.

b) Non-residential Structures

- i) Shall meet the requirements of sub. (d)1b8)a)i) - vi).
- ii) Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities,

shall meet the standards in sub. (b).

- c A non-conforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with sub. (c)3a, flood resistant materials are used, and construction practices and floodproofing methods that comply with sub. (e)5 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of sub. (d)1b8)a) if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

2 Floodplain Overlay District.

- a No modification or addition shall be allowed to any non-conforming structure or any structure with a non-conforming use in the Floodplain Overlay District, unless such modification or addition:
 - 1) Has been granted a permit or variance which meets all ordinance requirements;
 - 2) Meets the requirements of sub. (d)1;
 - 3) Shall not increase the obstruction to flood flows or regional flood height;
 - 4) Any addition to the existing structure shall be floodproofed, pursuant to sub. (e)5, by means other than the use of fill, to the flood protection elevation; and
 - 5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - a) The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two (2) openings must be provided with a minimum net area of at least one (1) square inch for every one (1) square foot of the enclosed area. The lowest part of the opening can be no more than twelve (12) inches above the adjacent grade;
 - b) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

- d) The use must be limited to parking, building access or limited storage.
 - b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodplain Overlay District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodplain area shall meet the applicable requirements of all municipal ordinances, sub. (e)5c and ch. SPS 383, Wis. Adm. Code.
 - c) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodplain Overlay District. Any replacement, repair or maintenance of an existing well in the Floodplain Overlay District shall meet the applicable requirements of all municipal ordinances, sub. (e)5c and chs. NR 811 and NR 812, Wis. Adm. Code.
- (e) Administration. Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under §59.69, §59.692 or §62.23(7), Wis. Stats., these officials shall also administer this Ordinance.

1 Zoning Administrator.

- a) Duties and Powers. The zoning administrator is authorized to administer this Ordinance and shall have the following duties and powers:
 - 1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - 2) Issue permits and inspect properties for compliance with provisions of this Ordinance and issue certificates of compliance where appropriate.
 - 3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
 - 4) Keep records of all official actions such as:
 - a) All permits issued, inspections made, and work approved;
 - b) Documentation of certified lowest floor and regional flood elevations;
 - c) Floodproofing certificates.
 - d) Water surface profiles, floodplain zoning maps and ordinances,

non-conforming uses and structures including changes, appeals, variances and amendments.

- e) All substantial damage assessment reports for floodplain structures.
 - f) List of non-conforming structures and uses.
- 5) Submit copies of the following items to the Department Regional office:
- a) Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - b) Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.
 - c) Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- 6) Investigate, prepare reports, and report violations of this Ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- 7) Submit copies of amendments to the FEMA Regional office.
- b) Land Use Permit. A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:
- 1) General Information.
 - a) Name and address of the applicant, property owner and contractor;
 - b) Legal description, proposed use, and whether it is new construction or a modification;
 - 2) Site Development Plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:
 - a) Location, dimensions, area and elevation of the lot;
 - b) Location of the ordinary highwater mark of any abutting navigable waterways;

- c) Location of any structures with distances measured from the lot lines and street center lines;
 - d) Location of any existing or proposed on-site sewage systems or private water supply systems;
 - e) Location and elevation of existing or future access roads;
 - f) Location of floodplain limits as determined from the official floodplain zoning maps;
 - g) The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 - h) Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of sub. (c) or (d) are met; and
 - i) Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to sub. (b)1. This may include any of the information noted in sub. (c)3a.
- 3) Hydraulic and Hydrologic Studies to Analyze Development. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.
- a) Zone A floodplains:
 - i) Hydrology.
 - (a) The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
 - ii) Hydraulic modeling. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
 - (a) determination of the required limits of the

hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.

- (b) channel sections must be surveyed.
- (c) minimum four (4) foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
- (d) a maximum distance of five hundred (500) feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
- (e) the most current version of HEC_RAS shall be used.
- (f) a survey of bridge and culvert openings and the top of road is required at each structure.
- (g) additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than five hundred (500) feet.
- (h) standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
- (i) the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between

the proposed flood profile and the existing study profiles shall be no more than zero (0.00) feet.

iii) Mapping. A work map of the reach studied shall be provided, showing all cross section locations, floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodplain.

(a) If the proposed development is located outside of the floodplain, then it is determined to have no impact on the regional flood elevation.

(b) If any part of the proposed development is in the floodplain, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

b) Zone AE Floodplains.

i) Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

ii) Hydraulic model. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

(a) Duplicate Effective Model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodplain Data Table in the FIS report to within 0.1 foot.

- (b) Corrected Effective Model. The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.
 - (c) Existing (Pre-Project Conditions) Model. The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
 - (d) Revised (Post-Project Conditions) Model. The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
 - (e) All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
 - (f) Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
- iii) Mapping. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
- (a) Consistency between the revised hydraulic models, the revised floodplain delineations, the revised flood profiles, topographic work map, annotated FIRMs, construction plans, bridge

plans.

- (b) Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
 - (c) Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains boundaries.
 - (d) If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
 - (e) The revised floodplain boundaries shall tie into the effective floodplain boundaries.
 - (f) All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
 - (g) Both the current and proposed floodplain shall be shown on the map.
 - (h) The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.
- 4) Expiration. All permits issued under the authority of this Ordinance shall expire no more than one hundred eighty (180) days after issuance. The permit may be extended for a maximum of one hundred eighty (180) days for good and sufficient cause.
- c Certificate of Compliance. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the

following provisions:

- 1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this Ordinance;
 - 2) Application for such certificate shall be concurrent with the application for a permit;
 - 3) If all ordinance provisions are met, the certificate of compliance shall be issued within ten (10) days after written notification that the permitted work is completed;
 - 4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of sub. (e)5 are met.
- d Other Permits. Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.
- 2 Zoning Agency.
- a The zoning agency shall:
- 1) oversee the functions of the office of the zoning administrator; and
 - 2) review and advise the governing body on all proposed amendments to this Ordinance, maps and text.
- b The zoning agency shall not:
- 1) grant variances to the terms of the ordinance in place of action by the Board of Appeals; or
 - 2) amend the text or zoning maps in place of official action by the governing body.
- 3 Board of Appeals. The Board of Appeals, created under §59.694, Wis. Stats., for counties or §62.23(7)(e), Wis. Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this Ordinance. The Board shall exercise the

powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.

a Powers and Duties. The Board of Appeals shall:

- 1) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Ordinance;
- 2) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and
- 3) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

b Appeals to the Board.

- 1) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within thirty (30) days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.
- 2) Notice and Hearing for Appeals Including Variances
 - a) Notice - The board shall:
 - i) Fix a reasonable time for the hearing;
 - ii) Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
 - iii) Assure that notice shall be mailed to the parties in interest and the Department Regional office at least ten (10) days in advance of the hearing.
 - b) Hearing - Any party may appear in person or by agent. The board shall:
 - i) Resolve boundary disputes according to sub. (e)3c;

- ii) Decide variance applications according to sub. (e)3d; and
 - iii) Decide appeals of permit denials according to sub. (e)4.
- 3) Decision. The final decision regarding the appeal or variance application shall:
 - a) Be made within a reasonable time;
 - b) Be sent to the Department Regional office within ten (10) days of the decision;
 - c) Be a written determination signed by the chairman or secretary of the Board;
 - d) State the specific facts which are the basis for the Board's decision;
 - e) Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
 - f) Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.
- c Boundary Disputes. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:
 - 1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;
 - 2) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and
 - 3) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to sub (f) *Amendments*.
- d Variance.

- 1) The Board may, upon appeal, grant a variance from the standards of this Ordinance if an applicant convincingly demonstrates that:
 - a) Literal enforcement of the ordinance will cause unnecessary hardship;
 - b) The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 - c) The variance is not contrary to the public interest; and
 - d) The variance is consistent with the purpose of this Ordinance in sub. (a)3.

- 2) In addition to the criteria in sub. 1) above, to qualify for a variance under FEMA regulations, the following criteria must be met:
 - a) The variance shall not cause any increase in the regional flood elevation;
 - b) Variances can only be granted for lots that are less than one-half ($\frac{1}{2}$) acre and are contiguous to existing structures constructed below the R.E.; and
 - c) Variances shall only be granted upon a showing of good and sufficient cause, as evidenced by a written report prepared by an engineer licensed in the State of Wisconsin which is submitted not less than two (2) weeks prior to the hearing on the variance, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

- 3) A variance shall not:
 - a) Grant, extend or increase any use prohibited in the zoning district;
 - b) Be granted for a hardship based solely on an economic gain or loss;
 - c) Be granted for a hardship which is self-created.
 - d) Damage the rights or property values of other persons in the area;

- e) Allow actions without the amendments to this Ordinance or map(s) required in sub. (f) *Amendments*; and
- f) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

- 4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to Twenty-five (\$25.00) Dollars per One Hundred (\$100.00) Dollars of coverage. A copy shall be maintained with the variance record.

4 To Review Appeals of Permit Denials.

- a The Zoning Agency (sub. (e)2) or Board shall review all data related to the appeal. This may include:

- 1) Permit application data listed in sub. (e)1b;
- 2) Floodplain determination data in sub. (b);
- 3) Data listed in sub. (c)3a2) where the applicant has not submitted this information to the zoning administrator; and
- 4) Other data submitted with the application, or submitted to the Board with the appeal.

- b For appeals of all denied permits the Board shall:

- 1) Follow the procedures of sub. (e)3;
- 2) Consider zoning agency recommendations; and
- 3) Either uphold the denial or grant the appeal.

- c For appeals concerning increases in regional flood elevation the Board shall:

- 1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of sub. (f) *Amendments*; and
- 2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

- 5 Floodproofing Standards for Non-conforming Structures or Uses.
- a No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.
 - b For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - 1) certified by a registered professional engineer or architect; or
 - 2) meets or exceeds the following standards:
 - a) a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - b) the bottom of all openings shall be no higher than one (1) foot above grade; and
 - c) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - c Floodproofing measures shall be designed, as appropriate, to:
 - 1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - 2) Protect structures to the flood protection elevation;
 - 3) Anchor structures to foundations to resist flotation and lateral movement;
 - 4) Minimize or eliminate infiltration of flood waters; and
 - 5) Minimize or eliminate discharges into flood waters.
- 6 Public Information.
- a Place marks on structures to show the depth of inundation during the regional flood.
 - b All maps, engineering data and regulations shall be available and widely distributed.

- c Real estate transfers should show what floodplain district any real property is in.

(f) Amendments. Obstructions or increases may only be permitted if amendments are made to this Ordinance, the official floodplain zoning maps and water surface profiles, in accordance with sub. (f)1.

- In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this Ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with sub. (f)1. Any such alterations must be reviewed and approved by FEMA and the DNR.

1 General. The governing body shall change or supplement the floodplain zoning district boundaries and this Ordinance in the manner outlined in sub. (f)2 below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- a Any fill or floodplain encroachment that obstructs flow causing any increase in the regional flood height;
- b Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- c Any changes to any other officially adopted floodplain maps listed in sub. (a)5b2);
- d Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- e Correction of discrepancies between the water surface profiles and floodplain maps;
- f Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
- g All channel relocations and changes to the maps to alter floodplain lines or to remove an area from the floodplain that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

2 Procedures. Ordinance amendments may be made upon petition of any party according to the provisions of §62.23, Wis. Stats., for cities and villages. The petitions shall include all data required by sub. (e)1d and (e)1b. The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

- a The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of §62.23, Wis. Stats., for cities and villages.
- b No amendments shall become effective until reviewed and approved by the Department.
- c All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

(g) Enforcement and Penalties. Any violation of the provisions of this Ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not more than Fifty (\$50.00) Dollars, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to §87.30, Wis. Stats.

(h) Definitions. Unless specifically defined, words and phrases in this Ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

- 1 A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- 2 AH ZONE – See AREA OF SHALLOW FLOODING.
- 3 ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- 4 ALTERATION – An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
- 5 AREA OF SHALLOW FLOODING – A designated A, AH, AR/A, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one (1%) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a

clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

- 6 BASE FLOOD – Means the flood having a one (1%) percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- 7 BASE FLOOD ELEVATION (BFE) – The computed elevation to which floodwater is anticipated to rise during the base flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) and on the flood profiles
- 8 BASEMENT – Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- 9 BUILDING – See STRUCTURE.
- 10 BULKHEAD LINE – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to §30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this Ordinance.
- 11 CAMPGROUND – Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for non-permanent overnight use by four (4) or more camping units, or which is advertised or represented as a camping area.
- 12 CAMPING UNIT – Any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pickup truck, or tent that is fully licensed, if required, and ready for highway use.
- 13 CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this Ordinance.
- 14 CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- 15 CRAWLWAYS or CRAWL SPACE – An enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for access to plumbing and electrical utilities.
- 16 DECK – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- 17 DEPARTMENT – The Wisconsin Department of Natural Resources.

- 18 DEVELOPMENT – Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- 19 DRY LAND ACCESS – A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- 20 ENCROACHMENT – Any fill, structure, equipment, use or development in the floodplain.
- 21 FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.
- 22 FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one (1) of the following conditions:
- The overflow or rise of inland waters;
 - The rapid accumulation or runoff of surface waters from any source;
 - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
 - The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- 23 FLOOD FREQUENCY – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent chance of occurring in any given year.
- 24 FLOOD FRINGE – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- 25 FLOOD HAZARD BOUNDARY MAP – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until

superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

- 26 FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- 27 FLOOD INSURANCE STUDY – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones.

Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- 28 FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- 29 FLOOD PROTECTION ELEVATION – An elevation of two (2) feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- 30 FLOOD STAGE – The elevation of the flood water surface above an officially established datum plain. In Southeastern Wisconsin, it is recommended that the datum plain used be Mean Sea Level, 1929 Adjustment.
- 31 FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- 32 FLOODPLAIN – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- 33 FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- 34 FLOODPLAIN MANAGEMENT – Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- 35 FLOODPROOFING – Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

- 36 FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- 37 FREEBOARD – A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- 38 HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.
- 39 HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Wis. Stats. For appeals, a Class 1 notice, published once at least one (1) week (seven (7) days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (seven (7) days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- 40 HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- 41 HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 42 HISTORIC STRUCTURE – Any structure that is either:
- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

- 43 INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood elevation greater than zero (0.00) foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- 44 LAND USE – Any non-structural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- 45 LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.
- 46 LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.
- 47 MAINTENANCE – The act or process of restoring to original soundness, including redecorating, refinishing, non-structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.
- 48 MANUFACTURED HOME – A structure transportable in one (1) or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- 49 MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- 50 MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land, divided into two (2) or more manufactured home lots for rent or sale.
- 51 MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of land, divided into two (2) or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this Ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
- 52 MOBILE RECREATIONAL VEHICLE – A vehicle which is built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a

parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

- 53 MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.
- 54 MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
- 55 MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
- 56 MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.
- 57 MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
- 58 MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- 59 NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea level datum, 1988 adjustment.
- 60 NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.
- 61 NEW CONSTRUCTION – For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- 62 NON-CONFORMING STRUCTURE – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this Ordinance for the area of the floodplain which it occupies.
- 63 NON-CONFORMING USE – An existing lawful use or accessory use of a structure or

building which is not in conformity with the provisions of this Ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

- 64 OBSTRUCTION TO FLOW – Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- 65 OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this Ordinance, as described in sub. (a)5b, which has been approved by the Department and FEMA.
- 66 OPEN SPACE USE – Those uses having a relatively low flood damage potential and not involving structures.
- 67 ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- 68 PERSON – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- 69 PRIVATE SEWAGE SYSTEM – A sewage treatment and disposal system serving one (1) structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one (1) structure or a system located on a different parcel than the structure.
- 70 PUBLIC UTILITIES – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- 71 REASONABLY SAFE FROM FLOODING – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- 72 REGIONAL FLOOD – A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one (1%) percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BE.
- 73 START OF CONSTRUCTION – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred (180) days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns,

or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- 74 STRUCTURE – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- 75 SUBDIVISION – Has the meaning given in §236.02(12), Wis. Stats.
- 76 SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty (50%) percent of the equalized assessed value of the structure before the damage occurred.
- 77 SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds fifty (50%) percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure’s continued designation as a historic structure.
- 78 UNNECESSARY HARDSHIP – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- 79 VARIANCE – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

(2) **PUD PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT.**

- (a) Primary Purpose and Characteristics. The Village Board of Trustees has determined that the Wisconsin Statutes grants the Village Board authority to create "planned development districts" as granted to cities pursuant to §62.23(7)(b), Wis. Stats. The PUD Planned Unit Development

Overlay District, set forth herein, is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning and diversified location of structures. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The PUD Overlay District under this Ordinance will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements set forth in the underlying basic zoning district. The unified and planned development of a site in a single or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Chapter 703 of the Wisconsin Statutes (condominiums) may be permitted by the Village board upon specific petition under this section of the ordinance and after public hearing with such development encompassing one (1) or more principle uses or structures and related accessory uses or structures when all regulations and standards as set forth in this section of the ordinance have been met.

- (b) Planned Unit Development Overlay District. (PUD) So as to ensure a maximum benefit to both the community and to developers and so as to provide for flexibility in planning in all the districts created under this Ordinance except for the A-1, A-2, A-3, A-4, R-1, R-2, R-6, R-12, C-1, C-2, FPO, and AEO districts, there is hereby created the Planned Unit Development Overlay District.
- (c) Principal, Accessory and Conditional Uses. Principal, accessory and conditional uses permitted in a Planned Unit Development Overlay District shall conform to uses permitted in the underlying basic use district or districts. The Village Board may approve variances from the parking space, open space and loading area requirements prescribed by the underlying uses if the owner can demonstrate that the proposed parking spaces, open space and loading areas will adequately service the planned development upon recommendation for such variance from the Plan Commission.
- (d) Ownership. Areas designated as PUD Overlay Districts shall be under single or corporate ownership or control at the time of their creation.
- (e) Minimum Area Requirements. Areas designated as PUD Overlay Districts shall contain a minimum development area of:

<u>Principal Uses</u>	<u>Minimum Area of PUD</u>
Residential Planned Unit Development	5 acres
Commercial Planned Unit Development	5 acres
Industrial Planned Unit Development	5 acres
Mixed Use Planned Unit Development	5 acres
Agricultural Preservation Planned Unit Development	5 acres

- (f) Minimum Sanitary Sewer Requirements. All Planned Unit Developments shall be on a public

sanitary sewer system, except for Agricultural Preservation Planned Unit Developments, which need not be on public sanitary sewer systems but which must then have soils adequate to support on-site septic systems.

- (g) Pre-petition Conference and General Lay-out Concept Plan. Prior to the official submission of the petition for the approval of a Planned Unit Development Overlay District, the owner or his agent making such petition shall meet with the staff of the Village Department of Planning and Development to discuss the scope and proposed nature of the contemplated development and data and other information as deemed appropriate and pertinent for presentation to the committee. At the pre-petition conference, the owner or agent shall present a general lay-out conceptual plan including drawings and sketches of the proposed development and figures or calculations that are pertinent to the development using as a general guideline the requirements set forth in these ordinances.
- (h) Petition. Following the pre-petition conference, the owner or his agent may file a petition with the Village Department of Planning and Development for approval of a Planned Unit Development Overlay District. Such petition shall be accompanied by the review fee required under Section ZN 2.02(7) of this Ordinance as well as the following information:
 - 1 A statement which sets forth the relationship of the proposed Planned Unit Development to any existing or proposed master plans or any adopted component thereof, and the general character of and the uses to be included in the proposed Planned Unit Development including the following information:
 - a Total area to be included in the Planned Unit Development, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
 - b A general summary of the estimated value of structures and site improvement costs, including landscaping and special features of common open spaces.
 - c A general outline of the organizational structure of a property owner's association, which may be proposed to be established for the purpose of providing any necessary private services or maintenance of common open spaces.
 - d Any proposed departures from the standards of development as set forth in the Village zoning regulations, other Village regulations or administrative rules, or other Village or Village ordinances.
 - e The expected date of commencement, schedule of development by phases, and completion of physical development as set forth in the proposal.
 - f Notwithstanding the departures from lot area, setback, building separation; and modification of street standards and/or sidewalk and walkway requirements;

no modifications shall be granted from the floodplain protection and wetland protection measures set forth in this Ordinance.

- 2 A detailed development site plan including:
 - a A survey and legal description of the boundaries of the subject property included in the proposed Planned Unit Development and its relationship to surrounding properties prepared by a land surveyor registered by the State of Wisconsin.
 - b The location of public and private roads, driveways, and parking facilities.
 - c The size, arrangement, and location of any individual building sites and proposed building groups on each individual site.
 - d The location of institutional, recreational, and open space areas and areas reserved or dedicated for public uses, including schools, parks, and drainageways.
 - e The type, size, and location of all structures.
 - f General landscape treatment.
 - g Architectural plans, elevation, and perspective drawings and sketches illustrating the design and character of the proposed structures.
 - h The existing and proposed location of public sanitary sewer and water supply facilities.
 - i The existing and proposed location of all private utilities or other easements.
 - j The characteristics of soils related to contemplated specific uses.
 - k Existing topography on the site with contours at no greater than two (2) foot intervals.
 - l Detail storm-water drainage plans prepared by a professional engineer registered by the State of Wisconsin.
 - m Anticipated uses of adjoining lands in regard to roads, surface water drainage, and compatibility with existing adjacent land uses.
 - n Any other data or information requested at the pre-petition conference.
- (i) Public Hearing. The Village Plan Commission before formulating its recommendations to the Village Board shall hold a public hearing pursuant to the requirements of Section ZN 8.01 of this

Ordinance. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested Planned Unit Development Overlay District.

(j) Basis for Petition Approval.

- 1 The Village Plan Commission in making its recommendation to the Village Board and the Village Board in making its determination, shall find:
 - a That the petitioners for the proposed Planned Unit Development Overlay District have indicated that they intend to begin the physical development of the Planned Unit Development within twelve (12) months following the approval of the petition and that the development will be carried out according to a reasonable construction schedule satisfactory to the Village.
 - b That the proposed Planned Unit Development Overlay District is consistent in all respects to the purpose of this section and to the spirit and intent of this Ordinance; is in conformity with any existing or proposed adopted master plans or any adopted components thereof; and, that the development would not be contrary to the general welfare and economic prosperity of the community.
 - c That the proposed Planned Unit Development Overlay District is compatible with adjacent development in the immediate area, or that appropriate measures, such as a vegetative buffer, have been employed to reduce the visual impact on surrounding land uses.
 - d The Village Plan Commission in making its recommendations and the Village Board in making its determination shall further find that:
 - 1) The proposed site is provided with adequate drain-age facilities for surface and stormwaters.
 - 2) The proposed site is accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
 - 3) No undue constraint or burden will be imposed on public services and facilities, such as, but not limited to, fire and police protection, street maintenance, and maintenance of public areas by the proposed development.
 - 4) The streets and driveways on the site of the pro-posed development are adequate to serve the pro-posed development and do meet the minimum standards of all applicable ordinances or administrative regulations of the Village, whichever is more restrictive.
 - 5) Centralized public water and sewer facilities are provided.

6) The entire tract or parcel of land to be included in a Planned Unit Development Overlay District is held under single ownership, or if there is more than one (1) owner, the petition for such Planned Unit Development Overlay District is considered as one (1) tract, lot or parcel and the legal description defines said Planned Unit Development as a single parcel, lot or tract and is jointly petitioned by the several owners. This requirement shall not be deemed to prevent further divisions of the land after creation of the Planned Unit Development Overlay District provided that all further divisions are in accordance with the restrictions placed on the particular Planned Unit Development.

e That in the case of a proposed residential Planned Unit Development Overlay District:

- 1) Such development creates an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreational space, and coordination with overall plans for the Village wherein the Planned Unit Development is to be located.
- 2) The following table has been used and complied with for the following districts in determining the density of a development or site:

<u>District Zoning</u>	<u>Maximum Gross Density (dwelling units per acre)</u>	<u>Average Net Area Per Dwelling Unit (square feet)</u>
R-3	2.2	20,000
R-4	2.9	15,000
R-5	4.4	10,000
R-8	4.4	10,000
R-9	8.7	5,000
R-10	10.8	4,000
R-11	12.4	3,000

- 3) The Residential Planned Unit Development project is limited to development types as hereinafter set forth:
 - a) Cluster developments, attached single-family dwellings, townhouses, and condominiums are permitted in the R-4, R-5 and R-8 districts but shall not exceed two (2) dwelling units per structure.
 - b) Cluster developments, townhouses, and condominiums are permitted in the R-9 district, but shall not exceed four (4) dwelling units per structure.

- c) Cluster developments, townhouses, and condominiums are permitted in the R-10 district, but shall not exceed eight (8) dwelling units per structure.
 - d) Cluster developments, townhouses, and condominiums are permitted in the R-11 district, in which case, the Plan Commission may set limits on structural size and number of units in each structure.
 - 4) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
 - 5) Provision has been made for adequate, continuing fire and police protection.
 - 6) The population composition of the development will not have an adverse effect upon the individual Village's capacity to provide needed school or other municipal service facilities.
 - 7) Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation and maintenance or by dedication to the public.
- f That in the case of a proposed commercial Planned Unit Development Overlay District:
- 1) The economic practicality of the proposed development can be justified.
 - 2) The proposed development will be adequately served by off street parking and truck service facilities.
 - 3) The proposed development is adequately provided with and does not impose any undue burden on public services and facilities such as fire and police protection, street maintenance, and maintenance of public areas.
 - 4) The locations for entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.

- 5) The architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood or area.

g That in the case of a proposed industrial Planned Unit Development Overlay District:

- 1) The operational character, physical plant arrangement, and architectural design of buildings will be compatible with the latest in performance standards and industrial development design and will not result in adverse effects upon the property values of the surrounding neighborhood.
- 2) The proposed development will be adequately provided with and will not impose any undue burden on public services and facilities, such as, but not limited to, fire and police protection, street maintenance, and maintenance of public areas.
- 3) The proposed development will include adequate provisions for off street parking and truck service areas and will be adequately served by rail and/or arterial highway facilities.
- 4) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

h That in the case of a proposed mixed use Planned Unit Development Overlay District:

- 1) The proposed mixture of uses (i.e. residential, commercial, industrial) will produce a unified composite which is compatible within the underlying districts and which as a total entity is compatible with the surrounding neighborhood.
- 2) The various types of uses (residential, commercial, industrial) conform to the general requirements for each use as hereinbefore set forth, applicable to projects of such use and character.
- 3) The operational character, physical plant arrangement, and architectural design of buildings will be compatible with the latest in performance standards and industrial development design and will not result in adverse effects upon the property values of the surrounding neighborhood.
- 4) The proposed development will be adequately provided with and will not impose any undue burden on public services and facilities, such as,

but not limited to, fire and police protection, street maintenance, and maintenance of public areas.

- 5) The proposed development will include adequate provisions for parking and truck service areas and will be adequately served by rail and/or arterial highway facilities.
 - 6) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.
- (k) Determination. The Village Board, after due consideration, may deny the petition, approve the petition as submitted, or approve the petition subject to additional conditions and restrictions. The approval of a Planned Unit Development Overlay District shall be based upon and include as conditions thereto adherence to the building, site, and operational plans for the development as approved by the Village Board.
- (l) Changes and Additions. Any subsequent change or addition to the plans or uses shall first be submitted for approval to the Village Plan Commission and if in the opinion of either such change or addition constitutes a substantial alteration of the original plan, a public hearing before the Plan Commission shall be required and notice thereof shall be given pursuant to the provisions of Section ZN 8.01 of this Ordinance, and said proposed alterations shall be submitted to the Village Board for approval.
- (m) Subsequent Land Division. The division of any land or lands within a Planned Unit Development Overlay District for the purpose of change or conveyance of ownership shall be accomplished pursuant to the land division regulations of the Village.
- (n) Failure to begin development if no substantial construction has commenced as defined in Section ZN 2.02(3) of this Ordinance or no use established in the Planned Unit Development District within the time schedule submitted to the Village Board, the Village Department of Planning and Development shall petition the Village Board of Trustees for the purpose of rescinding the planned unit development overlay designation so as to allow the land in question to revert to its underlying zone. The procedures set forth in Section ZN 8.01 of this Ordinance, relating to the amendment of this Ordinance shall be adhered to in its discretion and for good cause, the Village Board may extend for a reasonable period of time, not to exceed one (1) year, the period for the beginning of construction or the establishment of a use. If the Planned Unit Development Overlay District is rescinded, the Department of Planning and Development shall remove said district from the official zoning map. Those zoning regulations applicable before the creation of said district shall then be in effect and no vested rights in the Planned Unit Development Overlay District shall be deemed to have occurred.
- (o) List of adopted PUD Districts can be found in Appendix D.
- (3) **AO AIRPORT OVERLAY DISTRICT.**
- (a) Primary Purpose and Characteristics. It is the intent of the Village Board of Trustees in creating

the Airport Overlay District to provide for the possibility of establishing a use district designed to coordinate the planning, development, and regulation of land uses in the vicinity of airports so as to insure that the uses are mutually compatible with the operation of the airport and that any public investment in an airport is protected and further that public safety, welfare, health and convenience is served.

So as to address the problems which are associated with airport development, this district is distinguished by regulations relating but not limited to, safety, density, height restrictions and noise levels.

It is recognized that it is neither possible nor practical to list all of the principal and accessory uses that are compatible with those listed below and therefore, it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Definitions. In this section:

- 1 "Airport affected area" means that area contiguous to the airport property in which mutually compatible land uses would be in the public interest. The total length of an airport affected area may not exceed five (5) times the length of an existing or planned runway, and an airport affected area may not extend beyond the end of the runway by a distance exceeding twice the length of the existing or planned runway. The width of an airport affected area may not exceed one-half (½) mile on either side of the center line of the existing or planned runway.
- 2 "Airport owner" means any city, village, town, Village, or combination thereof which owns an approved airport.
- 3 "Approved airport" means any airport or future airport site:
 - a which has been approved as an airport site by appropriate state and federal agencies;
 - b which is included in the state airport system plan; and
 - c to which the fee simple is vested in the airport owner.
- 4 "Mutually compatible uses" means those uses of land which neither create an airport hazard to the safe operation of aircraft using the airport, nor are in such a location relative to the airport that inhabitants might be unduly endangered or otherwise adversely affected by the lawful operation of aircraft using the airport.

(c) Procedures for Creation of Airport Overlay District, AOD.

- 1 Any airport owner may petition the Village Board of Trustees for the purpose of creating an Airport Overlay District pursuant to the provisions set forth in Section ZN 8.01 of this Ordinance, and
- 2 Prior to petitioning the Village Board of Trustees for the purpose of creating an Airport Overlay District, the airport owner shall prepare for presentation to the Village Plan Commission an airport affected area land use plan. Said plan shall be prepared in such a fashion so as to consider the social, economic, and environmental effects of the airport and airport operations on land in the vicinity of the airport and in the airport affected area and shall make provision for anticipated growth and coordination of planning efforts for other transportation modes for both passengers and freight. This plan shall reflect environmental, developmental and transportation goals for the area and shall be adopted by the airport owner. A copy of the land use plan, including maps and accompanying documents shall be submitted to the Secretary of the State Department of Transportation for review prior to submission to the Plan Commission. This plan shall catalogue all existing land uses in the vicinity of the airport and in the airport affected area, project future characteristics involving the operation of the airport and the land requirements for said airport including the number and type of aircraft that will make use of the airport, the hours of operation and the necessary land acquisitions and easements needed for the safe operation of the airport. In addition, said plan shall delineate all noise zones and the type of uses that are both compatible and incompatible in said noise zones, and long-range estimates of noise impact. Said plan shall furthermore identify existing and future incompatible uses, designate alternative land use plans, and techniques for plan implementation, as well as evaluate the potential effects of these alternate land use plans and regulate techniques. The best alternative plan and technique shall be recommended.

Accompanying said plans shall be all necessary noise contour maps and compatibility charts and tables and height restriction maps necessary for the safe operation of the airport facility.

(d) Upon the creation of an Airport Overlay District pursuant to the provisions of Section ZN 8.01 of this Ordinance, navigational and meteorological structures shall be permitted and also the following principal uses shall be permitted provided they are permitted in the underlying basic use district and that there is no interference with existing or proposed navigational aids:

- 1 Agriculture, forestry, truck farming and other vegetable and plant crop cultivation, and roadside stands for the sale only of products grown on the premises.
- 2 Arboretum.
- 3 Auto storage areas.
- 4 Botanical gardens.
- 5 Car rental agencies.

- 6 Fish and bait hatcheries, and worm farms, including sale at wholesale or retail.
- 7 Game preserves.
- 8 Golf courses.
- 9 Greenhouses.
- 10 Marinas.
- 11 Nurseries, landscape.
- 12 Parking lots.
- 13 Picnic Areas.
- 14 Public works and public utility facilities such as water pumping stations, plants and reservoirs, electric transmission lines and substations.
- 15 Reservoirs.
- 16 Riding academies, public and private stables.
- 17 Sod farming.
- 18 Water-treatment plants.

(e) Upon the creation of the Airport Overlay District, only those accessory uses permitted in the underlying district shall be permitted provided, however, that there is no interference with existing or proposed navigational aids.

(f) Upon the creation of the Airport Overlay District, only the following conditional uses shall be permitted provided they are permitted as either principal or conditional uses in the underlying district. (see also Section ZN 5.03(8), Airport Overlay Conditional Uses):

- 1 Aviation schools.
- 2 Banking services.
- 3 Bottling plants.
- 4 Building materials, storage yards or buildings, including sales of equipment commonly used by contractors.
- 5 Cemeteries, columbaria, crematories, and mausoleums, subject to the approval of the Wisconsin Board of Health and Board of Adjustment.

- 6 Convention centers.
- 7 Gas stations.
- 8 Hotels and motels.
- 9 Lumber yards, storage and sales.
- 10 Night clubs.
- 11 Office buildings.
- 12 Recreational activities.
- 13 Restaurants.
- 14 Service and light industries and related offices and showrooms that manufacture, compound, assemble, process, package, store and distribute goods and materials and are in general dependent upon raw materials refined elsewhere, including chemicals and allied products; food and beverage products; metal and metal products; textiles; bedding and fibers; wood and paper products; glass products; and plastic products.
- 15 Sewage disposal plant.
- 16 Shopping centers.
- 17 Stone monument works.
- 18 Terminals, (passenger, freight, taxi, bus).
- 19 Warehouses and related showrooms and offices.
- 20 Wholesale distribution centers, including storage buildings, open storage areas, and related offices and showrooms.

(g) Special requirements. The following special requirements shall apply for all principal, accessory and conditional uses allowed in the Airport Overlay District:

- 1 Lighting.
 - a Except as may be permitted as an airport navigational aid, a pulsating, flashing, rotating, oscillating, or other type of lighting intended as an attention-getting device shall be expressly prohibited.
 - b Flood lights, spot lights, or other lighting device shall be so arranged or shielded as not to cast illumination in an upward direction above an imaginary line extended from the light source parallel to the ground.

- c Any light which constitutes a "misleading light" within the meaning of TSO-N19 or such other regulations as may be thereafter duly adopted by the Civil Aeronautics Administration, is expressly prohibited.
 - 2 Radio and Electronic.
 - a Any radio or electronic device shall be permitted only in conjunction with a valid license therefore or other authorization as may be issued by the Federal Communications Commission.
 - b Any radio or electronic device, the operation of which would violate any rules or regulations of the Federal Communications Commission is expressly prohibited.
 - 3 Smoke. Any operation or use which emits smoke, dust, or any visible fumes or vapors into the atmosphere shall be expressly prohibited.
- (h) Lot area, width, yards and sanitation requirements. Lot area, width, yard and sanitation requirements applicable in the underlying district shall apply in the Airport Overlay District.
- (i) Height. Except for legal fences and farm crops, no structure shall be constructed, altered, located or permitted to remain after construction, alteration or location and no trees shall be allowed to grow to a height in excess of the height limit indicated on the "Height Restriction Maps" prepared in conjunction with the airport affected area land use plan provided for in Section ZN 4.08(3)(c)2 of this Ordinance.
- (j) Noise. No principal, accessory or conditional use shall be permitted on a parcel unless the intended use is compatible with the sound levels expected to be generated on the parcel as shown on the Noise Contour Maps and compatibility charts and tables prepared in conjunction with the airport affected area land use plan provided for in Section ZN 4.08(3)(c)2 of this Ordinance.
- (k) Amendment. Any amendment to the Airport Overlay District shall not be effective until such time as the airport owner has been notified of the proposed amendment and been given an opportunity to notify the Village Plan Commission of any adverse affect created by said amendment.
- (4) **RC RURAL CLUSTER DEVELOPMENT OVERLAY DISTRICT.**
 - (a) Primary Purpose and Characteristics. The purpose of the RC Rural Cluster Development Overlay District is to preserve rural landscape character, sensitive natural areas, farmland and other large areas of open land, while permitting residential development at low, rural densities, in an open space setting, located and designed to reduce the perceived intensity of development and provide privacy for dwellings. Specific objectives are as follows:
 - 1 To maintain and protect rural character by preserving important landscape elements, including those areas containing unique and environmentally sensitive natural features

such as woodlands, hedgerows, stream corridors, wetlands, floodplains, shorelands, prairies, ridge tops, steep slopes, and critical species habitat by setting them aside from development. Such areas are contained in primary environmental corridors as identified by the Southeastern Wisconsin Regional Planning Commission and are of particular significance for conservation.

- 2 To preserve scenic views and to minimize views of new development from existing streets.
 - 3 To provide for the unified and planned development of clustered, single-family, low density residential uses, incorporating large areas of permanently protected common open space.
 - 4 To provide for greater design flexibility in the siting of dwellings and other development features than would be permitted by the application of standard district regulations in order to minimize the disturbance of the rural landscape elements, scenic quality, and overall aesthetic value of the landscape.
 - 5 To increase flexibility and efficiency in the siting of services and infrastructure, by reducing street length, utility requirements, drainage requirements, and the amount of paving required for residential development, where possible.
 - 6 To create groups of dwellings with direct visual and physical access to common open space.
 - 7 To permit active and passive recreational use of common open space by residents of developments within this district and by the public, when appropriate.
 - 8 To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes.
 - 9 To allow for the continuation of agricultural uses in those areas best suited for such activities and when such activities are compatible with adjoining residential uses.
 - 10 To permit various means for owning common open space and for protecting it from development in perpetuity.
 - 11 To create an attitude of stewardship for the land within common open space by requiring a land management plan for the common open space.
 - 12 To implement the objectives of any applicable adopted comprehensive plan or comprehensive plan component.
- (b) RC Rural Cluster Development District Designation. An RC Rural Cluster Development District designation may be placed on any site in the A-2, R-1 and C-2 Districts meeting the minimum tract size requirements specified in Section ZN 4.08(4)(g).

(c) Principal Uses.

- 1 Clustered single-family detached dwellings.
- 2 Single-family farmstead dwellings with associated agricultural structures as listed in Section ZN 4.08(4)(c)6f.
- 3 Community living arrangements having a capacity for eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
- 4 Essential services.
- 5 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and which are in conformance with all state statutory requirements.
- 6 Common open space for cluster development with uses permitted as follows:
 - a Conservation of land in its natural state (for example, woodland, fallow field, or managed meadow.)
 - b Game farm, fish hatchery, hunting and fishing preserve, wildlife sanctuary, forest preserve, or similar uses designated for the protection and propagation of wildlife.
 - c Agricultural uses, including the cultivation, harvesting and sale of crops and related farm products, the raising and sale of livestock or fowl, along with associated pasture and barnyards, orchards, nurseries, greenhouses and related horticultural activities.
 - d Pasture for recreational horses.
 - e Growing and sale of Christmas trees.
 - f Agricultural structures such as barns, silos, storage sheds, cribs, coops, and stables.
 - g Interior cluster group open space.
 - h Passive recreation, including, but not limited to, hiking trails, bicycle or bridle trails, picnic areas, community gardens, and lawn area.
 - l Active recreation, including, but not limited to, playing fields, playgrounds and courts.
 - j Parking areas where necessary to serve active recreation facilities.
 - k Easements for access, drainage, sewer and water lines, or other public

purposes.

- l Stormwater management facilities including detention and retention basins.
- m Water supply and sewerage systems for individual lots, cluster groups, or the entire development.
- n Utility and street rights-of-way except that their land areas shall not count toward the minimum open space requirement.

(d) The following uses and activities are prohibited in common open space:

- 1 Use of motor vehicles except on approved roads, driveways and parking areas. Maintenance, law enforcement, emergency and farm vehicles are exempt from this provision.
- 2 Cutting of healthy trees, regrading, cutting and filling, topsoil removal, altering, diverting or modifying water courses or water bodies, except in compliance with a land management plan for the tract, conforming to customary standards of forestry, erosion control and engineering.
- 3 Intensive animal feed lot operations.

(e) Permitted Accessory Uses.

- 1 Accessory structures such as detached garages, sheds and boathouses.
- 2 Home occupations and professional home offices.
- 3 Small wind energy system.
- 4 Solar energy system.
- 5 Swimming pools and spas (see also Section ZN 3.09).
- 6 Fences (see also Section ZN 3.08(2)).

(f) Conditional Uses.

- 1 Community living arrangements having nine (9) but not more than fifteen (15) persons which shall be in conformance with all state statutory requirements.
- 2 Model single-family homes and related real estate sales office located within the model unit.
- 3 Utility substations.

- 4 Large wind energy system.
- 5 Golf courses.
- 6 Community swimming pools.
- 7 Community center for the use of residents of the cluster development.

(g) Density and Dimensional Standards.

- 1 For residential dwelling with individual on-site sewage disposal absorption systems:

Development Standard	A-2 District	R-1 District and C-2 District
Minimum tract size	50 acres	25 acres
Maximum density [1]	1 du/10 acres	1 du/5 acres
Minimum lot area [2]	80,000 sq. ft.	40,000 sq. ft.
Minimum lot width [3]	200 feet	150 feet
Street yard	75 feet	50 feet
Shore yard	Not less than 75 feet from the ordinary high water mark of any navigable water	Not less than 75 feet from the ordinary high water mark of any navigable water
Side yard [4]	50 feet	25 feet
Rear yard	75 feet	50 feet
Accessory buildings setback and size regulations [5]	See Section ZN 3.14(7)	See Section ZN 3.14(7)
Minimum common open space [6]	60 percent	60 percent
Maximum building height (excluding agricultural structures)	35 feet	35 feet
Maximum building coverage (percentage of individual lot)	10 percent	10 percent

- a Existing dwellings that may or may not be part of a farmstead shall be counted towards the total density. For the purposes of this section, acres refers to gross land area including all lands within the tract, except existing street, railroad, and utility rights-of-way. Only twenty (20%) percent of wetlands and floodplain may be counted toward the calculation of density.
- b For an existing farmstead on a tract used for cluster development, the minimum lot area shall be five (5) acres or a lot large enough to accommodate all structures within a building envelope created by a one hundred (100) foot setback from all sides of the lot, whichever is larger. For farmsteads with livestock, the setback shall be increased to two hundred (200) feet.
- c Lot frontage may be reduced on lots located on a cul-de-sac or curve to one hundred (100) feet of frontage in the A-2 District and eighty (80) feet

in the R-1 and C-2 Districts provided there is at least two hundred (200) feet of width at the required setback line in the A-2 District and one hundred fifty (150) feet in the R-1 and C-2 Districts.

- d When dwelling units are not located on individual lots, such as in a condominium development, they shall be separated from one another by a minimum distance of one hundred (100) feet in the A-2 District and fifty (50) feet in the R-1 and C-2 Districts.
- e Accessory buildings are not permitted in front yards.
- f In the calculation of common open space areas, the following shall be excluded: private lot areas, public or private street and highway rights-of-way, railroad and utility rights-of-way, parking areas, and areas not meeting the requirements of Section ZN 4.08(4)(j)9.

2 For residential dwellings with public sanitary sewer:

Development Standard	A-2, R-1 and C-2 Districts
Minimum tract size	A-2 District: 50 acres R-1 and C-2 Districts: 25 acres
Maximum density [1]	A-2 District: 1 du/10 acres R-1 and C-2 Districts: 1 du/5 acres
Minimum lot area [2]	20,000 square feet
Minimum lot width [3]	100 feet
Street yard	30 feet
Shore yard	Not less than 75 feet from the ordinary high water mark of any navigable water
Side yard [4]	10 feet minimum one side 20 feet both sides
Rear yard	25 feet
Accessory building setback from side and rear lot lines [5]	See Section ZN 3.14(7)
Minimum common open space [6]	70 percent
Maximum building height (excluding agricultural structures)	35 feet
Maximum building coverage (percentage of individual lot)	15 percent

- a Existing dwellings that may or may not be part of a farmstead shall be counted towards the total density. For the purposes of this section, acres refers to gross land area including all lands within the tract, except existing street, railroad, and utility rights-of-way. Only twenty (20%) percent of wetlands and floodplain may be counted toward the calculation of density.
- b For an existing farmstead on a tract used for cluster development, the minimum lot area shall be five (5) acres or a lot large enough to accommodate

all structures within a building envelope created by a one hundred (100) foot setback from all sides of the lot, whichever is larger. For farmsteads with livestock, the setback shall be increased to two hundred (200) feet.

- c Lot frontage may be reduced on lots located on a cul-de-sac or curve to fifty (50) feet of frontage provided there is at least one hundred (100) feet of width at the required setback line.
- d When dwelling units are not located on individual lots, such as in a condominium development, they shall be separated from one another by a minimum distance of sixty (60) feet.
- e Accessory buildings are not permitted in front yards.
- f In the calculation of common open space areas, the following shall be excluded: private lot areas, public or private street and highway rights-of-way, railroad and utility rights-of-way, parking areas, and areas not meeting the requirements of Section ZN 4.08(4)(j)(9).

(h) Separation Distances for Cluster Groups.

- 1 The outer boundaries of all cluster groups shall conform to the following separation distances:

From abutting arterial street proposed rights-of-way or from scenic roads, if defined in a Village comprehensive plan of comprehensive plan component	100 feet
From all other external street proposed rights-of-way	50 feet
From all tract boundaries	100 feet
From cropland or pasture land	100 feet
From barnyards or buildings housing livestock	300 feet
From other cluster groups	100 feet
From wetlands, floodplains, or watercourses	35 feet
From active recreation areas, such as courts or playing fields	100 feet

- 2 All separation areas for cluster groups along existing streets shall be landscaped in accordance with Chapter 18 of the Village ordinances in order to block views of new residential development, preserve scenic views, and to protect rural landscape character.
- 3 The dimensional standards in Section ZN 4.08(4)(h)1 may be reduced as follows:
 - a The separation distances along existing arterial streets and tract boundaries may be reduced to a minimum of fifty (50) feet if the applicant can demonstrate that existing vegetation, topography or a combination of these form an effective visual screen.

- b All other separation distances may be reduced up to fifty (50%) percent if the applicant can demonstrate that such reduced setbacks improve the plan's compliance with the cluster group design standards in Section ZN 4.08(4)(j), the intent of this Ordinance, and the objectives of any applicable comprehensive plan or comprehensive plan component.

(i) Design Standards for Cluster Groups.

- 1 All dwelling shall be grouped in clusters groups, each of which shall contain at least two (2) but not more than twelve (12) units and shall be surrounded by common open space.
- 2 Cluster groups may contain more than twelve (12) units, and cluster groups may be assembled into larger groupings not separated by common open space, provided that the applicant can demonstrate that such an alternative plan is more appropriate for the tract and will meet both the general intent and design standards of this Ordinance.
- 3 A plat may contain one (1) or more cluster groups.
- 4 Cluster groups shall be defined by the outer perimeter of contiguous lotted areas or abutting streets, and may contain lots, streets, and interior open space. When the development does not contain individual lots, as in a condominium, the outer perimeter shall be defined as an area encompassed by a line drawn around the units, no point of which is closer to any unit than one hundred (100) feet.
- 5 The outer boundaries of each cluster group shall meet the separation distances specified in Section ZN 4.08(4)(h).
- 6 Cluster groups shall be defined and separated by common open space in order to provide direct access to common open space and privacy to individual lot or yard areas. Cluster groups may be separated by streets if the street right-of-way is designed as a boulevard.
- 7 All lots in a cluster group shall take access from interior streets.
- 8 All lots in a cluster group shall abut common open space to the front or rear for a distance of at least fifty (50) feet. Common open space across a street shall qualify for this requirement.
- 9 In locating cluster groups, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime agricultural soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than twenty (20%) percent of a single wooded lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and onsite soil absorption system.
- 10 Street trees shall be required in cluster groups at a minimum rate of one (1) two (2) inch

caliper tree per dwelling unit and shall comply with the requirements of Chapter 18 of the Village Ordinances.

(j) Design Standards for Common Open Space

- 1 The location of common open space shall be consistent with the objectives of any applicable comprehensive plan or comprehensive plan component.
- 2 All open space areas shall be part of a larger contiguous and integrated open space system. At least seventy-five (75%) percent of the common open space shall be contiguous to another common open space area. For the purpose of this section, contiguous shall be defined as located within one hundred (100) feet across which access is possible, for example on opposite sides of an internal street.
- 3 Common open space shall, to the greatest extent possible, protect site features identified in the site inventory and analysis as having particular value in the context of preserving rural character, in compliance with the intent of this Ordinance. Primary and secondary environmental corridors and isolated natural areas as identified by the Southeastern Wisconsin Regional Planning Commission are of particular significance for protection.
- 4 Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, or restore their overall condition and natural processes, as recommended by professionals in the area being modified. Permitted modifications may include woodland management, reforestation, meadow management, wetlands management, stream bank protection, and buffer area landscaping.
- 5 All wetland, floodplain, unique wildlife habitat areas, steep slopes over twelve (12%) percent, one hundred (100%) percent of lowland environmental corridor and at least eighty (80%) percent of upland primary environmental corridors shall be contained in common open space.
- 6 Common boundaries with existing or future open space on adjacent tracts, when shown in an applicable comprehensive plan or comprehensive plan component, shall be established whenever possible.
- 7 To preserve scenic views, ridge tops and hill tops should be contained within common open space wherever possible. Trees shall not be removed from ridge tops or hill tops.
- 8 At least eighty (80%) percent of the area of existing woodlands shall be contained within common open space; twenty (20%) percent of the area of existing woodlands may be used for lot areas and residential development. This limitation may be exceeded under the following conditions:
 - a The site is primarily wooded and development at permitted density would not be possible without encroaching further on woodlands.

- b Any encroachment on woodlands beyond twenty (20%) percent shall be the minimum needed to achieve maximum permitted density.
- 9 No common open space shall be less than ten thousand (10,000) square feet in area, with the exception of landscape islands in cul-de-sac streets, and not less than thirty (30) feet in width at any point. Open space not meeting this standard shall not be counted toward the total required percentage of common open space.
- 10 The boundaries of common open space shall be marked by natural features wherever possible, such as hedgerows, edges of woodlands, streams, or individual large trees. Where no such natural demarcations exist, additional plantings, fences, or other landscape features shall be added to enable residents or the public, if applicable, to distinguish where common open space ends and private lot areas begin. Where structural demarcations, such as fences or fence posts, are used, they shall be the minimum needed to accomplish the objective.
- 11 Trails in common open space that are located within fifty (50) feet of homes in cluster groups shall be identified by plantings, fences, or other landscape features.
- 12 Under no circumstances shall all common open space be isolated in one (1) area of the development. Common open space shall be distributed appropriately throughout the development to properly serve and enhance all dwelling units, cluster groups, and other common facilities.
- 13 Common open space shall include lands located along existing public roadways in order to preserve existing rural landscape character as seen from these roadways, and shall, in no case, contain less than the required buffer, setback area, or separation distance.
- 14 Safe and convenient pedestrian access and access for maintenance purposes shall be provided to common open space areas that are not used for agricultural purposes, in accordance with the following:
 - a At least one (1) access point per cluster group shall be provided, having a width equal to or greater than the minimum width of a lot within the cluster group. This width may be reduced to no less than fifty (50) feet if the applicant can demonstrate that, due to natural site constraints, meeting the lot width requirement would run counter to the objectives of this Ordinance.
 - b Access to common open space used for agriculture may be restricted for public safety and to interference with agricultural operations.
- (k) Ownership and Maintenance of Common Facilities and Open Space.
 - 1 The following methods may be used, either singly or in combination, to own common facilities. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no change in the common facilities. Ownership methods shall conform to

the following:

- a Homeowners Association. Common facilities shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein. The homeowners association shall be governed according to the following:
 - 1) The applicant shall provide to the Village Department of Planning and Development a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities.
 - 2) The organization shall be established by the owner or applicant and shall be operating (with financial subsidy by the applicant, if necessary) prior to the sale of any dwelling units in the development.
 - 3) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.
 - 4) The organization shall be responsible for maintenance and insurance of common facilities.
 - 5) The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities.
 - 6) The organization shall have or hire adequate personnel to administer, maintain, and operate common facility.
 - 7) The applicant for any tract proposed to contain common facilities shall arrange with the Village Assessor a method of assessment of the common facilities which will allocate to each to each tax parcel in the development a share of the total tax assessment for such common facilities. Real estate taxes shall be paid by the individual unit owner directly to the Village.
 - 8) Written notice of the proposed transfer of common facilities by the homeowners association or the assumption of maintenance of common facilities must be given at all members of the organization and to the Village at least thirty-nine (39) days prior to such event.
- b Condominium. Common facilities shall be controlled through the use of condominium agreements. Such agreements shall be approved by the Village Attorney and shall be in conformance with the "Condominium Ownership Act" of 1977 (Chapter 703, Wisconsin Statutes), as amended. All common open space and other common facilities shall be held as "common element" by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to

govern the affairs of the condominium and membership shall be mandatory.

c Fee simple dedication to a public agency. The Village or other public entity acceptable to the Village may, but shall not be required to, accept any portion of the common facilities, provided that:

- 1) There shall be no cost of acquisition (other than costs incidental to the transfer of ownership, such as title insurance);
- 2) Any facilities so dedicated shall be accessible to the residents of the Village, if the Village so chooses;
- 3) The Village or other public entity shall maintain such facilities.
- 4) The residents of the development shall hold a conservation easement on the land and facilities so dedicated, protecting the common open space from development in perpetuity.

d Dedication of conservation easements to a public agency. The Village or other public agency acceptable to the Village may, but shall not be required to, accept easements for public use of any portion of the common facilities, title of which is to remain in private ownership, provided that:

- 1) There shall be no cost of easement acquisition (other than costs incidental to the transfer of ownership, such as title insurance);
- 2) A satisfactory maintenance agreement shall be reached between the owner and the Village.
- 3) Lands under a Village easement may or may not be accessible to the residents of the Village.

e Fee simple dedication to a private conservation organization. An owner may dedicate any portion of the common facilities to a private, not-for-profit conservation organization, provided that:

- 1) The organization is acceptable to the Village and is a bona fide conservation organization;
- 2) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.
- 3) A maintenance agreement acceptable to the Village is established between the owner and the organization.

f Transfer of easements to a private conservation organization.

- 1) The organization is acceptable to the Village and is a bona fide conservation organization;
- 2) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.
- 3) A maintenance agreement acceptable to the Village is established between the owner and the organization.

g Ownership retained by the original landowner.

- 1) The Village and the residents of the development shall hold conservation easements on the land protecting it from any further development.
- 2) Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.

h Other methods acceptable to the Village Department of Planning and Development.

2 Maintenance and operation of common facilities.

a A plan and narrative for the use, maintenance, and insurance of all common facilities, including provisions for funding, shall be provided to and approved by the Village Department of Planning and Development prior to preliminary plan approval. Such plan shall:

- 1) Define ownership;
- 2) Establish necessary regular and periodic operation and maintenance responsibilities, including mowing schedules, weed control, planting schedules, clearing and cleanup.
- 3) Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
- 4) At the discretion of the Village Department of Planning and Development, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for a maximum of one (1) year.

b In the event that the organization established to own and/or maintain common facilities, or any successor organization thereto, fails to maintain all or any portion of the aforesaid common facilities in reasonable order and condition in

accordance with the development plan and all applicable laws, rules and regulations, the Village may serve written notice upon such organization, and upon the residents and owners of the uses related thereto, setting forth the manner in which the organization has failed to maintain the aforesaid common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made.

Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this Ordinance, and any permits may be revoked or suspended. The Village may enter the premises and take corrective action.

- c The costs of corrective action by the Village shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on said properties. The Village, at the time of entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien in the office of the Village Register of Deeds upon the properties affected by such lien.

3 Leasing of common open space lands. Common open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:

- a The residents of the development shall at all times have access to such leased lands, except in the case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.
- b The common open space lands to be leased shall be maintained for the purpose set forth in the ordinance.
- c The operation of such leased open space lands may be for the benefit of the residents of the development only, or may be open to the public, if so determined by the residents.
- d The lease, and any transfer of assignment thereof, shall be subject to the approval of the Village Board.
- e Lease agreements so entered upon shall be recorded in the office of the Village Register of Deeds within thirty (30) days of their execution, and a copy of the recorded lease shall be filed with the Village Board.

4 Conservation. Common open space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the Village Department of Planning and Development and duly recorded in the office of the Village Register of Deeds.