

MUNICIPAL CODE

VILLAGE OF UNION GROVE

(Last Update 2023-05; May 2023)

TABLE OF CONTENTS

MUNICIPAL CODE

Chapter	Page
1. General Provisions	1:1
2. Administration	2:1
3. – 5. Reserved.	3:1
6. Alcohol Beverages	6:1
7. – 9. Reserved.	7:1
10. Amusements and Entertainments	10:1
11. – 13. Reserved.	11:1
14. Animals and Fowl	14:1
15. – 17. Reserved.	15:1
18. Buildings and Building Regulations	18:1
19. – 21. Reserved.	19:1
22. Businesses	22:1
23. – 25. Reserved	23:1
26. Cable Communications	26:1
27. – 29. Reserved	27:1
30. Civil Emergencies	30:1
31. Reserved	31:1
32. Community Development Authority	32:1
33. Reserved	33:1
34. Courts	34:1
35. – 37. Reserved	35:1
38. Elections	38:1
39. – 41. Reserved	39:1
42. Environment	42:1

Chapter	Page
43. – 45. Reserved	43:1
46. Fire and Rescue Protection	46:1
47. – 49. Reserved	47:1
50. Health Department	50:1
51. – 53. Reserved	51:1
54. Human Relations	54:1
55. Reserved	55:1
56. Impact Fees	56:1
57. Reserved	57:1
58. Law Enforcement	58:1
59. – 61. Reserved	59:1
62. Library	62:1
63. – 65. Reserved	63:1
66. Manufactured Homes and Trailers	66:1
67. – 69. Reserved	67:1
70. Offenses and Miscellaneous Provisions	70:1
71. – 73. Reserved	71:1
74. Parks and Recreation	74:1
75. – 77. Reserved	75:1
78. Peddlers and Solicitors	78:1
79. – 81. Reserved	79:1
82. Planning	82:1
83. – 85. Reserved	83:1
86. Solid Waste	86:1
87. – 89. Reserved	87:1
90. Streets, Sidewalks and Other Public Places	90:1
91. – 93. Reserved	91:1

Chapter	Page
94. Land Division	94:1
95. Post-Construction Storm Water Management	95:1
96. Construction Site Erosion	96:1
97. Reserved	97:1
98. Taxation	98:1
99. – 101. Reserved	99:1
102. Traffic and Vehicles	102:1
103. – 105. Reserved	103:1
106. Utilities	106:1
107. – 109. Reserved	107:1
110. Vegetation	110:1
111. – 113. Reserved	111:1
114. Vehicles for Hire	114:1
115. – 117. Reserved	115:1
118. Zoning	118:1

Chapter 1 GENERAL PROVISIONS

Section Number	Title	Ordinance Number	Date of Ordinance
Sec. 1-1.	Code designated and cited.		
Sec. 1-2.	Definitions and rules of construction.	2021-09	10/25/21
Sec. 1-3.	Catchlines of sections.		
Sec. 1-4.	References to chapters or sections.		
Sec. 1-5.	References and editor's notes.		
Sec. 1-6.	History notes.		
Sec. 1-7.	Continuation of existing ordinances.		
Sec. 1-8.	Prior offenses, rights, etc., not affected by Code.		
Sec. 1-9.	Effect of repeals or amendments.		
Sec. 1-10.	Certain ordinances not affected by Code.	2021-09	10/25/21
Sec. 1-11.	General penalty.		
Sec. 1-12.	Deposit for forfeiture in lieu of court appearance.		
Sec. 1-13.	Deposit for forfeiture in lieu of court appearance for continuing violation.		
Sec. 1-14.	Amendments; language of amendments; new material; repeals.		
Sec. 1-15.	Effect of amendments to Code.		
Sec. 1-16.	Supplementation of Code.		
Sec. 1-17.	Clerk to file documents incorporated by reference.	2021-09	10/25/21
Sec. 1-18.	Clerk to file ordinances, supplements.	2021-09	10/25/21
Sec. 1-19.	Conflicting provisions.		
Sec. 1-20.	Failure of officers to perform duties.		
Sec. 1-21.	Responsibility for acts; aiding and abetting.		
Sec. 1-22.	Severability of parts of Code.		
Sec. 1-23.	Fees and charges.	2016-03	06/13/16

Article I. In General

Sec. 1-1. Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Municipal Code of the Village of Union Grove, Wisconsin" and may be so cited.

(Code 1960, § 15.07)

State law references: Authority to codify ordinances, Wis. Stats. § 66.035.

Sec. 1-2. Definitions and rules of construction.

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

Generally. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

And/or. The term "and" may be read as "or," and the term "or" may be read "and," where the sense requires it.

Board, village board. The terms "board" and "village board" shall mean the governing authority of the village.

Code. Whenever the term "Code" is used without further qualification, it shall mean the Municipal Code of the Village of Union Grove, Wisconsin, as designated in section 1-1.
County. The term "county" shall mean the County of Racine, Wisconsin.

Delegation of authority. Whenever a section of this Code requires or authorizes an officer or employee of the village to do some act or perform some duty, it shall be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the act or duty, unless the terms of the provision or section specifically provide otherwise.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, corporations as well as to males, unless the intention to give a more limited meaning is disclosed by the context.

State law references: Similar provisions, Wis. Stats. § 990.001(2).

Joint authority. Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless otherwise provided.

State law references: Similar provisions, Wis. Stats. § 990.001(8).

May. The term "may" shall be construed as being permissive.

Month. The term "month" shall mean a calendar month.

Number. A term importing the singular may extend and be applied to the plural as well as to the singular number and vice versa.

State law references: Similar provisions, Wis. Stats. § 990.001(1).

Oath. The term "oath" includes an affirmation in all cases where by law an affirmation may be substituted for an oath. If any oath or affirmation is required to be taken, such oath or affirmation shall be taken and administered before some officer authorized by the laws of this state to administer oaths, at the place where the oath or affirmation is required to be taken or administered, unless otherwise expressly directed, and, when necessary, duly certified by such officer. If an oath is administered, it shall end with the words "so help me God." In actions and proceedings in the courts, a person may take an oath or affirmation in communication with the administering officer by telephone or audiovisual means.

State law references: Similar provisions, Wis. Stats. § 990.001(24).

Officers and employees. Whenever any officer or employee is referred to by title, such as "clerk", "treasurer" or "health officer," such reference shall be construed as if followed by the words "of the Village of Union Grove, Wisconsin."

Owner. The term "owner," as applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

Person. The term "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate, as well as to individuals.

Personal property. The term "personal property" includes every species of property except real property.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Property. The term "property" shall include real, personal and mixed property.

Real property. The term "real property" shall include lands, tenements and hereditaments.

Shall. The term "shall" will be construed as being mandatory.

Sheriff. The term "sheriff" shall be construed as if followed by the words "of Racine County, Wisconsin."

Signature. If the signature of any person is required by law, it shall always be the writing of such person or, if the person is unable to write, the person's mark or the person's name written by some other person at the person's request and in the person's presence.

State law references: Similar provisions, Wis. Stats. § 990.001(38).

State. The term "state" shall mean the State of Wisconsin.

Street. The term "street" shall include any highway, street, avenue, boulevard, road, alley, lane, viaduct in the village, dedicated or devoted to public use.

Tenant; occupant. The terms "tenant" and "occupant," applied to a building or land, shall include any person holding a written or oral lease thereof or who occupies the whole or part of such building or land, either alone or with others.

Tense. Words used in the past or present tense include the future, as well as the past and present.

Time computation.

- (1) The time within which an act is to be done or a proceeding had or taken shall be computed by excluding the first day and including the last. When any such time is expressed in hours, the whole of Sunday and of any legal holiday, from 12:00 midnight to 12:00 midnight, shall be excluded.
- (2) If the last day within which an act is to be done or a proceeding had or taken falls on a Sunday or legal holiday, the act may be done or the proceeding had or taken on the next secular day.
- (3) When the last day within which a proceeding is to be had or an act done, which consists of any payment to or the service upon or the filing with any officer, agent, agency, department or division of the state or any county, city, village, town, school district or other subdivision of the state, of any money, return, statement, notice or other document, falls on a Saturday and the duly established official office hours of such officer, agent, agency, department or division to which such payment is to be made or with which such return, statement, report, notice or other document is required to be filed do not include any office hours thereof on such Saturday, the proceeding may be had or taken or such act may be done on the next succeeding day that is not a Sunday or a legal holiday.
- (4) Regardless of whether the time limited in any statute for the taking of any proceeding or the doing of any act is measured from an event or from the date or day on which such event occurs, the day on which such event took place shall be excluded in the computation of such time.
- (5) The term "legal holiday," as used in this definition, means any statewide legal holiday provided in Wis. Stats. § 895.20. When an act is permitted to be done by the use of the postal service and the last day within the time prescribed by law for performing such act falls on a legal holiday designated by the President such that the postal service does not

receive registered mail or make regular deliveries on that day, the day shall be considered a legal holiday for purposes of this definition.

Village. The term "village" shall mean the Village of Union Grove, Wisconsin.

Wis. Stats. or statute. The abbreviation "Wis. Stats." or the term "statute" shall mean the official Wisconsin Statutes, as amended.

Written; in writing. The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The term "year" shall mean a calendar year.

(Code 1960, § 15.01)

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections or as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Sec. 1-4. References to chapters or sections.

All references to chapters or sections are to the chapters and sections of this Code, unless otherwise specified.

Sec. 1-5. References and editor's notes.

References and editor's notes following certain sections are inserted as an aid and guide to the reader and are not controlling or meant to have any legal effect.

Sec. 1-6. History notes.

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

Sec. 1-7. Continuation of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of the Code of the village and of ordinances existing at the time of adoption of this Code, shall be considered as a continuation thereof and not new enactments.

Sec. 1-8. Prior offenses, rights, etc., not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

Sec. 1-9. Effect of repeals or amendments.

(a) The repeal of an ordinance or portion of this Code shall not revive any ordinance or portion of this Code in force before or at the time the provision repealed took effect.

(b) The repeal of an ordinance or a portion of this Code shall not affect any prosecution, punishment or penalty incurred or pending before the repeal took effect nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the provision repealed, except that when any forfeiture or penalty shall have been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time.

(c) The repeal or amendment of any section or provision of this Code or of any other ordinance by the village board shall not affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless such obligation or privilege of repeal has been reserved by the village. A right of action shall continue and any offender shall be subject to the forfeiture or penalty as provided in this Code, and prosecution shall proceed, in all respects, as if such provision or ordinance had not been repealed or amended, except that proceedings had after the effective date of adoption of this Code shall be conducted according to the provisions of this Code and shall be, in all respects, subject to the provisions of this Code.

(Code 1960, §§ 15.05, 15.06)

Sec. 1-10. Certain ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code.
- (2) Any ordinance promising or guaranteeing the payment of money for the village or authorizing the issuance of any bonds or notes of the village, any evidence of the village's indebtedness or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the village.
- (3) Any administrative ordinances of the village not in conflict or inconsistent with the provisions of this Code, including, but not limited to letting contracts without bids.
- (4) Any right or franchise granted by any ordinance.
- (5) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street, alley or public way in the village.

- (6) Any appropriation ordinance.
- (7) Any ordinance levying or imposing taxes or levying special assessments or taxes.
- (8) Any ordinance prescribing through streets, parking and traffic regulations, speed limits, one-way traffic, limitations on load weights of vehicles or loading zones.
- (9) Any land use, rezoning ordinance or amendment to the zoning map.
- (10) Any ordinance establishing and prescribing the grades of any street in the village.
- (11) Any ordinance providing for local improvements and assessing taxes therefor.
- (12) Any ordinance dedicating or accepting any plat or subdivision in the village.
- (13) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the village.
- (14) Any ordinance establishing positions, classifying positions or setting salaries of village officers and employees or any personnel regulations.
- (15) Any temporary or special ordinances.
- (16) Any ordinance calling an election.
- (17) Any ordinance authorizing street maintenance agreements.
- (18) Any ordinance establishing grades, curblines and widths of sidewalks in the public streets and alleys.
- (19) Any ordinance regarding the lighting of streets and alleys.
- (20) Any ordinance naming public grounds and parks.
- (21) Any ordinance regarding the establishment of wards, ward boundaries and election precincts.
- (22) Any Charter ordinance unless repealed by Charter ordinance.
- (23) Any ordinance releasing persons from liability.
- (24) Any ordinance regarding construction of public works.

(25) Any ordinance regarding water, sewer, solid waste and electric rates and fees, rules and regulations and sewer and water main construction.

(26) The village's schedules of fees and charges.

(b) All such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this section. All ordinances are on file in the clerk's office. (Code 1960, § 15.05)

Sec. 1-11. General penalty.

(a) *Established.* Unless another penalty is expressly provided in this Code or in any ordinance of the village, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

(1) *First offense.* A forfeiture of not less than \$10.00 or more than \$500.00, together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution such person shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.

(2) *Second offense.* Any person found guilty of violating any ordinance or provision of this Code who shall previously have been convicted of a violation of the same ordinance or provision shall, upon conviction thereof, forfeit not less than \$50.00 or more than \$500.00 for each such offense, together with costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs of prosecution are paid, but not to exceed six months.

(b) *Execution against defendant's property.* Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of this Code or ordinance of the village, the court may, in lieu of ordering imprisonment of the defendant or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

(c) *License, permit or franchise revocation or suspension.* The imposition of a forfeiture does not prevent revocation or suspension of a license, permit or franchise. (Code 1960, § 15.04)

State law references: Penalty for violation of ordinances, Wis. Stats. § 66.115; bail generally, Wis. Stats. § 66.124; outstanding unpaid forfeitures, Wis. Stats. § 66.117; actions for violations of municipal ordinances, Wis. Stats. § 66.12; fines and costs in municipal courts, Wis. Stats. § 814.65; collection of forfeitures generally, Wis. Stats. § 778.10.

Sec. 1-12. Deposit for forfeiture in lieu of court appearance.

Any person charged with violating any provision, section or chapter of this Code for which no other deposit amount is expressly provided may pay a deposit of \$400.00, plus costs, at the

sheriff's office in lieu of a court appearance. Persons wishing to contest charges may contact the sheriff's office to arrange a court appearance date.

State law references: Citations for violations, cash deposits, failure to appear, Wis. Stats. § 66.119; fees in forfeiture actions, Wis. Stats. § 814.63.

Sec. 1-13. Deposit for forfeiture in lieu of court appearance for continuing violation.

Any person charged with a continuing violation of any provision, section or chapter of this Code, for which each day constitutes a separate offense and for which no other deposit amount is expressly provided, may pay \$150.00 per day, plus costs, from the date of the first violation to and including the date the deposit is made, in lieu of court appearance, at the sheriff's office. Persons wishing to contest charges may contact the sheriff's office to arrange a court appearance date.

Sec. 1-14. Amendments; language of amendments; new material; repeals.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. Subsequent amending ordinances, as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Municipal Code of the Village of Union Grove is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

(c) If a new section not existing in the Code is to be added, the following language may be used: "That the Municipal Code of the Village of Union Grove is hereby amended by adding a section to be numbered _____, which section reads as follows:" The new section may then be set out in full as desired.

(d) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

Sec. 1-15. Effect of amendments to Code.

Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the village board to make the addition or amendment a part of this Code, shall be deemed to be incorporated in this Code so that reference to the "Municipal Code of the Village of Union Grove, Wisconsin" shall be understood and intended to include such additions and amendments.

Sec. 1-16. Supplementation of Code.

(a) By contract or by village personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the village board. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the village board or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code and shall also include all Charter ordinances adopted or amended during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the term "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

State law references: Code of ordinances, Wis. Stats. § 66.035.

Sec. 1-17. Clerk to file documents incorporated by reference.

Whenever in this Code any standard, code, rule, regulation or other written or printed matter, other than the Wisconsin Statutes or other sections of this Code, are adopted by reference, they shall be deemed incorporated in this Code as if fully set forth in this Code. The clerk is

directed and required to file, deposit and keep in the office a copy of the Code, standard, rule, regulation or other written or printed matter, as adopted. Materials so filed, deposited and kept shall be public records open for examination, with proper care, by any person during the clerk's office hours, subject to such orders or regulations which the clerk may prescribe for their preservation.

(Code 1960, § 15.03)

Sec. 1-18. Clerk to file ordinances, supplements.

The clerk shall certify one copy of this Code as the original Municipal Code of the Village of Union Grove and shall file the Code as being part of the village ordinance book. In addition, the clerk shall retain in the office at least one copy of the Municipal Code of the Village of Union Grove in current form in which shall be inserted all supplements as herein provided.

(Code 1960, § 15.09)

Sec. 1-19. Conflicting provisions.

If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.

(Code 1960, § 15.02)

Sec. 1-20. Failure of officers to perform duties.

The failure of any village officer or employee to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violations of this Code, unless a penalty is specifically provided for such act or omission.

Sec. 1-21. Responsibility for acts; aiding and abetting.

Every person concerned in the commission of any act prohibited by this Code, whether he directly commits the act or prosecutes, counsels, aids or abets in its commission, may be prosecuted and, upon conviction, is punishable as if he had directly committed such act.

Sec. 1-22. Severability of parts of Code.

It is declared to be the intention of the village board that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since such would have been enacted by the village board without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

(Code 1960, § 15.02)

Sec. 1-23. Fees and charges; recovery of necessary professional service costs.

All existing fees and charges of the village shall continue in force and effect until changed by the village board.

In addition to any fee that is specifically required by this code or that is otherwise established by the village board, if the circumstances of any particular approval, permit or other application that is made to the village necessitate, in the reasonable opinion of village staff, a level of professional review beyond village staff's expertise, and beyond the cost of the typical fee, the village may require the applicant to enter into an agreement with the village requiring that the costs of such professional services to be borne by the applicant. Without limitation by enumeration, necessary professional services may include legal, engineering, architectural, environmental, planning or surveying costs, and professional service cost reimbursement agreements may be required, when circumstances warrant, in conjunction with applications for building permits, site plan review, rezoning, conditional use permits, variances, land division, soil disturbance or other land development activities

Chapter 2 ADMINISTRATION*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 2-1.	Village contracts.		
Sec. 2-2.	Responsible bidder; prequalification requirements.	2023-02	03/13/2023
Secs. 2-3--2-30.	Reserved.		
Article II. Village Board			
Division 1. Generally			
Sec. 2-31.	Trustees.	Charter Ord. 2010-001	08/23/2010
Sec. 2-32.	Salaries.		
Secs. 2-33--2-55.	Reserved.		
Division 2. Rules of Procedure			
Sec. 2-56.	Meetings.	2014-02 2021-09	01/27/2014 10/25/2021
Sec. 2-57.	Quorum required.		
Sec. 2-58.	Call to order.	2021-09	10/25/2021
Sec. 2-59.	Absence of members.	2021-09	10/25/2021
Sec. 2-60.	Order of business.		
Sec. 2-61.	Introduction of business.	2021-09	10/25/2021
Sec. 2-62.	Presiding officer.	2021-09	10/25/2021
Sec. 2-63.	Voting.	2021-09	10/25/2021
Sec. 2-64.	Reconsideration of question.		
Sec. 2-65.	Ordinances.	2014-02	01/27/2014
Sec. 2-66.	Resolutions.	2014-02	01/27/2014
Sec. 2-67.	Committees.	2021-09 2022-04	10/25/2021 06/13/2022
Sec. 2-68.	Approval of committee reports.		
Sec. 2-69.	Reserved.		

***Cross references:** Any administrative ordinance of the village not in conflict with or inconsistent with the provisions of this Code saved from repeal, § 1-10(3); administration of building regulations, § 18-36 et seq.; building board, § 18-61 et seq.; cable television commission, § 26-26 et seq.; emergency government, § 30-26 et seq.; courts, ch. 34; fire commission, § 46-26 et seq.; fire department, § 46-56 et seq.; board of health, § 50-31 et seq.; human relations commission, § 54-26 et seq.; law enforcement, ch. 58; police commission, § 58-31 et seq.; library, ch. 62; library board, § 62-31 et seq.; planning, ch. 82; plan commission, § 82-26 et seq.; taxation, ch. 98; board of review, § 98-1; utilities, ch. 106; water utility commission, § 106-56 et seq.; wastewater utility commission, § 106-196 et seq.; administration and enforcement of zoning regulations, § 118-41 et seq.; zoning board of appeals, § 118-96 et seq.

Sec. 2-70.	Citizen's right to address village board.	2021-09	10/25/2021
Sec. 2-71.	Manner of deliberation.		
Sec. 2-72.	Consent agenda.	2021-09	10/25/2021
Sec. 2-73.	Parliamentary procedure.		
Sec. 2-74.	Suspension of rules.		
Sec. 2-75.	Amendment.		
Sec. 2-76.	Meeting attendance by electronic means.	2021-04	05/10/2021
Secs. 2-77. --2-100.	Reserved.		

Article III. Officers and Employees

Division 1. Generally

Sec. 2-101.	Elected officials.		
Sec. 2-102.	Officials appointed by village president.	2012-05 2021-09	08/27/2012 10/25/2021
Sec. 2-103.	General regulations governing all village officers.	2021-09	10/25/2021
Sec. 2-104.	Receipt of gifts or gratuities.		
Secs. 2-105--2-130.	Reserved.		

Division 2. Village Administrator

Sec. 2-131.	Office created.		
Sec. 2-132.	Qualifications; term of office and removal; performance review.		
Sec. 2-133.	Functions and duties.	2021-09	10/25/2021
Sec. 2-134.	Cooperation.		
Secs. 2-135--2-160.	Reserved.		

Division 3. Village Clerk and Village Finance Director/Treasurer

Sec. 2-161.	Village Clerk; appointment and term of office.	Charter Ord. 2018-20	10/22/2018
Sec. 2-162.	Village Clerk; duties.		
Sec. 2-163.	Village Finance Director/Treasurer; appointment and term of office.		
Sec. 2-164.	Village Finance Director/Treasurer; duties.		
Secs. 2-165.	Bond; liability of village for payment of taxes to county.	2019-01	01/14/2019
Secs. 2-166--2-190.	Reserved.	2019-01	01/14/2019

Division 4. Director of Public Works

Sec. 2-191.	Appointment.		
Sec. 2-192.	Term.		
Sec. 2-193.	Duties and powers.	2012-05	08/27/2012
Secs. 2-194--2-220.	Reserved.		

Division 5. Village Engineer

Sec. 2-221.	Hiring basis; qualifications.		
Sec. 2-222.	Compensation.		
Sec. 2-223.	Certificate of insurance.	2021-09	10/25/2021
Sec. 2-224.	Work product.		
Secs. 2-225--2-325.	Reserved.		

Article IV. Finance

Division 1. Generally

Secs. 2-326--2-350.	Reserved.
---------------------	-----------

Division 2. Budget

Sec. 2-351.	Preparation and submission to board.	2021-09	10/25/2021
Sec. 2-352.	Form of proposed budget.		
Sec. 2-353.	Appropriation ordinance; hearing.	2021-09	10/25/2021
Sec. 2-354.	Transfer of appropriations.		
Sec. 2-355.	Expenditures limited by annual appropriation.		
Secs. 2-356--2-380.	Reserved.		

Division 3. Claims Against Village

Sec. 2-381.	Certification.	2021-09	10/25/2021
Sec. 2-382.	Village board to audit accounts.	2021-09	10/25/2021
Sec. 2-383.	Special processing of claims.	2021-09	10/25/2021
Sec. 2-384.	Method of incurring claims.		
Sec. 2-385.	Payment.	2021-09	10/25/2021
Secs. 2-386--2-425.	Reserved.		

Article V. Public Records

Sec. 2-426.	Definitions.		
Sec. 2-427.	Duty to maintain records.	2021-09	10/25/2021
Sec. 2-428.	Legal custodian.	2021-09	10/25/2021
Sec. 2-429.	Public access.		
Sec. 2-430.	Requests for inspection or copying.		
Sec. 2-431.	Limitations on right to access.		
Sec. 2-432.	Destruction of records.		
Sec. 2-433.	Preservation through microfilm.		

Article I. In General

Sec. 2-1. Village contracts.

By virtue of Wis. Stats. § 61.56, the village board provides that, as a complete alternative to the requirements established by Wis. Stats. §§ 61.54 and 61.55, the provisions of Wis. Stats. § 62.15 shall be applicable to village contracts. The authority vested in the board of public works under Wis. Stats. § 62.15 shall be exercised by the village board.
(Code 1960, § 14.06)

Sec. 2-2. Responsible bidder; prequalification requirements.

- (a) Definitions. In this section, the following definitions shall apply:

CONTRACTOR - A person, corporation, partnership, or any other business entity that performs work on a public construction contract as a general contractor, prime contractor, or subcontractor at any tier.

PUBLIC CONSTRUCTION CONTRACT - A contract for the construction, alteration, execution, repair, remodeling or improvement of a public work or building, or for the furnishing of supplies or materials of any kind, proposals for which are required to be bid pursuant to Wis. Stat. §§ 61.54 and 62.15.

(b) Requirements of bidder. As a condition of performing work on a public construction contract for the Village of Union Grove, a contractor shall first be prequalified by the Village in accordance with the provisions of this section. All contractors for public construction projects are required to submit a full and complete statement, in the form of a questionnaire approved by the Village Board, sworn to before an officer authorized by law to administer oaths, attesting to the competency and responsibility of a bidder to complete public construction projects. The statement shall include evidence of the following:

- (1) The contractor maintains a permanent place of business.
- (2) The contractor is authorized to do business in the State of Wisconsin.
- (3) The contractor, agent, partner, employee or officer of the contractor is not debarred, suspended, proposed for debarment or declared ineligible from contracting with any unit of federal, state or local government.
- (4) The contractor is in compliance with provisions of Section 2000e of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Executive Order No. 11375 (known as the "equal opportunity employer" provisions).
- (5) The contractor has general liability, workers' compensation, and automobile and unemployment insurance.
- (6) The contractor has complied with all provisions of any prevailing wage laws and federal Davis-Bacon related acts, and the rules and

regulations therein, for projects undertaken by the contractor that are covered by these laws, for the past 10 years.

- (7) The contractor has adequate financial resources to complete the public construction project, as well as all other work the bidder is presently under contract to complete.
- (8) The contractor has adequate equipment to complete the public construction project.
- (9) The contractor has adequate skill, judgment, experience and resources to capably complete the public construction project.
- (10) The contractor has a written substance abuse prevention program meeting the requirements of Wis. Stat. § 103.503.
- (11) The employees who will perform work on the public construction project are properly classified as employees or independent contractors under all applicable state and federal laws.
- (12) The contractor has not been the subject of any investigation, order or judgment from any state or federal agency or court concerning an employment practice, including, but not limited to, classification of employees, unemployment insurance, discrimination or payroll fraud. If the contractor has been the subject of any investigation, order or judgment from any state or federal agency or court concerning an employment practice, the contractor must provide copies of the investigation, order or judgment and/or may be disqualified.
- (13) The contractor's employees who will perform work on the public construction project are covered under a current workers' compensation policy; and properly classified under such policy.
- (14) The contractor possesses all applicable professional and trade licenses required for performing the public construction project.
- (15) The contractor is bondable for public construction projects.
- (16) The contractor has a record of satisfactorily completing projects of similar size and complexity within the last 10 years. The criteria which will be considered in determining satisfactory completion of projects of similar size may include, but are not limited to:
 - a. Completion of contracts in accordance with drawings and specifications.
 - b. Diligent execution of the work and completed contracts according to the established time schedules unless extensions are granted by the owner.
 - c. Fulfilled guarantee requirements of the contract documents

- (17) The contractor has, and diligently maintains, a written safety program.
- (18) The Village reserves the right to require additional qualifications for any specific public construction project. When so required, the advertisement for bids and bidding documents will state this requirement.

(c) Prequalification determination and term. The statement under Sec. 2-2 (b) shall be in writing and filed with the Village Clerk, who shall direct it to the appropriate department head for a written determination as to whether the contractor is prequalified to submit bids and perform work on a public construction contract. Contractors are urged to apply for a prequalification determination well in advance of bidding on any particular Village public construction contract as the award of contract and notice to proceed to the lowest responsible bidder will not be delayed while a contractor pursues review of a determination that it is not qualified pursuant to Subsection F(2) below. Once a contractor is determined to be prequalified, that determination shall remain valid for a period of two years.

(d) Confidentiality. The statement shall be confidential unless otherwise authorized by the contractor or by use of the contractor or Village in actions against each other.

(e) No restriction on discretion. If information other than what was disclosed by the contractor in Sec. 2-2 (b) is discovered by the Village, its officials, or employees responsible for awarding or making recommendations as to the public construction projects, and such information calls into question the contractor's abilities or competence to faithfully and responsibly comply with the terms of a public works contract, that information shall be considered in determining whether the contractor is a responsible bidder.

(f) Evaluation of a bidder's responsibility.

- (1) The appropriate department head shall review the information provided in the bid and the qualification statement under Sec. 2-2 (b) to determine if the low bidder is responsible to perform the work. At the request of the department head, the bidder shall provide additional information verifying their responsibility.
- (2) If the department head determines that a contractor is not a responsible bidder, that bidder shall be notified, in writing, of the department head's determination, the reasons supporting the decision, and of the contractor's right to seek a review of the determination pursuant to Wis. Stat. Chapter 68 pertaining to the review of administrative determinations.

(g) Renewal and disclosure. It shall be the obligation of the contractor to timely renew its prequalification and to report information regarding any material changes to its business or operations that are relevant to its prequalification submittal, including information that would affect its ability to make the certifications required by this section. Any such information must be reported within 30 days of the contractor's knowledge of the information. Failure to report information under this subsection may result in suspension or revocation of the contractor's prequalification and other sanctions available under applicable law.

Secs. 2-3--2-30. Reserved.

Article II. Village Board*

***Cross references:** Elections, ch. 38.

State law references: Meetings, salaries, Wis. Stats. § 61.32.

Division 1. Generally

Sec. 2-31. Trustees.

There shall be six trustees of the Village. Three trustees shall be elected at each annual spring election for a term of two years, commencing on the third Tuesday of April in the year of their election. Effective with the Village's Spring 2011 Primary Election and the 2011 Regular Spring Election, Village Trustees shall be nominated and elected for non-partisan primaries and elections at large by numbered seats. Prior to the nomination period for the 2011 election, the Village Board shall assign seats numbered one (1), three (3), and five (5) to the offices up for election in 2011 and seats numbered two (2), four (4), and six (6) to the offices up for election in 2012. The Village Board shall determine the manner in which the three (3) even-numbered seats and the three (3) odd-numbered seats are assigned to particular Trustees. Notwithstanding any other provision of law to the contrary, no person shall be eligible to be nominated, elected or to serve in more than one (1) of the numbered seats for the office of Trustee of the Village of Union Grove at the same time.

State law references: Election of trustees, terms, etc., generally, Wis. Stats. § 61.20.

Sec. 2-32. Salaries.

(a) The village board president and trustees shall receive the amount set by the village board from time to time per village board regular, committee of the whole or special meeting which they attend; the amount set by the village board from time to time per committee meeting which they attend, but no more than the amount set by the village board from time to time shall be paid in one month for attendance at committee meetings; and the amount set by the village board from time to time per month for expenses as elected officials. In addition, the village president and trustees shall attend 22 regular board meetings or committee of the whole meetings without penalty of forfeiting attendance fees.

(b) Attendance at all regularly scheduled public hearings is mandatory or the attendance fees of that meeting shall be forfeited by the absent trustee, except as provided in this section. The last meeting in December of each year is excluded if not called by the members of the village board.

(c) No reimbursement for expenses shall be paid to the village president or the village trustees.

(Code 1960, § 2.01(3); Ord. of 3-4-98, § 1)

Secs. 2-33--2-55. Reserved.

Division 2. Rules of Procedure

Sec. 2-56. Meetings.

(a) *Place of meetings.* All meetings of the village board shall be held in the municipal building and shall be open to the public unless otherwise permitted by law.

(b) *Regular meetings.*

- (1) The regular meetings of the village board shall generally be held on the second and fourth Mondays of every month at 6:00 p.m., although the village board may adjust the frequency or scheduling of its meetings as it periodically determines to be appropriate, provided that proper notice of each meeting is given.
- (2) If any usual meeting date, as described by subsection (b)(1), falls on a legal holiday, such meeting shall not be held on such legal holiday but may be rescheduled, if at all, for such date and time as is determined by the village board.

(c) *Special meetings.*

- (1) Any two trustees may call a special meeting by filing a written notice with the village clerk. The village clerk, in turn, shall immediately notify in writing each village board member of the date, time and purpose of the special meeting. The notice shall be delivered to each member personally or left at the member's usual abode at least 24 hours before the meeting, unless for good cause a 24-hour notice is impossible or impractical. If 24-hour notice is impossible or impractical, a shorter notice may be given, but the notice may not at any time be provided less than six hours in advance of the meeting. Attendance by any board member is a waiver of any defect of notice.
- (2) A special meeting may be called, without notice, at a regularly convened board meeting if all members are present. A special meeting may also be called if all members consent in writing to the holding of such a meeting. If written consent is obtained, it shall be filed with the village clerk before the commencement of the meeting.
- (3) Special meetings shall be deemed regular meetings for the purpose of transacting any business that may be permitted by law.

(d) *Adjournment.* Any board member may move to adjourn a meeting. If any agenda item is not considered before a motion to adjourn is adopted, it shall automatically be referred to the board's next regular meeting, unless the motion provides for a specific date and hour.

(e) *Committee of the whole meetings.* The committee of the whole shall meet with such frequency and at such times as the village board may periodically determine to be appropriate.

(Code 1960, ch. 1, rule 1; Ord. of 3-4-98, § 1; Ord. of 5-10-99, § 1; Amd. of 12-8-08, § 1)

Sec. 2-57. Quorum required.

A quorum is necessary for the transaction of any village board business. A majority of the members elect shall constitute a quorum.

(Code 1960, ch. 1, rule 2)

Sec. 2-58. Call to order.

The village president shall, at the hour appointed, call the trustees to order. If the village president is absent from the meeting, the clerk shall call the board to order and preside until the board selects another trustee to preside at the meeting.

(Code 1960, ch. 1, rule 3)

Sec. 2-59. Absence of members.

If a village board member for any reason cannot attend a regular, special or predesignated closed scheduled meeting, the member shall file with the village clerk, one day before the meeting in question, a written explanation of the member's anticipated absence. The board member's statement shall be entered in the board's record. If circumstances render the filing of an advance notice impossible, the board member shall file the written notice with the clerk within one week of the absence. At the next regular meeting, the clerk shall enter the late statement in the board's record.

Sec. 2-60. Order of business.

The business of the village board shall be conducted in the following order:

- (1) Call to order by the presiding officer.
- (2) Roll call. If a quorum is not present, the meeting shall automatically adjourn to the next regular meeting.
- (3) Reading of the minutes of the preceding meeting, approval of the minutes if correct, and correction of mistakes, if any. The board, by a majority vote of the members present, may dispense with the reading of the minutes.
- (4) Comments and suggestions from preregistered citizens (not related to the agenda).
- (5) Consent agenda.
- (6) Presentation of accounts and other claims against the village.
- (7) Committee reports.
- (8) Unfinished business from previous meetings.
- (9) New business.

- (10) Reports of village officers.
- (11) Miscellaneous business.
- (12) Comments and suggestions from citizens present on the meeting agenda.

(Code 1960, ch. 1, rule 5; Ord. of 3-4-98, § 1)

Sec. 2-61. Introduction of business.

(a) *Introduction requirements.* All ordinances, resolutions, memorials or other communications of the village board shall be in writing, shall contain a brief statement of their content, shall indicate the name of the presenting member, and, prior to their consideration by the board, shall be delivered to the clerk. At the first permitted opportunity, the clerk shall read and record each by title at a meeting of the board. Any trustee may require at any time the reading in full of any matter while it is before the board.

(b) *Filing.* Each proposed ordinance or resolution shall be filed in the office of the clerk at least seven days prior to that scheduled board meeting at which the measure is to be introduced. If for good cause this prefiling is impossible or impractical, the board may waive this requirement.

(c) *Reintroduction restricted.* Unless otherwise provided by village ordinance, no proposed ordinance or resolution, having once been defeated, may again be introduced in the same or in substantially the same form until 30 days after the date when that ordinance or resolution was defeated.

(Code 1960, ch. 1, rule 6)

Sec. 2-62. Presiding officer.

(a) *Designated.* The village president shall preside at all meetings of the board. If the village president is absent, the clerk shall call the board to order and shall preside until the board selects another trustee to preside at that meeting.

(b) *Function.* The presiding officer shall preserve order, shall conduct the proceedings of the board and shall be its parliamentarian. If a trustee does not follow the board's rules, the presiding officer may, on such officer's own motion, or shall, at any member's request, call the offending member to order. The board, if appealed to, shall decide the matter.

(c) *Questions of order.* Any trustee may raise a question or point of order (question of order). The question of order must be raised at the time the alleged breach of order occurs. The presiding officer shall, in turn, immediately rule on the question of order, subject to an appeal to the board. The appeal may be sustained by a majority vote of the members present, exclusive of the presiding officer.

(d) *Motions and votes.* The presiding officer may speak on any questions, make any motion and vote on all matters submitted to the board for its consideration.

(Code 1960, ch. 1, rule 7)

Sec. 2-63. Voting.

(a) *Method of voting.* Voting by the village board shall be conducted as follows:

- (1) Any trustee may demand an aye and no vote on any matter.
- (2) No trustee may explain his vote during the calling of the ayes and noes. All aye and no votes shall be recorded in the journal of the proceedings by the clerk.

(b) *Majority vote required.* A majority vote of all members of the board in favor of any proposed ordinance, resolution or appointment shall be necessary for passage or approval, unless a larger number is required by law. In all other cases, a majority of the votes cast shall be necessary for board action, provided a quorum has voted.

(c) *Abstentions.*

- (1) A board member shall not vote on any proposed ordinance, order, resolution or proposition in which the member has a direct pecuniary or personal interest not common to other members of the board.
- (2) A board member who is required by law to abstain from voting on any particular matter shall not be counted for determining:
 - a. The number of members present, if passage of that measure requires a favorable vote by a majority or other fractional vote (i.e., two-thirds or three-fourths) of the trustees present; or
 - b. The presence of a quorum for purpose of that particular vote.

(d) *Vote change.* A board member may change such member's vote on a matter up to the time the result of the vote is announced.

(Code 1960, ch. 1, rule 8)

Sec. 2-64. Reconsideration of question.

Any village board member who voted with the prevailing side on any question may move for a reconsideration of the vote immediately after the vote or at the next succeeding regular meeting of the board. If a motion to reconsider is defeated, it may not again be presented to the board.

(Code 1960, ch. 1, rule 9)

Sec. 2-65. Ordinances.

An ordinance shall be in writing and may, at the discretion of the village board, be acted upon at the same meeting it is introduced. Unless requested by a trustee before final vote is taken, no ordinance need be read in full.

(Code 1960, ch. 1, rule 10)

Sec. 2-66. Resolutions.

A resolution shall be in writing and may, at the discretion of the village board, be acted upon at the same meeting it is introduced. Unless requested by a trustee before final vote is taken, no resolution need be read in full.

(Code 1960, ch. 1, rule 11)

Sec. 2-67. Committees.

(a) *Appointments.* The village president shall appoint a chairperson and two other members to each of the standing committees of the village board at the first regular meeting of the board on or after the third Tuesday in April. The village president may also appoint up to two (2) additional citizen members, residents of Union Grove, who are not public officials to the Recreation and Parks Committee. Unless otherwise provided by law, the village president's appointments shall be subject to confirmation by the board.

(b) *Standing committees.* The standing committees of the board and the functions of each shall be as follows:

- (1) *Committee on administration.* Supervision of permits and licenses; waste and weed control; sanitary landfill; elections; leases and rental contracts; dogs; holiday observance and liaison with civic groups interested in similar activities; judiciary; civil defense director; zoning ordinances; village equipment and building maintenance, supervision and repair.
- (2) *Committee on finance.* Supervision of insurance; taxes; bonds and loans; revenues; collections; and auditing.
- (3) *Committee on recreation and parks.* Supervision of all recreational activities, parks and related services.
- (4) *Committee on personnel.* Supervision of all village employees, hourly and salaried.
- (5) *Committee on water, wastewater, storm water and streets.* Supervision of the water and wastewater utilities, of storm and surface drainage, and of streets and sidewalks.

(c) *Committee of the whole.* The presiding officer may declare the entire board a committee of the whole for informal discussion on any matter at any meeting, unless a trustee objects at the meeting. If an objection is made, the entire board may not convene as a committee of the whole unless a motion for that purpose is adopted. This motion shall not be debatable. A majority vote of the members present is required for approval of the motion. The presiding officer shall be the chairperson of the committee of the whole.

(d) *Special committees.* The board may provide for special committees as it may from time to time deem necessary. Appointments to these special committees shall be made by the president. Unless otherwise provided by law, the village president's appointments shall be subject to confirmation by the board.

(e) *Committee reports.*

- (1) Each committee shall submit a written report to the board on all matters referred to it. Each report shall be submitted at the next regular board meeting after the date of referral, unless the board extends the time for submittal.
- (2) For each ordinance or resolution referred to it, the committee shall submit a separate written report and recommendation to the board. Immediately following the submission of the report, the proposed ordinance or resolution shall be presented for a vote, unless a motion is made to have a full reading of the resolution or ordinance and is adopted. In either case, the board thereafter shall at the same meeting consider and vote on the separately reported ordinance or resolution. The board, however, may defer action on the measure to its next regular meeting or other specified meeting.

(f) *Notice of committee meetings.* The committee chairperson shall file notice of each committee meeting with the clerk. The notice shall comply with the notice requirements of Wis. Stats. § 19.83.

(g) *Committee referrals.* The presiding officer shall make all committee referrals, except as provided under section 2-69.

Sec. 2-68. Approval of committee reports.

An aye and no vote shall be taken on each committee report immediately following its submission to the village board. Any trustee, however, may require a separate vote on any matter in the report. Any two trustees may request that action on a specific matter included in any committee report be deferred until the next regular board meeting or other specified meeting.

(Code 1960, ch. 1, rule 13)

Sec. 2-69. Reserved.

Editor's note: An amendment of March 4, 1998, § 1, amended the Code by repealing former § 2-69 in its entirety. Former § 2-69 pertained to financial matters, and derived from the Code of 1960, ch. 1, rule 14.

Sec. 2-70. Citizen's right to address village board.

(a) *Right declared.* A citizen may address the village board under either or both of the following:

- (1) Subsection 2-60(11).
- (2) Subsection 2-60(4), provided the citizen registers with the clerk before the meeting is called to order, and indicates his interest to address the board.

(b) *Time limited.* Except for informational and public hearings, speakers shall be limited to three-minute addresses unless the board consents, by a two-thirds vote of the members present, to extend the time.

(c) *Other restrictions.* If the presiding officer decides that the comments are not relevant or are abusive, the presiding officer may:

- (1) Order the citizen to modify his comments;
- (2) Order the citizen to refrain from speaking;
- (3) Order the citizen to leave the board chambers; or
- (4) Take such other steps as may be necessary to ensure the efficient conduct of the board's business.

Sec. 2-71. Manner of deliberation.

(a) *Method.* No trustee shall address the board until recognized by the presiding officer. The trustee shall then address the presiding officer and shall keep all remarks to the question under discussion. The trustee shall also avoid personal confrontations when speaking.

(b) *Recognition of trustee.* When two or more members simultaneously seek recognition, the presiding officer shall name the member who is to speak first.

(c) *Motions.* No motion shall be discussed or acted upon until it has been seconded, unless the rules in this division specifically permit one trustee to initiate action. No motion shall be withdrawn without the consent of those trustees making and seconding the motion.

(d) *Precedence of motions.* When a question is under consideration, no motion shall be entertained except a motion to:

- (1) Adjourn.
- (2) Recess.
- (3) Lay on the table.
- (4) Move the previous question.
- (5) Postpone to a certain day.
- (6) Refer to a committee.
- (7) Amend.
- (8) Postpone indefinitely.

These motions shall take precedence in the order listed.

(e) *Termination of debate.* Any member wishing to terminate the debate may move the previous question. The presiding officer shall then announce the question as, "Shall the question before the board now be put?" If two-thirds of the members present vote in the affirmative, the question before the board shall be taken without further debate. The board then votes, first on any pending amendments and then on the main question.

(Code 1960, ch. 1, rule 16)

Sec. 2-72. Consent agenda.

(a) *Clerk's responsibilities.* The village clerk may create a subsection on any board agenda entitled "consent agenda." In a consent agenda, the clerk shall place matters that, in the clerk's judgment, are routine and noncontroversial and do not require a special vote or specific action by the board.

(b) *Procedure.* The following procedure shall apply when a consent agenda is used:

- (1) No separate discussion or debate may be permitted on any matter listed on the consent agenda.
- (2) A single motion, seconded and adopted by a majority vote of all members of the board, shall be required to approve, adopt, enact or otherwise favorably resolve all matters listed on the consent agenda.
- (3) Any trustee may request removal of any item or part of an item included in the consent agenda. At the time the consent agenda is considered, that item, as requested by the trustee, shall be removed without debate or vote.
- (4) If an item or any part of the item has been removed from the consent agenda in accordance with this subsection, the board shall consider that item at an appropriate time during the board's regular order of business.

Sec. 2-73. Parliamentary procedure.

In the absence of a standing rule, the board shall be governed by Robert's Rules of Order, Newly Revised, unless contrary to state law.

(Code 1960, ch. 1, rule 17)

Sec. 2-74. Suspension of rules.

The rules in this division or any part of them may be suspended in connection with any matter under consideration by a recorded vote of two-thirds of the village board members present.

(Code 1960, ch. 1, rule 18)

Sec. 2-75. Amendment.

By a recorded vote of two-thirds of all the members of the village board, the rules in this division or any part of them may be amended.

(Code 1960, ch. 1, rule 19)

Sec. 2-76. Meeting attendance by electronic means.

Unless otherwise prohibited by state or federal law, any member of the Village Board or any Village committee, board, commission or authority, may attend any meeting of such body by telephone, videoconference or other electronic means. A member so participating shall count toward the quorum of the body. No action taken by the body shall be invalidated on the

grounds that the loss of, or poor quality of, a member's individual connection prevented effective participation by that member in the meeting. Appropriate equipment shall be used by the body so that the attending public of the meeting can contemporaneously hear such person's participation in the meeting. Each member participating remotely is responsible for ensuring the quality of his/her connection such that the other members of the body and those in attendance can adequately monitor the participation of the remote member as to the matters taken up at the meeting. No person shall be allowed to participate remotely in any meeting where there is an inadequate connection or the equipment used by the body is unavailable or unusable at the time of the meeting.

Secs. 2-77--2-100. Reserved.

Article III. Officers And Employees*

***Cross references:** Any ordinance establishing positions, classifying positions, or setting salaries of village officers or employees, or any personnel regulations saved from repeal, § 1-10(14); building inspector, § 18-86 et seq.; municipal judge, § 34-56 et seq.; elections, ch. 38; fire department, § 46-56 et seq.; fire chief, § 46-91 et seq.; fire inspector, § 46-121 et seq.; zoning administrator, § 118-66 et seq.

Division 1. Generally

Sec. 2-101. Elected officials.

The following village officers shall be chosen at the regular spring election in odd-numbered years for terms of two years commencing in the year of their election:

- (1) Village president, on the third Tuesday of April.
- (2) Municipal judge, on May 1.

(Code 1960, § 2.01(2))

Sec. 2-102. Officials appointed by village president.

(a) The following village officials shall be appointed by the village president, subject to a majority vote of the members of the village board:

- (1) Clerk.
- (2) Treasurer.
- (3) Director of public works.
- (4) Building inspector.
- (5) Civil emergencies director.
- (6) Weed commissioner.

(b) The village president shall not vote on the confirmation of such appointed officials except in a tie. The term of each official so appointed shall be indefinite. The officials may be removed for cause by a five-sevenths vote of the village board. Salaries of such officials shall be set by resolution of the village board.

(Code 1960, § 2.02)

Sec. 2-103. General regulations governing all village officers.

(a) *Effect.* This section shall apply to all officers of the village, regardless of the time of creation of the office or selection of the officer, unless otherwise specifically provided by ordinance or resolution of the village board.

(b) *Oath of office.* Every village officer, including members of the village board and commissions, shall, within five days of his election or appointment or notice thereof, take the oath of office prescribed by law and shall file such oath in the office of the village clerk. However, the municipal judge, within ten days after his election, shall take the oath of office prescribed by law and file it with the clerk of the circuit court. Any person reelected or reappointed to the same office shall take and file an oath for each term of service.

State law references: Oaths of office generally, Wis. Stats. § 61.21.

(c) *Bond.* Every officer shall, if required by law or the village board, upon entering upon the duties of his office, give a bond in such amount as may be determined by the village board with such sureties as are approved by the village president, conditioned upon the faithful performance of the duties of his office. Official bonds shall be filed as are oaths as provided in subsection (b) of this section.

State law references: Official bonds generally, Wis. Stats. §§ 19.01, 61.22.

(d) *Salaries.* All village officers shall receive such salaries as may be provided from time to time by the village board by ordinance. No officer receiving a salary from the village shall be entitled to retain any portion of any fees collected by him for the performance of his duties as such officer in the absence of a specific law or ordinance to that effect. Payment of regular wages and salaries established by the village board shall be by payroll, as provided in section 2-383.

(e) *Vacancies.* Vacancies in elective offices shall be filled by appointment by a majority vote of the village board for the remainder of the unexpired term. Vacancies in appointive offices shall be filled in the same manner as the original appointment for the residue of the unexpired term, unless the term for such office is indefinite.

(f) *Outside employment.* No full-time village officer shall engage in any other remunerative employment within or without the village. However, the village board may approve such outside employment or activity if it finds that it does not interfere or conflict with such officer's ability to perform his duties in an efficient and unbiased manner. Violation of this subsection shall be grounds for removal from office of any such officer.

(Code 1960, § 2.11)

Sec. 2-104. Receipt of gifts or gratuities.

(a) It shall be unlawful for any public employee or public official to receive or offer to receive, either directly or indirectly, any gift, gratuity or anything of value which he is not authorized to receive from any person or in violation of Wis. Stats. § 19.41 et seq., if such person:

- (1) Has or is seeking to obtain contractual or other business or financial relationships with such public employee's employer or the governmental body of the public official;
- (2) Conducts operations or activities which are regulated by such public employee's employer or the governmental body of the public official; or
- (3) Has interests which may be substantially affected by such public employee's employer or the governmental body of the public official.

(b) The receipt of any gift, gratuity or anything of value, as denoted in subsection (a) of this section is contrary to the public policy of the village.

(c) Any public employee violating this section shall be subject to the penalties as set forth in section 1-11.
(Code 1960, § 2.15)

Secs. 2-105--2-130. Reserved.

Division 2. Village Administrator

Sec. 2-131. Office created.

In order to provide the village with a more efficient, effective and responsible government under a system of part-time village president and part-time village board at a time when village government is increasingly complex, there is created the office of village administrator. The position of village administrator can be combined with other responsibilities or roles to meet the ever changing needs of the village.
(Code 1960, § 2.02(1A.01); Amd. of 1-9-06, § 1)

Sec. 2-132. Qualifications; term of office and removal; performance review.

(a) The administrator shall be appointed by a five-sevenths vote of the village board on the basis of merit with due regard to training, experience, administrative ability and general fitness for the office. The administrator shall hold office for an indefinite term, subject to removal at any time by a five-sevenths vote of the village board. This section, however, shall not preclude the village board trustees from establishing other employment terms and conditions not inconsistent with this section or this Code.

(b) There shall be an annual performance review prepared as directed by the village board.
(Code 1960, § 2.02(1A.02))

Sec. 2-133. Functions and duties.

The administrator, subject to the limitations defined in resolutions and ordinances of the village and state statutes, shall be the chief administrative officer of the village, responsible only to the village president and the village board for the proper administration of the business affairs of the village, pursuant to the state statutes, village ordinances and resolutions, board motions and directives of the village board, with power and duties as follows:

(1) *General duties.*

- a. Carry out directives of the village president and village board which require administrative implementation, reporting promptly to the village president and village board any difficulties encountered in this regard.
- b. Be responsible for the administration of all day-to-day operations of the village government, including the implementation of all village ordinances, resolutions, board meeting minutes and state statutes.
- c. Prepare a plan of administration, including an organizational chart, which defines authority and responsibility for all positions of the village, and submit it to the village board for adoption as the official organization and administrative procedure plan for the village.
- d. Recommend, when necessary, administrative procedures to increase the effectiveness and efficiency of village government according to current practices in local government, not inconsistent with subsection (1)c of this section or directives of the village president and village board.
- e. Serve as ex officio nonvoting member of all boards, commissions and committees of the village, except as specified by the village board or state statutes.
- f. Keep informed concerning the availability of federal, state and county legislation and administrative rules affecting the village and submit appropriate reports and recommendations thereon to the village board.
- g. Keep informed concerning the availability of federal, state and county funds for local programs; assist department heads and the village board in obtaining these funds under the direction of the village president and the village board.
- h. Represent the village in matters involving legislative and intergovernmental affairs as authorized and directed as to that representation by the village president and village board.
- i. Act as public information officer for the village with the responsibility of ensuring that the news media be kept informed about the operations of the village and that all open meeting rules and regulations are followed.
- j. Establish and maintain procedures to facilitate communications between citizens and village government to ensure that complaints, grievances, recommendations and other matters receive prompt attention by the responsible official and to ensure that all such matters are expeditiously resolved.
- k. Be responsible for the statutory reporting requirements of the federal, state and county governments.

- I. Promote the economic well-being and best mix of industrial, commercial and residential development through public and private sector initiative and cooperation for the village.

(2) *Responsibilities to village board.*

- a. Attend all meetings of the village board, unless excused by the village president or majority vote of the village board, assisting the village president and the village board as required in the performance of their duties.
- b. In coordination with the village president, the village board and the village clerk, ensure that appropriate agendas are prepared for all meetings of the village board, all village board committees, and all other appropriate committees and commissions of the village, together with such supporting materials as may be required, with nothing in this subsection being construed to give the administrator the authority to limit or in any way prevent matters from being considered by the village board or any of its committees and commissions.
- c. Assist in the review and preparation of ordinances and resolutions as requested by the village president or the village board, or as needed.
- d. Keep the village president and village board regularly informed about the activities of the administrator's office by oral or written report at regular and special meetings of the village board.

(3) *Personnel.*

- a. Be responsible for the administrative direction and coordination of all village employees according to the established organizational procedures.
- b. Recommend to the village board the appointment, promotion, suspension or termination of any nonstatutory village employees.
- c. Serve as personnel officer for the village with responsibilities to see that complete and current personnel records, including specific job descriptions, for all village employees are kept. Evaluate, in conjunction with department heads, the performance of all employees on a regular basis; recommend salary and wage scales for village employees not covered by collective bargaining agreements; develop and enforce high standards of performance by village employees; ensure that village employees have proper working conditions; work closely with department heads to promptly resolve personnel problems or grievances.
- d. Assist in labor contract negotiations and collective bargaining issues.
- e. Work closely with department heads to ensure the employees receive adequate opportunities for training to maintain and improve their job-related knowledge and skills and act as the approving authority for

requests by employees to attend conferences, meetings, training schools, etc., provided that funds have been budgeted for these activities.

(4) *Budgeting and purchasing.*

- a. Be responsible for the preparation, posting and publishing, including all official notices required, of the annual village budget and village budget proceedings, in accordance with guidelines as may be provided by the village board and in coordination with department heads, pursuant to state statutes, for review and approval by the village president and the village board.
- b. Administer the budget as adopted by the village board.
- c. Report regularly to the village board on the current fiscal position of the village.
- d. Supervise the accounting system of the village and ensure that the system employs methods in accordance with current professional accounting practices.
- e. Supervise all purchasing and contracting for supplies and services, subject to the purchasing procedures established by the village board and any limitations contained in the state statutes.

(Code 1960, § 2.02(1A.03))

Sec. 2-134. Cooperation.

All village officials and employees shall cooperate with and assist the administrator so that the village government shall function effectively and efficiently.

(Code 1960, § 2.02(1A.04))

Secs. 2-135--2-160. Reserved.

Division 3. Village Clerk and Village Finance Director/Treasurer

Sec. 2-161. Village Clerk; appointment and term of office.

The Village Clerk shall be appointed by the Village Board. The appointed Village Clerk shall hold office for an indefinite term, subject to removal as provided in Section 17.13 of the Wisconsin Statutes.

Sec. 2-162. Village Clerk; duties.

The Village Clerk shall have all powers and authority as provided by law for the office of the Village Clerk and shall perform all duties required of the office of the Village Clerk as provided by law. The Village Clerk shall also have those other duties as the Village Board or Village Administrator directs to be executed by the Village Clerk from time-to-time.

Sec. 2-163. Village Finance Director/Treasurer; appointment and term of office.

The Village Finance Director/Treasurer shall be appointed by the Village Board. The appointed Village Finance Director/Treasurer shall hold office for an indefinite term, subject to removal as provided in Section 17.13 of the Wisconsin Statutes.

Sec. 2-164. Village Finance Director/Treasurer; duties.

The Village Finance Director/Treasurer shall have all powers and authority of the office of Village Treasurer as provided by law and perform all duties required of the office of the Village Treasurer as provided by law and those other duties as the Village Board or Village Administrator directs to be executed by the Village Finance Director/Treasurer from time-to-time and shall promote, secure, and preserve the financial and property interests of the Village, and shall have the following power and perform the following duties:

- (1) Administer the financial affairs of the Village, under the direction of the Village Administrator.
- (2) Be the accounting officer of the Village, maintain a general accounting system and records readily reflecting the financial condition of the Village, and prepare and present to the Village Administrator and Village Board all financial statements and reports required by the Village Board or the Administrator.
- (3) Be responsible for the preparation of all vouchers for payment, and the preparation of the register of demands, along with the preparation and handling of the Village payroll.
- (4) Before payment, audit and approve all bills, invoices, payrolls, demands or charges against the Village, and, with the advice of the Village attorney when necessary, determine the regularity, legality and correctness of all claims, demands or charges.
- (5) Enforce the licensing provisions of the Village ordinances.
- (6) Perform all other duties as required by other Village ordinances, resolutions and state laws governing fiscal administration.
- (7) Perform such other duties and exercise such other powers as are necessarily incident to the above duties and powers, or as may be assigned or delegated to the Village Finance Director/Treasurer from time to time by the Village Administrator or Village Board.

Sec. 2-165. Bond; liability of village for payment of taxes to county.

(a) *Bond eliminated.* The village elects not to give the bond on the Village Finance Director/Treasurer provided for by Wis. Stat. § 70.67(1).

(b) *Liability for default in payment of taxes to county.* Pursuant to Wis. Stat. §70.67(2), after March 13, 1956, the Village shall be obligated to pay, if the Village Finance Director/Treasurer shall fail to do so, all state and county taxes required by law to be paid by such Village Finance Director/Treasurer to the County Treasurer.

Secs. 2-166 – 2-190. Reserved.

Division 4. Director of Public Works

Sec. 2-191. Appointment.

The director of public works shall be appointed by a majority vote of the village board solely on the basis of merit, training, experience, administrative ability, efficiency and general qualifications and fitness for performing the duties of the position.
(Code 1960, § 2.04(1))

Sec. 2-192. Term.

The director of public works shall hold office for an indefinite term, subject to removal for cause after a public hearing by a five-sevenths vote of the village board.
(Code 1960, § 2.04(2))

Sec. 2-193. Duties and powers.

The director of public works shall have the duties and powers stated in this section. He shall:

- (1) Have general charge and supervision of all public works in the village.
- (2) Be responsible for the maintenance, repair and construction of streets, alleys, curbs and gutters, sidewalks, bridges, street signs, storm sewers, culverts and drainage facilities, sanitary sewers, village buildings and structures and all machinery, equipment and property used in any activity under his control.
- (3) Have charge of all public services, including garbage and refuse collection and disposal, snow and ice removal, street cleaning and flushing, mosquito control and rodent control.
- (4) Perform such other activities and duties as are imposed upon him from time to time by the village board.
- (5) Have full power to employ and discharge all employees under his direction, subject to village board approval.
- (6) Serve as the director of utilities and manage the operation of the water and sewer utilities at the direction of the water and wastewater commission.

(Code 1960, § 2.04(3); Amdmt. of 7-24-00, § 1)

Secs. 2-194--2-220. Reserved.

Division 5. Village Engineer

Sec. 2-221. Hiring basis; qualifications.

An engineer shall be hired by the village president, on a per job basis, subject to the confirmation by a majority vote of the members of the entire village board. The engineer shall be hired solely on the basis of merit, professional experience and training.
(Code 1960, § 2.10(1))

Sec. 2-222. Compensation.

The compensation of the village engineer will be on a negotiated-fee basis for each service performed.
(Code 1960, § 2.10(2))

Sec. 2-223. Certificate of insurance.

The engineer hired as provided in this division shall provide the village clerk with a certificate of insurance providing for professional liability coverage of the engineering firm prior to employment to insure the work product of the engineer.
(Code 1960, § 2.10(4))

Sec. 2-224. Work product.

The engineer shall deposit with the director of public works' office a copy of all engineer's drawings and plans, as they are completed, which pertain to the village.
(Code 1960, § 2.10(3))

Secs. 2-225--2-325. Reserved.

Article IV. Finance*

Division 1. Generally

Secs. 2-326--2-350. Reserved.

***Cross references:** Any ordinance promising or guaranteeing the payment of money for the village or authorizing the issuance of any bonds or notes of the village, or any evidence of the village's indebtedness or any contract, right, agreement, lease, deed or other instrument of obligation assumed by the village saved from repeal, § 1-10(2); any administrative ordinances of the village not in conflict or inconsistent with the provisions of this Code, including but not limited to letting contracts without bids saved from repeal, § 1-10(3); any right or franchise granted by any ordinance saved from repeal, § 1-10(4); any appropriation ordinance saved from repeal, § 1-10(6); any ordinance levying or imposing taxes or levying special assessments for taxes saved from repeal, § 1-10(7); any ordinance providing for local improvements, assessing taxes therefor and prescribing utility rates and fees saved from repeal, § 1-10(11); any ordinance releasing persons from liability saved from repeal, § 1-

10(23); the village's schedules of fees and charges saved from repeal, § 1-10(26); taxation, ch. 98.

Division 2. Budget

Sec. 2-351. Preparation and submission to board.

On or before October 20 each year, the village president, with the assistance of the village treasurer, shall prepare and submit to the village board a proposed budget presenting a financial plan for conducting the affairs of the village for the ensuing year. Before preparing the proposed budget, the president shall consult with the heads of village departments and with village officials and shall then determine the total amount to be recommended in the budget for each village department or activity.

(Code 1960, § 14.04(1))

Sec. 2-352. Form of proposed budget.

(a) The proposed budget shall include the following information:

- (1) The actual expenditures of each department and activity for the expired portion of the current year and the preceding fiscal year and the estimated expense of conducting each department and activity of the village for the remainder of the current year and ensuing fiscal year, with reasons for any proposed increase or decrease as compared with actual and estimated expenditures for the current year.
- (2) An itemization of all anticipated income of the village from sources other than general property taxes and bond issues, with a comparative statement of the amounts received by the village from each of the same or similar sources for the preceding and current fiscal years.
- (3) All existing indebtedness of the village, including the amount of interest payable and principal to be redeemed on any outstanding general obligation bonds of the village and any estimated deficiency in the sinking fund of any such bonds during the ensuing fiscal year.
- (4) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
- (5) Such other information as may be required by the village board and by state law.

(b) The village board shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.

(Code 1960, § 14.04(2))

Sec. 2-353. Appropriation ordinance; hearing.

The village president, with the assistance of the village treasurer, shall submit to the village board with the annual budget a draft of an appropriation ordinance providing for the expenditures proposed for the ensuing fiscal year. Before adoption of a final appropriation ordinance, the village board shall hold a public hearing on the budget and the proposed appropriation ordinance as required by law.

(Code 1960, § 14.04(3))

Sec. 2-354. Transfer of appropriations.

Upon written recommendation of the village president, the village board may, at any time by a two-thirds vote of the entire membership, transfer any portion of any unencumbered balance of an appropriation to any other purpose or object. Notice of such transfer shall be given by publication within eight days thereafter in a newspaper in general circulation in the village.

(Code 1960, § 14.04(4))

Sec. 2-355. Expenditures limited by annual appropriation.

No money shall be drawn from the treasury of the village nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation ordinance and changes therein authorized in accordance with section 2-354. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the village board, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

(Code 1960, § 14.04(5))

Secs. 2-356--2-380. Reserved.**Division 3. Claims Against Village****Sec. 2-381. Certification.**

Prior to submission of any account, demand or claim to the village board for approval of payment, the village treasurer shall certify or cause to be endorsed thereon or on attached papers compliance with the following conditions:

- (1) Funds are available therefor pursuant to the budget.
- (2) The item or service was duly authorized by the proper official or agency and has been received or rendered in accordance with the purchasing agreement.
- (3) The claim is accurate in amount and a proper charge against the treasury.

(Code 1960, § 14.03(1))

Sec. 2-382. Village board to audit accounts.

(a) No account or demand against the village, except as provided in section 2-383, shall be paid until it has been audited by the village board and an order drawn on the village treasury therefor. Every such account shall be itemized and certified as provided in section 2-381.

(b) After auditing, the village board shall cause to be endorsed by the treasurer, on each account, the term "allowed" or "disallowed," as the fact is, adding the amount allowed or specifying the items or parts of items disallowed. The minutes of the proceedings of the board or a statement attached thereto shall show to whom and for what purpose every such account was allowed and the amount.

(Code 1960, § 14.03(2))

Sec. 2-383. Special processing of claims.

(a) Regular wages or salaries of village officers and employees shall be paid by payroll, verified by the proper village official, department head, board or commission, and filed with the village treasurer in time for payment on the regular payday.

(b) Due to timing of village board meetings, claims may need to be settled prior to the next meeting authorizing the payment of claims. Additionally, many of the below listed items are routine in nature, such as utility bills. Due to these facts, the treasurer is authorized to issue checks for the below listed items:

- (1) Debt service payments-principal and interest;
- (2) Court related payments;
- (3) Refund payments from tax escrow checks;
- (4) Mobile home tax payment to schools;
- (5) Credit cards or accounts which would become past due and incur interest charges;
- (6) Insurance payments;
- (7) Postage;
- (8) Refunds;
- (9) Tax liabilities, including tax settlements;
- (10) Utility bills;
- (11) Miscellaneous purchases under \$500.00;
- (12) Payments to contractors when authorized by the village engineer.

(Amd. of 6-9-08, § 1)

Editor's note: An amendment of June 9, 2008, § 1, amended § 2-383 in its entirety to read as herein set out. Formerly, § 2-383 pertained to payment of regular wages or salaries, and derived from the Code of 1960, § 14.03(3).

Sec. 2-384. Method of incurring claims.

All actions of the village board appropriating money or creating a charge against the village, other than claims for purchases or work previously authorized by the board, shall only be acted upon at the next regular meeting after introduction, provided that this rule may be suspended by affirmative vote of three-fourths of all members of the board. A roll call shall be taken and recorded on all appropriations.

(Code 1960, § 14.03(4))

Sec. 2-385. Payment.

All drafts, order checks or transfer orders will be made, in conformity with Wis. Stats. § 66.042, by the signature of the village treasurer, only, by using a facsimile signature. No countersignature is necessary on the drafts or order checks or transfer orders.

(Code 1960, § 14.03(5))

Secs. 2-386--2-425. Reserved.

Article V. Public Records

Sec. 2-426. Definitions.

(a) The definitions of Wis. Stats. § 19.32, as amended, are adopted by reference in this section as if fully set forth.

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

Authority means any of the following village entities having custody of a village record: an office, an elected official, an agency, a board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of such.

Custodian means that officer, department head, division head or employee of the village designated under section 2-428 or otherwise responsible by law to keep and preserve any village record or file, deposit or keep such records in his office, or is lawfully in possession or entitled to possession of such public records and who is required by this article to respond to requests for access to such records.

Record means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. Record includes, but is not limited to, handwritten, typed or printed plates, maps, charts, photographs, films, recordings, tapes (including computer tapes) and computer printouts. Record does not include drafts, notes, preliminary computations and like material prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his

office; materials to which access is limited by copyright, patent or bequest; any published materials in the possession of an authority other than a public library. Record does include all personnel records of any employee of the village, its commissions, committees and departments. The application for employment shall be considered a record of the village and shall be addressed, deposited and given to the legal custodian of the records of the village. Duplication of any such record may be made for the village president, committee chairman, commission chairman or department head or director. An individual employee may request that his employment application and employment records be sealed to public inspection.
(Code 1960, § 14.05(1))

Cross references: Definitions generally, § 1-2.

Sec. 2-427. Duty to maintain records.

(a) Except as provided under section 2-432, each village officer and employee shall safely keep and preserve all records received from his predecessor or other persons and required by law to be filed, deposited or kept in his office or which are in the lawful possession or control of the officer or employee or his deputies, or to the possession or control of which he may be lawfully entitled as such officer or employee.

(b) Upon the expiration of an officer's term of office or an employee's term of employment or whenever the office or position of employment becomes vacant, each such officer or employee shall comply with Wis. Stats. § 19.21(2), and such officer shall file a receipt from the successor with the village clerk. If a vacancy occurs before a successor is selected or qualified, such records shall be delivered to and receipted for by the clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.
(Code 1960, § 14.05(2))

Sec. 2-428. Legal custodian.

(a) The village clerk or, in his absence or disability or in case of vacancy, the deputy clerk, is designated the legal custodian of all village records.

(b) Unless otherwise prohibited by law, the village clerk shall act as legal custodian for the village board and for any committees, commissions, boards or other authorities created by ordinance or resolution of the village board.

(c) For every authority not specified in subsection (a) or (b) of this section, the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his staff to act as the legal custodian.

(d) Each legal custodian shall name a person to act as legal custodian in his absence or the absence of his designee.

(e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under Wis. Stats. § 19.21 and this article. The designation of a legal custodian does not affect the powers and duties of an authority under this article.

(Code 1960, § 14.05(3))

Sec. 2-429. Public access.

(a) Except as provided in section 2-431, any person has a right to inspect a record and to make or receive a copy of any record as provided in Wis. Stats. § 19.35(1).

(b) Records will be available for inspection and copying during all regular office hours.

(c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least 48 hours' advance notice of the intent to inspect or copy.

(d) A requester shall be permitted to use facilities comparable to those available to village employees to inspect, copy or abstract a record.

(e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

(f) A requester shall be charged a fee to defray the cost of locating and copying records as follows:

- (1) The cost of photocopying shall be per page, as provided in the village fee schedule. The cost has been calculated not to exceed the actual, necessary and direct cost of reproduction.
- (2) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
- (3) The actual full cost of providing a copy of other records not in printed form on paper, such as files, computer printouts and audiotapes or videotapes, shall be charged.
- (4) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
- (5) There shall be no charge for locating a record unless the actual cost therefor exceeds \$50.00, in which case the actual cost shall be determined by the legal custodian and billed to the requester.
- (6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to ensure payment, if such estimate exceeds \$5.00.
- (7) Elected and appointed village officials shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.

- (8) The legal custodian may provide copies of a record without charge or at a reduced charge where he determines that waiver or reduction of the fee is in the public interest.

(g) Pursuant to Wis. Stats. § 19.34 and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby the public may obtain information and access to records in its custody, make requests for records or obtain copies of records and the costs thereof. This subsection does not apply to members of the village board.

(Code 1960, § 14.05(4))

Sec. 2-430. Requests for inspection or copying.

(a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Wis. Stats. § 19.37. Except as provided in this article, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under subsection 2-429(f)(6). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal laws or regulations so require.

(b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the village attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his request in a manner that would permit reasonable compliance.

(c) A request for a record may be denied as provided in section 2-431. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, the determination is subject to review upon petition for a writ of mandamus under Wis. Stats. § 19.37(1) or upon application to the attorney general or a district attorney.

(Code 1960, § 14.05(4))

Sec. 2-431. Limitations on right to access.

As provided by Wis. Stats. § 19.36, the following records are exempt from inspection under this article:

- (1) *Application of other laws.* Any record which is specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law is exempt from disclosure under section 2-429, except that any portion of that record which contains public information is open to public inspection as provided in subsection (6) of this section.
- (2) *Law enforcement records.* Except as otherwise provided by law, whenever federal laws or regulations require or as a condition to receipt of aids by this state require that any record relating to investigative information obtained for law enforcement purposes be withheld from public access, that information is exempt from disclosure under section 2-429.
- (3) *Contractors' records.* Each authority shall make available for inspection and copying under section 2-429 any record produced or collected under a contract entered into by the authority with a person other than an authority to the same extent as if the record were maintained by the authority. This subsection does not apply to the inspection or copying of a record under Wis. Stats. § 19.35(1)(am).
- (4) *Computer programs and data.* A computer program, as defined in Wis. Stats. § 16.971(4)(c), is not subject to examination or copying under section 2-429, but the material used as input for a computer program or the material produced as a product of the computer program is subject to the right of examination and copying, except as otherwise provided in Wis. Stats. § 19.35 or this section.
- (5) *Trade secrets.* An authority may withhold access to any record or portion of a record containing information qualifying as a trade secret as defined in Wis. Stats. § 134.90(1)(c).
- (6) *Separation of information.* If a record contains information that is subject to disclosure under Wis. Stats. § 19.35(1)(a) or (am) and information that is not subject to such disclosure, the authority having custody of the record shall provide the information that is subject to disclosure and delete the information that is not subject to disclosure from the record before release.
- (7) *Identities of applicants for public positions.*
 - a. As used in this subsection, the term "final candidate" means each applicant for a position who is seriously considered for appointment or whose name is certified for appointment and whose name is submitted for final consideration to an authority for appointment to any local public office, as defined in Wis. Stats. § 19.42(7w). The term "final candidate" includes, whenever there are at least five candidates for an office or position, each of the five candidates who are considered most qualified for the office or position by an authority, and whenever there are less than five candidates for an office or position, each such candidate. Whenever an appointment is to be made from a group of more than five candidates, the term "final candidate" also includes each candidate in the group.

- b. Every applicant for a position with any authority may indicate in writing to the authority that the applicant does not wish the authority to reveal his identity. Except with respect to a final candidate, if an applicant makes such an indication in writing, the authority shall not provide access to any record related to the application that may reveal the identity of the applicant.

(8) *Identities of law enforcement informants.*

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

Informant means an individual who requests confidentiality from a law enforcement agency in conjunction with providing information to that agency or pursuant to an express promise of confidentiality by a law enforcement agency or under circumstances in which a promise of confidentiality would reasonably be implied, provides information to a law enforcement agency or is working with a law enforcement agency to obtain information, related in any case to any of the following:

1. Another person who the individual or the law enforcement agency suspects has violated, is violating or will violate a federal law, a law of any state or an ordinance of any local government.
2. Past, present or future activities that the individual or the law enforcement agency believes may violate a federal law, a law of any state or an ordinance of any local government.

Law enforcement agency means the same as given in Wis. Stats. § 165.83(1)(b), and includes the department of corrections.

- b. If an authority that is a law enforcement agency receives a request to inspect or copy a record or portion of a record under Wis. Stats. § 19.35(1)(a) that contains specific information, including but not limited to a name, address, telephone number, voice recording or handwriting sample, which, if disclosed, would identify an informant, the authority shall delete the portion of the record in which the information is contained or, if no portion of the record can be inspected or copied without identifying the informant, shall withhold the record unless the legal custodian of the record makes a determination, at the time that the request is made, that the public interest in allowing a person to inspect, copy or receive a copy of such identifying information outweighs the harm done to the public interest by providing such access.

(Code 1960, § 14.05(6))

Sec. 2-432. Destruction of records.

- (a) Village officers may destroy the nonutility financial records listed in this

subsection, of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the bureau of municipal audit or an auditor licensed under Wis. Stats. ch. 442, but not less than seven years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the state public records board pursuant to Wis. Stats. § 16.61(3)(e), and then after such shorter period. Examples may include the following:

- (1) Bank statements.
- (2) Canceled checks.
- (3) Receipt forms.
- (4) Vouchers, etc.

(b) Village officers may destroy the utility records listed in this subsection, of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the bureau of municipal audit or an auditor licensed under Wis. Stats. ch. 442, subject to state public service commission regulations, but not less than seven years after the record was effective unless a shorter period has been fixed by the state public records board pursuant to Wis. Stats. § 16.61(3)(e), and then after such a shorter period, except that water stubs, receipts or current billings and customers' ledgers may be destroyed after two years. Examples made include the following:

- (1) Contracts.
- (2) Excavation permits.
- (3) Inspection records.

(c) Village officers may destroy the records listed in this subsection, of which they are the legal custodian and which are considered obsolete, but not less than seven years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the state public records board pursuant to Wis. Stats. § 16.61(3)(e), and then after such a shorter period. Examples may include the following:

- (1) Old insurance policies.
- (2) Election notices.
- (3) Canceled registration cards.

(d) Unless notice is waived by the state historical society, at least 60 days' notice shall be given the state historical society prior to the destruction of any record as provided by Wis. Stats. § 19.21(4)(a).

(e) Any tape recordings of a governmental meeting of the village may be destroyed, erased or reused no sooner than 90 days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.

(Code 1960, § 14.05(7))

Sec. 2-433. Preservation through microfilm.

A village officer or the director of any department or division of village government may, subject to the approval of the village board, keep and preserve public records in his possession by means of microfilm or other photographic reproduction method. Such records

shall meet the standards for photographic reproduction set forth in Wis. Stats. § 16.61(7)(a) and (b) and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of sections 2-429 through 2-431.

(Code 1960, § 14.05(8))

Chapters 3 - 5
Reserved

Chapter 6 ALCOHOL BEVERAGES*

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
Article I. In General			
Secs. 6-1--6-25.	Reserved.		
Article II. Intoxicating Liquor and Fermented Malt Beverages			
Division 1. Generally			
Sec. 6-26.	State statutes adopted.		
Sec. 6-27.	Violations by agents and employees.		
Secs. 6-28--6-55.	Reserved.		
Division 2. Licenses			
Sec. 6-56.	Required.		
Sec. 6-57.	Classification; fees.	2021-03	04/19/21
		2021-07	06/28/21
		2021-09	10/25/21
Sec. 6-58.	Criteria for issuance; restrictions.		
Sec. 6-59.	Form and expiration.	2021-09	10/25/21
Sec. 6-60.	Transferability.		
Sec. 6-61.	Posting and care.		
Sec. 6-62.	Revocation or suspension.		
Sec. 6-63.	Nonrenewal.		
Secs. 6-64--6-90.	Reserved.		
Division 3. Operation of Establishments			
Sec. 6-91.	Closing hours.	2016-01	05/23/15
Sec. 6-92.	Certain entertainment and practices prohibited.		
Sec. 6-93.	Gambling and disorderly conduct.		
Sec. 6-94.	Employment of minors.		
Sec. 6-95.	Sales by clubs.		
Sec. 6-96.	Safety and sanitation requirements.		
Sec. 6-97.	Closed door.		
Sec. 6-98.	Underage persons on licensed premises.	2021-09	10/25/21

***Cross references:** Businesses, ch. 22; soda water beverages, § 22-81 et seq.; drinking intoxicants in public or within parked motor vehicle, § 70-36; public drunkenness, § 70-67; liquor or beer in parks, § 74-34.

Article I. In General

Secs. 6-1--6-25. Reserved.

Article II. Intoxicating Liquor And Fermented Malt Beverages

Division 1. Generally

Sec. 6-26. State statutes adopted.

The provisions of Wis. Stats. ch. 125, defining and regulating the sale, procurement, dispensing and transfer of beverages, including provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are adopted and made a part of this article by reference. A violation of any of such provisions shall constitute a violation of this article.

(Code 1960, § 11.01(1))

Sec. 6-27. Violations by agents and employees.

A violation of this article by any authorized agent or employee of a licensee shall constitute a violation by the licensee.

(Code 1960, § 11.01(15))

Secs. 6-28--6-55. Reserved.

Division 2. Licenses

Sec. 6-56. Required.

(a) *Generally.* No person, except as provided by Wis. Stats. § 125.06, shall serve, sell, manufacture, rectify, brew or engage in any other activity for which a license, permit or other authorization is required by this division or by Wis. Stats. ch. 125, without holding the appropriate license, permit or other authorization as provided in this division. Refer to Wis. Stats. § 125.04(1).

(b) *Separate license for each place of sale.* Except for licensed public warehouses, a license shall be required for each location or premises which is in direct connection or communication to each other location or premises where intoxicating liquor or fermented malt beverages are stored, sold or offered for sale. Refer to Wis. Stats. § 125.04(9).

(Code 1960, § 11.01(2))

Sec. 6-57. Classification; fees.

The classes of licenses listed in this section may be issued by the village clerk under the authority of the village board after payment of the required fee. All fees are listed in the fee schedule on file in the village clerk's office. Except as otherwise provided in this section, the full license fee shall be charged for the whole or fraction of any year. When issued the license shall permit the holder to sell, deal or traffic in alcohol beverages as provided in Wis. Stats.

§§ 125.17, 125.25, 125.26, 125.28, 125.51 and 125.57. Classes of licenses shall be as follows:

- (1) Class "A" fermented malt beverage retailer's license. See Wis. Stats. § 125.25.
- (2) Class "B" fermented malt beverage retailers license.
 - a. Reserve class "B" fermented malt beverage retailers license.
 1. Six month: A license may be issued at any time for six months in any calendar year, for which three-quarters of the applicable license fee shall be paid; but such license shall not be renewable during the calendar year in which issued.
 2. Picnic: \$5.00 per day.
- (3) Wholesaler's fermented malt beverage license. See Wis. Stats. § 125.28.
- (4) Retail "class A" liquor license. See Wis. Stats. § 125.51(2). Only ten such licenses shall be granted at any one time. No "Class A" license shall be issued for a premises which also sells or dispenses gasoline or other fuel for use by motor vehicles.
- (5) Retail "Class B" Liquor License.
 - a. Reserve "Class B" Liquor License. A retail "Class B" liquor license shall permit its holder to sell liquor in original packages or containers in multiples not to exceed one gallon at any one time to be consumed off the licensed premises. Wine may be sold in original packages or otherwise in any quantity to be consumed off the premises. See Chapter 125.51(3), Wis. Stats.
 1. A license may be issued after July 1 in any license year. The license shall expire on the following June 30. The fee for the license shall be prorated according to the number of months, or fractions thereof, remaining until the following June 30.
 2. License valid for six months may be issued at any time. The fee for the license shall be 50 percent of the annual license fee. The license may not be renewed during the calendar year in which issued.
- (6) Operators' licenses. See section 125.17, Wis. Stats.

- a. Operators' licenses may be granted and issued to individuals by the village board for the purposes of complying with section 125.32(2) and 125.68(2), Wis. Stats.
- b. Operators' licenses may be issued only on written application on forms provided by the village clerk.
- c. Operators' licenses shall be valid for one year and shall expire on June 30 of each year. Prior to the grant and issuance of a operator's license, both initially and annually, the village clerk shall conduct a background investigation, the village clerk shall either grant and issue the license or cause the name of the applicant to be placed on the agenda of the Committee on Administration for action to either grant or deny such license application if the village clerk determines further review of an application is necessary.
- d. A temporary operator's license may be issued by the village clerk in accordance with section 125.17(4), Wis. Stats.
- e. The village clerk shall be authorized to issue a provisional operator's license in accordance with section 125.17(5) Wis. Stats. The fee charged is in addition to the fee for the operator's license.

(Code 1960, § 11.01(3); Ord. of 1-21-98, § 1; Amd. of 4-28-03(1), § 1)

Sec. 6-58. Criteria for issuance; restrictions.

(a) *Generally.* The licenses required under this division may be issued, subject to the criteria and restrictions in this section.

(b) *Statutory requirements.* Licenses shall be issued only to persons eligible therefor under Wis. Stats. § 125.04.

(c) *Location.*

- (1) No retail "class A" or "class B," class "A" or class "B" license shall be issued for premises not in compliance with Wis. Stats. § 125.68(3).
- (2) This subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300 feet of the premises by any school building, hospital building or church building.

(d) *Violation of federal or state laws or this article.* No retail "class A," "class B," class "A," class "B" license shall be issued to any person who has been convicted of a violation of any federal or state liquor or fermented malt beverage law or this article during one year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for one year.

(e) *Health and sanitation requirements.* No retail class "A" or class "B" license shall be issued for any premises that does not conform to the sanitary, safety and health requirements of the state department of industry, labor and human relations pertaining to buildings and plumbing, to the rules and regulations of the state department of health and social services applicable to restaurants and to all such ordinances and regulations adopted by the village.

(f) *Quota for "class B" liquor licenses.* The number of persons and places that may be granted a retail "class B" liquor license is limited as provided in Wis. Stats. § 125.51(4).

(g) *Corporations.* No license shall be granted to any corporation when more than 50 percent of the voting stock interest, legal interest or beneficial interest is held by any person not eligible for a license under this division.

(h) *Age requirement.* No license shall be granted to any underage person.

(i) *Effect of revocation.* Whenever any license has been revoked, at least six months from the time of such revocation shall elapse before another license shall be granted for the same premises, and 12 months shall elapse before another license shall be granted to the person whose license was revoked.

(j) *Delinquent taxes, assessments and claims.*

(1) *Premises.* No initial or renewal license shall be granted for any premises for which taxes, assessments or other claims of the village are delinquent and unpaid.

(2) *Persons.* No initial or renewal license shall be granted to any person delinquent in payment:

- a. Of any taxes, assessments or other claims owed to the village.
- b. To the state of any state taxes owed.
- c. Of a forfeiture resulting from a violation of any village ordinance.

(k) *Sales in dwelling.* No license shall be issued to any person for the purpose of possessing, selling, or offering for sale any alcohol beverages in any dwelling house, flat or residential apartment.

(Code 1960, § 11.01(5))

Sec. 6-59. Form and expiration.

All licenses issued under this division shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of the issuance, the fee paid and the name of the licensee. Unless sooner revoked, the license shall expire on June 30 except as otherwise provided in this division. The clerk shall mail the list required by Wis. Stats. § 125.04(4).

(Code 1960, § 11.01(6))

Sec. 6-60. Transferability.

(a) No license issued pursuant to this division shall be transferable as to a licensee except as provided by Wis. Stats. § 125.04(12)(b).

(b) A license issued pursuant to this division may be transferred as provided in Wis. Stats. § 125.04(12)(a). Application for such transfer shall be made on blanks furnished by the state department of revenue. Proceedings for such transfer shall be had in the same manner and form as the original application.

(Code 1960, § 11.01(7))

Sec. 6-61. Posting and care.

Every license or permit issued under this division shall be framed and posted and at all times displayed as provided in Wis. Stats. § 125.04(10). No person shall post such license nor shall a person permit any other person to post it upon premises other than those mentioned in the application. No person shall knowingly deface or destroy such license.

(Code 1960, § 11.01(8))

Sec. 6-62. Revocation or suspension.

Whenever the holder of any license issued under this division violates any section of this article, proceedings for the revocation or suspension of such license may be instituted in the manner and under the procedure established by Wis. Stats. § 125.12, and the provisions in Wis. Stats. § 125.12 relating to granting a new license shall likewise be applicable.

(Code 1960, § 11.01(11)(a))

Sec. 6-63. Nonrenewal.

Before renewal of any license issued under this division is refused, the licensee shall be given written notice of any charges or violations or the reasons proposed for nonrenewal and a copy of any proposed motion for nonrenewal and shall have an opportunity to be heard before the village board.

(Code 1960, § 11.01(12))

Secs. 6-64--6-90. Reserved.

Division 3. Operation Of Establishments

Sec. 6-91. Closing hours.

(a) No premises for which a license has been issued pursuant to division 2 of this article shall remain open for the sale of alcohol beverages during the following hours:

- (1) If a retail "class A" license, between 9:00 p.m. and 6:00 a.m.
- (2) If a "class B" license or permit, between the hours of 2:00 a.m. and 6:00 a.m., except on Saturdays and Sundays, when the closing hours shall

be between 2:30 a.m. and 6:00 a.m. On January 1, premises operating under a "class B" license or permit are not required to close.

(b) Hotels and restaurants, whose principal business is the furnishing of food or lodging to patrons, and bowling alleys and golf courses may remain open for the conduct of regular business, but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours, except as provided in Wis. Stats. § 125.68(4)(c).

(c) No humanly operated or mechanically operated noise device shall be operated on any premises licensed under division 2 of this article at any time after one-half hour before closing time.

(Code 1960, § 11.01(10))

Sec. 6-92. Certain entertainment and practices prohibited.

(a) *Definition.* As used in this section, the term "licensee" shall mean the holder of a retail "class B" intoxicating liquor license or a "class B" fermented malt beverage retailer's license and any agent or employee of the licensee.

(b) *Scope of section.* In addition to any other conditions, regulations, bylaws or ordinances of the village applicable to the operation and maintenance of the licensed premises or its owners or operators, all retail "class B" intoxicating liquor licenses and "class B" fermented malt beverages retailer's licenses granted under division 2 of this article shall be subject to compliance with the rules, regulations set forth in this section.

(c) *Stage area.* No licensee shall furnish entertainment by or permit the performance of any act, stunt or dance unless such act, stunt or dance shall be performed on a stage area designated for such purpose. The use of the surface of the bar proper as a stage area is prohibited. When the stage area is located behind the bar, the nearest point of any such stage area shall not be less than six feet from the outer limits of the patrons' side of the bar. When the stage area is located outside of the bar (that is, on the patrons' side of the bar), such area shall be raised from the floor level and shall be separated by a railing or other device so as to provide a distance of at least six feet between the patrons and the performers, so as to deter patrons from participating in any act, stunt or dance.

(d) *Participation by patrons.* No licensee shall permit any patron to participate in any act, stunt or dance with performers who are under the auspices of the management.

(e) *Solicitation of drinks.* No licensee shall permit the solicitation by any entertainer or employee of a drink of intoxicating liquor, fermented malt beverage or other drink from any customer or patron or other person on the premises, and no entertainer or employee shall solicit any such drink from any customer, patron or other person on the premises.

(f) *Employees sitting with customers.* No licensee shall permit any entertainer, waiter, waitress or other employee to sit at any table or in any booth or elsewhere on the licensed premises with any customer or patron. However, this subsection shall not apply to a

member of the immediate family of the licensee or to any person who lives in the same household as the licensee and who has attained the legal drinking age.

(Code 1960, § 11.01(16))

Cross references: Amusements and entertainments generally, ch. 10.

Sec. 6-93. Gambling and disorderly conduct.

Each premises licensed and permitted under this division 2 of this article shall at all times be maintained in an orderly manner, and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on any such premises.

(Code 1960, § 11.01(9)(a))

Sec. 6-94. Employment of minors.

No person licensed under division 2 of this article shall employ any underage person to serve, sell, dispense or give any alcohol beverage, except as provided by law.

(Code 1960, § 11.01(9)(b))

Sec. 6-95. Sales by clubs.

No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.

(Code 1960, § 11.01(9)(c))

Sec. 6-96. Safety and sanitation requirements.

Each premises licensed under division 2 of this article shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.

(Code 1960, § 11.01(9)(d)) **Cross references:** Health and sanitation, ch. 50.

Sec. 6-97. Closed door.

No door of any premises licensed under division 2 of this article, if the door provides access to the street, sidewalk or private or public property, shall stand open during the time the licensed premises is authorized to dispense intoxicating liquor and fermented malt beverages.

(Code 1960, § 11.01(9)(e))

Sec. 6-98. Underage persons on licensed premises.

(a) Pursuant to Wis. Stats. § 125.07(3)(a)(8), underage persons are permitted to enter and remain in a room or a portion of a Class "B" or "Class B" premises that is separate from any room where alcohol beverages are sold or served, if no alcohol beverages are furnished or consumed by any person in the room or portion of the premises where the underage persons are present and under the following circumstances:

- (1) The licensee makes application on a form to be provided by the village clerk for a written authorization from the village's law enforcement officer permitting underage persons to be present pursuant to the requirements of this subsection and Wis. Stats. § 125.07(3)(a)(8). Such

application shall specify the type of event, the date on which the event is to occur and the time of commencement and ending time and any additional information required by the clerk.

- (2) For an application under this subsection that is the first such application for a licensee, such application shall be reviewed by the village board for a list of conditions that shall be included on any such authorization.
- (3) The licensee notified the village's law enforcement officer, in accordance with this subsection, at least ten days in advance of the dates and times underage persons will be allowed on the licensed premises.
- (4) Before issuing the authorization, the village's law enforcement officer shall make the determination that the presence of underage persons on the licensed premises will not endanger the health, welfare or safety of any member of the community and shall impose any conditions deemed appropriate including any conditions previously set forth by the village board.
- (5) The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.
- (6) All other requirements of Wis. Stats. § 125.07(3) are complied with.
- (7) The licensee shall pay a fee of \$25.00 to the village clerk for each application for authorization pursuant to this section. Such fee shall be paid at the time that the application is made.
- (8) If at any time, the village's law enforcement officer determines that any use authorized under this subsection violates any subsection of this chapter or any provision of Wis. Stats. ch. 125, or constitutes a nuisance or endangers the health, welfare or safety of any member of the community, such authorization may be immediately revoked by the law enforcement officer. Prior to any additional authorization being utilized or granted under this subsection, the licensee shall appear before the village board and address the reason such authorization was revoked by the law enforcement officer. Upon such review, the village board may determine that the licensee shall not utilize or receive future authorizations or may impose additional conditions on authorization of the licensee under this subsection.
- (9) During the period of any non-alcohol event authorized under this subsection, a notice shall be posted at all public entrances to that portion of the licensed premises containing the event notifying the general public that no alcohol beverages may be consumed, sold or given away on or carried into that portion during the event. Such notice cards shall be made available by the village to a requesting licensee.

(b) The presence of underage persons on the entirety of a licensed premises as provided under Wis. Stats. § 125.07(3)(a)(10) shall be subject to the following requirements:

- (1) The licensee shall notify the village's law enforcement officer at least ten days in advance of the date of any event at which underage persons will be present on the entirety of the licensed premises.
- (2) All notices shall include an application filed with the village's law enforcement officer and shall be filed on forms, prescribed by the village clerk. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement as well as the type of event and any additional information that the village shall require.
- (3) The licensee shall pay a fee of \$25.00 for each application for authorization pursuant to this section. Such fee shall be paid at the time that the application is made.
- (4) For an application under this subsection that is the first such application for a licensee, such application shall be reviewed by the village board for a list of conditions that shall be included on any such authorization under this subsection.
- (5) After a non-alcohol event notice has been given and approved, the licensee may cancel an event(s) only by giving like notice to the village's law enforcement officer in accordance with the provisions of this subsection. Regardless of the date given, all notices shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail Class "B" license.
- (6) During the period of any non-alcohol event, a notice card prescribed by the village's law enforcement officer shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises during the event. Such notice cards shall be made available by the village to a requesting licensee.
- (7) Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours of the licensed premises.
- (8) During the period of any non-alcohol event, the licensee, the agent named in the license or a person who has an operator's license, shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises in a secure place out of the sight and physical reach of any patron present. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.

- (9) If at any time, the village's law enforcement officer determines that any use authorized under this subsection violates any subsection of this chapter or any provision of Wis. Stats. ch. 125, or constitutes a nuisance or endangers the health, welfare or safety of any member of the community, such authorization may be immediately revoked by the law enforcement officer. Prior to any additional authorization being utilized or granted under this subsection, the licensee shall appear before the village board and address the reason such authorization was revoked by the law enforcement officer. Upon such review, the village board may determine that the licensee shall not utilize or receive future authorizations or may impose additional conditions on authorization of the licensee under this subsection.

(Ord. No. 2010-04, § 1, 7-26-10)

**Chapters 7 – 9
Reserved**

Chapter 10 AMUSEMENTS AND ENTERTAINMENTS*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 10-1.	Delinquent taxes, assessments and claims.		
Secs. 10-2--10-25.	Reserved.		
Article II. Coin-Operated Amusements			
Division 1. Generally			
Sec. 10-26.	Definitions.		
Sec. 10-27.	Findings.		
Sec. 10-28.	Penalty.		
Sec. 10-29.	Hours of operation.		
Sec. 10-30.	Supervision.		
Sec. 10-31.	Hours restricted for persons under 18.		
Sec. 10-32.	Unlocked entrance during business hours; inspections.		
Sec. 10-33.	Lighting.		
Sec. 10-34.	Excessive noise.		
Sec. 10-35.	Gambling.		
Secs. 10-36--10-60.	Reserved.		
Division 2. License			
Sec. 10-61.	Required.		
Sec. 10-62.	Application.	2021-09	10/25/21
Sec. 10-63.	Fee.	2021-09	10/25/21
Sec. 10-64.	Location restrictions.		
Sec. 10-65.	Installation of amusement devices without license.		
Sec. 10-66.	Term.		
Sec. 10-67.	Display.		
Sec. 10-68.	Issuance, denial, revocation.		
Sec. 10-69.	Transferability.		
Secs. 10-70--10-95.	Reserved.		
Article III. Pool Halls and Billiard Halls			
Division 1. Generally			
Sec. 10-96.	Definitions.		
Sec. 10-97.	Findings.		
Sec. 10-98.	Penalty.		
Sec. 10-99.	Supervision.		
Sec. 10-100.	Restrictions on underage persons.		

***Cross references:** Certain entertainment and practices prohibited in alcohol beverage establishments, § 6-92; businesses, ch. 22.

Sec. 10-101.	Hours of operation.
Sec. 10-102.	Entrance unlocked during business hours; inspections.
Sec. 10-103.	Lighting.
Sec. 10-104.	Excessive noise.
Sec. 10-105.	Gambling.
Secs. 10-106--10-130.	Reserved.

Division 2. License

Sec. 10-131.	Required.		
Sec. 10-132.	Application.	2021-09	10/25/21
Sec. 10-133.	Fee.	2021-09	10/25/21
Sec. 10-134.	Location restrictions.		
Sec. 10-135.	Issuance, denial, revocation.		
Sec. 10-136.	Term.		
Sec. 10-137.	Display.		
Sec. 10-138.	Transferability.		
Secs. 10-139--10-165.	Reserved.		

Article IV. Bowling Alleys

Division 1. Generally

Secs. 10-166--10-190. Reserved.

Division 2. License

Sec. 10-191.	Required.	2021-09	10/25/21
Sec. 10-192.	Application.	2021-09	10/25/21
Sec. 10-193.	Issuance; term.	2021-09	10/25/21
Secs. 10-194--10-220.	Reserved.		

Article V. Dancehalls

Division 1. Generally

Sec. 10-221.	Title.
Sec. 10-222.	Definitions.
Sec. 10-223.	Penalties.
Sec. 10-224.	Unlawful conduct.
Sec. 10-225.	Attendance of minors; endurance contests; taxi dancing.
Secs. 10-226--10-250.	Reserved.

Division 2. License

Sec. 10-251.	Required.		
Sec. 10-252.	Application.	2021-09	10/25/21
Sec. 10-253.	Classification.		
Sec. 10-254.	Fees.	2021-09	10/25/21
Sec. 10-255.	Issuance criteria and procedures.	2021-09	10/25/21
Sec. 10-256.	Denial.		
Sec. 10-257.	Posting		

Article I. In General

Sec. 10-1. Delinquent taxes, assessments and claims.

(a) *Premises.* No initial or renewal license shall be granted under this chapter for any premises for which taxes, assessments or other claims of the village are delinquent and unpaid.

(b) *Persons.* No initial or renewal license shall be granted under this chapter to any person delinquent in payment:

- (1) Of any taxes, assessments or other claims owed to the village.
- (2) To the state of any state taxes owed.
- (3) Of a forfeiture resulting from a violation of any village ordinance.

(Ord. No. 2009-03(1), § 1, 6-8-09)

Secs. 10-2--10-25. Reserved.

Article II. Coin-Operated Amusements

Division 1. Generally

Sec. 10-26. Definitions.

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

Amusement center means any business which has on its premises four or more coin-operated amusement devices available for use by the public and which is not licensed by the village for a class B fermented malt beverages and intoxicating liquors license.

Coin-operated amusement device means any machine which, upon the insertion of a coin, slug, token, plate, disc or similar item, may be operated as a game, entertainment, contest of skill, or amusement, whether or not registering a score. It shall include but not be limited to such devices as electronic or mechanical game machines, pinball machines, bowling machines, and any other mechanical or electronic games or operations similar thereto, except the term shall not include coin-operated pool tables, coin-operated phonographs, jukeboxes and merchandise vending machines.

Operator means any owner, lessee, manager, or employee of an amusement center who manages or operates an amusement center or business at which one or more coin-operated amusement device is available.

Owner means the person who owns an amusement center, or who owns a business at which one or more coin-operated amusement devices is operable.

(Code 1960, § 11.08(2))

Cross references: Definitions generally, § 1-2.

Sec. 10-27. Findings.

For the purpose of this article, the village board finds that:

- (1) The operation of coin-operated amusement centers has caused a high concentration of persons in and around amusement centers resulting in a requirement for additional law enforcement attention.
- (2) The operation of coin-operated amusement centers has resulted in a high concentration of youthful persons in a situation which is conducive to the presence and growth of unlawful activities such as gambling.
- (3) Strict regulation and supervision of coin-operated amusement centers is necessary to protect the health, welfare and safety of the public in the conduct of their affairs in and around such amusement centers.

(Code 1960, § 11.08(1))

Sec. 10-28. Penalty.

Upon conviction, any person found to be in violation of this article shall forfeit not less than \$50.00 or more than \$750.00.

(Code 1960, § 11.08(17))

Sec. 10-29. Hours of operation.

No operator or owner shall permit an amusement center licensed under this article to be open between the hours of 12:00 midnight and 6:00 a.m. of any day, except upon application to and consent of the village board.

(Code 1960, § 11.08(14))

Sec. 10-30. Supervision.

An adult employee responsible for the management or operation of the amusement center shall be present on the premises of every business holding an amusement center license at all times during which the amusement center is open for business.

(Code 1960, § 11.08(7))

Sec. 10-31. Hours restricted for persons under 18.

(a) No owner, operator or person in charge of an amusement center shall permit any person under the age of 18 years to play or use a coin-operated amusement device during the normal academic school year, for either of the two school systems operated in the village, between the hours of 7:00 a.m. and 2:30 p.m. on any day in which regular classes are in session, unless such minor is present with his parent, guardian, or adult spouse.

(b) No owner, operator or person in charge of an amusement center or a business holding one or more coin-operated amusement device licenses shall permit any person under the age of 18 years to play or use any coin-operated amusement device between the hours

of 11:00 p.m. and 6:00 a.m., unless such minor is accompanied by his parent, guardian or other adult person having legal custody or control of the minor.
(Code 1960, § 11.08(12)(A), (B))

Sec. 10-32. Unlocked entrance during business hours; inspections.

(a) The entrance to any amusement center licensed under division 2 of this article shall not be locked during any time the amusement center is open for business.

(b) Each licensee of an amusement center agrees that sheriff's department officers and village employees charged with law enforcement or inspection functions may enter the licensed premises at any time during normal business hours for the purpose of inspecting the premises and enforcing the laws and ordinances relating to the operation thereof.

(Code 1960, § 11.08(12)(C))

Sec. 10-33. Lighting.

At all times that an amusement center licensed under division 2 of this article is open for business, lighting shall be provided throughout the amusement center in the amount of not less than 50 footcandles, measured at the playing surface level of each amusement device.

(Code 1960, § 11.08(12)(D))

Sec. 10-34. Excessive noise.

No operator or owner of an amusement center or business for which one or more coin-operated amusement device licenses are in effect shall permit the level of sound resulting from operation of the amusement center or coin-operated amusement devices to exceed the limitations set forth in subsection 42-30(9).

(Code 1960, § 11.08(13))

Sec. 10-35. Gambling.

No owner or operator of an amusement center shall permit any person to use an amusement device licensed under division 2 of this article for gambling or for playing a game of chance.

(Code 1960, § 11.08(15))

Secs. 10-36--10-60. Reserved.

Division 2. License

Sec. 10-61. Required.

No owner or operator shall operate or cause to be operated an amusement center or a coin-operated amusement device without first obtaining a license.

(Code 1960, § 11.08(3))

Sec. 10-62. Application.

An application for an amusement center license and coin-operated amusement device license shall be made at the office of the village clerk and shall contain the following information:

- (1) The name of the applicant; if a partnership, the names of all partners; if a corporation, club or association, the names of all officers.
 - (2) The residence of the applicant.
 - (3) The age of the applicant.
 - (4) If a corporation, club or association, the state of incorporation.
 - (5) The type of business or activity.
 - (6) The place where machines or devices are to be displayed or operated; the number of machines or devices; the names of the owners of the machines or devices. If the number of machines or devices is increased during the license period, the village clerk is to be so informed.
 - (7) A description of the types of machines to be displayed or operated.
- (Code 1960, § 11.08(4))

Sec. 10-63. Fee.

(a) Upon application for any license required under this division, the applicant shall pay to the village the fee listed on the schedule of fees in the clerk's office. Fees shall be charged for the following licenses:

- (1) Each amusement center license.
- (2) Each coin-operated amusement device license.

(b) The cost of an amusement center license applied for after December 31 and the cost of an amusement device license applied for after December 31 shall be as provided in the fee schedule on file in the clerk's office.

(Code 1960, § 11.08(9))

Sec. 10-64. Location restrictions.

No amusement center license or coin-operated amusement device license shall be granted for any place of business located within 300 feet of any church building, school building, hospital building or nursing home building, unless a license granted under this division was in effect prior to the occupation of real property within 300 feet thereof by such institution or facility, or if the premises for which a license is requested was licensed with a class "B" fermented malt beverages license or "class B" intoxicating liquors license on June 30, 1947. Such distance shall be measured along the shortest route by a sidewalk or street from the main entrance of the proposed licensed premises to the main entrance of such institution or facility. Code 1960, § 11.08(11))

Sec. 10-65. Installation of amusement devices without license.

No owner or operator shall install or allow to be installed in any place of business a coin-operated amusement device for which a license has not been issued.

(Code 1960, § 11.08(5))

Sec. 10-66. Term.

Any license granted under this division shall expire on June 30 following the issuance.

(Code 1960, § 11.08(10))

Sec. 10-67. Display.

The amusement center licenses and coin-operated amusement device licenses issued under this division shall be displayed in a conspicuous place, open to public view in the premises for which the licenses are granted.

(Code 1960, § 11.08(6))

Sec. 10-68. Issuance, denial, revocation.

(a) The administration committee of the village board may grant licenses for which application is made under this division. If the committee recommends denial of a license, the matter shall be referred to the village board for final action.

(b) The village board may revoke or refuse to renew any license issued under this division when the operator or owner licensed has been convicted of a violation of this article or any other section of this Code or state statutes with regard to the premises licensed under this division or with regard to offenses relating to the licensed premises and involving controlled substances, alcohol, or any offense substantially relating to the conduct of the business licensed under this division. The administration committee of the village board shall hold a hearing on such revocation or refusal to renew, shall provide notice to the licensee setting forth the time and place of hearing and the reasons which form the basis for such revocation of or refusal to renew the license. The licensee shall have the right to appear at the hearing in person or by counsel and shall have the right to examine and cross examine witnesses and call witnesses. All testimony at such hearing shall be taken under oath. The committee shall forward to the village board its recommendation to grant, deny, or revoke such license, together with the grounds therefor.

(Code 1960, § 11.08(16))

Sec. 10-69. Transferability.

No amusement center license granted under this division shall be transferred or assigned from one owner or operator to another or from one premises to another.

(Code 1960, § 11.08(8))

Secs. 10-70--10-95. Reserved.

Article III. Pool Halls And Billiard Halls

Division 1. Generally

Sec. 10-96. Definitions.

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

Operator means any owner, lessee, manager, or employee of an amusement center who manages or operates an amusement center or business at which one coin-operated pool table or more or one billiard table or more is available.

Owner means the person who owns a pool or billiard hall or who owns a business at which one or more pool or billiard tables are operable.

Pool hall or billiard hall means any business which has on its premises four or more pool tables or billiard tables available for use by the public and which is not licensed by the village with a class B fermented malt beverages or intoxicating liquors license.

Pool table or billiard table means a table purchased for the purpose of playing games of pool and billiards.

(Code 1960, § 11.09(2))

Cross references: Definitions generally, § 1-2.

Sec. 10-97. Findings.

For the purpose of this article, the village board finds that:

- (1) The operation of pool halls and billiard halls has caused a high concentration of persons in and around such halls resulting in a requirement for additional law enforcement attention.
- (2) The operation of pool halls and billiard halls has resulted in a high concentration of youthful persons in a situation which is conducive to the presence and growth of unlawful activities such as gambling.
- (3) Strict regulation and supervision of pool halls and billiard halls is necessary to protect the health, welfare and safety of the public in the conduct of their affairs in and around such halls.

(Code 1960, § 11.09(1))

Sec. 10-98. Penalty.

Upon conviction, any person found to be in violation of this article shall forfeit not less than \$50.00 or more than \$750.00.

(Code 1960, § 11.09(16))

Sec. 10-99. Supervision.

An adult employee responsible for management or operation of the pool hall or billiard hall shall be present on the premises of every business holding a license at all times during which the hall is open for business.

(Code 1960, § 11.09(7))

Sec. 10-100. Restrictions on underage persons.

No person under the age of 18 years shall be permitted to play on any pool or billiard table kept for gain or to loaf or loiter in or about such place, without the consent of a parent or guardian.

(Code 1960, § 11.09(12)(A))

Sec. 10-101. Hours of operation.

No owner or operator of any place where any pool or billiard table is kept for gain shall remain open for business between the hours of 1:00 a.m. and 8:00 a.m. weekdays and Saturdays or shall open before 9:00 a.m. on Sundays.

(Code 1960, § 11.09(12)(B))

Sec. 10-102. Entrance unlocked during business hours; inspections.

The entrance to any pool hall or billiard hall licensed under division 2 of this article shall not be locked during any time the hall is open for business. Each licensee of a hall agrees that law enforcement officers and village employees charged with law enforcement or inspection functions may enter the licensed premises at any time during normal business hours for the purpose of inspecting the premises and enforcing the laws and ordinances relating to the operation thereof.

(Code 1960, § 11.09(12)(C))

Sec. 10-103. Lighting.

At all times that a pool hall or billiard hall licensed under division 2 of this article is open for business, lighting shall be provided throughout the pool hall and billiard hall in the amount of not less than 50 footcandles, measured at the playing surface level of each table.

(Code 1960, § 11.09(12)(D))

Sec. 10-104. Excessive noise.

No operator or owner of a pool hall or billiard hall licensed under division 2 of this article shall permit the level of sound resulting from the operation of such hall to exceed the limitations set forth in subsection 42-30(9). (Code 1960, § 11.09(13))

Sec. 10-105. Gambling.

Under this article, no owner or operator shall permit any person to use a pool table or billiard table for gambling or for playing a game of chance.

(Code 1960, § 11.09(14))

Secs. 10-106--10-130. Reserved.

Division 2. License

Sec. 10-131. Required.

(a) No owner or operator shall operate or cause to be operated a pool hall or billiard hall without first obtaining a license.

(b) No owner or operator shall install or allow to be installed in any place of business a pool table or billiard table for which a license has not been issued.

(Code 1960, § 11.09(3), (5))

Sec. 10-132. Application.

An application for a pool hall and billiard hall license shall be made at the office of the village clerk and shall contain the following information:

- (1) The name of the applicant; if a partnership, the names of all partners; if a corporation, club or association, the names of all officers.
- (2) The residence of the applicant.
- (3) The age of the applicant.
- (4) If a corporation, club or association, the state of incorporation.
- (5) The type of business or activity.
- (6) The place where the tables are to be played, the number of tables, and the names of owners of the tables. If the number of tables is increased during the license period, the village clerk is to be so informed.
- (7) A description of the types of tables.

(Code 1960, § 11.09(4))

Sec. 10-133. Fee.

(a) Upon application for any license required under this division, the applicant shall pay to the village the fee stated in the fee schedule on file in the clerk's office. Fees shall be charged for the following licenses:

- (1) Each pool hall and billiard hall license.
- (2) Each pool table and billiard table.

(b) The cost of a pool hall and billiard hall license applied for after December 31 and the cost of the table license applied for after December 31 shall be the fee stated in the fee schedule on file in the clerk's office.

(Code 1960, § 11.09(9))

Sec. 10-134. Location restrictions.

No pool hall or billiard hall license shall be granted for any place of business located within 300 feet of any church building, school building, hospital building or nursing home building, unless a license granted under this division was in effect prior to the occupation of real property within 300 feet thereof by such institution or facility, or if the premises for which a license is requested was licensed with a class "B" fermented malt beverages license or a "class B" intoxicating liquors license on June 30, 1947. The distance shall be measured along the shortest route by a sidewalk or street from the main entrance of the proposed licensed premises to the main entrance of such institution or facility.

(Code 1960, § 11.09(11))

Sec. 10-135. Issuance, denial, revocation.

(a) The administration committee of the village board may grant a license for which application is made under this division. If the committee recommends denial of a license, the matter shall be referred to the village board for final action.

(b) The village board may revoke or refuse to renew any license issued under this division when the operator or owner licensed has been convicted of a violation of this article or any other section of this Code or state statutes with regard to the premises located under this division or with regard to offenses relating to the licensed premises and involving controlled substances, alcohol, or any offense substantially relating to the conduct of the business licensed under this division. The administration committee of the village board shall hold a hearing on such revocation or refusal to renew, shall provide notice to the licensee setting forth the time and place of hearing and the reasons which form the basis for such revocation of or refusal to renew the license. The licensee shall have the right to appear at the hearing in person or by counsel and shall have the right to examine and cross examine witnesses and call witnesses. All testimony at such hearing shall be taken under oath. The committee shall forward to the village board its recommendation to grant, deny, or revoke such license, together with the grounds therefor.

(Code 1960, § 11.09(15))

Sec. 10-136. Term.

Any license granted under this division shall expire on June 30 following the issuance.

(Code 1960, § 11.09(10))

Sec. 10-137. Display.

The pool hall and billiard hall licenses issued under this division shall be displayed in a conspicuous place open to public view in the premises for which the licenses are granted.
(Code 1960, § 11.09(6))

Sec. 10-138. Transferability.

No license granted under this division shall be transferred or assigned from one owner or operator to another or from one premises to another.
(Code 1960, § 11.09(8))

Secs. 10-139--10-165. Reserved.**Article IV. Bowling Alleys****Division 1. Generally****Secs. 10-166--10-190. Reserved.****Division 2. License****Sec. 10-191. Required.**

(a) No person shall operate a bowling alley in the village without first obtaining a license from the clerk.

(b) Anyone who shall operate a bowling alley without first obtaining a license shall, upon conviction, be subject to the penalty in section 1-11.
(Code 1960, § 11.09-5(1))

Sec. 10-192. Application.

Any person desiring to operate a bowling alley shall file an application for a license with the village clerk, specifying in such application the exact number of alleys to be operated. The application shall be accompanied by the license fee set forth in the fee schedule on file in the clerk's office.
(Code 1960, § 11.09-5(2))

Sec. 10-193. Issuance; term.

The village clerk shall issue a bowling alley license, specifying on the license the number of alleys so licensed. The license shall continue and shall be operative until July 1 following issuance of the license, unless sooner revoked.
(Code 1960, § 11.09-5(2))

Secs. 10-194--10-220. Reserved.

Article V. Dancehalls

Division 1. Generally

Sec. 10-221. Title.

This article shall be known and cited as the "Village of Union Grove Dance Hall Ordinance."
(Code 1960, § 11.11(A))

Sec. 10-222. Definitions.

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

Dancehall means any room or place or space at which a public dance may be held or any hall or academy in which classes in dancing are held and instruction in dancing is given, and shall include pavilions and amusement parks. However, this shall not include halls or academies where bona fide instruction in dancing is given to children 17 years of age or under. The fact that the room or place or space is not used exclusively for dancing, but merely as an incidental activity in connection with the operation of some other business, shall not exclude the room or place or space from the definition of the term "public dancehall."

Person means and includes natural persons, corporations, partnerships, associations, joint stock companies, societies and all other entities of any kind capable of being used.

Public dance means any dance to which admission can be had by the public generally with or without the payment of a fee; with or without the purchase, possession or presentation of a ticket or token; or any other dance operated by club membership, season ticket or invitation; or any other dance open or offered to the public generally, regardless of whether the music is furnished by an orchestra, phonograph, radio, jukebox or any other device and regardless of whether such dance is the exclusive or principal activity provided or whether such dance is an incidental activity permitted by a person in connection with his operation or some other commercial activity.
(Code 1960, § 11.11(B))

Cross references: Definitions generally, § 1-2.

Sec. 10-223. Penalties.

(a) Any person violating this article shall upon conviction be subject to the penalties provided in section 1-11.

(b) In addition to any other penalties provided in this section or in lieu thereof, the village board may suspend or revoke the license of any dancehall proprietor or manager if any of the sections of this article are violated.
(Code 1960, § 11.11(K))

Sec. 10-224. Unlawful conduct.

It shall be unlawful for any person conducting a public dance or operating a dancehall or any manager or agent of such person to permit:

- (1) During any public dance in such hall, the use of intoxicating liquor or fermented malt beverages in violation of the law.
- (2) The presence of any intoxicated person or person under the influence of intoxicating liquors or drugs in such dancehall or on the premises in which the dancehall is located.
- (3) The presence of any minor 17 years of age or under in such dancehall who is not accompanied by his parent or lawful guardian.
- (4) Persons to indulge in dance that is obscene and offensive to public morals and decency.
- (5) Indecent, boisterous or disorderly conduct or the use of profane language on the dance floor.
- (6) Any public dance or live music beyond the hour of 1:00 a.m. or before the hour of 9:00 a.m.

(Code 1960, § 11.11(I)(2))

Sec. 10-225. Attendance of minors; endurance contests; taxi dancing.

(a) Nothing in this article shall be construed to prevent the attendance of children 17 years of age or under at a public dancehall when public dances are not being held.

(b) It shall be unlawful for any person, licensee, proprietor or manager of any dancehall to advertise, operate, maintain, promote or aid in the advertising, operating, promoting or maintaining of any mental or physical endurance contest in the nature of a marathon dance or any other like endurance contest, whether under that name or a similar name.

(c) It shall be unlawful for any person, licensee, proprietor or manager of any dancehall to conduct a public dance or public ball in the manner or form commonly known as a taxi dance, and no license shall be issued for any public dance to be conducted in the form or manner commonly known as a taxi dance.

(d) This section shall not apply to a dance conducted by any church, grade school, high school or college or other recognized educational institution located in the village which is intended primarily to be attended by students of such schools or of similar schools, or to dances conducted by any 4-H club, parent-teacher or similar organization, or any fraternal society when conducted in conformity with the rules of such society.

(Code 1960, § 11.11(J))

Secs. 10-226--10-250. Reserved.

Division 2. License

Sec. 10-251. Required.

It shall be unlawful for any person to permit or allow any room, space, place or building owned, leased, managed, supervised or controlled by him to be used for the purpose of a public dancehall unless such shall have been licensed under this division, regardless of the type of music employed and regardless of whether such dancing is incidental to the operation of another commercial activity.

(Code 1960, § 11.11(C))

Sec. 10-252. Application.

The application for the license required under this division shall be filed with the village clerk for presentation to the village board at any regular meeting or special meeting called for the purpose thereof. Such application shall contain the following:

- (1) The name, age, residence and occupation of the applicant, if an individual; or the names of the principal officers, their residences and their ages if the applicant is an association or corporation. It shall also contain the name of one or more persons whom such firm, partnership or association shall designate as manager or person in charge, with his address.
- (2) The length of time such applicant, if an individual, or the manager or person in charge, if the applicant is a firm, partnership, corporation or association, has resided in the village; his places of previous employment; whether he has been convicted of violating any law or ordinance regulating the conduct of public dancehalls or public dances, and if so, when and in what court.
- (3) The premises where such public dancehall is to be located or conducted, as well as the location of the room to be occupied for the purpose of conducting such dance, and the total amount of floor space to be used for dancing purposes.
- (4) Whether the applicant or manager has, either alone or with someone else, previously engaged as owner, lessee or employee in conducting a public dancehall, when, where and for how long.
- (5) The name and address of the person owning the premises for which the license is sought.
- (6) Whether a hotel, roominghouse, lodginghouse, restaurant or tavern is conducted in any part of the premises for which the license is sought.

(Code 1960, § 11.11(D))

Sec. 10-253. Classification.

Nontransferable licenses for public dances shall be issued for the following classifications:

- (1) *Class A license.* A class A license is required for the premises in which a public dance is held where a charge is made for admission or where admission is by means of the purchase, possession or presentation of a ticket or token or where the dance is advertised as such and where an orchestra is employed to furnish dance music.
- (2) *Class B license.* A class B license is required for the premises in which a public dance is held and where no charge is made for admission or where admission is not by means of the purchase, possession or presentation of a ticket or token and where an orchestra is employed to furnish the dance music.
- (3) *Class C license.* A class C license is required when dancing is incidental to such other business conducted in the premises used for dancing and where no charge, either directly or indirectly, is made for admission and no orchestra is or musicians are employed to furnish the music for such dancing.
- (4) *Special permit license.* A special permit license may be granted to hold not more than two public dances annually in any structure or premises not licensed under subsection (1), (2) or (3) of this section, and such special permit license shall be valid only within a specified 24-hour period.

(Code 1960, § 11.11(F))

Sec. 10-254. Fees.

Under this division, the license fees for class A licenses, class B licenses, class C licenses and special permit licenses shall be as provided in the fee schedule on file in the clerk's office.
(Code 1960, § 11.11(G))

Sec. 10-255. Issuance criteria and procedures.

(a) Every application for a dancehall license shall be accompanied by the appropriate license fee. If such license is denied, the fee shall be returned to the applicant.

(b) The village clerk shall submit the application to the village board for its consideration. The village board may schedule a public hearing on the application. However, before the denial of any renewal application, the village board shall grant the applicant a hearing. If the village board is satisfied that the requirements of this article have been met and if it is determined that the issuance of a license is not contrary to the public health, safety and welfare, the village board may grant a license to the applicant.

(c) All licenses shall be numbered in the order of their date of issuance and shall state clearly the name of the licensee, the location of the public dancehall, the date of issuance and expiration and the amount of the fee paid.

(d) Each license issued under this division, except a special permit license, shall expire on June 30 of each year, and any license issued shall be posted in a conspicuous place within the hall in which the dance is to be held.
(Code 1960, § 11.11(H))

Sec. 10-256. Denial.

No dancehall license shall be issued:

- (1) Unless the village board finds that the proposed public dancehall complies with and conforms to all ordinances, laws and regulations governing public buildings and health and fire regulations applicable thereto, and that it is a safe and proper place for such proposed use.
- (2) Unless the village board finds that the applicant, manager or person in charge is capable of maintaining the public peace and good order at a public dance. In determining whether or not the applicant is capable of meeting the required standard, the village board shall consider the records of law enforcement agencies or of any courts that touch upon the applicant's operation of a dancehall in the preceding license year.
- (3) Unless adequate modern toilet facilities are provided within the building where the public dance is to be held, an adequate supply of drinking water is available, the premises are properly lighted and ventilated, and all parts of the premises are safe and sanitary.
- (4) To any applicant who has been convicted within five years of the date of the application of a second offense against any of the sections of this article or any similar ordinance of any other municipality.
- (5) To any applicant for whom a license has been refused or has been suspended or revoked until at least six months shall have elapsed from the date of refusal, suspension or revocation, unless he can show that the reason for such refusal, revocation or suspension no longer exists.
- (6) To a person under 18 years of age.
- (7) To any person who knowingly makes any false statement in his application for a dancehall license.

(Code 1960, § 11.11(E))

Sec. 10-257. Posting.

It shall be unlawful for any person to post a license issued under this division on premises other than those described in the application.

(Code 1960, § 11.11(l)(1))

Chapters 11 - 13
Reserved

Chapter 14 ANIMALS AND FOWL*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 14-1.	Violation, penalty.		
Sec. 14-2.	Removal of fecal material.		
Secs. 14-3--14-25.	Reserved.		
Article II. Dogs and Cats			
Division 1. Generally			
Sec. 14-26.	Definitions.	2011-08	7/25/2011
Sec. 14-27.	State statutes adopted.		
Sec. 14-28.	Number limited.		
Sec. 14-29.	Running at large.	2011-08	7/25/2011
Sec. 14-30.	Unlawful acts.		
Sec. 14-31.	Harboring vicious or barking dogs.	2011-08	7/25/2011
Sec. 14-32.	Removal of barking dogs.		
Sec. 14-33.	Impoundment.		
Sec. 14-34.	Dog pens.		
Secs. 14-35--14-60.	Reserved.		
Division 2. License			
Sec. 14-61.	Required.	2021-09	10/25/21
Sec. 14-62.	Fees.	2021-09	10/25/21
Sec. 14-63.	Exemption of dogs for blind, deaf and mobility-impaired persons.		
Sec. 14-64.	Tags.		
Secs. 14-65--14-90	Reserved.	2012-05	08/27/12
Article III. Reserved			
Sec. 14-91—14-125.	Reserved	2012-05	2012-05

***Cross references:** Environment, ch. 42; health and sanitation; horses on public property, § 102-6.

Article IV. Kennels

Division 1. Generally

Sec. 14-126.	Kennel tags.
Sec. 14-127.	Location restrictions.
Sec. 14-128.	Size and distance requirements; sanitation.
Sec. 14-129.	Minimum standards.
Secs. 14-130--14-155.	Reserved.

Division 2. License

Sec. 14-156.	State statutes adopted.		
Sec. 14-157.	Application.	2021-09	10/25/2021
Sec. 14-158.	Fee.	2021-09	10/25/2021
Sec. 14-159.	Inspection.	2021-10	12/13/2021
Sec. 14-160.	Revocation.		
Secs. 14-161--14-185.	Reserved.		

Article V. Pet Fanciers

Division 1. Generally

Secs. 14-186--14-210. Reserved.

Division 2. License

Sec. 14-211.	Application; fee.	2021-09	10/25/2021
Sec. 14-212.	Purpose; revocation or suspension.		
Sec. 14-213.	Term.		

Article VI. Prohibited and Protected Animals, Fowl, Reptiles, and Insects

Sec. 14-214.	Wild and exotic animals prohibited.		
Sec. 14-215.	Poultry and livestock prohibited.	2022-05	07/25/2022
Sec. 14-216.	Endangered species protected and prohibited.		
Sec. 14-217.	Food and drink.		
Sec. 14-218.	Shelter.		
Sec. 14-219.	Keeping of chickens in single-family residence districts.	2022-05	07/25/2022

Article I. In General

Sec. 14-1. Violation, penalty.

Any person who violates any of the sections of this chapter shall, upon conviction, forfeit not less than \$50.00 or more than \$500.00, together with the costs of prosecution, other costs associated with and incidental to the violation, and, in default of payment thereof and where no showing of indigence is made, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not to exceed 90 days. Each violation and each day a violation continues or occurs shall constitute a separate offense.

(Ord. of 2-24-97, § 1(11.04(14)); Amd. of 6-24-02(1), § 1)

Sec. 14-2. Removal of fecal material.

It shall be unlawful for the owner of any animal to permit fecal matter deposited by the animal while off of its own premises to remain on any street, alley, sidewalk, lawn, field or any private or public property. It shall be solely the responsibility of the owner of the animal to immediately remove after deposit all fecal matter by shovel, scoop, or like instrument and deposit the fecal matter in a manner approved by state or other local regulations.

(Ord. of 2-24-97, § 1(11.04(10)(B)))

Cross references: Solid waste, ch. 86; utilities, ch. 106.

Secs. 14-3--14-25. Reserved.

Article II. Dogs And Cats*

Division 1. Generally

Sec. 14-26. Definitions.

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

Animal includes a cat and dog.

At large means the presence of a Dog or Cat any place in the Village except on the premises of the owner or the premises of another with the consent of the owner or occupant. A Dog or Cat shall not be considered to be running at large if it is on a leash and under the control of a person physically able to control it.

Cat means all domesticated members of the feline family, male or female.

Control of means that the Animal is:

- (1) Attached to a leash of sufficient strength and prudent length and is held by a person competent to control the Animal.
- (2) Properly restrained within a motor vehicle or trailer.

- (3) Not more than six feet from its owner or agent, provided that the Animal is not annoying, worrying any person, or trespassing on private property.

Dog means all domesticated members of the canine family, male or female.

Kennel means any establishment where Dogs or Cats are kept for breeding, sale, boarding or for any commercial purpose.

Officer means a peace officer, local health officer, as defined in Wis. Stats. §251.01, humane officer, warden, an employee designated by the county or other person designated by the Village.

Owner means any person owning, harboring, keeping, or having charge or control of or permitting any Animal to habitually be or remain on or be lodged at or fed within such person's house, yard, or premises for more than seven days.

Residential Lot means a parcel of land zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted and under common ownership. For the purpose of this definition, any vacant parcel adjoining a dwelling and under the same ownership shall constitute one lot.

Restricted Area is defined according to the Village.

Unlicensed Dog or Cat means any Dog or Cat not licensed in accordance in Wis. Stats. Ch. 174. and/or applicable ordinance.

Vicious means an Animal that:

- a. When unprovoked, bites or injures a human being or a pet twice within a 24 month period.
- b. When unprovoked, attacks a human being or a pet three times within a 24 month period. *Attack* for purposes of this definition shall mean to confront in an aggressive and hostile manner such that a reasonable person would believe that there is an imminent threat of bite or injury to the human being or pet so confronted.
- c. When unprovoked, bites a human being or pet once and attacks a human being or pet twice within a 24 month period.

Sec. 14-27. State statutes adopted.

Wis. Stats. ch. 174, together with all amendments and changes thereto, is adopted by reference and made part of this article so far as applicable.
(Ord. of 2-24-97, § 1(11.04)))

Sec. 14-28. Number limited.

(a) The keeping of an unlimited number of dogs and cats in a residential district is detrimental to the healthful and comfortable life for which such areas were created. The keeping of an unlimited number of dogs and cats is, therefore, declared to be a public nuisance.

(b) No individual or family unit living together, firm or corporation shall keep more than two dogs or cats or combination thereof in or upon one residential unit. However, a litter of pups or kittens or a portion of a litter may be kept for a period of time not exceeding five months from birth, unless the premises is licensed as a kennel or unless a resident has obtained a pet fancier's license.

(Ord. of 2-24-97, § 1(11.04(2)))

Sec. 14-29. Running at large.

(a) It is unlawful for any person owning or possessing any Animal to permit the Animal to run At Large.

(b) No Dog or Cat shall be allowed in a public park, public playground or cemetery within the Village at anytime throughout the year.

Sec. 14-30. Unlawful acts.

It is unlawful for any person owning or possessing a dog or cat to permit such dog or cat to go unleashed upon any sidewalk, parkway or private lands, or premises without the permission of the owner of such premises and break, bruise, tear up, crush, injure, or defecate or urinate on any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever.

(Ord. of 2-24-97, § 1(11.04(10)(A)))

Sec. 14-31. Harboring vicious or barking dogs.

(a) No person shall knowingly keep or harbor any Vicious Animal. Any Animal found off the premises of its owner may be seized by any police officer or humane officer and, upon establishment to the satisfaction of any court of competent jurisdiction of the Vicious character of such Animal may be destroyed by a police officer or humane officer.

(b) Vicious Animals shall not be kept in the Village. Upon finding that an animal is Vicious, its owner shall be required within (10) days to remove the animal from the Village, or have it humanely destroyed. The owner must provide written documentation of the Vicious Animal's re-location including address, owner's name and telephone number or documentation from a licensed veterinarian verifying that the Animal was humanely destroyed.

(c) It is unlawful for any person knowingly to keep any Animal that frequently or habitually cries, barks, yelps or howls.

Sec. 14-32. Removal of barking dogs.

Whenever it is found, upon the duly written or oral complaint of at least two adult citizens not from the same family which has been filed with the sheriff's department, that any dog habitually barks, howls, yelps and disturbs the peace, such dog shall be removed from the village by the owner within 72 hours after service of a written notice by the sheriff's department. Upon failure to remove such dog, each day subsequent thereto shall be deemed a separate offense, and the owner of such dog shall be subject to the penalties provided in section 14-1.

(Ord. of 2-24-97, § 1(11.04(4)))

Sec. 14-33. Impoundment.

(a) For the purposes of this section, Wis. Stats. § 174.046 is adopted by reference.

(b) Whenever any deputy or other person designated by the sheriff finds any dog or cat running at large, as defined in section 14-29, he shall if possible pick up and impound such animal. Whenever any impounded dog or cat bears an identification mark such as a collar or license tag, due diligence shall be used to notify the designated owner. If the animal's owner is unknown or cannot be ascertained, the animal shall be transported to the Countryside Humane Society.

(c) The owner of a dog or cat may reclaim the dog or cat upon payment at the pound of a transportation pickup fee, impoundment fee, and a boarding fee for each day or fraction of a day that the animal is impounded. Fees charged will be those in effect as listed in the contract between the Countryside Humane Society and the village.

(Ord. of 2-24-97, § 1(11.04(5)))

Sec. 14-34. Dog pens.

Every pen or other structure wherein any dog is kept shall be constructed so as to be easily cleaned and kept in good repair. See also section 14-129.

(Ord. of 2-24-97, § 1(11.04(6)))

Secs. 14-35--14-60. Reserved.

Division 2. License

Sec. 14-61. Required.

Every owner of a dog or cat more than five months of age on January 1 of any year or five months of age within the license year shall annually, or within 30 days from the date such dog or cat becomes five months of age, pay his dog or cat license tax and obtain a license therefor from the village clerk at the village hall. The license shall be from January 1 through December 31. No such license shall be issued without proof of compliance with article III of this chapter.

(Ord. of 2-24-97, § 1(11.04(7)(A)))

Sec. 14-62. Fees.

(a) The license fee for a dog or cat shall be as provided in the schedule of fees in the clerk's office. Fees shall be charged for the following:

- (1) Neutered male dog or cat.
- (2) Unneutered male dog or cat.
- (3) Spayed female dog or cat.
- (4) Unspayed female dog or cat.

(b) The clerk shall charge a late fee per animal pursuant to the schedule of fees on file in the clerk's office, in addition to the regular fees as permitted by Wis. Stats. § 174.05(5) if the license is not purchased by April 1 or if not purchased within 30 days of acquiring ownership of the animal.

(Ord. of 2-24-97, § 1(11.04(7)(A)))

Sec. 14-63. Exemption of dogs for blind, deaf and mobility-impaired persons.

Every dog specially trained to lead blind or deaf persons or to provide support for mobility-impaired persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the local collecting officer upon application.

(Ord. of 2-24-97, § 1(11.04(7)(C)))

Sec. 14-64. Tags.

The owner shall securely attach the license and rabies vaccination tags to a collar, and a collar with the tags attached shall be kept on the dog for which the license is issued. This does not apply to show dogs during competition or training or to a dog while actively involved in herding or controlling livestock if the dog is under the control of its owner. A dog is considered to be untagged if a valid license tag is not attached to a collar which is kept on the dog.

(Ord. of 2-24-97, § 1(11.04(7)(D)))

Secs. 14-65--14-90. Reserved.

Article III. Reserved

Secs. 14-91--14-125. Reserved.

Article IV. Kennels*

Division 1. Generally

Sec. 14-126. Kennel tags.

Kennel license tags shall be distinguishable from individual license tags for the same year. The owner or keeper of the kennel shall keep at all times a kennel tag attached to each dog over five months old, but this does not apply to a dog during competition or training. These

tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. No dog bearing a kennel tag shall be permitted to stray or shall be taken anywhere outside the limits of the kennel unless the dog is on a leash or temporarily out for the purposes of hunting, breeding, trial, training or competition.
(Ord. of 2-24-97, § 1(11.04(12)(D)))

Sec. 14-127. Location restrictions.

In areas where kennels are permitted, no kennel shall be located closer than the number of feet determined by the village to the boundary of the nearest adjacent residential lot.
(Ord. of 2-24-97, § 1(11.04(12)(C)))

Sec. 14-128. Size and distance requirements; sanitation.

(a) The number of acres, the number of feet from the lot line, etc., for a kennel shall be determined by the village.

***Cross references:** Businesses, ch. 22.

(b) Every dog kennel shall be operated and maintained in a clean and sanitary condition so as not to endanger the health, comfort, safety and welfare of the public.

(Ord. of 2-24-97, § 1(11.04(12)(F)(1)))

Sec. 14-129. Minimum standards.

(a) *Indoor standards.* The minimum indoor standards for a kennel shall be as follows:

- (1) Ambient temperatures shall be compatible with the health of the animals.
- (2) Adequate ventilation by natural or mechanical means shall be provided for the health of the animals at all times.
- (3) If animals are caged indoors, the cage space must give an animal adequate freedom of movement, no less than 24 square feet of space (four feet by six feet or a three-foot by eight-foot pen) per animal.

(b) *Outdoor standards.* Minimum outdoor standards for a kennel shall be as follows:

- (1) Accessible shelter from inclement weather must be provided as follows:
 - a. The floor shall rest on a raised base four inches in height.
 - b. The height of the house shall be at least four inches above the height of the occupant dog.

- c. The length and width of the house shall be of such dimension that the occupant dog can lie flat on its side on the floor.
 - d. The house shall have a tight board floor.
 - e. The roof and sides of the house shall be so constructed as to be waterproof and windproof, allowing retention of body heat.
 - f. A baffle shall be placed over the door that will protect the dog from direct exposure to elements of weather.
 - g. The whole floor shall be bedded with hay or straw to a thickness of at least six inches.
- (2) The confinement area shall be reasonably dry, without standing water or mud, and shall be kept clean and free of feces, debris and trash.
 - (3) The housing facilities and fencing shall be structurally sound and maintained in good repair to contain the animal and protect the animal from injury.
 - (4) Outside access to water must be available to the kennel.
- (c) *General standards.* General standards for a kennel shall be as follows:
- (1) Fresh water must be provided in clean, durable, accessible receptacles.
 - (2) Animals shall be equal to the number of tags issued for the kennel license.
 - (3) Food provided must be free of contamination and shall be wholesome, palatable and of sufficient quality and nutritive value required for that animal in accessible, durable, clean receptacles.
 - (4) Records of all animal vaccinations, the conditional use permit and the animals' licenses must be readily available upon request.
 - (5) Kennel owners shall keep at all times a kennel license tag attached to the collar of each dog over five months of age.

(Ord. of 2-24-97, § 1(11.04(13)))

Secs. 14-130--14-155. Reserved.

Division 2. License

Sec. 14-156. State statutes adopted.

For the purpose of this division, Wis. Stats. § 174.053, which sets forth the requirements for kennel licenses, is adopted by reference. (Ord. of 2-24-97, § 1(11.04(12)(B)))

Sec. 14-157. Application.

(a) No person shall be allowed to operate a kennel within the village without first obtaining an application for a kennel license from the clerk. The application is a separate form. A copy will remain with the village.

(b) Any person who keeps or operates a kennel may, in lieu of the license fee for each dog or cat or combination thereof required by this article, apply to the village clerk for a kennel license for the keeping or operating of such kennel.

(Ord. of 2-24-97, 1(11.04(12)(A), (C)))

Sec. 14-158. Fee.

The license fee for a kennel for the license year shall be as provided in the schedule of fees on file in the clerk's office, upon recommendation of the plan commission and approval of the village board.

(Ord. of 2-24-97, § 1(11.04(12)(B)))

Sec. 14-159. Inspection.

Prior to the issuance of a kennel license and periodically thereafter, an officer designated by the village shall inspect the premises upon which the kennel is proposed or is in operation and shall report to the village board any condition upon or pertaining to the premises upon which a kennel is situated that might be detrimental or inhumane to the dogs to be kept or that constitutes a hazard with respect to health and sanitation.

Sec. 14-160. Revocation.

The village board may at any time revoke any license issued for a dog kennel if it is determined that this article has been violated. No license may be revoked until after a hearing is held before the village board upon at least ten days' notice.

(Ord. of 2-24-97, § 1(11.04(12)(F)(4)))

Secs. 14-161--14-185. Reserved.**Article V. Pet Fanciers*****Division 1. Generally****Secs. 14-186--14-210. Reserved.****Division 2. License****Sec. 14-211. Application; fee.**

Any person desiring to keep or maintain any combination of pets in excess of the number provided by article II of this chapter may apply for a pet fancier's license, for no more than four pets. Upon receipt of the application on the form provided by the village and upon

payment of an annual fee, the village clerk shall issue to the applicant a pet fancier's license. The fee for a pet fancier's license is set forth in the schedule of fees on file in the village-clerk's office and shall be in addition to the regular license for each pet.

(Ord. of 2-24-97, § 1(11.04(11)(A)))

***Cross references:** Businesses, ch. 22.

Sec. 14-212. Purpose; revocation or suspension.

(a) The purpose of a pet fancier's license is to ensure that, when pets are kept in numbers in excess of the number allowed by section 14-28, the pets are kept in a manner that is clean, healthful, and inoffensive to abutting property owners. A licensee who fails to so keep his pets shall be subject to revocation or nonrenewal of the pet fancier's license.

(b) When the village has reason to believe a licensee is not keeping pets in a clean, healthful, or inoffensive manner, it may initiate an investigation and hold a hearing to determine whether the license should be revoked or not renewed. The license holder shall be given notice of the hearing by certified mail not less than ten days prior to the hearing and shall have the right to present evidence at the hearing why the license should not be subject to revocation or nonrenewal.

(Ord. of 2-24-97, § 1(11.04(11)(B)))

Sec. 14-213. Term.

Pet fancier's licenses shall be valid for a period of one year, from January 1 to December 31.

(Ord. of 2-24-97, § 1(11.04(11)(C)))

Article VI. Prohibited And Protected Animals, Fowl, Reptiles, And Insects

Sec. 14-214. Wild and exotic animals prohibited.

(a) No person shall keep, maintain, or have in such person's possession or under such person's control any poisonous reptile, dangerous or wild animal or insect including, but not limited to, poisonous insects and arachnids, all poisonous snakes, constrictor snakes, non-human primates, bears, crocodiles, alligators, coyotes, elephants, gamecocks, and other fighting birds, hippopotami, hyenas, jaguars, leopards, lions, lynx, pumas, cougars, mountain lions, panthers, ocelots, tigers or other wild feline species, wolves, or hybrid wolf/dogs.

(b) Exceptions. These prohibitions do not include captive-bred species of caged birds, rodents, turtles, fish, and non-poisonous, non-constricting snakes unless protected under section 14-216.

(c) Prohibitions. The prohibitions set forth in subsection (a) shall not apply to

licensed pet shops; zoological gardens; public or private educational institutions; circuses and professional animal acts; provided that:

- (1) The aforementioned have obtained the necessary licenses, permits, and permissions required.
- (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
- (3) Animals are maintained in quarters so constructed as to prevent their escape.

(d) Enforcement. Any person(s) or other entities violating this section may be subject to a penalty as provided for in section 14-1 of this Code.

(Amd. of 6-24-02(2), § 1)

Sec. 14-215. Poultry and livestock prohibited.

(a) Other than hens permitted under Sec. 14-219, no person shall keep or maintain in any zoning district any poultry, pigeons or fowl, or any animal raised for fur bearing purposes, or any livestock, including, but not limited to horses, cattle, sheep, goats, pigs or swine, whether or not such animal is domesticated, tamed, or a pet.

(b) Any person keeping or maintaining such poultry, pigeons, fowl, animal or livestock contrary to this subsection as of May 31, 2002, may continue to keep or maintain such as a nonconforming use upon receipt of a permit from the village hall in accordance to rules established under article II of section 14 as long as a public nuisance is not created. Such permit shall be issued for a term of one year. No permit or renewal shall be issued after May 31, 2003.

(c) Prohibitions. The prohibitions of this section shall apply as in subsection 14-214(b).

(d) Exceptions. The exceptions to this section shall apply as in subsection 14-214(c).

(e) Enforcement. Any person(s) or other entities violating this section may be subject to a penalty as provided for in section 14-1 of this Code.

(Amd. of 6-24-02(2), § 1)

Sec. 14-216. Endangered species protected and prohibited.

(a) It shall be unlawful for any person or other entity to buy, sell, or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).

(b) Enforcement. Any person(s) or other entities violating this section may be subject to a penalty as provided for in section 14-1 of this Code.

(Amd. of 6-24-02(2), § 1)

Sec. 14-217. Food and drink.

(a) No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this section.

(b) The food shall be sufficient to maintain all animals in good health.

(c) If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

State law references: Sec. 948.13, Wis. Stats.

(d) Enforcement: any person(s) or other entities violating this section may be subject to a penalty as provided for in section 14-1 of this Code.

(Amd. of 6-24-02(2), § 1)

Sec. 14-218. Shelter.

(a) No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section.

(b) Minimum indoor standards of shelter shall include ambient temperature compatible with the health of the animal and shall be adequately ventilated by natural or mechanical means to provide for the health of the animal.

(c) Minimum outdoor standards of shelter shall include shelter from sunlight when such is likely to cause heat exhaustion or other ill effects. Natural or artificial shelter appropriate to the local climatic conditions for the species shall be provided as necessary for the health of the animal.

(d) Minimum indoor and outdoor standards for enclosures shall be constructed and maintained so as to provide sufficient space to allow adequate freedom of movement for the health of the animal.

(e) Minimum sanitation standards for both indoor and outdoor enclosures shall include daily cleaning to remove excreta and other waste materials, dirt, and trash so as to minimize health hazards.

(f) No person may intentionally abandon any animal.

(g) Enforcement. Any person(s) or other entities violating this section may be subject to a penalty as provided for in section 14-1 of this Code.

(Amd. of 6-24-02(2), § 1)

Sec. 14-219. Keeping of chickens in single-family residence districts.

(a) Keeping of hens. The keeping of hens is allowed by permit under this Section in single-family residence districts, as defined in the Village zoning code, provided the parcel contains an occupied single-family dwelling and provided such hens are kept in compliance with this Section. This ordinance is adopted under the Village's police power for the health, safety and welfare of its residence and for the protection of property.

(b) Definitions.

- (1) Chicken. "Chicken," in this Section, means both hens and roosters generally.
- (2) Hen. "Hen," in this Section, means a female chicken.
- (3) Rooster. "Rooster," in this Section, means a male chicken.

(c) Prohibitions.

- (1) Roosters Not Allowed. Roosters may not be kept on any property within the Village.
- (2) Bird Fighting. The raising or keeping of chickens for fighting purposes, and the instigation of chicken fighting, is prohibited, as per § 951.08, Wis. Stats.
- (3) Business Or Commercial Use Prohibited. Nothing herein shall be interpreted to authorize the conduct of a business or commercial use on a residential property. No sales of eggs, chicks, chickens, or chicken meat shall be made from any residential property. The meat from any chickens slaughtered on the property may only be consumed by residents of the property and their non-commercial invitees.

(d) Requirements.

- (1) Where allowed. Hens may be allowed only in Single-Family Residence Districts and only on parcels that contain an occupied single-family dwelling. Hens shall not be allowed to roam freely on or off a permitted property and must be contained to coops and runs as set forth below.
- (2) Maximum number of hens.
 - (a) Up to six (6) hens are allowed on parcels that are 4 acres or less in size in compliance with this ordinance.
 - (b) Up to thirty-three (33) hens shall be allowed on parcels that are 5 acres or greater in size in compliance with this ordinance.

- (3) Feed. All feed for hens must be kept in airtight containers that are out of reach of wild animals.
- (4) Coops. Hen coops are required to house the hens on a property in compliance with this ordinance. An accessory building permit is required for all hen coops and runs. A coop is a building structure that provides housing/shelter for hens and shall meet the following requirements:
 - (a) Hens must be provided at least 2 square feet of floor space each.
 - (b) A coop must have minimum dimensions of 2 feet long by two feet wide by 4 feet tall.
 - (c) There must be at least one nesting box per two (2) hens.
 - (d) Coops must include elevated perches to ensure chickens are able to rest in their natural position.
 - (e) Coops must be structurally sound, insulated, moisture proof and kept in good repair.
 - (f) Coops must have vents to ensure proper ventilation during all times of the year.
 - (g) There must be a minimum of one square foot of window for each 10 feet of wall space.
 - (h) Coops must be clean, dry and kept in a neat and sanitary condition at all times and exist in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor, or other adverse impact.
 - (i) Coops must be cleared of waste, including fecal matter, dropped food and feathers, and other waste, at least daily in order to prevent a buildup of odors and to ensure a healthy environment.
 - (j) During the winter months to protect from inclement weather:
 - (1) Windows must be covered with clear plastic to minimize drafts. Air vents shall be installed to ensure adequate air quality for the hens.
 - (2) Coops must be kept at a temperature of no less than 35° F.
 - (3) Water must not be allowed to freeze in the winter.

- (k) Coops must provide direct access to the chicken run.
 - (l) No coop shall be located closer than 5 feet to any residential lot line and 20 feet from a neighboring house. Coops (and their runs) may only be located in the rear yard and must meet the requirements for accessory structures under Section 118-989 of this Code, except as otherwise limited by this Section.
 - (m) Bedding. Approximately two inches of bedding material shall be placed in the coop floor to absorb moisture from droppings, water spills, limit odors, and facilitate coop cleaning.
- (5) Chicken Runs. Hens must have access to an outdoor fenced chicken run, meaning a structure that meets the following requirements:
- (a) Each hen shall have at least 2 square feet of space each in the run.
 - (b) Minimum dimensions - 3 feet wide by 2 feet long by 3 feet tall.
 - (c) Fencing must have spacing of no more than 1 inch.
 - (d) Top of the run must also be covered with fencing with spacing of one inch or less.
 - (e) The run shall be built such that neither hens nor predators are able to get under the run's fencing.
- (6) General care requirements. Hens must be properly cared for.
- (a) Feed must be provided daily and must be proper for hens in accordance with § 951.13.(1), Wis. Stats.
 - (b) Clean water must be provided at all times and changed daily in accordance with § 951.13. (2), Wis. Stats.
 - (c) All enclosures for the keeping of hens shall be so constructed and maintained as to prevent rats, mice, other rodents, and animals from being harbored underneath or within the enclosure.

(e) Permit; Application and Review Process. A permit from the Village is required in order to keep hens on property as provided for under this ordinance. Only one permit shall be issued to each parcel number. Permits expire December 31 of each year. Applications shall be made prior to December 1st of each year including for renewals. Late fees will apply after January 31st of each year.

- (1) Applicant shall submit the following to the Village Clerk's office:
 - (a) Completed initial or renewal permit application in a form from the Village's Clerk's office.

- (b) A copy of the proof of registration of the property where hens will be kept with the Wisconsin Department of Agriculture, Trade, and Consumer Protection.
 - (c) A plan that includes a scaled drawing of the parcel showing the proposed location of the coop and run. The drawing shall include dwelling units on properties within 100 feet of the proposed coop and run location.
 - (d) Fees as may be applicable.
- (2) Review and approval.
- (a) Plan Review. Prior to approval of the initial permit, the plan and location shall be reviewed and approved by Building Inspector or designee prior to approval of the initial Permit. Renewal applications do not require resubmission of the plan.
 - (b) Approval. Initial and renewal permit applications shall be reviewed by the Village Clerk. The Village Clerk shall approve or deny such application or may, in their discretion, refer the application for review and action by the Village Board. Upon referral, the Village Board may approve or deny the application utilizing the same criteria under this Subsection. An "initial" application under this Section shall mean an application by a person who has not previously received a permit under this Section for the applied-for location. A renewal application shall mean an application by a current permittee for the same site with the same plans.
 - (c) Private Restrictions. At the time of application, residents shall be advised that obtaining a permit from the Village to own hens does not override any applicable deed restriction, covenant, or home owners association rule prohibiting chicken ownership, and shall be advised to review any private restrictions applicable to their properties and/or to consult with their HOAs before applying.

(f) Application and Permit fee. All fees under this ordinance shall be as set forth in the fee schedule as set by the Village Board by Resolution from time-to-time.

(g) Complaints; Revocation. Any complaints about Chickens on property, whether for noncompliance, noise or nuisance, shall be made to the Village Clerk's office. Whenever the Village, through its agents or employees, upon inspection of the property complained of, finds the condition of the property to be in violation of this Section, an order shall be issued by the Zoning Administrator or their designee, to the owner of the property (and occupant if different from owner) to correct said condition within 10 days. If the order is not complied with or the requirements of this Section are not met, the Village may refuse to approve or renew a permit under the Section. The Village may also revoke any permit granted for noncompliance after providing ten business days notice of the basis for the revocation and opportunity for hearing. Any permittee facing revocation may request a

hearing before the Village Board. If a permit is revoked, a permit shall not be reissued for three years. Nothing herein shall prevent the Village from issuing a citation for violation of any provisions of this Section.

Chapters 15 - 17
Reserved

Chapter 18

BUILDINGS AND BUILDING REGULATIONS*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 18-1.	Building size.		
Secs. 18-2, 18-3.	Reserved.		
Sec. 18-4.	Flammable liquids, storage and equipment.		
Sec. 18-5.	Excavations and grading.		
Sec. 18-6.	Discharge of clear water.	2012-05	08/27/12
		2018-15	07/23/18
Sec. 18-7.	Discontinuance and vacancy of building use or occupancy for violation.		
Sec. 18-8.	Removal of building rubbish.		
Secs. 18-9--18-35.	Reserved.		
Article II. Administration			
Division 1. Generally			
Secs. 18-36--18-60.	Reserved.		
Division 2. Building Board			
Sec. 18-61.	Membership.		
Sec. 18-62.	Duties.		
Sec. 18-63.	Chapter 68 of the Wisconsin Statutes.		
Secs. 18-64--18-85.	Reserved.		
Division 3. Building Inspector			
Sec. 18-86.	Purpose.		
Sec. 18-87.	Office created; appointment; certification.		
Sec. 18-88.	Subordinates.		
Sec. 18-89.	Duties.		
Sec. 18-90.	Right of entry for inspection.		
Sec. 18-91.	Records.		
Secs. 18-92--18-115.	Reserved.		
Division 4. Building Permits			
Sec. 18-116.	Required.		
Sec. 18-117.	Application; situation plans.	2018-16	07/23/18
Sec. 18-118.	Plans and specifications.		
Sec. 18-119.	Fees.	2021-09	10/25/21
Sec. 18-120.	Bond.		
Sec. 18-121.	Adjacent dwellings.		
Sec. 18-122.	Street required.		

***Cross references:** Environment, ch. 42; fire prevention and protection, ch. 46; health and sanitation, ch. 50; manufactured homes and trailers, ch. 66; applicability of plumbing, electrical and building requirements in mobile home parks, § 66-36; planning, ch. 82; solid waste, ch. 86; streets, sidewalks and other public places, ch. 90; building numbering, § 90-221 et seq.; land divisions, ch. 94; utilities, ch. 106; vegetation, ch. 110; zoning, ch. 118; sign construction standards, § 118-1126.

Section Number	Title	Ordinance Number	Date of Ordinance
Sec. 18-123.	Village board approval required for connection to sewers.		
Sec. 18-124.	Plans and specifications for one- or two-family residence.		
Sec. 18-125.	Issuance.		
Sec. 18-126.	Village-owned buildings.		
Sec. 18-127.	Denial.		
Sec. 18-128.	Revocation.		
Sec. 18-129.	Posting of weatherproof card.		
Sec. 18-130.	Exterior completion.		
Sec. 18-131.	Order to stop work.		
Sec. 18-132.	Time limits.		
Sec. 18-133.	Occupancy permit.		
Sec. 18-134.	Protection for shade trees.		
Sec. 18-135.	Contractor's Bond.	2022-07 2023-05	10/24/22 05/22/23
Secs.18-136.--18-160.	Reserved.		
Division 5. Certificate of Compliance			
Sec. 18-161.	Penalty.		
Sec. 18-162.	Inspection; certificate required.		
Sec. 18-163.	Application; forms.		
Sec. 18-164.	Fees.	2021-09	10/25/21
Sec. 18-165.	Issuance criteria; noncompliance notice.		
Sec. 18-166.	Waiver.		
Sec. 18-167.	Liability.		
Secs. 18-168--18-195.	Reserved.		
Article III. One- and Two-Family Dwelling Code			
Sec. 18-196.	Definitions.		
Sec. 18-197.	Title.		
Sec. 18-198.	Purpose and intent.		
Sec. 18-199.	State uniform dwelling code adopted.	2021-09	10/25/21
Sec. 18-200.	Violations and penalties.		
Secs. 18-201-18-225.	Reserved.		
Article IV. Electrical Code			
Sec. 18-226.	Purpose.		
Sec. 18-227.	License required.	2021-09	10/25/21
Sec. 18-228.	Permit required.		
Sec. 18-229.	Fees.	2021-09	10/25/21
Sec. 18-230.	Authority of inspector.		
Sec. 18-231.	State code conformity.		
Sec. 18-232.	Certificate of inspection and meter certificate.		
Sec. 18-233.	Penalty.		
Secs. 18-234-18-260.	Reserved.		
Article V. Plumbing Code			
Sec. 18-261.	State code adopted, applicability.		
Sec. 18-262.	Permit.		
Sec. 18-263.	Licensed plumber required.		
Sec. 18-264.	Inspection required; certificate of compliance.		

Sec. 18-265.	Inspection fees.	2021-09	10/25/21
Secs. 18-266-18-295.	Reserved.		

Article VI. Moving of Buildings

Sec. 18-296.	Permit conditions.		
Sec. 18-297.	Qualifications of applicant.		
Sec. 18-298.	Exemptions; inspections; bond.	2021-09	10/25/21
Sec. 18-299.	Hearing by building board.		
Sec. 18-300.	Standards.		
Sec. 18-301.	Repair of damaged street.	2021-09	10/25/21
Secs. 18-302-18-325.	Reserved.		

Article VII. Unsafe Structures

Sec. 18-326.	Responsibilities of building inspector.
Sec. 18-327.	Official newspaper.
Sec. 18-328.	Appeal to circuit court.
Secs. 18-329-18-355.	Reserved.

Article VIII. Swimming Pools

Sec. 18-356.	Definition.	2010-03	01/24/2011
Sec. 18-357.	Exempt pools.	2010-03	01/24/2011
Sec. 18-358.	Construction and maintenance.	2010-03	01/24/2011
		2021-10	12/13/2021
Sec. 18-359.	Permit.	2010-03	01/24/2011
Sec. 18-360.	Appeal from inspectors ruling.	2010-03	01/24/2011
Sec. 18-361.	Duty to comply.	2010-03	01/24/2011

Article I. In General

Sec. 18-1. Building size.

- (a) The required building size for buildings shall be as follows:
 - (1) A single-family one-story home, with three bedrooms or less, shall have no less than 1,100 square feet of ground floor area.
 - (2) A single-family one-story home, with four bedrooms or more, shall have no less than 1,400 square feet of ground floor area.
 - (3) A 1 1/2 or two-story single-family home shall have not less than 1,000 square feet of ground floor living area; provided, however, that the square footage requirement may be reduced by 100 square feet if an attached garage is built on the home.
 - (4) For a multiple-family building, the living area per family shall be exclusive of hallways and stairways. A multiple-family building, consisting of more than one family unit, shall have no less than the following:
 - a. A studio or efficiency apartment with no bedroom shall have no less than 375 square feet of living area.
 - b. A one-bedroom apartment shall have no less than 575 square feet of living area.
 - c. A two-bedroom apartment shall have no less than 750 square feet of living area.
 - d. A three-bedroom apartment shall have no less than 900 square feet of living area.
 - (5) A single-family split-level home, with three bedrooms, shall have no less than 1,100 square feet of ground floor area.
 - (6) A single-family split-level home, with four or more bedrooms, shall have no less than 1,300 square feet of ground floor area.

(b) Before the second floor area can be considered as square footage for building size requirements for 1 1/2 and two-story single-family homes, the following conditions must be met:

- (1) A finished stairway to the second floor must be provided.
- (2) Rough flooring must be installed on the second floor.

- (3) The plan must provide for a finished ceiling height of seven feet six inches in the livable portion of the second floor area. Such seven-foot-six-inch ceiling height shall be considered as area for the minimum square foot building requirements.
- (4) Initial construction shall provide for finished rooflines and window openings.
- (5) The first floor ceiling joists shall be two inches by eight inches, minimum.

(c) In measuring square footage for a split-level residence, all areas without a living area beneath shall be used in computing the first floor area. Garages and breezeways shall not be included in any computation. When the structure shall be composed of living quarters as well as a business area attached thereto, the gross floor space of the living quarters shall contain an area of at least 1,100 square feet, the business portion of the structure shall contain an additional 300 square feet, and the arrangement of the space shall be subject to the approval of the building inspector and the building board.
(Code 1960, ch. 8, § 8)

Secs. 18-2, 18-3. Reserved.

Editor's note: Ord. No. 2009-1, § 2, adopted January 12, 2009, repealed §§ 18-2 and 18-3 in their entirety, which pertained to fire districts and fire separation walls, respectively, and derived from the Code of 1960, ch. 8, §§ 9, 10. For current provisions relating to fire districts and fire separation walls, the user's attention is directed to chapter 46.

Sec. 18-4. Flammable liquids, storage and equipment.

The Flammable Liquid Code of the Wis. Admin. Code is adopted by reference and shall be enforced by the building inspector.

(Code 1960, ch. 8, § 13) **Cross references:** Fire prevention and protection, ch. 46.

Sec. 18-5. Excavations and grading.

(a) *Permit required.* No person shall make any excavation or do any grading on any lot or parcel of land in the village without first obtaining a permit from the building inspector.

(b) *Information required.* No permit for any excavation or grading shall be granted unless the applicant shall first file with the building inspector the following:

- (1) For an excavation, a statement of the purpose and a plan showing the dimensions of the excavation.
- (2) For grading, a topographic survey showing the grade and elevation of the property before and after completion of the proposed grading of the applicant's property and immediate abutting properties. The applicant must also file the approval of the proposed grading with the building board.

(Code 1960, ch. 8, § 8.19(1), (2))

Sec. 18-6. Discharge of clear water.

(a) *Prohibited from sanitary sewer system.* It is the intention of this section that no clear water from the municipal water system or rainwater enter the sanitary sewer system of the village. In addition to chapter 106, the provisions of this section shall apply.

(b) *Penalty for violation of section.* Any person who shall violate the provisions of this section by reconnecting a clear water discharge to the sanitary sewer system or extending the discharge closer than 15 feet to any property line shall forfeit no less than \$500.00 for such violation in addition to costs of prosecution and other penalties imposed by law.

(c) *Compliance with section required for issuance of permit.*

(1) If the public sewer system is available to the applicant for any permit required by this chapter, no permit shall be issued unless the building inspector is satisfied that the applicant will connect to the public sewer system. No building permit shall be issued for a structure or an improvement which is in violation of this section.

(2) No person shall make any provision for carrying into the public sewer system water from the street, gutters, lawns, areaways, downspouts, roofs of any building, overflow from cisterns, or water from any house or building foundation drain.

(d) *Building drain inverts; backwater valves.* Building drain inverts which connect to the sanitary sewer that are located less than 18 inches above the centerline of the main sanitary sewer system in the street or sewer right-of-way, shall be provided with a backwater valve. The backwater valve shall be installed in the building drain, immediately inside the foundation wall. The backwater valve shall be of combination backwater valve and cleanout type. Specifications for such valve shall be furnished by the superintendent of public works.

(e) *Footing tiles.*

(1) Footing tile drains shall be installed so as to drain into a clear water sump pit. Such clear water shall be conveyed to the front or rear yard by means of an electrically driven pump. No side yard discharge of water shall be allowed.

(2) The clear water pump shall be located a minimum of 20 feet from the nearest floor drain and from any sanitary sump pit. The discharge pipe or extension or drain system of each clear water sump pump shall be extended no closer than 15 feet from any property line. The clear water waste shall be conveyed above ground by gravity flow and by natural means to the point of disposal.

(3) The clear water sump pump may be connected underground to the storm sewer system, at the owner's expense, upon written approval of the superintendent of public works.

(f) *Roof drains.* All residential roof drains shall be discharged no closer than six feet from any lot line and above grade. Roof drains that are installed to discharge below grade

shall be removed and shall be so reconstructed as to discharge above the ground level grade. Any property owner failing to comply with this subsection shall be given 30 days' notice in writing by the superintendent of public works. Failure to comply will result in the Village Plumbing Inspector ordering the corrective installation. The expenses thereof shall be assessed as a special tax against the property. A property owner, at his expense, may show acceptable proof as specified by the director of public works and the storm sewer committee that his roof drains do not discharge into the sanitary sewer main, and thereby be exempt from this subsection.

(g) *Enforcement of section.* It shall be the duty of the plumbing inspector to enforce this section. The plumbing inspector shall inspect all homes and buildings for compliance with this section prior to the change of ownership. An occupancy permit shall be issued if compliance has been found or after correction has been made. The inspection shall be made when a final water meter reading is made.
(Code 1960, § 6.11, ch. 8, § 16)

Sec. 18-7. Discontinuance and vacancy of building use or occupancy for violation.

Whenever any building or portion thereof is being used or occupied contrary to this Code, the building inspector shall order such use or occupancy discontinued and the building or portion thereof vacated. Notice of the order shall be served on any person using or causing such use or occupancy to be continued, and such person shall vacate such building or portion thereof within ten days after receipt of the notice or make the building or portion thereof comply with the requirements of this Code on use and occupancy.
(Code 1960, ch. 8, § 8.25)

Sec. 18-8. Removal of building rubbish.

No person owning, controlling, managing or occupying any building, structure, or premises in this village, whether holding a permit issued under division 4 of article II of this chapter or not, shall permit building rubbish or waste material from the construction, remodeling or making of major or minor repairs upon any building, structure or premises to accumulate, but shall promptly remove such building rubbish or waste material from such building, structure or premises or from any street, alley or public grounds upon which such building rubbish or waste material is located.
(Code 1960, ch. 8, § 15)

Cross references: Solid waste, ch. 86.

Secs. 18-9--18-35. Reserved.

Editor's note: Ord. No. 2009-1, § 2, adopted January 12, 2009, repealed § 18-9 in its entirety, which pertained to key lock box systems, and derived from an amendment of May 27, 2003, § 1. For current provisions relating to key lock box systems, the user's attention is directed to chapter 46.

Article II. Administration*

Division 1. Generally

Secs. 18-36--18-60. Reserved.

Division 2. Building Board*

***Editor's note:** Ord. No. 2010-06, § 1, adopted August 23, 2010, amended division 2 in its entirety to read as herein set out. Formerly, division 2, § 18-61 pertained to similar subject matter, and derived from the Code of 1960, § 2.13, and an ordinance of August 18, 1997, § 1.

Cross references: Administration, ch. 2.

Sec. 18-61. Membership.

The building board of the village shall consist of three trustees, appointed annually by the village president and confirmed by the village board. The building inspector shall provide, without voting privileges, staff assistance to the board.
(Ord. No. 2010-06, § 1, 8-23-10)

Sec. 18-62. Duties.

(a) *Appeals.*

- (1) The owner of a building or structure, or any other person who is aggrieved and directly affected ("person aggrieved"), may appeal from decisions or orders of the building inspector relative to the application and interpretation of chapter 18 ("building and building regulations"), to the building board.
- (2) All applications for appeal shall be in writing and must be received by the village clerk no later than 30 days after notice of the building inspector's decision or order ("determination"). The request for review shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed.

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

- (3) A determination or action subject to administrative or judicial review procedures set forth under the Wisconsin Administrative Code or state statutes (e.g., cease orders issued pursuant to Wis. Stats. § 66.0413, building code variance requests) or other provisions of this Code is not reviewable under this chapter.
- (4) An application for an appeal shall be accompanied by a fee of \$50.00 made payable to the village.

- (5) The building board shall provide the person aggrieved with a hearing on an appeal within 30 days of receipt of the notice of appeal, providing the appellant with notice of the hearing at least ten days before such hearing, unless such notice is waived in writing by the appellant. At the hearing, the appellant and the village may be represented by counsel and may present evidence, call and examine witnesses and cross-examine witnesses of the other party.
- (b) *Decision on appeals.*
- (1) The board shall affirm, modify or reverse the decision of the building inspector. Appeal of the action of the board shall be to circuit court.
 - (2) The board shall affirm the decision of the building inspector unless it determines that:
 - a. The building inspector has misinterpreted or misapplied the applicable ordinance, rule or Code provision;
 - b. The compliance time established by the building inspector is unreasonable; or
 - c. An equally good or better form of construction can be used.
 - (3) The board shall send the applicant a written decision, including reasons for the decision. The building inspector shall act immediately to carry out the board's decision.
- (c) *Modification or waiver.*
- (1) *Authority.* Where, in the judgment of the building board, it would be inappropriate to apply literally the provisions of an ordinance because an exceptional circumstance exists, the building board may waive or modify any requirements to the extent deemed just and proper. However, the building board does not have the authority to interpret or waive the requirements of the Wisconsin Administrative Code, as the department of commerce exercises jurisdiction with respect to such matters.
 - (2) *Application.* Application for any such modification or waiver shall be made by the person aggrieved in writing as part of the request for clarification or review of determination, stating fully all facts relied upon in requesting the modification or waiver, and shall be supplemented with any additional data that may aid the building board in the analysis of the proposed modification or waiver. This application may be supplemented at any time during the review process.
 - (3) *Considerations.* The building board may consider the following factors, in addition to any other factors deemed relevant by the building board:

- a. Whether the request for a waiver or modification, if granted, would be consistent with the general intent of the ordinance.
 - b. Whether the request for a waiver or modification, if granted, would adversely affect any property owners in the village.
 - c. Whether the request for waiver or modification, if granted, would benefit the person aggrieved in a way that is not consistent with the village's interests.
 - d. Whether, instead of granting the request for a waiver or modification, the ordinance itself should be changed to accommodate the kind of situation presented by the person aggrieved.
 - e. Whether, the conditions upon which the request for a modification or waiver is based are unique to the situation or property for which the modification or waiver is sought and are not applicable generally to other situations or property.
- (4) *Conditions for granting.* The building board shall not grant a modification or waiver to an ordinance unless it makes findings based upon the evidence presented to it in each specific case and based upon the consideration of the above factors that the granting of the modification or waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the village. Any decision to grant a modification or waiver shall not be arbitrary, capricious, or prejudicial in nature.
- (5) *Granting by building board.*
- a. The building board, if it approves of the modification or waiver of an ordinance or any portion of it, shall do so only after a hearing under subsection (a)(5).
 - b. Such relief shall be granted without detriment to the public good and without impairing the intent and purpose of the division.
 - c. The reasons why such modification or waiver was granted shall be entered as part of the record of hearing.
 - d. If the building board grants a modification or waiver, the building board may also recommend to the village board that the ordinance itself be changed to accommodate the kind of situation presented by the person aggrieved.
- (6) *Past non-compliance not waived.* A waiver or modification that is granted pursuant to a written request as described in this section shall not waive any fines, forfeitures or other penalties that may have accrued due to violations of the article that took place prior to the date

of the appeal, unless specifically stated otherwise in the decision of the building board.

(Ord. No. 2010-06, § 1, 8-23-10)

Sec. 18-63. Chapter 68 of the Wisconsin Statutes.

Pursuant to Wis. Stats. § 68.16, the village elects not to be governed by those provisions of Wis. Stats. ch. 68 which are in conflict with this division. In the event of any conflict between this division and Wis. Stats. ch. 68, the provisions of this division shall govern.

(Ord. No. 2010-06, § 1, 8-23-10)

Secs. 18-64--18-85. Reserved.

Division 3. Building Inspector*

Sec. 18-86. Purpose.

For the purpose of administering and enforcing this chapter and the uniform dwelling code as provided in article III of this chapter, the village shall establish the office of building inspector, which shall be filled by the method prescribed under section 18-87.

(Code 1960, ch. 8, § 4)

Sec. 18-87. Office created; appointment; certification.

(a) There is created the office of building inspector.

(b) The building inspector shall be appointed by the village president subject to confirmation by the village board.

(c) The building inspector shall be certified for inspection purposes by the department of commerce in each of the categories specified under Wis. Admin. Code ILHR chs. 80--87, and by the department of health and social services in the category of plumbing.

(Code 1960, ch. 8, § 5(1))

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

Sec. 18-88. Subordinates.

The building inspector may appoint, as necessary, subordinates, which appointments shall be subject to confirmation by the village board. Any subordinate hired to inspect buildings shall be certified under Wis. Admin. Code ILHR § 20.07, by the department of commerce.

(Code 1960, ch. 8, § 5(2))

Sec. 18-89. Duties.

The building inspector shall administer and enforce all sections of this chapter and the uniform dwelling code, as provided in article III of this chapter.

(Code 1960, ch. 8, § 5(3))

Sec. 18-90. Right of entry for inspection.

The building inspector may, at all reasonable hours, enter upon any public or private premises for inspection purposes and may require the production of the permit for any building, plumbing, electrical or heating work. No person shall interfere with or refuse to permit access to any such premises to the building inspector while in the performance of his duties.

(Code 1960, ch. 8, § 5(4))

Sec. 18-91. Records.

The building inspector shall perform all administrative tasks required by the department under the uniform dwelling code, as provided in article III of this chapter. In addition, the inspector shall keep a record of all applications for building permits in a book for such purpose and shall regularly number each permit in the order of its issue. Also, a record showing the number, description and size of all buildings erected indicating the kind of materials used and the cost of each building and aggregate cost of every one- and two-family dwelling shall be kept. The building inspector shall make a written annual report to the village board relative to these matters.

(Code 1960, ch. 8, § 5(5))

Secs. 18-92--18-115. Reserved.**Division 4. Building Permits****Sec. 18-116. Required.**

(a) No building or dwelling shall be built, enlarged, altered, or repaired unless a building permit for that work shall first be obtained by the owner or his agent from the building inspector. Where a tenant or person in possession of property owned by another desires to commence such construction, the names of both the tenant or person in possession and the property owner shall be entered in writing upon that form, designated as the Wisconsin Uniform Dwelling Permit Application, furnished by the department of industry, labor and human relations.

(b) No addition, alteration, or repair to an existing one- or two-family dwelling or any other building not deemed minor repair by the building inspector shall be undertaken unless a building permit for the work is first obtained by the owner or his agent from the building inspector. Where a tenant or person in possession of the property desires to make any addition, alteration, or repair to any building or improvement upon property owned by another, both the tenant or person in possession of the property and the owner of the property shall jointly make application to the building inspector for the building permit.

(Code 1960, ch. 8, § 6(1), (2))

Sec. 18-117. Application; situation plans.

(a) Application for a building permit shall be made in writing upon a blank form to be furnished by the building inspector and shall state the name and address of the owner of the building and the owner of the land on which it is to be erected and the name and address of the designer, and shall set forth by legal description the land on which the building is to be located and held in single ownership, the location of the building, the house number thereof

and such other information as the building inspector may require. With such application there shall be submitted to the building inspector two complete sets of plans and specifications and two situation plans. These situation plans shall show the following:

- (1) The seal and signature of the registered land surveyor who prepared the situation plan.
- (2) The location of the proposed building with respect to adjoining streets, alleys, lot lines and buildings and the type of monuments at each corner of intersecting streets, alleys and lot lines.
- (3) The dimensions of the lot or parcel, and the location of all existing buildings, if any, on the lot or parcel.
- (4) The grades on lots and adjacent streets necessary to establish the building grade and the grade and setback of adjacent buildings. If the adjacent lot is vacant, elevations of the nearest buildings on the same side of the road and within 200 feet of the lot line shall be shown. All requirements of this chapter pertaining to excavations and grading, insofar as they are applicable, shall be met.
- (5) The proposed grade of the proposed structure shall be shown and shall provide at least a 12-inch pitch from the grade line of the building to the front and side street lot lines, but shall not provide more than a 60-inch pitch from the grade line of the building to the front and side street lot line. The garage floor elevation may be used as the building grade on every building having an attached garage. On every other building, the building grade shall be the elevation of the landscaping at the building. The building inspector shall have the authority to establish the building grade of any building and shall have the authority to vary from the minimum and maximum standards noted in this subsection if, in his opinion, the specific conditions warrant the variance.
- (6) Watercourses or existing drainage ditches shall be shown, and sufficient grading before and after the completion of grading shall also be shown to determine surface water drainage and to determine that no unreasonable obstruction to the natural flow of water from the surface of adjoining property shall be created. If the proposed construction will obstruct the flow of any existing ravine, ditch, drain or storm sewer draining neighboring property, suitable provision shall be made for such flow by means of an adequate ditch or pipe, which shall be shown on the plans and shall be constructed so as to provide continuous drainage at all times to comply with the village stormwater drainage plan.
- (7) The date of the survey shall be shown, which shall not be more than one year prior to the date of issuance of the building permit. The building inspector shall have the right to request a new survey at any time, regardless of the date of the survey.

(8) The scale shall not be less than one inch equals 50 feet.

(b) The registered land surveyor shall also inspect and certify to the building inspector, after a permit has been issued and construction has begun, that the location of the proposed building and the grade thereof will conform to the situation plan as previously approved by the building inspector. The building inspector's office shall not make a footing inspection until such certification is filed with his office.

(Code 1960, ch. 8, § 6(4))

(c) As a condition of the issuance of an occupancy permit, the registered land surveyor shall inspect and submit an "as-built" survey showing the location of all newly-constructed buildings and their grades, as well as certifying to the building inspector that the as-built conditions substantially conform to the plans and specifications previously submitted to and approved by the Building Inspector. The Building Inspector, in his/her sole discretion, shall have the authority to waive minor discrepancies.

Sec. 18-118. Plans and specifications.

(a) *General information required.* All plans shall be drawn to a scale of not less than one-eighth inch per foot, on paper or cloth, by some process that will not fade or obliterate, and shall disclose the existing and proposed provisions for water supply, sanitary sewer connections, and surface water drainage and the elevations thereof. Drawings that do not show all necessary detail shall be rejected. A complete set of plans for building construction shall consist of the following:

- (1) All elevations.
- (2) Floor plans.
- (3) Complete construction details.
- (4) For all buildings of reinforced concrete construction, the system of reinforcement, size and location of steel and size of columns, girders, beams and slabs.
- (5) The name of the person designing the plans and preparing the specifications.
- (6) Any additional information requested by the building inspector.

(b) *Seal of registered engineer or architect.* All plans, data and specifications for construction of any building or structure, other than a one-family residence, containing more than 50,000 cubic feet of total volume shall bear the seal of the registered architect or registered engineer or both involved in the design of the building or structure. The plans shall also be stamped and approved as required by the state department of industry, labor and human relations. Such building or structure shall be constructed under the supervision of an architect or engineer who shall be responsible for its erection in accordance with the approved plans. No permit shall be granted for such structure unless such construction will be under the continuous supervision of an architect or engineer, as required by state statutes. A written

statement to this effect shall be filed by the architect or engineer with the building inspector at the time of application for a building permit.

(c) *File copies of plans.* All plans shall remain on file in the office of the building inspector until at least three years after the completion of the building, after which time the building inspector may return the plans to the owner, may keep them for public record, or may destroy them.

(d) *Waiver of plans and specifications.* If, in the opinion of the building inspector, the character of the work is sufficiently described in the application and the cost of such work does not exceed \$2,000.00, the building inspector may waive the filing of plans and specifications.

(Code 1960, ch. 8, § 6(5))

Sec. 18-119. Fees.

A building permit may be issued by the building inspector upon payment of the appropriate fees as maintained in the fee schedule on file in the office of the village clerk. Electrical and plumbing fees shall be individually charged. No additional building inspection fees shall be charged for any item shown on the plans and specifications for which a building permit is issued on the square-footage-fee basis.

(Code 1960, ch. 8, § 7)

Sec. 18-120. Bond.

No building permit shall be issued for new construction requiring an occupancy permit until the cash sum in the amount of \$500.00 is paid to the village, an irrevocable letter of credit in the amount of \$500.00 payable only to the village is on deposit at the village, or a permit bond is on file with the village. The bond shall be held to provide for full compliance with this Code by the applicant for the building permit. The cash bond shall not be refunded or the letter of credit canceled until the building inspector has certified, in writing, compliance with this Code by the permit holder or his contractor.

(Code 1960, ch. 8, § 6(11); Ord. of 12-9-96, § 1)

Sec. 18-121. Adjacent dwellings.

No building permit shall be issued for the construction of adjacent dwellings unless, by proper design of the front elevation, selection of materials in the walls and the roof, a substantial degree of variation in the appearance of such adjacent dwelling is obtained.

(Code 1960, ch. 8, § 6(8))

Sec. 18-122. Street required.

(a) No building permit shall be issued unless the building shall be constructed on a site abutting a public and accepted street on which the structure is to face. The street must have been brought to grade and graveled as provided by section 90-148(1), and all utilities required (water and sanitary sewer to the property line) are laid. If gas and a storm sewer are required, no permit shall be issued until the service is laid.

(b) A person who wishes to build on a private road shall petition for such approval to the village board. The village board shall fix a reasonable time for hearing of the matter, shall give a public notice thereof as well as due notice to the parties in interest, and shall decide the petition within a reasonable time. Upon receipt of the petition, the matter shall be referred to the plan commission for its recommendation.

(c) The building inspector may issue a permit when, prior to July 20, 1967:

- (1) There is a recorded easement to a public street from the building site.
- (2) There is an improved and completed private thoroughfare, connected to a public street from the building.

(Code 1960, ch. 8, § 6(9))

Sec. 18-123. Village board approval required for connection to sewers.

The building inspector shall not issue any building permit requiring a new connection to the village sewer system without the advice, consent and approval of the village board.

(Code 1960, ch. 8, § 6(10))

Sec. 18-124. Plans and specifications for one- or two-family residence.

No building permit for the construction of a one- or two-family residence shall be issued unless the plans and specifications required by sections 18-117 and 18-118 provide for the construction of one attached or detached garage per residential unit. All plans and specifications for any garage constructed pursuant to this section shall comply in all respects with any other section of this chapter, chapter 118 and any other applicable ordinance or state statute. In addition, no garage constructed under this chapter or any other provision of any ordinance or statute shall occupy less than 320 square feet of area.

(Code 1960, ch. 8, § 6(19))

Sec. 18-125. Issuance.

(a) If the building inspector finds that the proposed building will comply in every respect with this chapter, the village ordinances and all laws and lawful orders of the state, he shall officially approve and shall issue a building permit. Such permit shall be kept at the site of the proposed building.

(b) After being approved, the plans and specifications shall not be altered in any respect which involves any section of this chapter or of the ordinances, laws or orders mentioned in subsection (a) of this section or which involves the safety of the building, except with the written consent of the building inspector filed with such application.

(c) If adequate plans are presented, the building inspector may, at his discretion, issue a permit for a part of the building before receiving the plans and specifications for the entire building.

(d) It shall be unlawful to commence work on any building or alteration before the building permit has been issued.

(e) The issuance of a permit upon the plans and specifications shall not prevent the building inspector from thereafter requiring the correction of errors in the plans and specifications or from preventing building operations being carried on thereunder when in violation of the state building code, this Code or any other ordinance of the village or laws of the state. No permit presuming to give authority to violate or cancel this Code, the provisions of the village ordinances or the laws of the state shall be valid, except insofar as the work or use that is authorized is lawful.

(f) For a building where a septic system is required, prior to the issuance of a building permit, the applicant must present evidence that a plumbing permit has been issued.

(Code 1960, ch. 8, § 6(7))

Sec. 18-126. Village-owned buildings.

No inspection is to be charged for any building owned by the village. Permits shall be procured for such work.

(Code 1960, ch. 8, § 6(16))

Sec. 18-127. Denial.

The building inspector may refuse to issue a building permit based on the requirements of article III of chapter 118 relating to nonconforming buildings.

(Code 1960, ch. 8, § 6(3))

Sec. 18-128. Revocation.

The building inspector may revoke the building permit if the building inspector shall find at any time that the ordinances, laws, orders, plans and specifications mentioned in this division are not being complied with.

(Code 1960, ch. 8, § 6(15))

Sec. 18-129. Posting of weatherproof card.

With every building permit issued, the building inspector shall issue to the applicant a weatherproof card, properly filled out. Such applicant shall place the card in a conspicuous place on the premises where the building is to be erected. The card shall be unobstructed from public view and shall not be more than 15 feet above the grade.

(Code 1960, ch. 8, § 6(12))

Sec. 18-130. Exterior completion.

Pursuant to this division, the exterior finish of all buildings shall be completed within one year after the commencement of the construction of the building. However, the period may be extended at the discretion of the building inspector where the exterior finish cannot be completed within such period.

(Code 1960, ch. 8, § 6(13))

Sec. 18-131. Order to stop work.

Whenever any building work is being done contrary to this Code or whenever work is being done in an unsafe or dangerous manner, the building inspector may order the work stopped by notice in writing served on any person engaged in doing or causing such work to be done, and such person shall forthwith stop such work until authorized by the building inspector to recommence and proceed with the work. (Code 1960, ch. 8, § 6(17))

Sec. 18-132. Time limits.

(a) A building permit shall have lapsed and shall be void unless building operations are commenced within four months of the date of issuance of the permit or if the building work authorized by such permit is suspended at any time after the work is commenced for a period of 60 days. Before such work can recommence, a new permit shall first be obtained at the regular fee rate, or a lapsed permit may be reinstated by a resolution of the village board, adopted by a vote of three-fourths of the members present at any meeting within 60 days after such permit shall have lapsed. When reinstated, the building permit shall lapse and be void if building operations are not commenced within four months after the date of reinstatement or if there is a cessation of building operations of more than six months, continuously or intermittently, after the reinstatement thereof.

(b) All permits issued under this division shall expire one year after the date of issuance.

(Code 1960, ch. 8, § 6(14))

Sec. 18-133. Occupancy permit.

No occupancy permit shall be granted unless there is a water meter installed by the village water utility in the building or portion thereof. Whenever any building or portion thereof is being used or occupied contrary to this Code, the building inspector shall order such use or occupancy discontinued and the building or portion thereof vacated, by notice served on any person using or causing such use of occupancy to be continued. Such person shall vacate such building or portion thereof within ten days after receipt of the notice or shall make the building or portion thereof comply with the requirements of this Code on uses and occupancy. (Code 1960, ch. 8, § 6(18))

Sec. 18-134. Protection for shade trees.

Whenever a building permit shall have been granted for the erection, construction, or repair of any building, a person so obtaining the permit shall cause a wood or metal protection to be placed around all the shade trees between the lot line and the curb fronting the premises upon which the building is to be constructed, in such manner that no damage shall be done to the shade trees. Any person who shall fail or neglect to place such protection about any shade tree shall be subject to the penalties provided in this chapter. In addition the person to whom a building permit shall be issued shall be responsible and liable to the owner of any shade tree that may be injured because of the failure to erect protection for any damage to the shade trees arising from such failure and from the placing of material between the sidewalk and curb. Failure to provide such protection shall prevent such person from receiving any further or other

permit to construct any building in the village until such damage shall be adjusted and determined. (Code 1960, ch. 8, § 6(6))

Secs. 18-135. Contractor's Bond.

(a) Definitions

- (1) *"Right-of-way"* includes all portions of a highway dedicated to the public, including paved/asphalted portions, drainage ways, ditches, swales, culverts, curbs and gutters, other drainage structures, and sidewalks and ramps.
- (2) *"Applicant"* means the person, partnership or corporation who signs the application for a building permit. The applicant shall be responsible for the duties specified under this section. The applicant may not assign his rights or duties under this section once the applicant commences the construction project for which the Contractor's Bond is required.
- (3) *"Rough finish grade"* means all rough materials have been placed or otherwise installed on the property, safe rough driveway and sidewalks have been installed, and a rough spreading of topsoil has been finished and is in compliance with the minimum side slope requirements of the Wisconsin Administrative Code.
- (4) *"Landscape final grade"* means all grass seeding or sod has been placed, all landscape plants have been planted, and finished driveways and sidewalks have been installed.

(b) Contractor's Bond Required. A cash bond of \$5,000 shall be submitted to the Building Inspector prior to the granting of any building permit for any new residential, commercial, industrial or institutional facilities or structures or for the remodeling of any such existing facilities or structures which in the judgment of the building inspector will require substantial equipment or materials, where the proposed construction is to be located on a parcel of land that has access to a Village road and the Building Inspector determines that damage to the right-of-way is possible.

Such bond shall guarantee:

- (1) Any damage occurring during the period of construction to the public right of way on which the property fronts which shall be repaired and restored to the condition prior to such construction.
- (2) All rubbish, debris and unused materials shall be removed from the premises.

(c) Condition of right-of-way to be documented. An applicant required to submit a Contractor's Bond shall, at the time of submittal, provide photographs or video documentation as to the condition of the right-of-way adjacent to the parcel that has access to a Village road upon which the construction will be taking place.

(d) Inspection and determination for release of bond. Upon written notification that rough finish grade has been completed by the property owner or his/her designee, that all driveways and sidewalks have been paved and finished in accordance with applicable standards, and after completion of a final inspection, the Building Inspector shall inspect the right-of-way, in cooperation with the Department of Public Works, to ensure that no damage is present. If no damage is present, the Building Inspector shall submit approval to the Village Treasurer to release the funds to the original payer subject to the issuance of an occupancy permit for the subject property. If damage is present, the necessary repairs to the right-of-way must be completed within 60 days after issuance of the occupancy permit. If an extension to the 60-day period is required by the contractor, the contractor must obtain authorization of the Village Board. The Building Inspector may also partially refund the Contractor's Bond or request additional monies be collected due to damage that has occurred above and beyond the initial deposit to the right-of-way or due to additional monies needed to address drainage issues discovered during the inspection. If the work is not completed within the 60-day time period, the village may cause such work to be completed in accord with this section and may charge the bond for any such costs. A special charge under subsection (g) may also be charged.

(e) Release to payer of bond. The Contractor's Bond will be released to the original payer (homebuilder, contractor, homeowner, etc.) following final inspection, as provided in (d) above, and the issuance of an occupancy permit for the subject property. If the Contractor's Bond was issued by someone other than the property owner, a copy of the check will be sent to the property address so that the property owner/resident is aware of the Contractor's Bond refund. It shall be the Village policy to refund the Contractor's Bond to the original payer in all cases, unless the payer submits otherwise in writing to the Village Treasurer prior to the release of the refund. In the instance where the original payer is not available or cannot be found (deceased, bankrupt, or other unknown reasons) and all reasonable efforts have been made to refund the Contractor's Bond, the funds will be treated as unclaimed monies under the Uniform Unclaimed Property Act.

(f) Increased amount of Contractor's Bond. Where, in the opinion of the Building Inspector, after consulting with the Director of Public Works, the amount of the Contractor's Bond needs to be increased due to the nature of the intended construction, the amount of the required bond shall be adjusted accordingly.

(g) Special charges. If the owner or payer of the bond fails to replenish the required deposits or fails to reimburse the Village for costs the Village has incurred, the owner hereby consents to the Village's imposing a special charge upon the real property for any amounts due to the Village under this subsection plus any costs the Village has incurred in attempting to collect the amounts due. This special charge shall become a lien upon the property. The owner hereby waives any rights it may have to any notices or hearings with respect to the special charge imposed under Wis. Stats. § 66.0627.

Sec. 18-136. --18-160. Reserved.

Division 5. Certificate of Compliance

Sec. 18-161. Penalty.

Any person violating this division shall, upon conviction, be subject to a forfeiture of not less than \$25.00 or more than \$200.00 and the costs of prosecution for each violation. In default

of payment of such forfeiture and costs, the person shall be imprisoned in the county jail until such forfeiture and costs of prosecution are paid, such imprisonment not to exceed 90 days. Each violation and every day upon which a violation occurs or exists constitutes a separate offense.

(Ord. of 11-25-96, § 1(ch. 8, § 27(7))

Sec. 18-162. Inspection; certificate required.

(a) Upon the sale or change of legal or equitable ownership or change of occupancy of any industrial or commercial property or any part which is a separate unit, or upon any sale or change of legal or equitable ownership of a residential property, other than single family, there shall be an inspection for building code maintenance purposes. The inspection shall include the heating, plumbing, and electrical systems, as well as compliance with village building and fire codes.

(b) No building or part thereof shall be occupied until such certificate of compliance has been issued except with the written consent of the building inspector, nor shall any building be occupied in conflict with the conditions set forth in this certificate of compliance. Entry into occupancy without such certificate of compliance is a violation of this division, subjecting the person so entering into occupancy or the owner of the premises permitting such occupancy to the penalties hereinafter set forth.

(c) This division shall not apply to changes of tenants in residential rental units.

(Ord. of 11-25-96, § 1(ch. 8, § 27(1))

Sec. 18-163. Application; forms.

(a) Application for a certificate of compliance shall be made in writing to the building inspector. The application shall state the name and address of the owner of the building, the type of the building located upon the property, and such other information as the building inspector may require.

(b) The building inspector shall provide the forms for the following:

- (1) The application for an inspection and issuance of a certificate of compliance.
- (2) The certificate of compliance.
- (3) The certificate of noncompliance.

(Ord. of 11-25-96, § 1(ch. 8, § 27(3))

Sec. 18-164. Fees.

A fee shall be paid to the village for the inspection of premises required prior to the issuance of a certificate of compliance, which fee shall be paid at the time of applying for such inspection. All fees are in the schedule of fees which is on file in office of the clerk. Fees shall

be required for the following:

- (1) *Residential.*
 - a. Two family (duplex).
 - b. Plus for each additional unit.
 - c. Structures of over four units shall be subject to independent inspection, and the fee shall be the cost of the inspection at the discretion and direction of the building inspector.
- (2) *Commercial/industrial.* All structures, as defined by Wis. Admin. Code ILHR § 50.04.

(Ord. of 11-25-96, § 1(ch. 8, § 27(5))

Sec. 18-165. Issuance criteria; noncompliance notice.

(a) A certificate of compliance shall be issued by the building inspector after an inspection of the premises discloses that the premises is in compliance with the building code, plumbing code, electrical code, housing code, and fire code of the village. Compliance with the provisions of such codes shall be based on the provisions of the respective codes in effect at the time of the inspection or in effect at the time a permit was issued for particular construction or installation.

(b) Where there is compliance with the applicable code in effect at the time a permit was issued but there is noncompliance with the current code and, in the opinion of the building inspector, the situation presents a hazardous condition endangering health or safety, the building inspector shall issue a noncompliance notice setting forth the hazardous conditions.

(c) If an inspection by the building inspector discloses noncompliance with the codes mentioned in subsection (a) of this section or village ordinances, the inspector shall issue a noncompliance notice setting forth the areas of compliance before there is a change of occupancy. When a subsequent inspection discloses compliance, a certificate of compliance shall be issued.

(Ord. of 11-25-96, § 1(ch. 8, § 27(2))

Sec. 18-166. Waiver.

Under this division, when a certificate of noncompliance sets forth an item of noncompliance which, in the opinion of the building inspector, is a condition that does not adversely affect the health or safety of occupants of the premises or other persons and does not cause a substantial depreciation in the property values of the neighborhood, the building inspector may waive compliance with such item and may issue a certificate of compliance permitting a change of possession, which shall note thereon each existing condition that is not in compliance and that has been waived.

(Ord. of 11-25-96, § 1(ch. 8, § 27(6))

Sec. 18-167. Liability.

A certificate of compliance issued pursuant to this division permits a change in occupancy and indicates that, as far as can be reasonably determined by a visual inspection of the premises and a review of the village records, the premises meets the requirements of this division. Neither the village nor the building inspector assumes any liability in the inspection or issuance of a certificate of compliance. By the issuance of a certificate of compliance, neither the village nor the building inspector guarantees or warrants as to the condition of the premises inspected.

(Ord. of 11-25-96, § 1(ch. 8, § 27(4))

Secs. 18-168--18-195. Reserved.

Article III. One- and Two-Family Dwelling Code

Sec. 18-196. Definitions.

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

Accessory building means a building such as a garage, playhouse or greenhouse, which is subordinate or accessory to the main building already existing on the same lot and which in any residence district is not available to the public.

Addition means new construction performed on a dwelling that increases the outside dimensions of the dwelling.

Alteration means a substantial change or modification, other than an addition or minor repair to a dwelling or to systems involved within a dwelling.

Approved, as to materials and types of construction, refers to approval by the department of building inspection as the result of investigation and test conducted by it or because of accepted principles or tests by nationally recognized technical organizations or because of approval by the state industrial commission.

Attic or attic story means any story situated wholly or partially in the roof so designated, arranged or built as to be used for business, storage or habitation.

Basement means a story wherein, on every side of the building, the average floor line is below the grade and the average ceiling height in every elevation is not more than five feet above such grade.

Bay window means a rectangular, curved or polygonal window extending beyond the main wall of the building.

Bearing wall means a wall, of which any portion supports a load other than its own weight.

Building means any structure built for the support, shelter or enclosure of persons, animals, chattels or moveable property of any kind. When separated by a fire separation wall, each portion of such building so separated shall be deemed a separate building.

Concrete masonry means any kind of masonry that is made by the mixing of Portland cement, water and inert materials.

Curtain wall means a fire resistive nonbearing wall between columns or piers that is not more than one story or 18 times its thickness in height.

Dead load, in a building, includes the weight of the walls, permanent partitions, framing, floors, roofs and all other permanent stationary construction forming a part of the building.

Department means the state department of industry, labor and human relations or commerce.

Dwelling means:

- (1) Any building, the initial construction of which is commenced on or after the effective date of the ordinance from which this section derives, that contains one or two dwelling units; or
- (2) An existing structure or that part of an existing structure that is used or intended to be used as a one- or two-family dwelling.

Enclosing wall means that portion of a building wall that is exterior to the lath, plaster and other interior wall finish.

Exterior walls means outer walls or vertical enclosures of a building other than a party wall.

Fire separation wall or *occupancy separation wall* means a wall of masonry or reinforced concrete that subdivides a building to restrict the spread of fire, but that is not necessarily continuous through all stories or extended through the roof.

Floor area means the area outside the exterior walls of a building and within the exterior of firewalls of a building, exclusive of vent shafts and courts.

Footing means the spreading course at the base or bottom of the foundation wall, column or pier.

Foundation means the substructure, including masonry walls, piers, footing, piles, grills and similar construction, which is designed to transmit the load of any superimposed structure to natural soil or bedrock.

Garage means the building used for the housing of one or more motor vehicles. The term "garage" is further defined as follows:

- (1) *Private garage* means a garage maintained primarily for the convenience of the owner, tenant or resident occupant of the premises and in which no business is carried on and no service is rendered to the public and which shall meet the following requirements:
 - a. The square footage, as measured on the outside of the structure, shall be no more than 960 square feet.
 - b. The garage door wall shall be no more than ten feet in height, with a maximum peak height of 16 feet from floor to peak.
 - c. The garage area shall encompass no more than 30 percent of the rear yard area of the premises on which the garage is constructed.
- (2) *Public garage* means any garage other than a private garage.

Grade means as follows:

- (1) For buildings or structures adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.
- (2) For buildings or structures adjoining more than one street, the average of the elevations of the sidewalk at the center of all walls adjoining streets.
- (3) For buildings or structures having no wall adjoining the street, the average level of ground (finished surface) adjacent to the exterior walls of the building or structure. All walls approximately parallel to and not more than five feet from a street line are to be considered as adjoining to a street.

Height of building means the vertical distance measured at the centerline of the building's principal front from the established grade or from the natural grade; if higher than the established grade, to the level of the highest point in the coping of flat roofs or the deck line of a mansard roof or to the mean height of the highest gable of a pitched roof or to half the height of a hipped roof where no roof beams exist or there are structures wholly or partly above the roof, the height shall be measured to the level of the highest point of the building.

Interior wall means a wall that is entirely enclosed by exterior walls of the building.

Lime cement mortar means mortar that consists of one part of dry hydrated lime or lime putty and one part of Portland cement added to not more than six parts of approved sand, all measured by volume.

Lintel means the beam or girder placed over an opening in the wall and which supports the wall construction above.

Live loads means all imposed, fixed or transient loads other than dead loads.

Lot means a parcel of land having its principal frontage upon a street or alley and that is occupied or to be occupied by a building and its accessory buildings together with such open spaces as are required by the state building code, by this article and by chapter 118.

Lumber sizes and grades means nominal sizes; the actual sizes are specified by the American Lumber Standards Committee. All grades shall be determined using American Lumber standards as a basis.

Masonry means that form of construction composed of monolithic concrete or of stone, brick, concrete, gypsum, hollow clay tile, concrete blocks or tile, or other similar solid or hollow incombustible building units or materials, or a combination of these materials laid up unit by unit and set in approved mortar.

Minor repair means repair performed for maintenance or replacement purposes on any existing one- or two-family dwelling that does not affect room arrangement, light and ventilation; access to or efficiency of any exit stairways or exits; fire protection; or exterior aesthetic appearance; and that does not increase a given occupancy and use. No building permit is required for work to be performed that is deemed minor repair.

Monolithic masonry means a homogeneous mass of inert materials mixed with Portland cement and constructed in one continuous operation.

Motor vehicle means any self-propelled vehicle licensed to travel over streets and highways. In calculating garage accommodations under this article, two two-wheeled motorcycles shall be considered as the equivalent of one motor vehicle.

Nonbearing wall means a wall that supports no load other than its own weight.

One- or two-family dwelling means a building that contains one or separate households intended to be used as a home, residence or sleeping place by an individual or by two or more individuals maintaining a common household, to the exclusion of all others.

Panel wall means a nonbearing wall built between columns, piers and wholly supported at each story.

Parapet wall means that part of any wall entirely above the roofline.

Party wall means a wall used or adapted for joint service between two buildings.

Person means an individual, partnership, firm or corporation.

Portland cement mortar means mortar that consists of one part of Portland cement to not more than three parts of approved sand, except that dry hydrated lime or lime putty in volume equal to not more than 15 percent of the volume of Portland cement may be added to the mortar.

Repair means the reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The term "repair" shall not apply to any alteration.

Retaining wall means any wall used to resist the lateral displacement of any material.

Shaft means a vertical opening through one or more floors of a building for an elevator, dumbwaiter, light, ventilation or similar purpose.

Story means that portion of a building included between the upper surface of any floor

and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

- (1) A basement shall not be considered a story unless the ceiling thereof is more than five feet above grade.
- (2) A building shall be considered a two-story building when the bearing walls extend more than three feet above the second floor or the walls are more than 17 feet high measured from the grade up. No two-story residence bearing wall shall have a height exceeding 22 feet measured from the lower edge of the first floor joists to the top of the wall.

Structure means that which is built or constructed; an edifice or building of any kind; or any piece of work artificially built up or composed of parts jointed together in some definite manner.

Uniform dwelling code means those administrative code provisions and any amendments, revisions or modifications thereto contained in the following chapters of the Wis. Admin. Code:

- (1) Wis. Admin. Code ILHR ch. 20, Administration and Enforcement.
- (2) Wis. Admin. Code ILHR ch. 21, Construction Standards.
- (3) Wis. Admin. Code ILHR ch. 22, Energy Conservation Standards.
- (4) Wis. Admin. Code ILHR ch. 23, Heating, Ventilating and Air Conditioning Standards.
- (5) Wis. Admin. Code ILHR ch. 24, Electrical Standards.
- (6) Wis. Admin. Code ILHR ch. 25, Plumbing and Potable Water Standards.

Veneer means the outer facing of brick, stone, concrete or tile attached to an enclosing wall for the purpose of providing ornamentation, protection or insulation which cannot be considered as adding to the strength of the walls.

(Code 1960, ch. 8, §§ 3, 8.26)

Cross references: Definitions generally, § 1-2.

Sec. 18-197. Title.

This article shall be known as the one- and two-family dwelling code of the village.
(Code 1960, ch. 8, § 1(1))

Sec. 18-198. Purpose and intent.

The purpose and intent of this article is to:

- (1) Exercise jurisdiction over the construction and inspection of all one- and two-

family dwellings and additions to one- and two-family dwellings;

- (2) Provide plan review and on-site inspections of one- and two-family dwellings by inspectors certified by the department of industry, labor and human relations;
- (3) Establish and collect fees to defray administrative and enforcement costs;
- (4) Establish remedies and penalties for violations; and
- (5) Establish use of the state uniform building permit as prescribed by the department of industry, labor and human relations.

(Code 1960, ch. 8, § 1(2))

Sec. 18-199. State uniform dwelling code adopted.

The administrative code provisions describing and defining regulations with respect to one- and two-family dwellings in Wis. Admin. Code ILHR chs. 20--25, whose effective dates are generally June 1, 1980, as amended, are adopted and by reference made a part of this article as if fully set forth in this section. Any act required to be performed or prohibited by an administrative code provision incorporated in this section by reference is required or prohibited by this article. Any amendments, revisions or modifications of the administrative code provisions incorporated in this section are intended to be made part of this article to secure uniform statewide regulation of one- and two-family dwellings in this village. A copy of these administrative code provisions and any amendments shall be kept on file in the clerk's office.
(Code 1960, ch. 8, § 2)

Sec. 18-200. Violations and penalties.

(a) No person shall erect, use, occupy or maintain any one- or two-family dwelling in violation of any section of this article or the uniform dwelling code or shall cause or permit any such violation to be committed. Any person violating any of the provisions of this article shall, upon conviction, be subject to a forfeiture of not less than \$50.00 or more than \$200.00, together with the costs of prosecution. If in default of payment of the forfeiture and costs, the person shall be imprisoned for a period of not less than one day or more than six months or until such forfeiture and costs are paid.

(b) If an inspection reveals noncompliance with this article or with the uniform dwelling code, the building inspector shall notify the applicant and the owner, in writing, of the violation to be corrected. All cited violations shall be corrected within 30 days after written notification unless an extension of time is granted pursuant to Wis. Admin. Code ILHR § 20.10(1)(c).

(c) If, after written notification, the violation is not corrected within 30 days, a stop work order may be served on the owner or his representative, and a copy thereof shall be posted at the construction site. Such stop work order shall not be removed except by written notice of the building inspector after satisfactory evidence has been supplied that the cited violation has been corrected.

(d) Each day each violation continues after the 30-day written notice period has run shall constitute a separate offense. Nothing in this article shall preclude the village from maintaining any appropriate action to prevent or remove a violation of any section of this article or the uniform dwelling code.

(e) If any construction or work governed by this article or the uniform dwelling code is commenced prior to the issuance of a permit, double fees shall be charged.

(Code 1960, ch. 8, § 8.27)

Secs. 18-201--18-225. Reserved.

Article IV. Electrical Code*

Sec. 18-226. Purpose.

The purpose of the electrical code is to provide certain minimum standards, procedures and requirements for the installation, repair and maintenance of electrical wiring, materials, fixtures, equipment and apparatus in connection with the use of electricity in buildings and structures in the village.

(Code 1960, ch. 8, § 17(1))

Sec. 18-227. License required.

(a) No person shall install, alter or repair any electrical wiring, fixtures or other electrical apparatus in the village without first procuring a valid state electrical license, unless excepted under this section.

(b) An owner-occupant of a single-family dwelling or an owner-occupant of a two-family dwelling may perform electrical work in the dwelling in which he resides. The scope of such work is to be limited to 120-volt circuits and only if such circuit is protected by a single main disconnect switch of dead front construction by the owner-occupant. In such a case, a homeowner's permit application outlining the scope of work to be accomplished will be filed with the village building inspector. The fee schedule on file at the office of the village clerk shall be applicable. No work shall be commenced until a permit is issued. The work to be done will require a preliminary or rough-in inspection where a wall or similar closing is necessary and before any walls are closed and circuits are energized. Final inspection will be required after completion of the work. If, upon inspection of the work completed, the building inspector believes that the work attempted by the owner-occupant is not in accordance with the state and village electrical codes, upon order of the building inspector, the owner-occupant shall immediately remove or cause to be removed the defective work or have the work immediately corrected by a licensed electrical contractor under a separate permit application. Any person violating this subsection or any provision of the electrical code shall be subject to the penalties as set forth in section 18-234.

(c) Maintenance personnel employed in public or private buildings shall be permitted to make those minor repairs which by their nature can be performed by persons not having experience in electrical wiring; these shall include the replacement of switches, receptacles and fixtures, but shall not include the extension of circuits or the adding, replacing or creating of new circuits. No license or permit will be required for this minor work. All other

electrical work shall be done under permit in accordance with section 18-228 and under the direct supervision of a person holding a state electrical license.

(Code 1960, ch. 8, § 17(2))

***Cross references:** Utilities, ch. 106.

Sec. 18-228. Permit required.

(a) No person shall install, repair, maintain or alter any electrical wiring or any electrical fixture, equipment or apparatus without securing a permit before the day on which such work is started, unless otherwise provided in this section. Application shall be made in accordance with section 18-116.

(b) No permit shall be required of any licensee under this article when:

- (1) Repairs are necessary for the proper maintenance of an existing installation; this shall not apply to damage caused by fire or to service repairs.
- (2) Existing circuits are extended not exceeding 1,000 watts.
- (3) Minor repairs are made, which shall be limited to the replacement of switches, receptacles or fixtures.

(Code 1960, ch. 8, § 17(3))

Sec. 18-229. Fees.

The fees for permits and charges for inspections required under this division are on file in the office of the village clerk.

(Code 1960, ch. 8, § 17(4))

Sec. 18-230. Authority of inspector.

(a) The electrical inspector shall have the right to enter any building, premises or subway in the discharge of his official duties and, for that purpose, shall be given prompt access on notification to the owner, tenant or person in charge.

(b) The electrical inspector shall order the utility to cut off the electric current from any building or equipment which is found to be in an unsafe condition, and no person shall reconnect the current until written permission is given by the inspector.

(c) Wiring for which a permit has been issued shall not be concealed until accepted by the electrical inspector.

(d) The electrical inspector shall have the power to cause the removal of all wires and the turning off of all electrical currents, where the circuits interfere with the work of the fire department during progress of a fire. At the direction of the fire chief, the electrical inspector shall make a mandatory inspection prior to repair or reconstruction. Compliance with the

inspection report shall be required for repair or reconstruction.

(Code 1960, ch. 8, § 17(5))

Sec. 18-231. State code conformity.

All electrical work, including the placing of wires and other equipment, shall be done in conformity with the state electrical code, as amended.

(Code 1960, ch. 8, § 17(8))

Sec. 18-232. Certificate of inspection and meter certificate.

(a) Current shall not be turned on for any electrical wiring until a certificate of inspection has been issued by the electrical inspector to the utility furnishing the current. The closing of meter loops or their temporary connections shall not be permitted by the inspection department until inspection has been made and a certificate of inspection issued.

(b) When it is necessary for more prompt action to be taken than the regular routine will allow, the licensee or his agent shall personally appear at the office of the electrical inspector to obtain the necessary certificate and shall deliver the certificate in person to the appropriate department of the Wisconsin Electric Power Company.

(c) Certificates to be issued under this section shall be issued only when work has been performed by a licensee.

(d) All meter sockets shall be dead front before certificates will be issued.

(Code 1960, ch. 8, § 17(6))

Sec. 18-233. Penalty.

Any person who shall violate any of the provisions of the state electrical code or any section of this article shall, upon conviction, be subject to a forfeiture of not less than \$25.00 or more than \$200.00, together with the costs of prosecution, and in default of the payment thereof shall be imprisoned in the county jail for a period of not more than 60 days. Each day a violation exists shall constitute a separate offense.

(Code 1960, ch. 8, § 17(10); Ord. No. 2010-06, § 2, 8-23-10)

Editor's note: Ord. No. 2010-06, § 2, adopted August 23, 2010, repealed the former section 18-233, which pertained to appeals, and derived from the Code of 1960, ch. 8, § 17(9). Subsequently, said ordinance renumbered the former section 18-234 as section 18-233. The historical notation has been preserved for reference purposes.

Secs. 18-234--18-260. Reserved.

Article V. Plumbing Code*

Sec. 18-261. State code adopted, applicability.

The construction, reconstruction, installation and alteration of all plumbing, drainage and plumbing ventilation shall conform to the State Plumbing Code of Wisconsin, being Wis. Admin. Code ILHR ch. 82, which is adopted by reference as a part of this article.
(Code 1960, ch. 8, § 8.18(1))

Sec. 18-262. Permit.

(a) No plumbing or drainage of any kind shall be installed or altered, except that leakage or stoppage repairs may be made, without first securing a permit therefor from the plumbing inspector.

(b) The application for such permit shall be on a form furnished by the plumbing inspector and shall state clearly the work planned, alterations to be made, and equipment and materials to be used. All later deviations from such plan must be submitted to and approved by the plumbing inspector.
(Code 1960, ch. 8, § 8.18(2))

Sec. 18-263. Licensed plumber required.

All plumbing work shall be done only by a plumber licensed by the state board of health. However, a property owner may make repairs or installations in a single-family building owned and occupied by him as his home, provided that a permit is issued and the work is done in compliance with this article.
(Code 1960, ch. 8, § 8.18(3))

Sec. 18-264. Inspection required; certificate of compliance.

Upon completion of the plumbing work on any premises, the person doing such work shall notify the plumbing inspector before such work is covered. If the plumbing inspector finds that the work conforms to the state plumbing code, he shall issue a certificate of compliance, which shall contain the date and an outline of the result of such inspection, a duplicate of which shall be filed by location in the office of the plumbing inspector. No person shall use or permit to be used any plumbing or drainage until it has been inspected and approved by the plumbing inspector.

(Code 1960, ch. 8, § 8.18(4))
***Cross references:** Utilities, ch. 106.

Sec. 18-265. Inspection fees.

All fees for plumbing inspections shall be paid to the village prior to the issuance of a plumbing permit. The schedule of fees is on file in the office of the village clerk.
(Code 1960, ch. 8, § 8.18(5))

Secs. 18-266--18-295. Reserved.

Article VI. Moving Of Buildings*

Sec. 18-296. Permit conditions.

Every permit to move a building shall state all conditions to be complied with, shall designate the route to be taken and shall limit the time for removal.

(Code 1960, ch. 8, § 12(1))

Sec. 18-297. Qualifications of applicant.

Every applicant to move a building to a new location shall be the owner of the structure to be moved and shall have an interest in the site of the proposed new location.

(Code 1960, ch. 8, § 12(4))

Sec. 18-298. Exemptions; inspections; bond.

(a) If a building is to be moved out of the village, the sections of this chapter relating to submission of plans and specifications may be omitted.

(b) If a building is to be moved within or into the village, no permit shall be issued unless the building inspector has made an examination of such building at its old location and prior to separation from its foundation and service connections.

(c) Before a permit to move any building is granted, the person applying for the permit shall give a bond in the sum fixed by the building inspector, which shall be not less than \$1,000.00, with a corporate surety to be approved by the village clerk. The bond shall be conditioned, among other things, that the person will save and indemnify the village from all damages, judgments, costs and expenses that may in any way accrue against the village and will keep the village harmless against any liability, judgments, costs, damages and expenses that may result in any liability, judgments, costs, damages and expenses in consequence of the granting of such permit.

(Code 1960, ch. 8, § 12(3))

***Cross references:** Streets, sidewalks and other public places, ch. 90.

Sec. 18-299. Hearing by building board.

(a) Upon receipt of an application to move a building to a new location within the village, the building inspector shall cause to be sent written notice to the neighboring property owners in the vicinity of the new location, informing them of the time and place for the hearing thereon by the building board.

(b) At such hearing, the building board shall give all persons an opportunity to be heard.

(c) If the building board determines that alterations to the building shall be a condition to the issuance of the permit, the owner of the building must submit detailed plans and specifications of such alterations. The building board in its discretion may require the

owner to post a performance bond in an amount and with such time limitations as the building board shall prescribe, guaranteeing the changes proposed by the submitted plans and specifications.

(d) The building board shall render a decision within seven days of the original meeting, but a permit shall not be issued for ten days from the date of final decision, during which time any person may appeal the decision of the building board to the board of appeals of the village.

(Code 1960, ch. 8, § 12(5))

Sec. 18-300. Standards.

(a) The removal of a building shall be continuous during all hours of the day, and day by day, and at night, if the building inspector so orders, until completed, with the least possible obstruction to thoroughfares.

(b) No building shall be allowed to remain overnight upon any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.

(c) Lights shall be kept in conspicuous places at each end of the building during the night.

(Code 1960, ch. 8, § 12(1))

Sec. 18-301. Repair of damaged street.

Every person receiving a permit to move a building shall, within one day after the building reaches its destination, report that fact to the building inspector. The building inspector shall thereupon inspect the streets over which the building has been moved and ascertain their condition. If the removal of the building has caused any damage to the streets, the house mover shall forthwith place them in as good repair as they were before the permit was granted. Upon the failure of the house mover to do so within ten days thereafter, to the satisfaction of the village clerk, the person obtaining such permit and the sureties on his bond shall be responsible for the payment of the repair.

(Code 1960, ch. 8, § 12(2))

Secs. 18-302--18-325. Reserved.

Article VII. Unsafe Structures*

Sec. 18-326. Responsibilities of building inspector.

The building inspector shall act for the village under Wis. Stats. § 66.05(5), relating to the razing of buildings. The building inspector shall act for the village under such statutory provisions except as to the assessment and collection of the special tax provided for therein.

(Code 1960, ch. 8, § 14(1))

Sec. 18-327. Official newspaper.

Under this article, the Westline Report shall be the official newspaper for publication of notice required in Wis. Stats. § 66.05(1)(a). (Code 1960, ch. 8, § 14(2))

Sec. 18-328. Appeal to circuit court.

(a) Anyone affected by any order issued under this article may apply to the circuit court for an order restraining razing and removing such building or part thereof.

(b) Any owner or tenant dissatisfied with any order or regulation of the building inspector under this article may commence an action within 30 days after the service of such order or regulation in the circuit court of the county, against the village, to vacate and set aside any such order or regulation on the ground that such order is not necessary for the protection of the public, as provided in this article. Such action shall proceed as all other actions commenced in the circuit court.

(Code 1960, ch. 8, § 14(3); Ord. No. 2010-06, § 3, 8-23-10)

Editor's note: Ord. No. 2010-06, § 3, adopted August 23, 2010, repealed the former section 18-328, which pertained to appeal to arbitration, and derived from the Code of 1960, ch. 8, § 14(4). Subsequently, said ordinance renumbered the former section 18-329 as section 18-328. The historical notation has been preserved for reference purposes.

Secs. 18-329--18-355. Reserved.

***Cross references:** Environment, ch. 42; health and sanitation, ch. 50.

Article VIII. Swimming Pools

Sec. 18-356. Definition.

(a) "Approved safety pool cover" means a power-operated safety pool cover that meets all of the most-recent performance standards of the American Society for Testing and Materials (ASTM).

(b) "Swimming pool" means any artificial body of water used or intended to be used for wading or swimming, having a depth at any point greater than 24 inches or with a surface area exceeding 200 square feet, constructed, installed or maintained in-ground or above-ground, outside or as an accessory to a residential building or private property within the village.

(Ord. of 7-12-99, § 1)

Sec. 18-357. Exempt pools.

Storable children's swimming or wading pools, with a maximum dimension of 15 feet and a maximum wall height of 15 inches and which are so constructed that they may be readily disassembled for storage and reassembled to their original integrity, are exempt from the provisions of this section.

Sec. 18-358. Construction and maintenance.

(a) Every swimming pool shall be so designed and constructed as to facilitate cleaning and shall be maintained and operated in such a manner as to be clean and sanitary at all times.

(b) Every swimming pool shall be designed, constructed and maintained so that it will not create a hazard to health, safety or the general welfare, and will not be detrimental to the neighborhood or to the residents thereof.

(c) All buildings or structures to be erected under the provisions of this section shall conform to the requirements of this Code for setbacks and area requirements for accessory structures for the zoning district of the property. Swimming pools shall not be located in the front yard, nor less than five (5) feet from any lot line or building wall.

(d) Any lights illuminating such swimming pool shall be so erected as to eliminate direct rays and minimize reflected rays of light onto adjoining properties and roadways.

(e) Except as provided below, a fence with a minimum height of forty eight (48) inches shall completely surround all swimming pools. There shall be no opening in said fence larger than six (6) inches square. All gates or doors opening through such enclosure shall be kept securely closed at all times while unattended and shall be equipped with a self-closing and self-latching device capable of keeping such door or gate securely closed. Such fences shall be erected in such manner that there shall be an apron of level surface at least three feet in width surrounding all sides of the pool and conform to the side yard requirements for accessory buildings of this Code.

(f) A fence is not required around an above-ground swimming pools where the pool wall is at least forty eight (48) inches in height above grade for the full pool perimeter, and provided that all ladders, steps or other means of access to the pool are removed and/or designed to prevent access when the pool is unattended.

(g) The Plan Commission may also waive the fencing requirement for any pool with an approved safety pool cover that also complies with any site-specific safety and/or nuisance-related conditions placed upon such approval.

(h) All swimming pools must be equipped with an adequate self-contained filtration and recirculating system detached from any potable water supply or waste disposal system.

(i) Pools shall not drain into sanitary sewers, roadside ditches or neighboring properties. Pool waste water may be used for irrigation by surface or subsurface spreading providing no hazard, nuisance or unsanitary condition will occur in the opinion of the building inspector or the director of public works.

(Ord. of 7-12-99, § 1)

Sec. 18-359. Permit.

All private swimming pools shall require a building permit with the fee as listed on the schedule of building permits fees on file in the village clerk's office. Application for permits shall be accompanied by plans, before construction commences. Plans submitted shall included a plot plan detailing location and easements, dimensions, depths, volume of gallons, type and size of filter system and waste disposal system. (Ord. of 7-12-99, § 1)

Sec. 18-360. Appeal from inspectors ruling.

Any person feeling himself aggrieved by any order or ruling of the building inspector may appeal in writing to the board of zoning appeals of the village within 30 days of the alleged act or omission of said inspector pursuant to section 62.23, Wis. Stats., and the rules and regulations of the board.

(Ord. of 7-12-99, § 1)

Sec. 18-361. Duty to comply.

Compliance with this section shall be the duty of the person owning, controlling or managing any building or premises wherein or whereon there shall be placed or there exists a swimming pool subject to this section.

(Ord. of 7-12-99, § 1)

Chapters 19 - 21
Reserved

Chapter 22 BUSINESSES*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 22-1. Secs. 22-2--22-25.	Delinquent taxes, assessments and claims. Reserved.		
Article II. Cigarettes			
Division 1. Generally			
Sec. 22-26. Secs. 22-27--22-50.	Penalty for violation. Reserved.		
Division 2. License			
Sec. 22-51.	Required.	2021-09	10/25/21
Sec. 22-52.	Fee.	2021-09	10/25/21
Sec. 22-53.	Form; expiration; transferability.	2021-09	10/25/21
Secs. 22-54--22-80.	Reserved.		
Article III. Soda Water Beverages			
Division 1. Generally			
Secs. 22-81--22-105.	Reserved.		
Division 2. License			
Sec. 22-106. Secs. 22-107--22-135.	Repealed. Reserved.	2021-06	06/28/21
Article IV. Ambulances			
Sec. 22-136.	Conditions of operation.	2021-09	10/25/21
Sec. 22-137.	Authority for operation.		
Secs. 22-138. – 22-140.	Reserved.		
Sec. 22-141.	Weights and measures.	2020-04	04/27/2020
Secs. 22-142. – 22-154.	Reserved.		
Sec. 22-155.	Mobile food vendors.	2020-05 2022-01	07/06/2020 03/28/2022

***Cross references:** Alcohol beverages, ch. 6; amusements and entertainments, ch. 10; kennels, § 14-126 et seq.; pet fanciers, § 14-186 et seq.; cable communications, ch. 26; fair housing, § 54-86 et seq.; mobile home parks, § 66-26 et seq.; offenses against public and private property, § 70-131 et seq.; peddlers and solicitors, ch. 78; refuse bins for commercial establishments and apartments, § 86-31; industrial waste, § 86-71 et seq.; streets, sidewalks and other public places, ch. 90; taxation, ch. 98; utilities, ch. 106; vehicles for hire, ch. 114; zoning performance standards, § 118-916 et seq.

Article I. In General

Sec. 22-1. Delinquent taxes, assessments and claims.

(a) *Premises.* No initial or renewal license shall be granted under this chapter for any premises for which taxes, assessments or other claims of the village are delinquent and unpaid.

(b) *Persons.* No initial or renewal license shall be granted under this chapter to any person delinquent in payment:

- (1) Of any taxes, assessments or other claims owed to the village.
- (2) To the state of any state taxes owed.
- (3) Of a forfeiture resulting from a violation of any village ordinance.

(Ord. No. 2009-03(2), § 2, 6-8-09)

Secs. 22-2--22-25. Reserved.

Article II. Cigarettes

Division 1. Generally

Sec. 22-26. Penalty for violation.

The penalty for violation of this article shall be as provided in section 1-11 or by Wis. Stats. § 134.65(5). A separate offense shall be deemed committed on each day upon which a violation occurs or continues. If any person shall be convicted of a second or subsequent violation of this article and the court in its judgment shall determine that the person was personally guilty of a failure to exercise due care to prevent violation, the person's license privileges shall terminate immediately, and he shall not be entitled to another license or act as an agent or servant of another licensee for five years thereafter.

(Code 1960, § 11.03(4))

Secs. 22-27--22-50. Reserved.

Division 2. License

Sec. 22-51. Required.

No person shall in any manner, directly or indirectly, manufacture, sell, exchange, dispose of or give away or keep for sale any cigarettes or cigarette papers or wrappers without first obtaining a license from the village clerk in the manner provided in Wis. Stats. § 134.65. This article shall not apply to jobbers or manufacturers doing interstate business with customers outside the state. (Code 1960, § 11.03(1))

Sec. 22-52. Fee.

The fee for a cigarette license required under this division shall be as provided in the fee schedule on file in the clerk's office. The fee must be paid to the village clerk prior to issuance of a license.

(Code 1960, § 11.03(2))

Sec. 22-53. Form; expiration; transferability.

All cigarette licenses shall be signed by the village clerk and shall indicate thereon the name of the licensee and the place where he is authorized to conduct the licensed business. The license shall expire on June 30 next succeeding the date of issue. The license shall not be transferable.

(Code 1960, § 11.03(3))

Secs. 22-54--22-80. Reserved.

Article III. Soda Water Beverages*

Division 1. Generally

Secs. 22-81--22-105. Reserved.

Division 2. License

Sec. 22-106. Repealed.

Secs. 22-107 — 22-135. Reserved.

Article IV. Ambulances

Sec. 22-136. Conditions of operation.

The owner-operator of a private ambulance with a permanent business location within the corporate limits of the village may be authorized to operate his ambulance as an emergency vehicle, and such private ambulance shall be designated as an emergency vehicle by resolution in accord with Wis. Stats. § 340.01(3), provided the owner-operator complies with the following requirements:

- (1) The ambulance shall be equipped with a flashing, oscillating or rotating red light located on the roof of the ambulance which is plainly visible for a distance of 500 feet.
- (2) The ambulance shall be equipped with a siren capable of emitting a sound audible under normal conditions for a distance of 300 feet.

- (3) The ambulance shall plainly have distinctive letters printed thereon indicating it is an ambulance.
- (4) The ambulance shall be equipped with at least one movable bed for ambulatory patients, and the linens and equipment for the transportation of the patient shall be clean, safe, and in good condition.
- (5) The owner-operator shall exhibit to the village board a certificate of insurance showing coverage as provided in the fee schedule on file in the clerk's office. The policy period shall be for at least a one-year period.
- (6) The owner-operator shall be listed in the telephone directory as an ambulance, and the ambulance shall be available for service 24 hours a day.
- (7) No other person other than the owner-operator or his agent shall be allowed to operate the ambulance, and the ambulance shall only be operated for the purpose of transporting patients from one place to another and return, except when the ambulance is being driven for test or repair purposes.
- (8) The applicant shall furnish proof of mechanical inspection signed by a licensed automobile dealer prior to passage of the resolution authorizing the owner-operator to operate his ambulance as an emergency vehicle and designating the ambulance as an emergency vehicle, at which time the owner-operator shall pay a fee, as provided in the schedule of fees in the village clerk's office, for a certified copy of the resolution.

(Code 1960, § 11.05(1))

Sec. 22-137. Authority for operation.

Unless otherwise properly licensed, at the time of compliance by the owner-operator with the requirements stated in section 22-136, the village board shall by resolution authorize the owner-operator to operate his private ambulance as an emergency vehicle for a period of one year. The village board may from time to time readopt the resolution mentioned in section 22-136 for a period of one year, provided the applicant complies with the requirements in section 22-136. (Code 1960, § 11.05(2))

Secs. 22-138. – 22-140. Reserved.

Sec. 22-141. Weights and measures.

(a) *Purpose.* This section adopts the State of Wisconsin Weights and Measures Regulations and establishes a Weights and Measures Program wherein any person or entity subject to said regulations must obtain a license in order for the Village to comply with and recoup the costs of enforcing said regulations. This section is adopted pursuant to the provisions of Chapter 98, Wis. Stats.

(b) *Application of state codes.* Except as otherwise specifically provided in this section, the provisions of Chapter 98, Wis. Stats., Weights and Measures, and Chapters ATCP 90, 91 and 92 of the Wisconsin Administrative Code are hereby adopted and by reference made a part of this section as though fully set forth herein. Any act required to be performed or prohibited by any statute or code incorporated herein by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the statutes and codes incorporated herein are intended to be made a part of this section.

(c) *State contract; appointment of inspectors; compliance required.*

- (1) State contract. In order to assure compliance with the requirements of the State of Wisconsin related to the inspection and certification of weights and measures, the Village shall contract with the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, pursuant to § 98.04(2), Wis. Stats., in lieu of the establishment of a department of weights and measures.
- (2) Appointment of inspectors. The provisions of the contract set forth in Subsection C(1) shall provide for the enforcement of the statutes and regulations set forth herein, and the Village hereby grants the authority and duties of sealers and inspectors required by this section to the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.
- (3) Compliance required. All persons and entities required to be licensed hereunder shall comply with the enforcement of the statutes and regulations set forth herein, shall comply with the orders and inspections of the inspectors appointed herein, and shall comply with the licensing requirements set forth herein.

(d) *Definitions.* As used in this section, the following terms shall have the meanings indicated:

"Weights and Measures" means weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories used with any or all such instruments and devices, except meters for the measurement of electricity, gas (natural and manufactured) or water when the same are operated in a public utility system. Weights and measures shall include devices used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure and shall include, but not be limited to, commodities, liquid measuring devices, scales, weighing, measuring and price verification systems, timing devices and linear measuring devices.

"Weights and Measures Program" means the program that includes administration and enforcement of this section, Chapter 98, Wis. Stats, applicable Wisconsin Administrative Code provisions, and any related actions.

(e) *Weights and measures license required.*

- (1) License requirements. Except as provided in Subsection E(2), no person or entity shall use, operate or maintain any commercial weights and measures as defined in this section unless the person or entity is licensed by a weights and measures license issued pursuant to the provisions of this section.
- (2) Exemptions. Sales by a person registered as a direct seller or by a holder of a farmer's market, vendor or special event permit are exempt from licensing under this section, but if any person exempted herein is required by the state to hold a state certificate of examination by the Sealer of Weights and Measures, a copy of said certificate shall be provided to the Village with his or her application for direct seller registration or a farmer's market, vendor vehicle or special events permit.

(f) *Application for license. An application for a weights and measures.* License shall be made in writing on a form provided by the Village Clerk and shall be signed by the owner of the commercial business or by its authorized agent. Such application shall state the type of the business, the type and number of weighing, measuring and scanning devices used by the business, the location of the devices, the number of check-out lanes present on the premises, the applicant's full name, post office address and telephone, and whether such applicant is an individual, partnership, limited liability company, corporation or other entity. If the applicant is a partnership, the application shall state the names and addresses of each partner. If the applicant is a corporation or limited liability company, the application shall state the names and addresses of all officers and agents of the applicant, including the registered agent thereof.

(g) *Issuance of licenses and fees.* Upon compliance with this section, the Village Clerk shall determine the fee based on the number of devices, and shall issue a license to the applicant upon payment of the annual license fee. Each store or other business shall require a separate license.

(h) *License term.*

- (1) A license issued under this section shall expire on June 30 of each year. Except as provided in Subsection I(2), the license fee shall not be prorated for a partial year.
- (2) The initial license issued to businesses existing on the effective date of this section shall be for six months, effective on July 1, 2020, and expiring on June 30, 2021, and the license fee shall be waived for initial licenses during this period.

(i) *Enforcement for nonrenewal.* It shall be the duty of the Village Clerk to notify appropriate Village officials and to order the immediate enforcement of the provisions of this section in cases involving a failure to renew a weights and measures license. A licensee shall be prohibited from engaging in any business involved in weights and measures until such time as a valid license has been obtained under the provisions of this section.

(j) *Fees assessment.*

- (1) **Assessment.** In addition to the cost of the license, the Village Clerk shall assess fees to each licensee based on the class of license it holds. The total of the fees assessed and collected under this subsection shall not exceed the actual costs of the weights and measures contract between the Village and the state.
- (2) **Clerk to prepare assessment schedule.** The Village Clerk shall prepare a proposed schedule of fees for each type of license, which shall be based upon the state contract changes, to be submitted to the Village Board from time-to-time to ensure the Village is recouping enough fees to offset the cost of state inspections.
- (3) **Village Board to determine license fees.** The Village Board shall consider the Clerk's proposed schedule of fees and determine the schedule of fees on a reasonable basis.

(k) **Violations.** In addition to any other remedy, any person who fails to comply with the provisions of this section shall, upon conviction thereof, be subject to the penalties set forth in section 1-11 of this Municipal Code. Each day a violation continues shall constitute a separate offense.

Secs. 22-142. – 22-154. Reserved.

Sec. 22-155. Mobile food vendors.

(a) *Definitions.*

- (1) "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.
- (2) "Mobile Food Establishment" means a restaurant or retail food establishment where food is served or sold from a movable vehicle, trailer, push cart, or similar portable device which periodically or continuously changes location and requires a service base to accommodate the unit for servicing, cleaning, inspection and maintenance. This Ordinance does not intend to regulate home delivery of food or beverage items, nor temporary food/product stands, which may be regulated by a peddler's permit or by other Village codes.
- (3) "Mobile Food Park" means any parcel that contains two or more Mobile Food Establishments at the same period of time that are operating under a conditional use permit approved in a non-residential zoning district pursuant to the Zoning Code for the Village of Union Grove as set forth in Chapter 118.
- (4) "Mobile Food Vendor" or "Vendor" means the owner, owner's agent or employee of a Mobile Food Establishment within the Village of Union Grove.

(b) *License Required.*

- (1) No Mobile Food Vendor shall serve or sell any Food whatsoever in the Village of Union Grove without first obtaining an approved permit, except for vendors approved by the Greater Union Grove Area Chamber of Commerce for the Farmers Market or from the Village Board or Recreation and Parks Committee for a Special Event.
- (2) In addition, all Vendors shall be licensed for such use by the State of Wisconsin or any other competent Health Department for any mobile restaurant or Mobile Food Establishment which chooses to operate within the jurisdiction of the Village, in accordance with Sec. 50-3(e).
- (3) An annual permit for operating a Mobile Food Establishment shall be applied for annually. An annual permit, when granted shall be displayed and visible from the exterior of the Mobile Food Establishment at all times along with the State license. The annual permit shall be valid from July 1 through June 30 of the following year unless the Village Board approves alternative dates. Original applications require approval from the Administration Committee. Applications for renewals shall be submitted at least 15 days prior to July 1 and shall be handled in the same manner as original applications but may be approved by the Village Administrator or his/her designee.
- (4) A daily permit for operating a Mobile Food Establishment shall be applied for at least twenty-four (24) hours in advance of the proposed date and time of operation. A daily permit, when granted shall be displayed at all times at the Mobile Food Establishment along with the State license. Up to five (5) daily permits may be issued to the same vendor within a twelve (12) month period. Daily permits may be approved by the Village Administrator or his/her designee.
- (5) Vendors are allowed to operate on private property with non-residential zoning with written permission from the property's owner and as allowed by the Greater Union Grove Chamber of Commerce for the Farmers Market. Vendors are not allowed on public property or public streets except for special events that have received approval from the Village Board or Recreation and Parks Committee. The permittee may not be located at one location for more than six (6) hours within a 24-hour period. This time restriction does not apply to authorized permits for the Farmers Market, Special Events, or Mobile Food Parks operating under a conditional use permit.
- (6) Mobile Food Establishments must be located at least 100 feet from the front door of any restaurant and outdoor dining area and at least 50 feet from any permitted Mobile Food Establishment location, unless specifically allowed by the Greater Union Grove Area Chamber of Commerce for the Farmers Market or from the Village Board or Recreation and Parks Committee for a Special Event. Additionally, Mobile Food Establishment must be parked at least 15 feet from any fire hydrant, and 5 feet away from any driveway, sidewalk, utility box or vault, handicapped ramp, building entrance or exit. These minimum distance requirements are all measured in a straight line from the

closest point of the proposed Mobile Food Establishment location to the closest point from the buffered object, or in the case of a restaurant, measured from the closest point of the restaurant's main entrance.

- (7) Vendors must dispose of all waste associated with the Mobile Food Establishment operation. Village receptacles may not be utilized for this purpose. No liquid waste or grease may be poured into any tree pit, storm drain, gutter pan, sidewalk, or any other public space. Grease shall not be released into the Village's sanitary sewer system. All areas within 5 feet of the Mobile Food Establishment must be kept clean.
 - (8) Vendors shall not utilize tables, chairs, free-standing signage, or audio amplification in conjunction with the Mobile Food Establishment. All equipment associated with the Mobile Food Establishment must be located within 3 feet of the Mobile Food Establishment and may not be placed within the public rights-of-way. The Greater Union Grove Area Chamber of Commerce, Village Board or Recreation and Parks Committee may allow certain exceptions to this section as part of the Farmers Market or special event.
 - (9) Operation. Mobile Food Vendors are allowed to operate in the Village Monday through Sunday between 6:00 a.m. and 7:00 p.m., unless permission to operate outside of these hours is specifically granted by the Village Board or Recreation and Parks Committee for a special event.
 - (10) A permit shall be issued to a person or legal entity. A permit shall not be transferable. A permit is valid for one movable vehicle, trailer, push cart, or similar portable device only and shall not be transferrable between devices.
 - (11) Any Mobile Food Vendor shall fully and without haste comply with any order of a Sheriff's Department Officer, Fire Department officer, or other Village official to ensure the safety of the public. Failure to comply may result in suspension or revocation of the permit and/or issuance of a citation as allowed by law.
 - (12) The number of permits allowed to be issued per year and the fee for a permit as herein provided shall be as set forth and modified from time to time from the Village Board by Resolution.
- (c) *Application Process.*
- (1) Any person desiring to operate a Mobile Food Establishment shall apply for a permit and pay the established fee. The application shall be sworn to by the applicant and filed with the Village and shall contain such information as the Village shall require for the effective enforcement of this section and the safeguarding of the residents of the Village from health risks, fraud, misconduct or abuse.

(d) Conditional Use Permits.

- (1) Any person desiring to operate a Mobile Food Park is required to apply for and obtain approval of a conditional use permit from the Plan Commission, after a duly noticed public hearing is held in accordance with the requirements of the Zoning Code for the Village of Union Grove as set forth in Chapter 118.
- (2) Each person operating a Mobile Food Establishment in a Mobile Food Park must obtain an annual permit from the Village, as well as a license from the State or applicable health department. The number of annual permits granted to Mobile Food Establishments shall not count against the number of annual permits established by resolution of the Village Board.
- (3) The specific requirements set forth in Subsections (b)(6) through (10) may be modified by the Plan Commission as part of the conditions of a conditional use permit that is issued with respect to a Mobile Food Park.

(e) *Violations.* In addition to any other remedy, any person who fails to comply with the provisions of this section shall, upon conviction thereof, be subject to the penalties set forth in section 1-11 of this Municipal Code. Each day a violation exists or continues shall constitute a separate offense.

Chapters 23 - 25
Reserved

Chapter 26 CABLE COMMUNICATIONS*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Secs. 26-1--26-25.	Reserved.		
Article II. Cable Television Commission			
Sec. 26-26.	Created; purpose.		
Sec. 26-27.	Membership.		
Sec. 26-28.	Functions.		
Sec. 26-29.	Duties.		
Sec. 26-30.	Budget		
Secs. 26-31--26-55.	Reserved		
Article III. Community Antenna Television and Radio Systems			
Division 1. Generally			
Sec. 26-56.	Definitions.		
Sec. 26-57.	Violations and penalties.		
Sec. 26-58.	Disputes.		
Sec. 26-59.	Indemnification of village.	2021-09	10/25/21
Sec. 26-60.	Inspection of property and records.	2021-09	10/25/21
Sec. 26-61.	Financial statement and inspection.		
Sec. 26-62.	Location of office.		
Sec. 26-63.	Service to subscribers.		
Sec. 26-64.	Subscriber contract cablevision rates.		
Sec. 26-65.	Operational standards.		
Sec. 26-66.	Unauthorized connections and tampering.		
Sec. 26-67.	Sale of television receivers.		
Secs. 26-68--26-95.	Reserved.		
Division 2. License			
Sec. 26-96.	Required.		
Sec. 26-97.	Application requirements.	2021-09	10/25/21
Sec. 26-98.	Bond.	2021-09	10/25/21
Sec. 26-99.	Issuance criteria.		
Sec. 26-100.	Approval of application.		
Sec. 26-101.	Effective date.		
Sec. 26-102.	Condition.		
Sec. 26-103.	Acceptance.	2021-09	10/25/21
Sec. 26-104.	Payments.	2021-09	10/25/21
Sec. 26-105.	Duration, termination and forfeiture.		
Sec. 26-106.	Termination recourse.		

***Cross references:** Businesses, ch. 22; streets, sidewalks and other public places, ch. 90; utilities, ch. 106.

Sec. 26-107.	Renewal.
Sec. 26-108.	Transfer and assignment.
Sec. 26-109.	Uses permitted by license.
Sec. 26-110.	Limitations on separate charges.
Sec. 26-111.	Public use priority.
Sec. 26-112.	Effect of other statutes and pole assignments.
Sec. 26-113.	Supersession.
Secs. 26-114--26-140.	Reserved.

Division 3. Construction, Relocation, Abandonment of Property

Sec. 26-141.	Locations, construction and undergrounding.
Sec. 26-142.	Removal and abandonment of property of licensee
Sec. 26-143.	Changes required by public improvements.
Sec. 26-144.	Failure to perform street work.
Secs. 26-145--26-170.	Reserved.

Division 4. Rates

Sec. 26-171.	Definitions.		
Sec. 26-172.	Initial review of basic cable rates.	2021-09	10/25/21
Sec. 26-173.	Review of request for increase in basic cable rates.	2021-09	10/25/21
Sec. 26-174.	Cable operator information.		
Sec. 26-175.	Automatic rate adjustments.		
Sec. 26-176.	Enforcement.		
Sec. 26-177.	Rate schedule.		
Secs. 26-178--26-200.	Reserved.		

Article IV. Franchises

Sec. 26-201.	Short title.
Sec. 26-202.	Definitions.
Sec. 26-203.	Rights and privileges of grantee.
Sec. 26-204.	Agreement and incorporation of application by reference.
Sec. 26-205.	Franchise territory.
Sec. 26-206.	Duration and acceptance of franchise.
Sec. 26-207.	Franchise renewal.
Sec. 26-208.	Police powers.
Sec. 26-209.	Cable television franchise required.
Sec. 26-210.	Use of grantee facilities.
Sec. 26-211.	Initial franchise costs.
Sec. 26-212.	Notices.
Sec. 26-213.	Letter of credit/security deposit.
Sec. 26-214.	Performance bond.
Sec. 26-215.	Liability and insurance.
Sec. 26-216.	Indemnification.
Sec. 26-217.	Rights of individuals.
Sec. 26-218.	Public notice.
Sec. 26-219.	Service availability and record request.
Sec. 26-220.	System construction.
Sec. 26-221.	Construction and technical standards.
Sec. 26-222.	Use of streets.

Sec. 26-223.	Operational standards.
Sec. 26-224.	Continuity of service mandatory.
Sec. 26-225.	Complaint procedure.
Sec. 26-226.	Grantee rules and regulations.
Sec. 26-227.	Franchise fee.
Sec. 26-228.	Transfer of ownership or control.
Sec. 26-229.	Availability of books and records.
Sec. 26-230.	Other petitions and applications.
Sec. 26-231.	Fiscal reports.
Sec. 26-232.	Removal of cable television system.
Sec. 26-233.	Required services and facilities.
Sec. 26-234.	Rules and regulations.
Sec. 26-235.	Performance evaluation sessions.
Sec. 26-236.	Rate change procedures.
Sec. 26-237.	Forfeiture and termination.
Sec. 26-238.	Foreclosure.
Sec. 26-239.	Right of acquisition by the village.
Sec. 26-240.	Receivership.
Sec. 26-241.	Compliance with state and federal laws.
Sec. 26-242.	Landlord/tenant.
Sec. 26-243.	Applicant's bids for initial franchise.
Sec. 26-244.	Financial, contractual, shareholder and system disclosure for initial franchises.
Sec. 26-245.	Theft of services and tampering.
Sec. 26-246.	Penalties.
Sec. 26-247.	Procedures.

Article I. In General

Secs. 26-1--26-25. Reserved.

Article II. Cable Television Commission*

Sec. 26-26. Created; purpose.

The cable television commission is created, as there is a need to coordinate and define cable television activities in the village.

(Code 1960, § 2.19)

Sec. 26-27. Membership.

The commission shall be made up of three village trustees. The village president shall appoint a chairperson and two other members at the first regular meeting of the board on or after the third Tuesday in April. The village president's appointments shall be subject to confirmation by the board.

(Code 1960, § 2.19(2); Amd. of 10-22-01, § 1)

Sec. 26-28. Functions.

The functions of the cable television commission are to be of an advocacy, a consultative, an advisory, an informational, a coordinative and a promotional nature. It shall serve as the central agency and clearinghouse for village franchised cable television activities in the village, as provided and authorized under article III of this chapter. The commission shall make continuing studies of the problems affecting cable television and shall make recommendations for relieving such problems and shall function in any other reasonable manner.

(Code 1960, § 2.19)

Sec. 26-29. Duties.

(a) Duties of the cable television commission shall be as follows:

- (1) Act as a clearinghouse for inquiries regarding cable television.
- (2) Act as the agent for the village, subject to the approval of the village board.
- (3) Coordinate cable television development with both governmental and private agencies, including the state, the county, the village board, and neighboring communities.
- (4) Review state and federal regulations regarding cable television.

(b) The commission may hold public hearings regarding cable television in the village.

(Code 1960, § 2.19(1))

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

Sec. 26-30. Budget.

Annually, prior to October 1, the cable television commission shall formulate a budget for the following year and shall submit the budget to the finance committee of the village board.
(Code 1960, § 2.19(3))

Secs. 26-31--26-55. Reserved.

Article III. Community Antenna Television And Radio Systems

Division 1. Generally

Sec. 26-56. Definitions.

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

CATV means a cable distribution system and any services or signals, television, radio or otherwise capable of being delivered by such cable distribution system and shall include, without limitation, a community antenna television system consisting of antennas, cables, wires, wave guides, or other conductors, equipment or facilities designed, constructed or used for the purpose of providing or creating television or radio signals through its facilities. CATV shall not mean or include the transmission of any special program or event for which a separate charge is made to the subscriber in the manner commonly known and referred to as "pay television," and the licensee expressly agrees that no entertainment programs shall be provided in this manner.

Gross annual receipts means any and all compensation and other consideration in any form whatever and any contributing grant or subsidy received directly or indirectly by a licensee from subscribers or users in payment for television or FM radio signals or service excluding installation and line extension charges received within the village. Gross annual receipts shall not include any taxes on services furnished by the licensee imposed directly on any subscriber or user by any governmental unit and collected by the licensee for such governmental unit.

License means and includes any nonexclusive authorization granted pursuant to this article in terms of a license, permit or otherwise to construct, operate and maintain a CATV system in the village.

Licensee means the person to whom or which a license is granted by the board under this article, and the lawful successor or assignee of such person, but shall not include a telephone company, whose facilities are constructed, operated and maintained pursuant to its state-granted telephone franchise, furnishing a licensee under this article with distribution channels for use in a CATV system.

Property of the licensee means all property constructed, installed, operated or maintained by a licensee under the authority of a nonexclusive license issued pursuant to this article.

Service area means the incorporated area in this village in which a licensee is authorized pursuant to this article to construct, maintain and operate a CATV system.

Street means the surface of and the space above and below any public street, highway, alley, public property or public easement of the village, existing as such within the village.

Subscriber means any person or entity receiving for any purpose the CATV service of a licensee.

(Ord. of 10-28-82, § 11.12(art. 1, § 1))

Cross references: Definitions generally, § 1-2.

Sec. 26-57. Violations and penalties.

Any person convicted of violation of sections 26-66, 26-67 and 26-96 shall, for each offense, forfeit a sum of not less than \$100.00 or more than \$500.00, together with costs of such prosecution. Violation of these sections shall be considered a separate offense for each 24-hour period the violation continues following notification or discovery.

(Ord. of 10-28-82, § 11.12(art. 6, § 4))

Sec. 26-58. Disputes.

The village board may do all things necessary and convenient in the exercise of its jurisdiction under this article and may determine any question of fact that may arise during the existence of any license granted under this article. The board may adjust, settle or compromise any controversy or cancel any charge arising from the operations of any licensee or from any section of this article.

(Ord. of 10-28-82, § 11.12(art. 2, § 6))

Sec. 26-59. Indemnification of village.

(a) *Liability insurance.* The licensee shall, concurrently with the filing of an acceptance of award of any license granted under this article, furnish to the village and file with the village clerk and, at all times during the existence of any license granted under this article, maintain in full force and effect, at his own cost and expense, a liability insurance policy in the amount of \$1,000,000.00 in a company approved by and in a form satisfactory to the village attorney. The liability insurance policy shall indemnify and save harmless the village, its officers and employees from and against any and all claims, demands, actions, suits and proceedings by others; against all liability to others, including but not limited to any liability for damages by because of or arising from any failure by the licensee to secure consents from the owners, authorized distributors or the licensee's to programs to be delivered by the licensee's CATV system; and against any loss, cost, expense and damages resulting therefrom, including reasonable attorney's fees, arising from the exercise or enjoyment of the license, irrespective of the amount of the comprehensive liability insurance policy required under this section. This subsection may be satisfied by proper endorsement to the comprehensive liability insurance policy required by subsection (b) of this section.

(b) *Comprehensive liability insurance.* The licensee shall, concurrently with the filing of any acceptance of award of any license granted under this article, furnish to the village and file with the village clerk and, at all times during the existence of any license granted under this article, maintain in full force and effect at his own cost and expense a general comprehensive liability insurance policy, in protection of the village, its officers, boards, commissions, agents and employees, in a company approved by and in a form satisfactory to, the village attorney. The general comprehensive liability insurance policy shall protect the village and all persons against liability for loss or damage for personal injury, death, property damage, and inverse condemnation, or any combination of these, and regardless of whether or not such liability, claim or damage was unforeseeable at any time before the village approved plans for the installation of the licensee's property or after the installation of the licensee's property, occasioned by the operations of the licensee under such license, with minimum liability limits of \$500,000.00 for personal injury or death in any one occurrence or in the aggregate and \$100,000.00 for damage to property resulting from any one occurrence or in the aggregate.

(c) *Additional insured, cancellation, conditions.* The policies or certificates of insurance representing such policies mentioned in subsection (b) of this section shall name the village, its officers, boards, commissions, agents and employees as additional insureds and shall contain a provision that a written notice of cancellation or reduction in coverage of the policy shall be delivered to the village ten days in advance of the effective date thereof. If such is provided by a policy that also covers the licensee or any other entity or person other than those named in this subsection, such policy shall contain the standard cross-liability endorsement. The promise and agreement in this subsection is not conditioned or dependent on whether or not the village has approved any plan or specification in connection with this license, or insurance or other indemnification covering any of these matters.

(d) *Liability agreement.* By accepting a license, the licensee agrees to save and hold harmless, as set forth in this section, the village, its officers, boards, commissions, agents and employees from any and all claims, costs, demands, causes of action, suits, losses, expenses, or other detriment or liability arising from or out of the operations of the licensee from any cause whatsoever, including inverse condemnation, and in addition to and not in lieu of such surety bond and liability insurance.
(Ord. of 10-28-82, § 11.12(art. 4, § 2))

Sec. 26-60. Inspection of property and records.

(a) At all reasonable times for the purpose of this article, the licensee shall permit any duly authorized representative of the village to examine all property of the licensee, together with any appurtenant property of the licensee situated within or without the village, and to examine and transcribe any and all maps and other records kept or maintained by the licensee or under his control which deal with the operations, affairs, transactions or property of the licensee with respect to his license. If any such maps or records are not kept in the village or upon reasonable request made available in the village and if the board shall determine that an examination thereof is necessary or appropriate, all travel and maintenance expenses necessarily incurred in making such examination shall be paid by the licensee.

(b) The licensee shall prepare and furnish to the village clerk and the village attorney, at the times and in the form prescribed by either of such officers, such reports with respect to his operations, affairs, transactions or property as may be reasonably necessary or

appropriate to the performance of any of the rights, functions or duties of the village or any of its officers in connection with the license.

(c) The licensee shall at all times make and keep in the village full and complete plans and records showing the exact location of all CATV system equipment installed or in use in streets and other public places in the village.

(d) When any portion of the CATV system is to be installed on public utility poles and facilities, certified copies of the agreements for such joint use of poles and facilities shall be filed with the village clerk.

(Ord. of 10-28-82, § 11.12(art. 4, § 3))

Sec. 26-61. Financial statement and inspection.

Under this article, the licensee shall file with the village, within 60 days after the expiration of any fiscal year or portion thereof during which such license is in force, a statement prepared by a certified public accountant or public accountant showing in detail the gross annual receipts of the licensee during the preceding calendar year or portion thereof. It shall be the duty of the licensee to pay the village, within 15 days after the time for filing such statement, the sum prescribed in this section or any unpaid balance thereof for the calendar year or portion thereof covered by such statements. The village shall have the right to inspect the licensee's records showing the gross receipts from which his license payments are computed and shall have the right to audit the records and recompute any and all amounts paid under this article. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the village may have for further or additional sums payable under this article or for performance of any other obligation under this article.

(Ord. of 10-28-82, § 11.12(art. 1, § 7))

Sec. 26-62. Location of office.

The CATV licensee shall maintain an office within the village or at a location within a 30-mile or less radius of the village to which subscribers may call without incurring added message or toll charges, so that CATV maintenance service shall be promptly available to subscribers.

(Ord. of 10-28-82, § 11.12(art. 4, § 5))

Sec. 26-63. Service to subscribers.

No person in the service area of the licensee shall arbitrarily be refused service; provided, however, the licensee shall not be required to provide service to any subscriber who does not pay the applicable connection fee or monthly service charge.

(Ord. of 10-28-82, § 11.12(art. 4, § 6))

Sec. 26-64. Subscriber contract cablevision rates.

The subscriber contract cablevision rates shall be as prescribed in the rate schedule in section 26-177.

(Ord. of 10-28-82, § 11.12(art. 4, § 7))

Sec. 26-65. Operational standards.

The CATV system shall be installed and maintained in accordance with the highest and best accepted standards of the industry to the effect that subscribers shall receive the highest possible service. In determining the satisfactory extent of such standards, the following, among others, shall be considered:

- (1) Any new system shall be installed using all-band equipment, capable of passing the entire VHF and FM spectrum, and it shall have the further capability of converting UHF for distribution to subscribers of the VHF band.
- (2) The system, as installed, shall be capable of passing standard color TV signals without the introduction of material degradation on color fidelity.
- (3) The system and all equipment shall be designed and rated for 24-hour per day continuous operation.
- (4) The operational standards set forth in this section and those prescribed by Federal Communications Commission are intended to be the highest and best accepted standards of the CATV industry.
- (5) As a community service, the licensee shall:
 - a. Provide a free drop or service line to each of the following locations:
 1. The municipal building.
 2. The police and fire stations.
 3. The Graham Public Library.
 4. The Union Grove Graded School and Union High School.
 - b. Provide the following equipment:
 1. Keyboard to be used by village to program community service announcements.
 2. One color video camera.
 3. One color video tape recorder and tuner.
 4. All necessary equipment for cablecast replay.
 5. Character generator, modulator, monitor, cable channel for municipal buildings and schools on a two-way cable line.
 - c. Twice a year, a free seminar for training of certified operators of the community service equipment.

(Ord. of 10-28-82, § 11.12(art. 4, § 4))

Sec. 26-66. Unauthorized connections and tampering.

No person shall make any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the licensed CATV system within the incorporated area of this village for the purpose of taking or receiving television signals, radio

signals, pictures, programs, or sound. Also, no person, without the consent of the owner, shall tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

(Ord. of 10-28-82, § 11.12(art. 6, § 2); Ord. of 4-12-99, § 1)

Sec. 26-67. Sale of television receivers.

The CATV licensee or any of his employees during the course of employment shall not engage in the business of selling or leasing television or other receivers that make use of signals transmitted by his system, nor shall the licensee or any of his employees during the course of their employment engage in the repair of such receivers or the sale of parts for such.

(Ord. of 10-28-82, § 11.12(art. 6, § 3))

Secs. 26-68--26-95. Reserved.

Division 2. License

Sec. 26-96. Required.

No person shall establish, operate or carry on the business of distributing to any person in this village any television signals or radio or other signals by means of a CATV system unless a license has first been obtained pursuant to this article and unless such license is in full force and effect. Also, no person shall construct, install or maintain within any street in the village or within any other public property of the village or within any privately owned area within the village that has not yet become a public street, but is designated or delineated as a proposed public street on any tentative subdivision map approved by the village, any equipment or facilities for distribution of any television signals or radio signals through a CATV system, unless a license authorizing such use of such street or property or area has first been obtained pursuant to this article and unless such license is in full force and effect.

(Ord. of 10-28-82, § 11.12(art. 6, § 1))

Sec. 26-97. Application requirements.

(a) An application for a license under this article shall be in writing and shall be accompanied by a payment to the village in the amount listed in the fee schedule on file in the clerk's office to reimburse the village for expenses incurred in connection with processing the application. The application shall contain the following information:

- (1) The name and address of the applicant. If the applicant is a partnership, the name and address of each partner shall also be set forth. If the applicant is a corporation, the application shall also state the names and addresses of its directors, main officers, major stockholders and associates, and the names and addresses of parent and subsidiary companies.
- (2) A statement and description of the CATV system proposed to be constructed, installed, maintained or operated by the applicant; the proposed location of such system and its various components; the

manner in which applicant proposes to construct, install, maintain and operate the system; and, particularly, the extent and manner in which existing or future poles or other facilities of other public utilities will be used for such system.

- (3) A map specifically showing and delineating the proposed service areas within which the applicant proposes to provide CATV services and for which a license is requested.
- (4) A statement or schedule, in a form approved by the village, of proposed rates and charges to subscribers for installation and services. A copy of the proposed service agreement, if any, between the licensee and his subscribers shall accompany the application. For unusual circumstances, such as required underground cable or more than 150 feet of distance from the cable to connection of service to a subscriber, an additional installation charge over that normally charged for installation as specified in the applicant's proposal may be charged, with easements to be supplied by subscribers. For remote, relatively inaccessible subscribers within the village, service may be made available on the basis of cost of materials, labor, and easements, if required by the licensee.
- (5) A copy of any contract, if existing, between the applicant and any public utility providing for the use of facilities of such public utility, such as poles, lines or conduits.
- (6) A statement setting forth all agreements and understandings, whether written, oral or implied, existing between the applicant and any person with respect to the proposed license or the proposed CATV operation. If a license is granted to a person posing as a front or as the representative of another person, and such information is not disclosed in the original application, such license shall be deemed void and of no force and effect whatsoever.
- (7) A financial statement prepared by a certified public accountant or public accountant satisfactory to the board, showing the applicant's financial status and his financial ability to complete the construction and installation of the proposed CATV system.
- (8) The board may at any time demand and applicant shall provide such supplementary, additional or other information as the board may deem reasonably necessary to determine whether the requested license should be granted.

(b) The board may, by advertisement or any other means, solicit and call for offers and applications for CATV licenses, and may determine and fix any date upon or after which such shall be received by the village or the date before which such must be received or the date after which such shall not be received, and may make any other determination and specify any other times, terms, conditions, or limitations respecting the soliciting, calling for, making and receiving of such offers and applications, in addition to the information required pursuant to this section. The board shall not be required to solicit or call for such offers or

applications and may receive or refuse to receive any of such solicited, called for, or otherwise, as the board may elect.

(Ord. of 10-28-82, § 11.12(art. 5, § 1))

Sec. 26-98. Bond.

(a) The licensee shall, concurrently with the filing of any acceptance of award of any license granted under this division, file with the village clerk and at all times thereafter maintain in full force and effect for the term of such license or any renewal thereof, at the licensee's sole expense, a corporate surety bond in a company, and in a form approved by the village attorney, in the amount of 100 percent of any construction costs of the licensee but in no event less than \$100,000.00. The bond shall be renewable annually and conditioned upon the faithful performance of the licensee, and upon the further condition that, if the licensee shall fail to comply with any one or more of the sections of this article or of any license issued to the licensee under this division, there shall be recoverable jointly and severally from the principal and surety of such bond any damages or loss suffered by the village as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the licensee as prescribed by this section which may be in default plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond. Such condition shall be a continuing obligation for the duration of such license and any renewal thereof and thereafter until the licensee has liquidated all of its obligations with the village that may have arisen from the acceptance of the license or renewal by the licensee or from the licensee's exercise of any privilege therein granted. The bond shall provide that 30 days' prior written notice of intention not to renew or notice of cancellation or material change shall be given to the village. The bond requirement of this section may be dispensed with at any time by resolution of the board after the licensee has commenced service and the licensee's investment ensures compliance with the license.

(b) Neither this section nor any bond accepted by the village pursuant to this section nor any damages recovered by the village under this article shall be construed to excuse faithful performance of the licensee or limit the liability of the licensee under any license issued under this article or for damages, either to the full amount of the bond or otherwise.

(Ord. of 10-28-82, § 11.12(art. 4, § 1))

Sec. 26-99. Issuance criteria.

(a) A nonexclusive license to construct, operate and maintain a CATV system within all or any portion of the incorporated area of the village may be granted by the board to any person, whether operating under an existing license or not, who offers to furnish and provide such system under and pursuant to the terms of this article.

(b) No section of this article shall be deemed or construed to require the granting of a license when in the opinion of the board it is in the public interest to restrict the number of licenses to one or more for a proposed service area or not to grant any licenses for a proposed service area. Neither the granting of any nonexclusive license under this article nor any of the sections contained in this article shall be construed to prevent the village from granting any identical or similar nonexclusive license to any person, within all or any portion of the village. (Ord. of 10-28-82, § 11.12(art. 1, § 2))

Sec. 26-100. Approval of application.

Upon consideration of any application submitted under this division, the board may refuse to grant the requested license or the board may, by resolution, grant a license for a CATV system to any such applicant as may appear from the application to be, in the board's opinion, best qualified to render proper and efficient CATV service to television viewers and subscribers in the proposed service area. The board's decision in the matter will be final. If favorably considered, the application submitted shall constitute and form part of the license as granted. (Ord. of 10-28-82, § 11.12(art. 5, § 2))

Sec. 26-101. Effective date.

No license granted pursuant to this division shall become effective unless and until the resolution granting the license has become effective. (Ord. of 10-28-82, § 11.12(art. 5, § 5))

Sec. 26-102. Condition.

(a) Any license granted pursuant to this division shall include the following condition:

“The CATV system herein licensed shall be used and operated solely and exclusively for the purposes contemplated by this article.”

(b) Inclusion of the statement in any such license shall not be deemed to limit the authority of the village to include any other reasonable condition, limitation or restriction it may deem necessary to impose in connection with such license pursuant to the authority conferred by this article.

(Ord. of 10-28-82, § 11.12(art. 5, § 3))

Sec. 26-103. Acceptance.

Within 30 days after the date of the resolution awarding a CATV license or within such extended period of time as the board, in its discretion, may authorize, the licensee shall file with the village clerk his written acceptance, in a form satisfactory to the village attorney, together with the bond and insurance policies, and his agreement to be bound by and to comply with and to do all things required of him by this article and the provisions of the license. Such acceptance and agreement shall be acknowledged by the licensee before a notary public and shall, in form and content, be satisfactory to and approved by the village attorney.

(Ord. of 10-28-82, § 11.12(art. 5, § 6))

Sec. 26-104. Payments.

(a) The licensee of any license granted under this division shall pay to the village, during the life of such license, three percent of the gross annual receipts of the licensee as provided in the license. Such payment by the licensee to the village shall be made semiannually by delivery of such to the village clerk. Semiannual payments shall be made by July 31 and January 31, based on actual receipts or estimated receipts as required by the

village. Annually, prior to March 31, the prior year's gross annual receipts shall be verified by a certified public accountant's audit report. Adjustments in payments shall be made to the village at that time for prior or future payments.

(b) If payment from the licensee is seven calendar days past due, a certified letter will be sent to the licensee informing the licensee to send payment. This letter will also provide the licensee 14 calendar days to send payment or an additional five percent penalty shall be assessed, and the full amount (payment plus penalty) shall be due immediately as well as any costs incurred in obtaining payment (i.e., any costs of mail, attorney's fees, court costs, and not limited to such items).

(Ord. of 10-28-82, § 11.12(art. 1, § 6))

Sec. 26-105. Duration, termination and forfeiture.

(a) No license granted by the board pursuant to this division shall be for a term longer than 15 years following the date of acceptance of such license by the licensee. Any license may be renewed at the pleasure of the board.

(b) Any material neglect, failure or refusal to comply with any of the terms or conditions of this article during the term of a license, which term or condition is in the licensee's reasonable power to control, continuing for more than 60 days, after a hearing upon any such question, may in the board's discretion create a forfeiture of the license in addition to such other penalties provided in this article. If the terms of compliance and the time allotted for compliance cannot be mutually agreed upon by the village and the licensee, the matter shall be submitted to the American Arbitration Society, whose rulings shall be binding. If the licensee does not comply with mutually agreed upon determinations or arbitration rulings and the board declares the license forfeited, the licensee shall remove his equipment from the streets within the village within one year after receipt of written notice of the board's declaration that the license has been forfeited.

(Ord. of 10-28-82, § 11.12(art. 1, § 5))

Sec. 26-106. Termination recourse.

The licensee shall have no recourse whatsoever against the village for any loss, cost, expense, or damage arising from any provision or requirement of this article or of any license issued under this division or because of its enforcement or for the termination or forfeiture of any license as provided in this article.

(Ord. of 10-28-82, § 11.12(art. 2, § 5))

Sec. 26-107. Renewal.

Any license granted under this division is renewable on the application of the licensee, in the same manner and upon the same terms and conditions required in this division for obtaining the original license, except those which are by their terms expressly inapplicable. However, the board may, at its option, waive compliance with any or all of the requirements of this section.

(Ord. of 10-28-82, § 11.12(art. 5, § 4))

Sec. 26-108. Transfer and assignment.

A licensee shall not sell, transfer, lease, dispose of, or assign this license or any rights under this article, including any beneficial interest or right to operate under the license, by voluntary sale, merger, consolidation, or otherwise or by operation of law, without first advising the board of such in writing and showing the board that the recipient of the license has financial responsibility at least equal to the original licensee. However, this shall not apply to a transfer or assignment of this license or to any right or privilege thereby granted, contained in or made by a deed of trust, mortgage or other instrument, given merely to secure the payment of any indebtedness of a licensee. This article and all rights, obligations and duties under this article shall inure to and be binding upon any assignee who must agree in a duly executed written instrument filed with the board to comply with all the such provisions before any such transfer will be effective.

(Ord. of 10-28-82, § 11.12(art. 2, § 2))

Sec. 26-109. Uses permitted by license.

(a) Any license granted pursuant to this division shall authorize and permit the licensee to engage in the business of operating and providing a CATV system in the village and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any public street, where the village's interest therein will support the grant of the license, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and appurtenant to the CATV system; and in addition, to use, operate, and provide similar facilities or properties rented or leased from other persons, including but not limited to any public utility or other licensee permitted to do business in the village. Any property used by the licensee shall be returned to its original condition within 30 days or completion of the licensee's construction.

(b) The granting of a license pursuant to this article shall not be construed as permission or license to enter on, occupy or otherwise utilize private property without the expressed consent of the owner or agent in possession thereof.

(Ord. of 10-28-82, § 11.12(art. 1, § 3))

Sec. 26-110. Limitations on separate charges.

No license granted under this division shall be construed as a permit or license to transmit any special program or event for which a separate and distinct charge is made to the subscriber in the manner commonly known and referred to as "pay television" and no licensee shall directly or indirectly install, maintain or operate on any television set a coin box or other device or means for the collection of money for individual programs.

(Ord. of 10-28-82, § 11.12(art. 1, § 4))

Sec. 26-111. Public use priority.

No privilege or exemption is granted or conferred by any license granted under this article except those specifically prescribed in this article. Any privilege claimed under a license granted pursuant to this article in any street shall be subordinate to any prior lawful occupancy

of the street or any subsequent occupancy of the street for public purposes.
(Ord. of 10-28-82, § 11.12(art. 2, § 1))

Sec. 26-112. Effect of other statutes and pole assignments.

Any license granted pursuant to this division is subject to all provisions, regulations and conditions prescribed by federal, state, county and local law enacted or established during the term of any license granted and shall be in addition to any electrical or encroachment permit required by this Code. Any such license granted shall not relieve the licensee of any obligation involved in obtaining pole space from the village, utility company, or from other maintaining poles in streets.

(Ord. of 10-28-82, § 11.12(art. 2, § 3))

Sec. 26-113. Supersession.

Any license granted under this division is in lieu of any and all other rights, privileges, powers, immunities, and authorities owned, possessed, controlled, or exercisable by the licensee or any successor to any interest of the licensee of or pertaining to the construction, operation, or maintenance of any CATV system in the incorporated area of this village, and the acceptance of any license under this division shall operate, as between the licensee and the village, as an abandonment of any and all of such rights, privileges, powers, immunities, and authorities within the village, to the effect that, as between the licensee and the village, any and all construction, operation and maintenance by any licensee of any CATV system in the village shall be deemed and construed in all instances and respects to be under and pursuant to the license and not under or pursuant to any other right, privilege, power, immunity, or authority whatsoever.

(Ord. of 10-28-82, § 11.12(art. 2, § 4))

Secs. 26-114--26-140. Reserved.

Division 3. Construction, Relocation, Abandonment of Property

Sec. 26-141. Locations, construction and undergrounding.

(a) Any poles, wires, cable lines, conduits or other properties of the CATV licensee to be constructed or installed in streets shall be so constructed or installed only at such locations and in such manner as shall be approved by the director of public works and shall conform to all applicable laws, including article V of chapter 90 pertaining to obstructions and encroachments.

(b) The licensee shall not install or erect any facilities or apparatus in or on other public property, places or rights-of-way or within any privately owned area within the village which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the village, except those installed or erected upon existing or future public utility facilities, without obtaining the prior written approval of the director of public works and the owner-subdivider.

(c) In those areas and portions of the village where the transmission or distribution facilities of both the public utility providing telephone service and those of the utility providing

electric service are underground or may be placed underground, the licensee immediately, upon written request by the director of public works, shall likewise construct or reconstruct, operate and maintain all of its transmission and distribution facilities underground. For the purpose of this subsection, underground shall include a partial underground system, e.g., streamlining. Amplifiers in the licensee's transmission and distribution lines may be in appropriate housings upon the surface of the ground as approved by the director of public works. The village shall not in any manner be responsible for any costs incurred by the licensee in placing his property underground.
(Ord. of 10-28-82, § 11.12(art. 3, § 1))

Sec. 26-142. Removal and abandonment of property of licensee.

(a) If the use of any part of the CATV system is discontinued for any reason for a continuous period of 12 months or if such system or property has been installed in any street or public place without complying with the requirements of this article or the license has been terminated, cancelled or has expired, the licensee shall promptly, upon being given ten days' notice, commence removing from the streets or public places all such property and poles of such system other than any the director of public works may permit to be abandoned in place. If such removal occurs, the licensee shall, within three working days, restore the street or other area from which such property has been removed to a condition satisfactory to the director of public works.

(b) Any property of the licensee remaining in place one year after the termination, forfeiture, or expiration of the license shall be considered permanently abandoned and shall be disposed of by the village. The director of public works may extend such time as appropriate.

(c) Any property of the licensee to be abandoned in place shall be abandoned in such manner as the director of public works shall prescribe. Subject to the provisions of any utility joint use attachment agreement, upon permanent abandonment of the property of the licensee in place, the property shall become that of the village, and the licensee shall submit to the director of public works an instrument in writing, to be approved by the village attorney, transferring to the village the ownership of such property.

(Ord. of 10-28-82, 11.12 (art. 3, § 2))

Sec. 26-143. Changes required by public improvements.

The CATV licensee shall, at his expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from the street or other public place any property of the licensee when required by the director of public works because of traffic conditions, public safety, street vacation, street construction, change or establishment of a street grade, installation of sewers, signal lines, and tracks or drains, water pipes, power lines or any other type of structures or improvements by public agencies. However, the licensee shall in all such cases have the privileges and shall be subject to the obligations to abandon any property of the licensee in place, as provided in this division.

(Ord. of 10-28-82, § 11.12(art. 3, § 3))

Sec. 26-144. Failure to perform street work.

Upon failure of the licensee to commence, pursue, or complete any work required by law or by this article or by the license to be done in any street or other public place, within the time prescribed and to the satisfaction of the director of public works, the director of public works may, at his option, cause such work to be done, and the licensee shall pay to the village the cost thereof in the itemized amounts reported by the director of public works to the licensee within 30 days after receipt of such itemized report.

(Ord. of 10-28-82, § 11.12(art. 3, § 4))

Secs. 26-145--26-170. Reserved.

Division 4. Rates

Sec. 26-171. Definitions

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

Basic cable rates means the monthly charges for a subscription to the basic service tier and the associated equipment.

Basic service tier means a separately available service tier to which subscription is required for access to any other tier of service, including as a minimum but not limited to all must-carry signals, all PEG channels, and all domestic television signals other than superstations.

Benchmark means a per channel rate of charge for cable service and associated equipment which the FCC has determined is reasonable.

Cable act of 1992 means the Cable Television Consumer Protection and Competition Act of 1992.

Cable operator means any person or group of persons who:

- (1) Provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such a cable system; or
- (2) Otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

Channel means a unit of cable service identified and selected by a channel number or similar designation.

Cost of service showing means a filing in which the cable operator attempts to show that the benchmark rate or the price cap is not sufficient to allow the cable operator to fully recover the costs of providing the basic service tier and to continue to attract capital.

FCC means the Federal Communications Commission.

Initial basic cable rates means the rates that the cable operator is charging for the basic service tier, including charges for associated equipment, at the time the village notified the cable operator of the village's qualification and intent to regulate basic cable rates.

Must-carry signal means the signal of any local broadcast station, except superstations, that is required to be carried on the basic service tier.

PEG channel means the channel capacity designated for public, educational, or governmental use, and facilities and equipment for the use of that channel capacity.

Price cap means the ceiling set by the FCC on future increases in basic cable rates regulated by the village, based on a formula using the GNP fixed weight price index, reflecting general increases in the cost of doing business and changes in overall inflation.

Reasonable rate standard means a per channel rate that is at or below the benchmark or price cap level.

Superstation means any nonlocal broadcast signal secondarily transmitted by satellite.

(Ord. of 10-28-82, § 11.12(art. 6, § 5-1))

Cross references: Definitions generally, § 1-2.

Sec. 26-172. Initial review of basic cable rates.

(a) *Notice.* Upon the certification of the village by the FCC, the village shall immediately notify all cable operators in the village, by certified mail return receipt requested, that the village intends to regulate subscriber rates charged for the basic service tier and associated equipment as authorized by the cable act of 1992.

(b) *Cable operator response.* Within 30 days of receiving notice from the village, a cable operator shall file with the village its current rates for the basic service tier and associated equipment and any supporting material concerning the reasonableness of its rates.

(c) *Expedited determination and public hearing.*

(1) If the village board is able to expeditiously determine that the cable operator's rates for the basic service tier and associated equipment are within the FCC's reasonable rate standard, as determined by the applicable benchmark, the village board shall:

- a. Hold a public hearing at which interested persons may express their views; and
- b. Act to approve the rates within 30 days from the date the cable operator filed its basic cable rates with the village.

- (2) If the village board takes no action within 30 days from the date the cable operator filed its basic cable rates with the village, the proposed rates will continue in effect.

(d) *Extended review period.*

- (1) If the village board is unable to determine whether the rates in issue are within the FCC's reasonable rate standard based on the material before it or if the cable operator submits a cost-of-service showing, the village board shall, within 30 days from the date the cable operator filed its basic cable rates with the village and by adoption of a formal resolution, invoke the following additional periods of time, as applicable, to make a final determination:
 - a. Ninety days if the village board needs more time to ensure that a rate is within the FCC's reasonable rate standard; or
 - b. One hundred fifty days if the cable operator has submitted a cost-of-service showing seeking to justify a rate above the applicable benchmark.
- (2) If the village board has not made a decision within the 90- or 150-day period, the village board shall issue a brief written order at the end of the period requesting the cable operator to keep accurate account of all amounts received because of the proposed rate and on whose behalf the amounts are paid.

(e) *Public hearing.* During the extended review period and before taking action on the proposed rate, the village board shall hold at least one public hearing at which interested persons may express their views and record objections.

(f) *Objections.* An interested person who wishes to make an objection to the proposed initial basic rate may request the village clerk to record the objection in writing any time before the decision resolution is adopted. In order for an objection to be made part of the record, the objector must provide the village clerk with the objector's name and address.

(g) *Benchmark analysis.* If a cable operator submits its current basic cable service rate schedule as being in compliance with the FCC's reasonable rate standard, the village board shall review the rates using the benchmark analysis in accordance with the standard form authorized by the FCC. Based on the village board's findings, the initial basic cable rates shall be established as follows:

- (1) If the current basic cable rates are below the benchmark, the rates shall become the initial basic cable rates, and the cable operator's rates will be capped at that level.
- (2) If the current basic cable rates exceed the benchmark, the rates shall be the greater of the cable operator's per-channel rate on September 30, 1992, reduced by ten percent, or the applicable benchmark, adjusted for inflation and any change in the number of channels

occurring between September 30, 1992, and the initial date of regulation.

- (3) If the current basic cable rates exceed the benchmark, but the cable operator's per-channel rate was below the benchmark on September 30, 1992, the initial basic cable rate shall be the benchmark adjusted for inflation.

(h) *Cost-of-service showings.* If a cable operator does not wish to reduce the rates to the permitted level, the cable operator shall have the opportunity to submit a cost-of-service showing in an attempt to justify an initial basic cable rate above the FCC's reasonable rate standard. The village board will review a cost-of-service submission pursuant to FCC standards for cost-of-service review. The village board may approve initial basic cable rates above the benchmark if the cable operator makes the necessary showing; however, a cost-of-service determination resulting in rates below the benchmark or below the cable operator's September 30, 1992 rates minus ten percent will prescribe the cable operator's new rates.

(i) *Decision.*

- (1) *Formal resolution.* After completion of its review of the cable operator's proposed rates, the village board shall adopt its decision by formal resolution. The decision shall include one of the following:

- a. If the proposal is within the FCC's reasonable rate standard or is justified by a cost-of-service analysis, the village board shall

approve the initial basic cable rates proposed by the cable operator; or

- b. If the proposal is not within the FCC's reasonable rate standard and the cost-of-service analysis, if any, does not justify the proposed rates, the village board shall establish initial basic cable rates that are within the FCC's reasonable rate standard or that are justified by a cost-of-service analysis.

- (2) *Rollbacks and refunds.* If the village board determines that the initial basic cable rates as submitted exceed the reasonable rate standard or that the cable operator's cost-of-service showing justifies lower rates, the village board may order the rates reduced in accordance with subsection (g) or (h) of this section, as applicable. In addition, the village board may order the cable operator to pay the subscribers refunds of the excessive portion of the rates with interest, computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments, retroactive to September 1, 1993. The method for paying any refund and the interest rate will be in accordance with FCC regulations as directed in the village board's decision resolution.

- (3) *Statement of reasons for decision and public notice.* If rates proposed by a cable operator are disapproved in whole or in part or if there were objections made by other parties to the proposed rates, the resolution

must state the reasons for the decision, and the village board must give public notice of its decision. Public notice will be given by advertisement once in the official newspaper of the village.

(j) *Appeal.* The village board's decision concerning rates for the basic service tier or associated equipment may be appealed to the FCC in accordance with applicable federal regulation.

(Ord. of 10-28-82, § 11.12(art. 6, § 5-2))

Sec. 26-173. Review of request for increase in basic cable rates.

(a) *Notice.* A cable television operator in the village who wishes to increase the rates for the basic service tier or associated equipment shall file a request with the village and shall notify all subscribers at least 30 days before the cable operator desires the increase to take effect. This notice may not be given more often than annually.

(b) *Expedited determination and public hearing.*

(1) If the village board is able to expeditiously determine that the cable operator's rate increase request for basic cable service is within the FCC reasonable rate standard, as determined by the applicable price cap, the village board shall:

- a. Hold a public hearing at which interested persons may express their views; and
- b. Act to approve the rate increase within 30 days from the date the cable operator filed its request with the village.

(2) If the village board takes no action within 30 days from the date the cable operator filed its request with the village, the proposed rates will go into effect.

(c) *Extended review period.*

(1) If the village board is unable to determine whether the rate increase is within the FCC's reasonable rate standard based on the material before it, or if the cable operator submits a cost-of-service showing, the village board shall, by adoption of a formal resolution, invoke the following additional periods of time, as applicable, to make a final determination:

- a. Ninety days if the village board needs more time to ensure that the requested increase is within the FCC's reasonable rate standard as determined by the applicable price cap; and
- b. One hundred fifty days if the cable operator has submitted a cost-of-service showing seeking to justify a rate increase above the applicable price cap.

(2) The proposed rate increase is tolled during the extended review period.

- (3) If the village board has not made a decision within the 90- or 150-day period, the village board shall issue a brief written order at the end of the period requesting the cable operator to keep accurate account of all amounts received because of the proposed rate increases and on whose behalf the amounts are paid.

(d) *Public hearing.* During the extended review period and before taking action on the requested rate increase, the village board shall hold at least one public hearing at which interested persons may express their views and record objections.

(e) *Objections.* An interested person who wishes to make an objection to the proposed rate increase may request the village clerk to record the objection during the public hearing or may submit the objection in writing any time before the decision resolution is adopted. In order for an objection to be made part of the record, the objector must provide the village clerk with the objector's name and address.

(f) *Delayed determination.* If the village board is unable to make a final determination concerning a requested rate increase within the extended time period, the cable operator may put the increase into effect, subject to subsequent refund if the village board later issues a decision disapproving any portion of the increase.

(g) *Price cap analysis.* If a cable operator presents its request for a rate increase as being in compliance with the FCC's price cap, the village board shall review the rate using the price cap analysis in accordance with the standard form authorized by the FCC. Based on the village board's findings, the basic cable rates shall be established as follows:

- (1) If the proposed basic cable rate increase is within the price cap established by the FCC, the proposed rates shall become the new basic cable rates.
- (2) If the proposed basic cable rate increase exceeds the price cap established by the FCC, the village board shall disapprove the proposed rate increase and order an increase that is in compliance with the price cap.

(h) *Cost-of-service showings.* If a cable operator submits a cost-of-service showing in an attempt to justify a rate increase above the price cap, the village board will review the submission pursuant to the FCC standards for cost-of-service review. The village board may approve a rate increase above the price cap if the cable operator makes the necessary showing; however, a cost-of-service determination resulting in a rate below the price cap or below the cable operator's then current rate will prescribe the cable operator's new rate.

(i) *Decision.* The village board's decision concerning the requested rate increase shall be adopted by formal resolution. If a rate increase proposed by a cable operator is disapproved in whole or in part or if objections were made by other parties to the proposed rate increase, the resolution must state the reasons for the decision. Objections may be made at the public hearing by a person requesting the village clerk to record the objection or may be submitted in writing at any time before the decision resolution is adopted.

(j) *Refund.*

- (1) The village board may order refunds of subscribers' rate payment with interest if:
 - a. The village board was unable to make a decision within the extended time period as described in subsection (c) of this section;
 - b. The cable operator implemented the rate increase at the end of the extended review period; and
 - c. The village board determines that the rate increase as submitted exceeds the applicable price cap or that the cable operator failed to justify the rate increase by a cost-of-service showing and the village board disapproves any portion of the rate increase.
- (2) The method for paying any refund and the interest rate will be in accordance with FCC regulations as directed in the village board's decision resolution.

(k) *Appeal.* The village board's decision concerning rates for the basic service tier or associated equipment may be appealed to the FCC in accordance with applicable federal regulations.

(Ord. of 10-28-82, § 11.12(art. 6, § 5-3))

Sec. 26-174. Cable operator information.

(a) *Generally.* The village may require the following cable operator information regarding cable television rates:

- (1) When the cable operator has proposed an increase that exceeds the reasonable rate standard, the village board may require the cable operator to produce information in addition to that submitted, including proprietary information, if needed to make a rate determination. In these cases, a cable operator may request the information to be kept confidential in accordance with this section.
- (2) When the proposed rate complies with the reasonable rate standard, the village board may request additional information only in order to document that the cable operator's rates are in accord with the standard.

(b) *Request for confidentiality.*

- (1) A cable operator submitting information to the village board may request in writing that the information not be made routinely available for public inspection. A copy of the request shall be attached to and cover all of the information and all copies of the information to which it applies.
- (2) If feasible, the information to which the request applies shall be

physically separated from any information to which the request does not apply. If this is not feasible, the portion of the information to which the request applies shall be identified.

- (3) Each request shall contain a statement of the reasons for withholding inspection and a statement of the facts upon which those reasons are based.
- (4) Casual requests that do not comply with the requirements of this subsection shall not be considered.

(c) *Village board action.* Requests that are in compliance with subsection (b) of this section will be acted upon by the village board. The village board will grant the request if the cable operator presents, by a preponderance of the evidence, a case for nondisclosure consistent with the applicable federal regulations. If the request is granted, the ruling will be placed in a public file in lieu of the information withheld from public inspection. If the request does not present a case for nondisclosure and the village board denies the request, the village board shall take one of the following actions:

- (1) If the information has been submitted voluntarily without any direction from the village, the cable operator may request that the village return the information without considering it. Ordinarily, the village will comply with this request. Only in the unusual instance that the public interest so requires will the information be made available for public inspection.
- (2) If the information was required to be submitted by the village board, the information will be made available for public inspection.

(d) *Appeal.* If the village board denies the request for confidentiality, the cable operator may seek review of that decision from the FCC within five working days of the village board's decision, and the release of the information will be stayed pending review. (Ord. of 10-28-82, § 11.12(art. 6, § 5-4))

Sec. 26-175. Automatic rate adjustments.

(a) *Annual inflation adjustment.* In accordance with FCC regulations, the cable television operator may adjust its capped base per channel rate for the basic service tier annually by the final GNP-PI index.

(b) *Other external costs.*

- (1) The FCC regulations also allow the cable operator to increase its rate for the basic service tier automatically to reflect certain external cost factors to the extent that the increase in cost of those factors exceed the GNP-PI. These factors include retransmission consent fees, programming costs, state and local taxes applicable to the provision of cable television service, and costs of franchise requirements. The total cost of an increase in a franchise fee may be automatically added to the base per channel rate, without regard to its relation to the GNP-PI.
- (2) For all categories of external costs other than retransmission consent and franchise fees, the starting date for measuring changes in external

costs for which the basic service per-channel rate may be adjusted will be the date on which the basic service tier becomes subject to regulation or February 20, 1994, whichever occurs first. The permitted per channel charge may not be adjusted for costs of retransmission consent fees or changes in those fees incurred before October 6, 1994.

(c) *Notification and review.* The cable operator shall notify the village at least 30 days in advance of a rate increase based on automatic adjustment terms. The village shall review the increase to determine whether the items qualify as automatic adjustments. If the village makes no objection within 30 days of receiving notice of the increase, the increase may go into effect.

(Ord. of 10-28-82, § 11.12(art. 6, § 5-5))

Sec. 26-176. Enforcement.

(a) *Refunds.* The village may order the cable television operator to refund to subscribers a portion of previously paid rates under the following circumstances:

- (1) A portion of the previously paid rates have been determined to be in excess of the permitted tier charge or above the actual cost of equipment; or
- (2) The cable operator has failed to comply with a valid rate order issued by the village.

(b) *Fines.* If the cable operator fails to comply with a rate decision or refund order, the cable operator shall be subject to a fine of \$500.00 for each day the cable operator fails to comply.

(Ord. of 10-28-82, § 11.12(art. 6, § 5-6))

Sec. 26-177. Rate schedule.

The current rates charged to cable television subscribers, effective January 1, 1990, are as follows:

(1)	Basic, plus tax	\$19.95
(2)	HBO, plus tax.....	10.95
(3)	Showtime, plus tax	10.95
(4)	Cinemax, plus tax	9.95
(5)	The Movie Channel, plus tax	9.95
(6)	Disney, plus tax.....	7.95
(7)	Remote, plus tax	3.00
(8)	FM service, plus tax	2.00
(9)	Additional outlets, plus tax	4.00
(10)	Package rates:	
	a. Any two pays, plus tax	14.95
	b. Any three pays, plus tax	21.95
	c. Any four pays, plus tax	27.95
	d. Any five pays, plus tax	33.95

- (11) Installation rates:
 - a. Normal installation, plus tax 25.00
 - b. Transfers (moving from one address to another), plus tax 17.50
 - c. Seasonal customers, plus tax 10.00
 - d. Upgrades (adding a pay channel, no truck roll), plus tax 15.00
 - e. Upgrades (adding a pay channel, needs box, truck roll), plus tax 25.00
 - f. VCR hookup, plus tax 25.00
 - g. Closed caption hookup, plus tax 25.00
 - h. Trip charge to hook up AB switch, plus tax 25.00
 - i. Trip charge for trouble call, plus tax 25.00
- (12) Prewires:
 - a. One to three outlets, flat charge 15.00
 - b. Each additional outlet 10.00
- (13) Miscellaneous charges:
 - a. AB switch and splitter, plus tax 7.50
 - b. Additional cable wire, customer picks up, per foot, plus tax 0.20

Secs. 26-178--26-200. Reserved.

Article IV. Franchises

Sec. 26-201. Short title.

This chapter shall be known and may be cited as the "Union Grove Cable Television Franchise Ordinance, hereinafter "franchise," or "ordinance."
(Ord. of 11-19-97, § 1)

Sec. 26-202. Definitions.

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein:

Basic service means any subscriber tier provided by the grantee which includes the delivery of local broadcast stations, and public, educational and governmental access channels. The basic service does not include optional program and satellite service tiers, a la carte services, per channel, per program, or auxiliary services for which a separate charge is made. However, grantee may include other satellite signals on the basic tier.

Cable system or system or cable television system means a system of antennas, cables, wires, lines, towers, wave guides, or other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, receiving, transmitting, amplifying and distributing, audio, video, and other forms of electronic, electrical or optical signals, which includes cable television service and which is located in the village. The definition shall not include any such facility that serves or will serve only subscribers in one or more multiple unit dwellings under common ownership, control or management, and which does not use village rights-of-way.

Class IV channel means a signaling path provided by a cable communications system to transmit signals of any type from a subscriber terminal to another point in the cable communications system.

Control and/or controlling interest shall mean actual working control or ownership of a system in whatever manner exercised. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person or entity (except underwriters during the period in which they are offering securities to the public) of ten percent or more of a cable system or the franchise under which the system is operated. A change in the control or controlling interest of an entity which has control or a controlling interest in a grantee shall constitute a change in the control or controlling interest of the system under the same criteria. Control or controlling interest as used herein may be held simultaneously by more than one person or entity.

Converter means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and by an appropriate channel selector also permits a subscriber to view more than 12 channels delivered by the system at designated converter dial locations.

FCC means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

Grantee means a person or entity to whom or which a franchise under this chapter is granted by the village, along with the lawful successors or assigns of such person or entity.

Gross revenues means all revenue collected directly or indirectly by the grantee, from the provision of cable service within the village including but not limited to, basic subscriber service monthly fees, pay cable fees, installation and reconnection fees, franchise fees, leased channel fees, converter rentals, program guides, studio rental, production equipment, personnel fees, late fees, downgrade fees, revenue from the sale, exchange, use or cable cast of any programming developed on the system for community or institutional use, advertising, and any value (at retail price levels) of any nonmonetary remuneration received by Grantee in consideration of the performance of advertising or any other service of the system; provided, however, that this shall not include any taxes on services furnished by the grantee herein imposed directly upon any subscriber or user by the state, local or other governmental unit and collected by the grantee on behalf of the governmental unit. Subject to applicable federal law, the term Gross Revenues includes revenues attributed to franchise fees and revenues collected directly or indirectly from other ancillary telecommunications services (such as but not limited to, point-to-point telecommunications, point-to-point multipoint telecommunications, data transmissions, etc.) but only to the extent that all other providers of such telecommunications services in the village are subject to the same compensation requirements of the village.

Initial service area means all areas in the village having at least 20 dwelling units per street mile.

Installation means the connection of the system from feeder cable to subscribers' terminals.

May is permissive.

Monitoring means observing a communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever; provided monitoring shall not include system wide, non-individually addressed sweeps of the system for purposes of verifying system integrity, controlling return paths transmissions, or billing for pay services.

Normal business hours as applied to the grantee, shall mean those hours during which similar businesses in the village are open to serve customers. In all cases, normal business hours shall include some evening hours at least one night per week, and/or some weekend hours.

Normal operating conditions shall mean those service conditions which are within the control of the grantee. Those conditions which are not within the control of the grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

Service interruption and/or outages shall mean the loss of either picture or sound or both for a single or multiple subscriber(s).

Shall is mandatory.

Street means the surface of and all rights-of-way and the space above and below any public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive or easement now or hereafter held by the village for the purpose of public travel and shall include other easements or rights-of-way as shall be now held or hereafter held by the village which shall, within their proper use and meaning entitle the grantee to the use thereof for the purposes of installing poles, wires, cable, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a telecommunications system.

Subscriber shall mean any person, firm, grantee, corporation, or association lawfully receiving basic and/or any additional service from grantee.

User means a party utilizing a cable television system channel for purposes of production or transmission of material to subscribers, as contrasted with receipt thereof in a subscriber capacity.

Village means the Village of Union Grove, Wisconsin.

(Ord. of 11-19-97, § 2)

Sec. 26-203. Rights and privileges of grantee.

Any franchise granted by the village pursuant to section 66.082, Wis. Stats., shall grant to the grantee the right and privilege to erect, construct, operate and maintain in, upon, and along, across, above, over and under the streets, now in existence and as may be created or established during its terms; any poles, wires, cable, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation of a cable system. (Ord. of 11-19-97, § 3)

Sec. 26-204. Agreement and incorporation of application by reference.

Upon adoption of any franchise agreement and execution thereof by the grantee, the grantee agrees to be bound by all the terms and conditions contained herein.

Any grantee also agrees to provide all services specifically set forth in its application if any and to provide cable television service within the confines of the village; and by its acceptance of the franchise, the grantee specifically grants and agrees that its application is thereby incorporated by reference and made a part of the franchise. In the event of a conflict between such proposals and the provisions of this chapter, that provision which provides the greatest benefit to the village, in the opinion of the village, shall prevail.

(Ord. of 11-19-97, § 4)

Sec. 26-205. Franchise territory.

Any franchise is for the present territorial limits of the village and for any area henceforth added thereto during the term of the franchise.

(Ord. of 11-19-97, § 5)

Sec. 26-206. Duration and acceptance of franchise.

The franchise and the rights, privileges and authority granted shall take effect and be in force as set forth in the franchise agreement and shall continue in force and effect for a term of no longer than 15 years, provided that within 15 days after the date of final passage of the franchise the grantee shall file with the village its unconditional acceptance of the franchise and promise to comply with and abide by all its provisions, terms and conditions. Such acceptance and promise shall be in writing duly executed and sworn to, by, or on behalf of the grantee before a notary public or other officer authorized by law to administer oaths. Such franchise shall be non-exclusive and revocable.

(Ord. of 11-19-97, § 6)

Sec. 26-207. Franchise renewal.

(a) *Current federal statutory process.*

- (1) The village may, on its own initiative, during the six-month period which begins with the thirty-sixth month before the franchise expiration, commence a proceeding which affords the public in the village appropriate notice and participation for the purpose of (1) identifying the future cable-related community needs and interests and (2) reviewing the performance of the grantee under the franchise. If the grantee submits, during such six-month period, a written renewal notice requesting the commencement of such proceeding, the village shall commence such proceeding not later than six months after the date such notice is submitted.
- (2) Upon completion of the proceeding under paragraph (1) above, the grantee may, on its own initiative or at the request of the village, submit a proposal for renewal. The village may establish a date by which such proposal shall be submitted.

- (3) Upon submittal by the grantee of a proposal to the village for the renewal of the franchise, the village shall provide prompt, public notice of such proposal and renew the franchise or issue a preliminary assessment that the franchise should not be renewed, and at the request of the grantee or on its own initiative, commence an administrative proceeding, after providing prompt, public notice of such proceeding.
- (4) The village shall consider in any administrative proceeding whether:
- a. The grantee has substantially complied with material terms of the existing franchise and with applicable law;
 - b. The quality of the grantee's service, including signal quality, response to consumer complaints and billing practices, but without regard to the mix or quality of cable services or other services provided over the system, has been reasonable in the light of community needs;
 - c. The grantee has the financial, legal and technical ability to provide the services, facilities and equipment as set forth in the grantee's proposal; and
 - d. The grantee's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the costs of meeting such needs and interests.
- (5) In any administrative proceeding described in paragraph (4), the grantee shall be afforded adequate notice and the grantee and the village, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceedings under paragraph (4) above), to require the production of evidence and to question witnesses. A transcript shall be made of any such proceeding.
- (6) At the completion of a proceeding under paragraph (4), the village shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding and transmit a copy of such decision to the grantee. Such decision shall state the reasons therefor.
- (7) Any denial of a proposal for renewal that has been submitted in compliance with the procedures set forth above, shall be based on one or more adverse findings made with respect to the factors described at subparagraphs a. through d. of paragraph (4) pursuant to the record of the proceeding under said paragraph. The village may not base a denial of renewal on a failure to substantially comply with the material terms of the franchise or on events considered under paragraph (4)b. unless the village has provided the grantee with notice and the opportunity to cure or in any case in which it is documented that the village has waived its right to object.

- (8) The grantee may appeal any final decision or failure of the village to act in accordance with the procedural requirements of this section. The court shall grant appropriate relief if the court finds that (1) any action of the village is not in compliance with the procedural requirements of this section; or (2) in the event of a final decision of the village denying the renewal proposal, the grantee has demonstrated that the adverse finding of the village with respect to each of the factors described in paragraph (4)a. through d. on which the denial is based is not supported by a preponderance of the evidence, based on the record of the administrative proceeding.

(b) *Franchise renewal in the event of change in federal law.* A franchise may be renewed by the village upon application of the grantee pursuant to the procedure established in this section, and in accordance with the then applicable law.

- (1) At least 24 months prior to the expiration of the franchise, the grantee shall inform the village in writing of its intent to seek renewal of the franchise.
- (2) The grantee shall submit a proposal for renewal which demonstrates:
 - a. That it has been and continues to be in substantial compliance with the terms, conditions, and limitations of this article and its franchise;
 - b. That its system has been installed, constructed, maintained and operated in accordance with the accepted standards of the industry, and this article and its franchise;
 - c. That it has the legal, technical, financial, and other qualifications to continue to maintain and operate its system, and to extend the same as the state of the art progresses so as to assure its subscribers high quality service; and
 - d. That it has made a good faith effort to provide services and facilities which accommodate the demonstrated needs of the community as may be reasonably ascertained by the village.
- (3) After giving public notice, the village shall proceed to determine whether the grantee has satisfactorily performed its obligations under the franchise. To determine satisfactory performance, the village shall consider technical developments and performance of the system, programming other services offered, cost of services, and any other particular requirements set in this chapter; also, the village shall consider the grantee's reports made to the village and the Federal Communication Commission; may require the grantee to make available specified records, documents, and information for this purpose, and may inquire specifically whether the grantee will supply services sufficient to meet community needs and interests; industry performance on a national basis shall also be considered. Provision shall be made for public comment.

- (4) The village shall then prepare any amendments to this article that it believes necessary.
- (5) If the village finds the grantee's performance satisfactory, and finds the grantee's technical, legal, and financial abilities acceptable, and finds the grantee's renewal proposal meets the future cable-related needs of the village, a new franchise shall be granted pursuant to this article as amended for a period to be determined.
- (6) If the grantee is determined by the village to have performed unsatisfactorily, new applicants may be sought and evaluated and a franchise award shall be made by the village according to franchising procedures adopted by the village.

(Ord. of 11-19-97, § 7)

Sec. 26-208. Police powers.

(a) In accepting this franchise, the grantee shall acknowledge that its rights hereunder are subject to the police power of the village to adopt and enforce general ordinances necessary to the safety and welfare of the public; and shall agree to comply with all applicable general laws and ordinances enacted by the village pursuant to such power.

(b) Any conflict between the provisions of this article and any other present or future lawful exercise of the village's police powers shall be resolved in favor of the latter, except that any such exercise that is not of general application in the jurisdiction, or applies exclusively to the grantee or cable television systems which contains provisions inconsistent with this franchise, shall prevail only if upon such exercise the village finds an emergency exists constituting a danger to health, safety, property or general welfare or such exercise is mandated by law.

(Ord. of 11-19-97, § 8)

Sec. 26-209. Cable television franchise required.

No cable television system shall be allowed to occupy or use the streets, i.e. rights-of-way, for system installation and maintenance purposes, of the village or be allowed to operate without a franchise.

(Ord. of 11-19-97, § 9)

Sec. 26-210. Use of grantee facilities.

The village shall have the right, during the life of this franchise, to install and maintain free of charge upon the poles of the grantee any wire or pole fixtures that do not unreasonably interfere with the cable television system operations of the grantee. The village shall indemnify and hold harmless the grantee from any claim that might arise due to or as a result of the village's use.

(Ord. of 11-19-97, § 10)

Sec. 26-211. Initial franchise costs.

Costs to be borne by the grantee shall include any requirements or charges incidental to the awarding or enforcing of the initial franchise, but shall not be limited to, all costs of publications of notices prior to any public meeting provided for pursuant to this franchise, and any costs not covered by application fees, incurred by the village in its study, preparation of proposal documents, evaluation of all applications, and examinations of the applicants' qualifications. (Ord. of 11-19-97, § 11)

Sec. 26-212. Notices.

All notices from the grantee to the village pursuant to this article shall be to the village administrator's office. The grantee shall maintain with the village, throughout the term of this franchise, an address for service of notices by mail. The grantee shall maintain a central office to address any issues relating to operating under this cable television ordinance. (Ord. of 11-19-97, § 12)

Sec. 26-213. Letter of credit/security deposit.

(a) Within 15 days after the award of the initial franchise, the grantee shall deposit with the village either an irrevocable letter of credit from a financial institution or a security deposit in the amount of \$50,000.00 with the form to be established by the village. The form and content of such letter of credit or security deposit shall be approved by the village attorney. These instruments shall be used to insure the faithful performance of the grantee of all provisions of this franchise; and compliance with all orders, permits and directions of any agency, commission, board, department, division, or office of the village having jurisdiction over its acts or defaults under this franchise, and the payment by the grantee of any claims, liens, and taxes due the village which arise by reason of the construction, operation or maintenance of the system.

(b) The letter of credit or security deposit shall be maintained at the amount established by the village for the entire term of this franchise, even if amounts have to be withdrawn pursuant to a subsections (a) or (b) of this section.

(c) If the grantee fails to pay to the village any compensation within the time fixed herein; or fails after 15 days notice to pay to the village any taxes due and unpaid; or fails to repay the village within 15 days, any damages, costs or expenses which the village is compelled to pay by reason of any act or default of the grantee in connection with this franchise, or fails, after three days notice of such failure by the village to comply with any provision of this franchise which the village reasonably determines can be remedied by demand on the letter of credit or security deposit, the village may immediately request payment of the amount thereof, with interest and any penalties, from the letter of credit or security deposit. Upon such request for payment, the village shall notify the grantee of the amount and date thereof.

(d) The rights reserved to the village with respect to the letter of credit are in addition to all other rights of the village, whether reserved by this franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other right the village may have.

(e) The letter of credit shall contain the following endorsement: "It is hereby understood and agreed that this letter of credit or security deposit may not be canceled by the surety nor the intention not to renew be stated by the surety until 30 (thirty) days after receipt by the Village, by registered mail, of a written notice of such intention to cancel or not to renew."

(f) Upon receipt of the above-referenced notice, this shall be construed as a default granting the village the right to call on the bank for either the security deposit or letter of credit.

(g) The village at any time during the term of this article, may waive grantee's requirement to maintain a letter of credit or security deposit. The invitation to waive the requirement can be initiated by the village or grantee.

(Ord. of 11-19-97, § 13)

Sec. 26-214. Performance bond.

(a) Within 30 days after the award of this franchise, the initial grantee shall file with the village a performance bond in the amount of not less than 50 percent of costs to install the system contained in the new application in favor of the village. This bond shall be maintained throughout the construction period and until such time as determined by the village, unless otherwise specified in a franchise agreement.

(b) If the grantee fails to comply with any law, ordinance or resolution governing the franchise, or fails to well and truly observe, fulfill and perform each term and condition of the franchise, as it relates to the conditions relative to the construction of the system, including the franchise agreement which is incorporated herein by reference, there shall be recoverable jointly and severally, from the principal and surety of the bond, any damages or loss suffered by the village as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee, plus a reasonable allowance for attorney's fees, including the village's legal staff, and costs, up to the full amount of the bond. This section shall be an additional remedy for any and all violations outlined in section 26-213.

(c) The village may, upon completion of construction of the service area, waive or reduce the requirement of the grantee to maintain the bond. However, the village may require a performance bond to be posted by the grantee for any construction subsequent to the completion of the initial service areas, in a reasonable amount and upon such terms as determined by the village.

(d) The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled by the surety nor the intention not to renew be stated by the surety until 30 days after receipt by the village, by registered mail, a written notice of such intent to cancel and not to renew." Upon receipt of a thirty-day notice, this shall be construed as default granting the village the right to call in the bond.

(e) The village at any time during the term of this article may, waive grantee's requirement to maintain a performance bond. The invitation to waive the requirement can be initiated by the village or grantee. (Ord. of 11-19-97, § 14)

Sec. 26-215. Liability and insurance.

(a) The grantee shall maintain and by its acceptance of the franchise specifically agrees that it will maintain throughout the term of the franchise, liability insurance insuring the village and the grantee in the minimum amount of:

- (1) \$1,000,000.00 for property damage to any one person;
- (2) \$1,000,000.00 for property damage to any one accident;
- (3) \$1,000,000.00 for personal injury to any one person; and
- (4) \$1,000,000.00 for personal injury in any one accident.

(b) The certificate of insurance obtained by the grantee in compliance with this section is subject to the approval of the village attorney and such certificate of insurance, along with written evidence of payment of required premiums, shall be filed and maintained with the village during the term of the franchise, and may be changed from time to time to reflect changing liability limits. The grantee shall immediately advise the village attorney of any litigation that may develop that would affect this insurance.

(c) Neither the provisions of this section nor any damages recovered by the village thereunder, shall be construed to or limit the liability of the grantee under any franchise issued hereunder or for damages.

(d) All insurance policies maintained pursuant to this franchise shall contain the following endorsement: "It is hereby understood and agreed that this insurance policy may not be canceled by the surety nor the intention not to renew be stated by the surety until 30 days after receipt by the village, by registered mail, of a written notice of such intention to cancel or not to renew."

(Ord. of 11-19-97, § 15)

Sec. 26-216. Indemnification.

(a) *Disclaimer of liability.* The village shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of the construction, maintenance, repair, use, operation, condition or dismantling of the grantee's telecommunication system and due to the act or omission of any person or entity other than the village or those persons or entities for which the village is legally liable as a matter of law.

(b) *Indemnification.* The grantee shall, at its sole cost and expense, indemnify and hold harmless the village, the commission, all associated, affiliated, allied and subsidiary entities of the village, now existing or hereinafter created, and their respective officers, boards, commissions, employees, agents, attorneys, and contractors (hereinafter referred to as "indemnitees"), from and against:

- (1) Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the indemnitees by reason of any act or omission of the grantee, its

personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, tradename, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance or condition of the telecommunications system caused by grantee, its subcontractors or agents or the grantee's failure to comply with any federal, state or local statute, ordinance or regulation.

- (2) Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and other consultants), which is imposed upon, incurred by or asserted against the indemnitees by reason of any claim or lien arising out of work, labor, materials or supplies provided or supplied to the grantee, its contractors or subcontractors, for the installation, construction, operation or maintenance of the telecommunications system caused by grantee, its subcontractors or agents and, upon the written request of the commission shall cause such claim or lien to be discharged or bonded within 15 days following such request.
- (3) Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the indemnitees by reason of any financing or securities offering by grantee or its affiliates for violations of the common law or any laws, statutes, or regulations of the state or the United States, including those of the Federal Securities and Exchange Commission, whether by the grantee or otherwise; excluding therefrom, however, claims which are solely based upon and shall arise solely out of information supplied by the village to the grantee in writing and included in the offering materials with the express written approval of the village prior to the offering.

(c) *Assumption of risk.* The grantee undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any city owned or controlled property, including public rights-of-way, and the grantee hereby agrees to indemnify and hold harmless the indemnitees against and from any claim asserted or liability imposed upon the indemnitees for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the telecommunications system or the grantee's failure to comply with any federal, state or local statute, ordinance or regulation.

(d) *Defense of indemnitees.* In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, the grantee shall, upon notice from any of the indemnitees, at the grantee's sole cost and expense, resist and defend the same with legal counsel mutually acceptable to the village attorney of the village and grantee provided further, however, that the grantee shall not

admit liability in any such matter on behalf of the indemnitees without the written consent of the village attorney or village attorney's designee.

(e) *Notice cooperation and expenses.* The village shall give the grantee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the village from cooperating with grantee and participating in the defense of any litigation by the village's own counsel. The grantee shall pay all reasonable expenses incurred by the village in defending itself with regard to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by or on behalf of the village attorney if such service is determined necessary and appropriate by the village attorney and the actual expenses of the village's agents, employees or expert witnesses, and disbursements and liabilities assumed by the village in connection with such suits, actions or proceedings. No recovery by the village of any sum under the letter of credit shall be any limitation upon the liability of the grantee to the village under the terms of this section, except that any sum so received by the village shall be deducted from any recovery which the village might have against the grantee under the terms of this section.

(f) *Nonwaiver of statutory limits.* Nothing in this agreement is intended to express or imply a waiver of the statutory provisions, of any kind or nature, as set forth in section 893.80 et seq., Wis. Stats., including the limits of liability of the village as exists presently or may be increased from time to time by the legislature.

(Ord. of 11-19-97, § 16)

Sec. 26-217. Rights of individuals.

(a) The grantee shall not deny service, deny access, or otherwise discriminate against subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, income or sex. The grantee shall comply at all times with all other applicable federal, state and local laws and regulations and all executive and administrative orders relating to nondiscrimination which are hereby incorporated and made part of this chapter by reference.

(b) The grantee shall strictly adhere to the equal employment opportunity requirements of the Federal Communications Commission, state and local regulations, and as amended from time to time.

(c) The grantee shall, at all times, comply with the privacy requirements of state and federal law.

(d) Grantee is required to make all services available to all residential dwellings throughout the service area.

(Ord. of 11-19-97, § 17)

Sec. 26-218. Public notice.

Minimum public notice of any public meeting relating to this franchise shall be by publication

at least once in a local newspaper of general circulation at least ten (10) days prior to the meeting, and by posting at the Village Hall.
(Ord. of 11-19-97, § 18)

Sec. 26-219. Service availability and record request.

The grantee shall provide cable communications service throughout the entire franchise area pursuant to the provisions of this franchise and shall keep a record for at least three years of all requests for service received by the grantee. This record shall be available for public inspection at the local office of the grantee during regular office hours.
(Ord. of 11-19-97, § 19)

Sec. 26-220. System construction.

(a) *New construction timetable.*

- (1) Within two years from the date of the award of the initial franchise, the grantee must make cable television service available to every dwelling unit within the initial service area.
 - a. The grantee must make cable television service available to at least 20 percent of the dwelling units within the initial service area within six months from the date of the award of the franchise.
 - b. The grantee must make cable television service available to at least 50 percent of the dwelling units within the initial service area within one year from the date of the award of the franchise.
- (2) The grantee, in its application if any, may propose a timetable of construction which will make cable television service available in the initial service area sooner than the above minimum requirements, in which case the said schedule will be made part of the franchise agreement, and will be binding upon the grantee.
- (3) Any delay beyond the terms of this timetable, unless specifically approved by the village, will be considered a violation of this chapter for which the provisions of either sections 26-237 or 26-246 shall apply, as determined by the village.
- (4) In special circumstances the village can waive 100 percent completion within the two-year time frame provided substantial completion is accomplished within allotted time frame, substantial completion construed to be not less than 95 percent and justification for less than 100 percent must be submitted subject to the satisfaction of the village.

(b) *Line extensions.*

- (1) In areas of the franchise territory not included in the initial service areas, the grantee shall be required to extend its system pursuant to the following requirements:

- a. No customer shall be refused service arbitrarily. Grantee is hereby authorized to extend the cable system as necessary within the village. To expedite the process of extending the cable system into a new subdivision, the village will forward to the grantee an approved engineering plan of each project. Subject to the density requirements, the grantee shall commence the design and construction process upon receipt of the final engineering plan. Upon notification from the village that the first home in the project has been approved for building permit, the grantee shall have a maximum of three months to complete the construction/activation process within the project phase.
 - b. The grantee must extend and make cable television service available to every dwelling unit in all unserved, developing areas having at least 20 dwelling units planned per street mile, as measured from the existing system, and shall extend its system simultaneously with the installation of utility lines.
 - c. The grantee must extend and make cable television service available to any isolated resident outside the initial service area requesting connection at the standard connection charge, if the connection to the isolated resident would require no more than a standard 175-foot drop line.
- (2) Early extension. In areas not meeting the requirements for mandatory extension of service, the grantee shall provide, upon the request of a potential subscriber desiring service, an estimate of the costs required to extend service to the subscriber. The grantee shall then extend service upon request of the potential subscriber. The grantee may require advance payment or assurance of payment satisfactory to the grantee. The amount paid by subscribers for early extensions shall be nonrefundable, and in the event the area subsequently reaches the density required for mandatory extension, such payments shall be treated as consideration for early extension.
- (3) New development under grounding. In cases of new construction or property development where utilities are to be placed underground, the developer or property owner shall give the grantee reasonable notice of such construction or development, and of the particular date on which open trenching will be available for the grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at the grantee's expense. The grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if the grantee fails to install its conduit, pedestals and/or vaults, and laterals within five working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the five-day period, the cost of new trenching is to be borne by the grantee. Except for the notice of the particular date on which trenching

will be available to the grantee, any notice provided to the grantee by the village of a preliminary plat request shall satisfy the requirement of reasonable notice if sent to the local general manager or system engineer of the grantee prior to approval of the preliminary plat request.

(c) *Special agreements.* Nothing herein shall be construed to prevent the grantee from serving areas not covered under this section upon agreement with developers, property owners, or residents provided that five percent of those gross revenues are paid to the village as franchise fees under section 26-227.

- (1) The grantee, in its application, may propose a line extension policy which will result in serving more residents of the village than as required above, in which case the grantee's policy will be incorporated into the franchise agreement, and will be binding on the grantee.
- (2) The violation of this section shall be considered a breach of the terms of this chapter for which the provisions of either sections 26-237 or 26-246 shall apply, as determined by the village.

(Ord. of 11-19-97, § 20)

Sec. 26-221. Construction and technical standards.

(a) *Compliance with construction and technical standards.* The grantee shall construct, install, operate and maintain its system in a manner consistent with all laws, ordinances, construction standards, governmental requirements, and FCC technical standards. In addition, the grantee shall provide the village, upon request, with a written report of the results of the grantee's annual proof of performance tests conducted pursuant to Federal Communications Commission standards and requirements.

(b) *Additional specifications.*

- (1) Construction, installation and maintenance of the cable television system shall be performed in an orderly and workmanlike manner. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.
- (2) The grantee shall at all times comply with:

National Electrical Safety Code (National Bureau of Standards);
National Electrical Code (National Bureau of Fire Underwriters);
Bell System Code of Pole Line Construction; and
Applicable FCC or other federal, state and local regulations.
- (3) In any event, the system shall not endanger or interfere with the safety of persons or property in the franchise area or other areas where the grantee may have equipment located.

- (4) Any antenna structure used in the system shall comply with construction, marking, and lighting of antenna structure, required by the United States Department of Transportation.
- (5) All working facilities and conditions used during construction, installation and maintenance of the cable television system shall comply with the standards of the Occupational Safety and Health Administration.
- (6) RF leakage shall be checked at reception locations for emergency radio services to prove no interference signal combinations are possible. Stray radiation shall be measured adjacent to any proposed aeronautical navigation radio sites to prove no interference to airborne navigational reception in the normal flight patterns. FCC rules and regulations shall govern.
- (7) The grantee shall maintain equipment capable of providing standby power for headend and transport system for a minimum of two hours.
- (8) In all areas of the village where the cables, wires, and other like facilities of public utilities are placed underground, the grantee shall place its cables, wires, or other like facilities underground. When public utilities relocate their facilities from pole to underground, the cable operator must concurrently do so.

(Ord. of 11-19-97, § 21)

Sec. 26-222. Use of streets.

(a) *Interference with persons and improvements.* The grantee's system, poles, wires and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons or interfere with the rights or reasonable convenience of property owners who adjoin any of the streets and public ways, or interfere with any improvements the village may deem proper to make, or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements or public property.

(b) *Restoration to prior condition.* In case of any disturbance of pavement, sidewalk, landscaping, driveway or other surfacing, the grantee shall, at its own cost and expense and in a manner approved by the village, replace and restore all paving, sidewalk, driveway, landscaping, or surface of any street or alley disturbed, in as good condition as before the work was commenced and in accordance with standards for such work set by the village.

(c) *Erection, removal and common uses of poles.*

- (1) No poles or other wire-holding structures shall be erected by the grantee without prior approval of the village with regard to location, height, types, and any other pertinent aspect. However, no location of any pole or wire-holding structure of the grantee shall be a vested interest and such poles or structures shall be removed or modified by

the grantee at its own expense whenever the village determines that the public convenience would be enhanced thereby.

- (2) Where poles or other wire-holding structures already existing for use in serving the village are available for use by the grantee, but it does not make arrangements for such use, the village may require the grantee to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to the grantee are just and reasonable.
- (3) In the absence of any governing federal or state statute, where the village or a public utility serving the village desires to make use of the poles or other wire-holding structures of the grantee, but agreement thereof with the grantee cannot be reached, the village may require the grantee to permit such use for such consideration and upon such terms as the village shall determine to be just and reasonable, if the village determines that the use would enhance the public convenience and would not unduly interfere with the grantee's operations.

(d) *Relocation of the facilities.* If at any time during the period of this franchise the village shall lawfully elect to alter, or change the grade of any street, alley or other public ways, the grantee, upon reasonable notice by the village, shall remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense unless the utilities are compensated, in which case the grantee shall be similarly compensated.

(e) *Cooperation with building movers.* The grantee shall, on the request of any person holding a building moving permit issued by the village, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than 48 hours advance notice to arrange for such temporary wire changes.

(f) *Tree trimming.* The grantee shall not remove any tree or trim any portion, either above, at or below ground level, of any tree within any public place without the prior consent of the village. The village shall have the right to do the trimming requested by the grantee at the cost of the grantee. Regardless of who performs the work requested by the grantee, the grantee shall be responsible, shall defend and hold the village harmless for any and all damages to any tree as a result of trimming, or to the land surrounding any tree, whether such tree is trimmed or removed.

(Ord. of 11-19-97, § 22)

Sec. 26-223. Operational standards.

(a) The grantee shall put, keep and maintain all parts of the system in good condition throughout the entire franchise period.

(b) Upon the reasonable request for service by any person located within the franchise territory, the grantee shall, within 30 days, furnish the requested service to such person within terms of the line extension policy. A request for service shall be unreasonable

for the purpose of this subsection if no trunk line installation capable of servicing that person's block has as yet been installed.

(c) The grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

(d) The grantee shall not allow its cable or other operations to interfere with television reception of subscribers or persons not served by the grantee, nor shall the system interfere with, obstruct or hinder in any manner the operation of the various utilities serving the residents within the confines of the village nor shall other utilities interfere with the grantee's system.

(e) The grantee shall have knowledgeable, qualified grantee representatives available to respond to customer telephone inquiries 24 hours per day and seven days per week.

(f) Under normal operating conditions, telephone answer time, including wait time and the time required to transfer the call, shall not exceed 30 seconds. This standard shall be met no less than 90 percent of the time as measured on an annual basis.

(g) Under normal operating conditions, the customer will receive a busy signal less than three percent of the total time that the office is open for business.

(h) Standard installations will be performed within seven business days after an order has been placed. A standard installation is one that is within 175 feet of the existing system.

(i) Excluding those situations which are beyond its control, the grantee will respond to any service interruption promptly and in no event later than 24 hours from the time of initial notification. All other regular service requests will be responded to within 36 hours during the normal work week for that system. The appointment window alternatives for installations, service calls and other installation activities will be "morning;" or "afternoon;" not to exceed a four-hour "window" during normal business hours for the system, or at a time that is mutually acceptable. The grantee will schedule supplemental hours during which appointments can be scheduled based on the needs of the community. If at any time an installer or technician is running late, an attempt to contact the customer will be made and the appointment rescheduled as necessary at a time that is convenient to the customer.

(j) Customer service centers and bill payment locations will be open for walk-in customer transactions a minimum of eight hours a day Monday through Friday, unless there is a need to modify those hours because of the location or customers served. The grantee and village by mutual consent will establish supplemental hours on weekdays and weekends if it would fit the needs of the community.

(k) Subscriber credit for outages. Upon service interruption and/or outages of subscriber's cable service, the following shall apply:

- (1) For service interruptions and/or outages of over four hours and up to seven days, the grantee shall provide, at the subscriber's request, a

credit of one-thirtieth of one month's fees for affected services for each 24-hour period service is interrupted for four or more hours for any single subscriber, with the exception of subscribers disconnected because of non-payment or excessive signal leakage.

- (2) For service interruptions and/or outages of seven days or more in one month, the grantee shall provide, at the subscriber's request, a full month's credit for affected services for all affected subscribers.

(l) The grantee will provide written information in each of the following areas at the time of installation and at any future time upon the request of the customer:

- (1) Product and services offered;
 - (2) Prices and service options;
 - (3) Installation and service policies;
 - (4) How to use the telecommunications services;
- (m) Bills will be clear, concise and understandable, with all cable services itemized.

(n) Credits will be issued promptly, but no later than the customer's next billing cycle following the resolution of the request and the return of the equipment by the grantee if service has been terminated.

(o) Customers will be notified a minimum of 30 days in advance of any rate or channel change, provided that the change is within the control of the grantee.

(p) The grantee shall maintain and operate its network in accordance with the rules and regulations as are incorporated herein or may be promulgated by the Federal Communication Commissions, the United States Congress, or the State of Wisconsin.

(q) The grantee shall continue, through the term of the franchise, to maintain the technical standards and quality of service set forth in this chapter. Should the village find, by resolution, that the grantee has failed to maintain these technical standards and quality of service, grantee shall be required to implement a plan for resolution. Failure to make such improvements within three months of such resolution will constitute a breach of a condition for which penalties contained in section 26-246 are applicable.

(r) The grantee shall keep a monthly service log which will indicate the nature of each service complaint received in the last 24 months, the date and time it was received, the disposition of said complaint, and the time and date thereof. This log shall be made available for periodic inspection by the village.

(Ord. of 11-19-97, § 23)

Sec. 26-224. Continuity of service mandatory.

(a) It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to the grantee are honored. If the grantee elects to over

build, rebuild, modify or sell the system, or the village gives notice of intent to terminate or fails to renew this franchise, the grantee shall act so as to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances.

(b) If there is a change of franchise, or if a new operator acquires the system, the grantee shall cooperate with the village, new franchisee or operator in maintaining continuity of service to all subscribers. During such period, the grantee shall be entitled to the revenues for any period during which it operates the system, and shall be entitled to reasonable costs for its services until it no longer operates the system.

(c) If the grantee fails to operate the system for seven consecutive days without prior approval of the village or without just cause, the village may, at its option, operate the system or designate an operator until such time as the grantee restores service under conditions acceptable to the village or a permanent operator is selected. If the village is required to fulfill this obligation for the grantee, the grantee shall reimburse the village for all reasonable costs or damages in excess of revenues from the system received by the village that are the result of the grantee's failure to perform.

(Ord. of 11-19-97, § 24)

Sec. 26-225. Complaint procedure.

(a) The village administrator is designated as having primary responsibility for the continuing administration of the franchise and implementation of complaint procedures.

(b) During the terms of this franchise, and any renewal thereof, the grantee shall maintain a central office for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters. The office must be reachable by a local, toll-free telephone call to receive complaints regarding quality of service, equipmental functions and similar matters. The grantee will use its good faith efforts to arrange for one or more payment locations in a central location where customers can pay bills or conduct other business activities.

(c) As subscribers are connected or reconnected to the system, the grantee shall, by appropriate means, such as a card or brochure, furnish information concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed.

(d) When there have been similar complaints made, or where there exists other evidence, which, in the judgment of the village, casts doubt on the reliability or quality of cable service, the village shall have the right and authority to require the grantee to test, analyze and report on the performance of the system. The grantee shall fully cooperate with the village in performing such testing and shall prepare results and a report, if requested, within 30 days after notice. Such report shall include the following information:

- (1) The nature of the complaint or problem which precipitated the special tests;
- (2) What system component was tested;

- (3) The equipment used and procedures employed in testing;
- (4) The method, if any, in which such complaint or problem was resolved;
- (5) Any other information pertinent to the tests and analysis which may be required.

The village may require that tests be supervised, by an independent professional engineer or equivalent of the village's choice. The engineer should sign all records of special tests and forward to the village such records with a report interpreting the results of the tests and recommending actions to be taken. Should such a test prove that the grantee failed to meet the technical standard, the grantee shall bear the cost of the test. If the test should prove that the grantee met the technical standards, the village shall bear the cost of the test.

The village's right under this section shall be limited to requiring tests, analysis and reports covering specific subjects and characteristics based on complaints or other evidence when and under such circumstances as the village has reasonable grounds to believe that the complaints or other evidence require that tests be performed to protect the public against substandard cable service.

(Ord. of 11-19-97, § 25)

Sec. 26-226. Grantee rules and regulations.

The grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the grantee to exercise its rights and perform its obligations under this franchise, and to assure an uninterrupted service to each and all of its customers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or applicable state and federal laws, rules and regulations.

(Ord. of 11-19-97, § 26)

Sec. 26-227. Franchise fee.

(a) For the reason that the streets of the village to be used by the grantee in the operation of its system within the boundaries of the village are valuable public properties acquired and maintained by the village at great expense to its taxpayers, and that the grant to the grantee to the streets is a valuable property right without which the grantee would be required to invest substantial capital in right-of-way costs and acquisitions, the grantee shall pay to the village an amount equal to five percent of the grantee's gross annual revenue from the operations of the grantee within the confines of the village or contract area. If the statutory five percent limitation on franchise fees is raised or the federal statute deletes the franchise fee limitation entirely, then the franchise fee may be subject to renegotiation.

(b) This payment shall be in addition to any other tax or payment owed to the village by the grantee.

(c) The franchise fee and any other costs or penalties assessed shall be payable quarterly on a calendar year basis to the village and the grantee shall file a complete and accurate verified statement of all gross receipts as previously defined within 45 days after the quarter as established between the village and the grantee.

(d) The village shall have the right to inspect the grantee's income records and the right to audit and to recompute any amounts determined to be payable under this chapter; provided, however, that such audit shall take place within 24 months following the close of each of the grantee's fiscal years. Any additional amount due to the village as a result of the audit shall be paid within 30 days following written notice to the grantee by the village which notice shall include a copy of the audit report.

(e) If any franchise payment or recomputed amount, cost or penalty, is not made on or before the applicable dates heretofore specified, interest shall be charged daily from such date at the legal maximum rate charged by the U.S. Internal Revenue service for late tax payments and the grantee shall reimburse the village for any additional expenses and costs incurred by the village by reason of the delinquent payment(s).

(Ord. of 11-19-97, § 27)

Sec. 26-228. Transfer of ownership or control.

(a) Except as may be provided in a franchise agreement, this franchise shall not be assigned or transferred, either in whole or in part, or leased, sublet or mortgaged in any manner, nor shall title thereto, either legal or equitable or any right, interest or property therein, pass to or vest in any person without the prior written consent of the village. The grantee may, however, transfer or assign the franchise to a wholly owned subsidiary of the grantee and such subsidiary may transfer or assign the franchise back to the grantee without such consent, providing that such assignment is without any release of liability of the grantee. The proposed assignee must show financial responsibility as determined by the village and must agree to comply with all provisions of the franchise. The village shall have 120 days to act upon any request for approval of such a sale or transfer submitted in writing that contains or is accompanied by such information as is required in accordance with FCC regulations and by the village. The village shall be deemed to have consented to a proposed transfer or assignment if its refusal to consent is not communicated in writing to the grantee within 120 days following receipt of written notice and the necessary information as to the effect of the proposed transfer or assignment upon the public unless the requesting party and the village agree to an extension of time. The village shall not unreasonably withhold such consent to the proposed transfer.

(b) Except as may be provided in a franchise agreement, the grantee shall promptly notify the village of any actual or proposed change in, or transfer of, or acquisition by any other party of, control of the grantee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of ten percent of the voting shares of the grantee. Every change, transfer or acquisition of control of the grantee shall make the franchise subject to cancellation unless and until the village shall have consented thereto, which consent will not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the village may inquire into the qualification of the prospective controlling party, and the grantee shall assist the village in such inquiry.

(c) The consent or approval of the village to any transfer of the grantee shall not constitute a waiver or release of the rights of the village in and to the streets, and any transfer shall by its terms, be expressly subordinate to the terms and conditions of this franchise.

(d) In the absence of extraordinary circumstances, the village will not approve any transfer or assignment of an initial franchise prior to substantial completion of construction of the proposed system.

(e) In no event shall a transfer of ownership or control be approved without the successor in interest becoming a signatory to this franchise agreement.
(Ord. of 11-19-97, § 28)

Sec. 26-229. Availability of books and records.

(a) The grantee shall fully cooperate in making available at reasonable times, and the village shall have the right to inspect, where reasonably necessary to the enforcement of the franchise, books, records, maps, plans and other like materials of the grantee applicable to the cable television system, at any time during normal business hours; provided where volume and convenience necessitate, the grantee may require inspection to take place on the grantee's premises.

(b) The following records and/or reports are to be made available to the village upon request, but no more frequently than on an annual basis unless mutually agreed upon by the grantee and the village:

- (1) A quarterly review and resolution or progress report submitted by the grantee to the village;
- (2) Periodic preventive maintenance reports;
- (3) Any copies of FCC Form 395-A (or successor form) or any supplemental forms related to equal opportunity or fair contracting policies;
- (4) Subscriber inquiry/complaint resolution data and the right to review documentation concerning these inquiries and/or complaints periodically;
- (5) Periodic construction update reports, including where appropriate the submission of as-built maps.

(Ord. of 11-19-97, § 29)

Sec. 26-230. Other petitions and applications.

Copies of all petitions, applications, communications and reports either submitted by the grantee to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting cable television operations authorized pursuant to the franchise or received from such agencies shall be provided to the village upon request.

(Ord. of 11-19-97, § 30)

Sec. 26-231. Fiscal reports.

The grantee shall file annually with the village no later than 120 days after the end of the grantee's fiscal year, a copy of a gross revenues statement certified by an officer of the grantee. (Ord. of 11-19-97, § 31)

Sec. 26-232. Removal of cable television system.

At the expiration of the terms for which this franchise is granted and any renewal denied, or upon its termination as provided herein, the grantee shall forthwith, upon notice by the village, remove at its own expense all designated portions of the cable television system from all streets and public property within the village. If the grantee fails to do so, the village may perform the work at the grantee's expense. Upon such notice of removal, a bond shall be furnished by the grantee in an amount sufficient to cover this expense.
(Ord. of 11-19-97, § 32)

Sec. 26-233. Required services and facilities.

(a) The cable television system shall have a minimum channel capacity of 77 channels and at least 750 MHz of bandwidth available for future use.

(b) Such system shall maintain a plant having the technical capacity for "two-way" communications.

(c) The grantee shall maintain the following:

- (1) At least one specially-designated, noncommercial public access channel available on a first-come, nondiscriminatory basis;
- (2) At least one specially-designated channel for use by local educational authorities;
- (3) At least one specially-designated channel for local governmental uses;
- (4) At least one specially-designated channel for leased access uses;
- (5) Provided, however, these uses may be combined on one or more channels until such time as additional channels become necessary in the opinion of the village. Financial and technical support, replacement and maintenance of equipment of this facility shall be separately incorporated into a franchise agreement.
- (6) An institutional network (I-Net) of cable, optical, electrical or electronic equipment, used for the purpose of transmitting two-way telecommunications signals interconnecting designated entities as set forth in the franchise agreement and mutually agreed to by the grantee and the grantor. Such institutional network may be provided as needed by utilizing capacity on the subscriber system.

(d) The grantee shall incorporate into its cable television system the capacity which will permit the village, in times of emergency, to override, by remote control, the audio of all channels simultaneously which the grantee may lawfully override. The grantee shall provide emergency broadcast capacity pursuant to FCC rules. The grantee shall cooperate with the village in the use and operation of the emergency alert override system.

- (e) (1) The grantee may be required to interconnect its system with other adjacent cable television systems for the purpose of sharing public, educational, and governmental access programming. Such interconnection shall be made within a reasonable time limit to be established by the village.
- (2) *Interconnection procedure:* Upon receiving the directive of the village to interconnect, the grantee shall immediately initiate negotiations with the other affected system or systems in order that all costs may be shared equally among cable companies for both construction and operation of the interconnection link.
- (3) *Relief:* The grantee may be granted reasonable extensions of time to interconnect or the village may rescind its order to interconnect upon petition by the grantee to the village. The village shall grant the request if it finds that the grantee has negotiated in good faith and has failed to obtain an approval from the operator or franchising authority of system to be interconnected, or the cost of the interconnection would cause an unreasonable or unacceptable increase in subscriber rates.
- (4) *Cooperation required:* The grantee shall cooperate with any interconnection corporation, regional interconnection authority or village, county, state and federal regulatory agency which may be hereafter established for the purpose of regulating, financing, or otherwise providing for the interconnection of cable systems beyond the boundaries of the village.
- (5) *Initial technical requirements to assure future interconnection capability:*
 - a. All cable systems receiving franchises to operate within the village shall use the standard frequency allocations for television signals.
 - b. All cable systems are required to use signal processors at the headend for each television signal.
 - c. The village also urges franchisees to provide local origination equipment that is compatible throughout the area so that video cassettes or videotapes can be shared by various systems.
 - d. Grantee shall provide such additional services and facilities as are contained in its application, if any.

(Ord. of 11-19-97, § 33)

Sec. 26-234. Rules and regulations.

(a) In addition to the inherent powers of the village to regulate and control this cable television franchise, and those powers expressly reserved by the village, or agreed to and provided for herein, the right and power is hereby reserved by the village to promulgate such additional regulations as it shall find necessary in the exercise of its lawful powers and furtherance of the terms and conditions of this franchise; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or applicable state and federal laws, rules and regulations.

(b) The village may also adopt such regulations at the request of grantee upon application.

(Ord. of 11-19-97, § 34)

Sec. 26-235. Performance evaluation sessions.

(a) The village and the grantee may hold scheduled performance evaluation sessions within 30 days of the third, sixth, and twelfth anniversary dates of the grantee's award or renewal of the franchise and as may be required by federal and state law. All such evaluation sessions shall be open to the public.

(b) Special evaluation sessions may be held at any time during the term of the franchise at the request of the village or the grantee.

(c) All evaluation sessions shall be open to the public and announced in a newspaper of general circulation in accordance with legal notice. The grantee shall notify its subscribers of all evaluation sessions by announcements on at least one channel of its system between the hours of 7:00 p.m. and 9:00 p.m., for five consecutive days preceding each session.

(d) Topics which may be discussed at any scheduled or special evaluation session may include, but not be limited to, service rate structures; franchise fee, penalties, free or discounted services; application of new technologies; system performance; services provided; programming offered; customer complaints, privacy; amendments to this article; judicial and FCC rulings; line extension policies; and grantee or village rules.

(e) Members of the general public may add topics either by working through the negotiating parties or by presenting a petition. If such a petition bears the valid signatures of 50 or more residents of the village, the proposed topic or topics shall be added to the list of topics to be discussed at the evaluation session.

(Ord. of 11-19-97, § 35)

Sec. 26-236. Rate change procedures.

Pursuant to the Cable Television Consumer Protection and Competition Act of 1992, the village is currently certified to regulate the basic service rates charged by grantee. Under these rules, grantee is required to obtain approval from the village for a rate increase for any change to the rates for basic service. Should federal or state law permit further rate regulation beyond

the basic service the village shall assume such rate regulation and adopt appropriate procedures for such regulation.
(Ord. of 11-19-97, § 36)

Sec. 26-237. Forfeiture and termination.

(a) In addition to all other rights and powers retained by the village under this franchise or otherwise, the village reserves the right to forfeit and terminate the franchise and all rights and privileges of the grantee hereunder in the event of a substantial breach of its terms and conditions. A substantial breach by the grantee shall include, but shall not be limited to the following:

- (1) Violation of any material provision of the franchise or any material rule, order, regulation or determination of the village made pursuant to the franchise;
- (2) Attempt to evade any material provision of the franchise or practice any fraud or deceit upon the village or its subscribers or customers;
- (3) Failure to begin or complete system construction or system extension as provided under section 26-220;
- (4) Failure to provide the services promised in the grantee's application if any as incorporated herein by section 26-204;
- (5) Failure to restore service after 96 consecutive hours of interrupted service, except when approval of such interruption is obtained from the village; or
- (6) Material misrepresentation of fact in the application for or negotiation of the franchise.

(b) The foregoing shall not constitute a major breach if the violation occurs but is without fault of the grantee or occurs as a result of circumstances beyond its control. The grantee shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

(c) The village may make a written demand that the grantee comply with any such provision, rule, order or determination under or pursuant to this franchise. If the violation by the grantee continues for a period of 30 days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the village may place the issue of termination of the franchise before the village council. The village shall cause to be served upon the grantee, at least 20 days prior to the date of such meeting, a written notice of intent to request such termination and the time and place of the meeting. Public notice shall be given of the meeting and the issue(s) which the council is to consider.

(d) The village council shall hear and consider the issue(s) and shall hear any person interested therein and shall determine in its discretion whether or not any violation by the grantee has occurred.

(e) If the village council shall determine the violation by the grantee was the fault of the grantee and within its control, the council may, by resolution declare that the franchise

of the grantee shall be forfeited and terminated unless there is compliance within such period as the council may fix, such period shall not be less than 60 days, provided no opportunity for compliance need be granted for fraud or misrepresentation.

(f) The issue of forfeiture and termination shall automatically be placed upon the council agenda at the expiration of the time set by it for compliance. The council then may terminate the franchise forthwith upon finding that the grantee has failed to achieve compliance or may further extend the period, in its discretion.

(Ord. of 11-19-97, § 37)

Sec. 26-238. Foreclosure.

Upon the foreclosure or other judicial sale of all or a substantial part of the system, or upon the termination of any lease covering all or a substantial part of the system, the grantee shall notify the village of such fact, and such notification shall be treated as a notification that a change in control of the grantee has taken place, and the provisions of this franchise governing the consent of the village to such change in control of the grantee shall apply.

(Ord. of 11-19-97, § 38)

Sec. 26-239. Right of acquisition by the village.

(a) Federal regulations as per U.S.C. 537 shall apply to the right of acquisition by the village. In the event that the relevant federal regulations are repealed, the guidelines specified in section (b) below shall apply.

(b) Upon the expiration of the term of the franchise and denial of any renewal or upon any other termination thereof as provided herein the village at its election and upon the payment to the grantee of a price equal to the fair market value shall have the right to purchase and take over the system upon resolution by the village council. If the village has denied the grantee's petition for renewal of its franchise as provided by section 26-207, the village must exercise its option to purchase the system within 60 days of the denial of renewal and at least six months prior to the end of the franchise. Nothing shall prohibit the grantee in the event of the election of the village to purchase the system from requesting the court to set a reasonable bond of the village to secure the purchase price. The grantee shall execute such warranty deeds and other instruments as may be necessary.

(Ord. of 11-19-97, § 39)

Sec. 26-240. Receivership.

The village shall have the right to cancel this franchise 120 days after the appointment of a receiver, or trustee, to take over and conduct the business of the grantee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of 120 days, or unless:

- (1) Within 120 days after his/her election or appointment, such receiver or trustee shall have fully complied with all the provisions of this chapter and remedied all defaults thereunder; and

- (2) Such receiver or trustee, within the 120 days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this chapter and the franchise granted to the grantee.

(Ord. of 11-19-97, § 40)

Sec. 26-241. Compliance with state and federal laws.

(a) Notwithstanding any other provisions of this franchise to the contrary, the grantee shall at all times comply with all laws and regulations of the state and federal government or any administrative agencies thereof; provided, however, if any such state or federal law or regulation shall require the grantee to perform any service, or shall permit the grantee to perform any service, or shall prohibit the grantee from performing any service, in conflict with the terms of this franchise or of any law or regulation of the village, then as soon as possible following knowledge thereof, the grantee shall notify the village of the point of conflict believed to exist between such regulation or law and the laws or regulations of the village or this franchise.

(b) If the village determines that a material provision of this chapter is affected by any subsequent action of the state or federal government, the village and the grantee shall negotiate to modify any of the provisions herein to such reasonable extent as may be necessary to carry out the full intent and purpose of this agreement.

(Ord. of 11-19-97, § 41)

Sec. 26-242. Landlord/tenant.

(a) *Interference with cable service prohibited.* Neither the owner of any multiple unit residential dwelling nor his agent or representative shall interfere with the right of any tenant or lawful resident thereof to receive cable communication service, cable installation or maintenance from a cable communication grantee regulated by and lawfully operating under a valid and existing franchise issued by the village.

(b) *Gratuities and payments to permit service prohibited.* Neither the owner of any multiple unit residential dwelling nor his agent or representative shall ask, demand or receive any payment, service or gratuity in any form as a condition for permitting or cooperating with the installation of a cable communication service to the dwelling unit occupied by a tenant or resident requesting service.

(c) *Penalties and charges to tenants for service prohibited.* Neither the owner or any multiple unit residential dwelling nor his agent or representative shall penalize, charge or surcharge a tenant or resident or forfeit or threaten to forfeit any right of such tenant or resident, or discriminate in any way against such tenant or resident who requests or receives cable communication service from a grantee operating under a valid and existing cable communication franchise issued by the village.

(d) *Reselling service prohibited.* No person shall resell, without the expressed, written consent of both the grantee and the village, any cable service, program or signal transmitted by a cable communication grantee under a franchise issued by the village.

(e) *Protection of property permitted.* Nothing in this chapter shall prohibit a person from requiring that cable communication system facilities conform to laws and regulations and reasonable conditions necessary to protect safety, functioning, appearance and value of premises or the convenience and safety of persons or property.

(f) *Risks assumed by grantee.* Nothing in this chapter shall prohibit a person from requiring a grantee from agreeing to indemnify the owner, or his agents or representatives for damages or from liability for damages caused by the installation, operation, maintenance or removal of cable communication facilities.

(Ord. of 11-19-97, § 42)

Sec. 26-243. Applicant's bids for initial franchise.

(a) All bids received by the village from the applicants for an initial franchise will become the sole property of the village.

(b) The village reserves the right to reject any and all bids and waive informalities and/or technicalities where the best interest of the village may be served.

(c) All questions regarding the meaning or intent of this chapter or application documents shall be submitted to the village in writing. Replies will be issued by addenda mailed or delivered to all parties recorded by the village as having received the application documents. The village reserves the right to make extensions of time for receiving bids as it deems necessary. Questions received less than 14 days prior to the date for the opening of bids will not be answered. Only replies to questions by written addenda will be binding. All bids must contain an acknowledgment of receipt of all addenda.

(d) Bids must be sealed, and submitted at the time and place indicated in the application documents for the public opening. Bids may be modified at any time prior to the opening of the bids, provided that any modifications must be duly executed in the manner that the applicant's bid must be executed. No bid shall be opened or inspected before the public opening.

(e) Before submitting a bid, each applicant must:

- (1) Examine this chapter and the application documents thoroughly;
- (2) Familiarize himself/herself with local conditions that may in any manner affect performance under the franchise;
- (3) Familiarize himself/herself with federal, state and local laws, ordinances, rules and regulations affecting performance under the franchise; and
- (4) Carefully correlate the bid with the requirements of this chapter and the application documents.

(f) The village may make such investigations as it deems necessary to determine the ability of the applicant to perform under the franchise, and the applicant shall furnish to the village all such information and data for this purpose as the village may request. The village reserves the right to reject any bid if the evidence submitted by, or investigation of,

such applicant fails to satisfy the village that such applicant is properly qualified to carry out the obligations of the franchise and to complete the work contemplated therein. Conditional bids will not be accepted.

(g) All bids received shall be placed in a secure depository approved by the village and not opened nor inspected prior to the public opening.
(Ord. of 11-19-97, § 43)

Sec. 26-244. Financial, contractual, shareholder and system disclosure for initial franchises.

(a) No initial franchise will be granted to any applicant unless all requirements and demands of the village regarding financial, contractual, shareholder and system disclosure have been met.

(b) Applicants, including all shareholders and parties with any interest in the applicant, shall fully disclose all agreements and undertakings, whether written or oral, or implied with any person, firm, group, association or corporation with respect to this franchise and the proposed cable television system. The grantee of this franchise shall disclose all other contracts to the village as the contracts are made. This section shall include, but not be limited to, any agreements between local applicants and national companies.

(c) Applicants, including all shareholders and parties with any interest in the applicant, shall submit all requested information as provided by the terms of this chapter or the application documents, which are incorporated herein by reference. The requested information must be complete and verified as true by the applicant.

(d) Applicants, including all shareholders and parties with any interest in the applicant, shall disclose the numbers of shares of stock, and the holders thereof, and shall include the amount of consideration for each share of stock and the nature of the consideration.

(e) Applicants, including all shareholders and parties with any interest in the applicant, shall disclose any information required by the application documents regarding other cable systems in which they hold an interest of any nature, including, but not limited to, the following:

- (1) Locations of all other franchises and the dates of award for each location;
- (2) Estimated construction costs and estimated completion dates for each system;
- (3) Estimated number of miles of construction and number of miles completed in each system as of the date of this application; and
- (4) Date for completion of construction as promised in the application for each system.

(f) Applicants, including all shareholders and parties with any interest in the applicant, shall disclose any information required by the application documents regarding pending applications for other cable systems, including but not limited to, the following:

- (1) Location of other franchise applications and date of application for each system;
- (2) Estimated dates of franchise awards;
- (3) Estimated number of miles of construction; and
- (4) Estimated construction costs.

(Ord. of 11-19-97, § 44)

Sec. 26-245. Theft of services and tampering.

(a) No person may intentionally do any of the following:

- (1) Obtain or attempt to obtain cable television service from a company by trick, artifice, deception, use of an illegal device or illegal decoder or other fraudulent means with the intent to deprive that company of any or all lawful compensation for rendering each type of service obtained. The intent required for a violation of this paragraph may be inferred from the presence on the property and in the actual possession of the defendant of a device not authorized by the cable television company, the major purpose of which is to permit reception of cable television services without payment. This inference is rebutted if the defendant demonstrates that he or she purchased that device for a legitimate use.
- (2) Give technical assistance or instruction to any person in obtaining or attempting to obtain any cable television service without payment of all lawful compensation to the company providing that service. This paragraph does not apply if the defendant demonstrates that the technical assistance or instruction was given or the installation of the connection, descrambler or receiving device was for a legitimate use.
- (3) Make or maintain a connection, whether physical, electrical, mechanical, acoustical or by other means, with any cables, wires, components or other devices used for the distribution of cable television services for the purpose of distributing cable television service to any other dwelling unit without authority from a cable television company.
- (4) Make or maintain a connection, whether physical, electrical, mechanical, acoustical or by other means, with any cables, wires, components or other devices used for the distribution of cable television services for the purpose of obtaining cable television service without payment of all lawful compensation to the company providing the service. The intent required for a violation of this paragraph may be inferred from proof that the cable service to the defendant's residence or business was connected under a service agreement with the

defendant and has been disconnected by the cable television company and that thereafter there exists in fact a connection to the cable system at the defendant's residence or business.

- (5) Make or maintain any modification or alteration to any device installed with the authorization of a cable television company for the purpose of intercepting or receiving any program or other service carried by that company which that person is not authorized by that company to receive. The intent required for a violation of this paragraph may be inferred from proof that, as a matter of standard procedure, the cable television company places written warning labels on its converters or decoders explaining the tampering with the device is a violation of law and the converter or decoder is found to have been tampered with, altered or modified so as to allow the reception or interception of programming carried by the cable television company without authority to do so. The trier of fact may also infer that a converter or decoder has been altered or modified from proof that the cable television company, as a matter of standard procedure, seals the converters or decoders with a label or mechanical device, that the seal was shown to the customer upon delivery of the decoder and that the seal has been removed or broken. The inferences under this paragraph are rebutted if the cable television company cannot demonstrate that the intact seal was shown to the customer.
- (6) Possess without authority any device or printed circuit board designed to receive from a cable television system any cable television programming or services offered for sale over that cable television system, whether or not the programming or services are encoded, filtered, scrambled or otherwise made unintelligible, or perform or facilitate the performance of any of the acts under paragraphs (1) to (5) with the intent that device or printed circuit be used to receive that cable television company's services without payment. Intent to violate this paragraph for direct or indirect commercial advantage or private financial gain may be inferred from proof of the existence on the property and in the actual possession of the defendant of a device if the totality of circumstances, including quantities or volumes, indicates possession for resale.
- (7) Manufacture, import into this state, distribute, publish, advertise, sell, lease or offer for sale or lease any device, printed circuit board or any plan or kit for a device or for a printed circuit designed to receive the cable television programming or services offered for sale over a cable television system from a cable television system, whether or not the programming or services are encoded, filtered, scrambled or otherwise made unintelligible, with the intent that the device, printed circuit, plan or kit be used for the reception of that company's services without payment. The intent required for a violation of this paragraph may be inferred from proof that the defendant has sold, leased or offered for sale or lease any device, printed circuit board, plan or kit for a device or for a printed circuit board in violation of this paragraph and during the course of the transaction for sale or lease the defendant expressly

states or implies to the buyer that the product will enable the buyer to obtain cable television service without charge.

(b) Civil liability for theft of telecommunications service (including cable television service.)

(1) Any person who incurs injury as a result of a violation of section 26-245 may bring a civil action against the person who committed the violation.

a. Except as provided in subsection (b)(2), if the person who incurs the loss prevails, the court shall grant the prevailing party actual damages, costs and disbursement.

(2) If the person who incurs the loss prevails against a person who committed the violation willfully and for the purpose of commercial advantage or prevails against a person who has committed more than one violation of section 26-245, the court shall grant the prevailing party all the following:

a. Except as provided in subsections (2)e. and (2)f. below, not more than \$10,000.00.

b. Actual damages.

c. Any profits of the violators that are attributable to the violation and that are not taken into account in determining the amount of actual damages under subsection (2)b.

d. Notwithstanding the limitations under sections 799.25 or 814.04, Wis. Stats., costs, disbursement and reasonable attorney fees.

e. If the court finds that the violation was committed willfully and for the purpose of commercial advantage, the court may increase the amount granted under subsection (2)a. not to exceed \$50,000.00.

f. If the court finds that the violator had no reason to believe that the violator's action constituted a violation of this section, the courts may reduce the amount granted under subsection (2)a.

(3) If damages under subsection (2)c. are requested, the party who incurred the injury shall have the burden of proving the violator's gross revenue and the violator's deductible expenses and the elements of profit attributable to factors other than the violation.

(4) In addition to other remedies available under this section, the courts may grant the injured party a temporary or permanent injunction.

(Ord. of 11-19-97, § 45)

Sec. 26-246. Penalties.

For the violation of any of the following provisions of this franchise, penalties shall be chargeable to the letter of credit or performance bond as applicable as follows and the village may determine the amount of the fine for other violations which are not specified in a sum not to exceed \$500.00 for each violation, with each day constituting as separate violation.

- (1) Failure to furnish, maintain, or offer all cable services to any potential subscriber within the village upon order of the village: \$200.00 per day, per violation, for each day that such failure occurs or continues;
- (2) Failure to obtain or file evidence of required insurance, construction bond, performance bond, or other required financial security: \$200.00 per day, per violation, for each day such failure occurs or continues;
- (3) Failure to provide access to data, documents, records, or reports to the village as required by sections 26-219, 26-229, 26-230, 26-231 and 26-237: \$200.00 per day, per violation, for each day such failure occurs or continues;
- (4) Failure to comply with applicable construction, operation, or maintenance standards: \$300.00 per day, per violation.
- (5) Failure to comply with a rate decision or refund order: \$500.00 per day, per violation, for each day such a violation occurs or continues. The village may impose any or all of the above enumerated measures against grantee, which shall be in addition to any and all other legal or equitable remedies it has under the franchise or under any applicable law.
- (6) Any violations for noncompliance with the customer service standards of sections 26-223 through 26-225 the grantee shall pay \$200.00 per day for each day, or part thereof, that such noncompliance continues.
- (7) Any other violations of this franchise agreement to be determined by the village in a public hearing but not specifically noted in this section shall not exceed \$500.00 per day, per violation.

(Ord. of 11-19-97, § 46)

Sec. 26-247. Procedures.

(a) Whenever the village believes that the grantee has violated one or more terms, conditions or provisions of this franchise, and wishes to impose penalties, a written notice shall be given to the grantee informing it of such alleged violation or liability. The written notice shall describe in reasonable detail the specific violation so as to afford the grantee an opportunity to remedy the violation. The grantee shall have 30 days subsequent to receipt of the notice in which to correct the violation before the village may impose penalties unless the violation is of such a nature so as to require more than 30 days and the grantee proceeds diligently within the 30 days to correct the violation, or as promptly as possible thereafter to correct the violation. In any case where the violation is not cured within 60 days of notice from

the village, or such other time as the grantee and the village may mutually agree to, the village may proceed to impose liquidated damages.

(b) The grantee may, within ten days of receipt of notice, notify the village that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by the grantee to the village shall specify with particularity the matters disputed by the grantee and shall stay the running of the thirty-day cure period pending the board's decision as required below. The board shall hear the grantee's dispute. grantee must be given at least five days notice of the hearing. At the hearing, the grantee shall be entitled to the right to present evidence and the right to be represented by counsel. After the hearing, the village shall provide grantee a copy of its action, along with supporting documents. In the event the village upholds the finding of a violation, the grantee shall have thirty days subsequent, or such other time period as the grantee and the village mutually agree, to such determination to correct the alleged violation before penalties may be imposed.

(c) The rights reserved to the village under this section are in addition to all other rights of the village whether reserved by this franchise or authorized by law or equity, and no action, proceeding or exercise of a right with respect to penalties shall affect any other right the village may have.

(d) The village shall stay or waive the imposition of any penalty set forth above upon a finding that any failure or delay is a result of an act of nature or due to circumstances beyond the reasonable control of the grantee.

(Ord. of 11-19-97, § 47)

Chapters 27 - 29
Reserved

Chapter 30 CIVIL EMERGENCIES*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Secs. 30-1--30-25.	Reserved.		
Article II. Emergency Government			
Sec. 30-26.	Penalties.		
Sec. 30-27.	Declaration of policy.		
Sec. 30-28.	Emergency government committee.		
Sec. 30-29.	Coordinator of emergency government services.		
Sec. 30-30.	Utilization of existing services and facilities.		

***Cross references:** Fire prevention and protection, ch. 46; law enforcement, ch. 58.

Article I. In General

Secs. 30-1--30-25. Reserved.

Article II. Emergency Government*

Sec. 30-26. Penalties.

Whoever intentionally fails to comply with the directives of emergency government authorities promulgated under this article during a state of emergency or during any training program or exercise may be fined not more than \$200.00 and for any default of payment of such forfeiture may be imprisoned not more than 90 days.

(Code 1960, § 3.07(6))

Sec. 30-27. Declaration of policy.

To prepare the village to cope with emergencies resulting from enemy action and natural or manmade disaster, it is declared to be necessary to establish an organization for emergency government for the village by conferring upon the president of the village and others specified duties and powers, consistent however with Wis. Stats. ch. 166, which is adopted by reference in this section as if fully set forth in this section.

(Code 1960, § 3.07(1))

Sec. 30-28. Emergency government committee.

(a) *Created; composition; terms.* There is created an emergency government committee composed of the village president and three members of the village board, whose chairman shall be the president of the board. Members of the committee shall serve for terms of one year and until their successors are appointed.

(b) *Duties.* The emergency government committee shall be an advisory and planning group and shall advise the coordinator of emergency government services and the village board on all emergency government matters. It shall meet monthly or upon the call of the chairman. It shall annually prepare a budget for emergency government and present the budget to the village board for adoption. It shall prepare an annual report for the village board.

(Code 1960, § 3.07(3))

Sec. 30-29. Coordinator of emergency government services.

(a) *Designated.* The county coordinator of emergency government services shall also hold the office of coordinator of emergency government services of the village. The president of the village shall appoint deputies and assistants to the coordinator as requested.

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

(b) *Powers and duties.* The coordinator of emergency government services, subject to the control and direction of the village board, shall:

- (1) Develop and promulgate emergency government plans for the village consistent with state and county plans.
- (2) Direct the emergency government program for the village and perform such other duties related to emergency government as are required by the village board and the emergency government committee.
- (3) Direct the village emergency government training programs and exercises.
- (4) Direct the village participation in emergency government training programs and exercises.

(Code 1960, § 3.07(4))

Sec. 30-30. Utilization of existing services and facilities.

(a) *Policy.* In preparing and executing the emergency government program, the services, equipment, supplies, and facilities of the departments and agencies of the village shall be utilized to the maximum extent practicable, and the heads and personnel of all such departments and agencies are directed to cooperate and extend such services and facilities as are required of them.

(b) *Responsibility.* In order to ensure that in an emergency all the facilities of the village government are expanded to the fullest to meet such emergency, department and agency heads assigned to specific responsibilities under the village emergency operations plan will fulfill emergency and nonemergency duties as prescribed in the plan.

(Code 1960, § 3.07(5))

Chapter 31
Reserved

Chapter 32
COMMUNITY DEVELOPMENT AUTHORITY

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Secs. 32-1--32-25.	Reserved.		
Article II. Community Development Authority			
Sec. 32-26.	Authority.		
Sec. 32-27.	Findings and declarations.		
Sec. 32-28.	Creation.		
Sec. 32-29.	Exclusive authority.		
Sec. 32-30.	Commissioners.		
Sec. 32-31.	Powers and duties.		
Sec. 32-32.	Tax exemption.		
Sec. 32-33.	Controlling law.		
Sec. 32-34.	Severability.		

Article I. In General

Secs. 32-1--32-25. Reserved.

Article II. Community Development Authority*

Sec. 32-26. Authority.

Wis. Stats. §§ 66.1335 and 66.1339 authorize the village board to adopt an ordinance creating a housing and community development authority.
(Ord. of 11-28-05)

Sec. 32-27. Findings and declarations.

The findings and declarations made in Wis. Stats. § 66.1335(b) are in all respects adopted, restated and incorporated herein; there exists a need for blight elimination, slum clearance, urban renewal and community development programs and projects and housing projects in the village; a housing and community development authority, functioning within the village, constitutes an effective and efficient means for preventing and eliminating slums and blighted areas and preventing the reoccurrence thereof and for the elimination of unsanitary or unsafe inhabited dwelling accommodations, commercial buildings and to provide safe and sanitary dwelling accommodations; and the necessity for said authority is hereby declared as a matter of legislative determination.
(Ord. of 11-28-05)

Sec. 32-28. Creation.

Pursuant to Wis. Stats. § 66.1335, there is hereby created the housing and community development authority as a separate body politic for the purpose of carrying out blight elimination, slum clearance, urban renewal programs and projects and housing projects; which authority shall be known as the "Community Development Authority of the Village of Union Grove."
(Ord. of 11-28-05)

Sec. 32-29. Exclusive authority.

The community development authority shall have the exclusive power to proceed to carry on blight elimination, slum clearance and urban renewal projects in the village, except that the village may apply, accept and contract for federal grants, advances and loans under the Housing and Community Development Act of 1974 (P.L. 93-383).
(Ord. of 11-28-05)

***Editor's note:** An ordinance adopted November 28, 2005, subsections (1)--(9), did not provide for specific section numbering. To preserve the style of this Code, and at the discretion of the editor, said provisions have been designated as Article II, §§ 32-26--32-34.

Sec. 32-30. Commissioners.

The president shall, with the confirmation of the village board, appoint seven resident persons having sufficient ability and experience in the fields of urban renewal, community development and housing, as commissioners of the community development authority.

- (1) Two of the commissioners shall be members of the village board and shall serve during their term of office as village board members.
- (2) The first appointments of the five non-village board members shall be for the following terms: two for one year and one each for terms of two, three and four years. Thereafter, the terms of non-village board members shall be four years and until their successors are appointed and qualified.
- (3) Vacancies shall be filled for the unexpired term as provided in this subsection.
- (4) Commissioners shall be reimbursed their actual and necessary expenses including local travel expenses incurred in the discharge of their duties.

(Ord. of 11-28-05)

Sec. 32-31. Powers and duties.

(a) The community development authority shall have all powers, duties and functions set out in Wis. Stats. § 66.1201, as well as Wis. Stats. § 66.1333 for housing and redevelopment authorities. All housing projects initiated by the community development authority shall proceed under Wis. Stats. § 66.1335 and as to all projects relating to blight elimination, slum clearance, urban renewal and redevelopment programs, it shall proceed under Wis. Stats. §§ 66.1105, 66.1301--66.1329, 66.1331, 66.1333, or 66.1337, as determined appropriate by the village board on a project by project basis.

(b) The community development authority shall act as the agent of the village in planning and carrying out community development programs and activities approved by the president and village board under the Federal Housing and Community Development Act of 1974. As to all community development programs and activities undertaken by the village under the Federal Housing and Community Development Act of 1974, the community development authority shall proceed under all applicable laws and ordinances not inconsistent with the laws of this state.

(c) As a means of more clearly setting forth its powers and rules of procedure, the community development authority shall adopt a set of by-laws which shall, among other things, establish the general policy duties and provide for the appointment of the chairperson, treasurer, secretary, executive director. The initial by-laws and subsequent amendments must also be approved by a majority vote of the village board.

(Ord. of 11-28-05)

Sec. 32-32. Tax exemption.

Bonds issued by the community development authority are declared pursuant to Wis. Stats. § 66.1335(5m) to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, are exempt from taxes.

(Ord. of 11-28-05)

Sec. 32-33. Controlling law.

The powers conferred under this section shall be an addition and supplemental to the powers conferred by all other law or ordinance. Insofar as this section is inconsistent with any other law, this section shall control.

(Ord. of 11-28-05)

Sec. 32-34. Severability.

If any provision of this section or any provision of any rule or regulation lawfully promulgated hereunder or any application of this section or rule or regulation promulgated hereunder to any person, firm or corporation or circumstances is held invalid or inoperative, such invalidity or inoperativeness shall not affect other provisions or applications of this section or rules or regulations. The village board hereby declares tile provisions of this section and all rules and regulations promulgated hereunder are severable.

(Ord. of 11-28-05)

Chapter 33
Reserved

Chapter 34 COURTS*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Secs. 34-1--34-25.	Reserved.		
Article II. Municipal Court			
Division 1. Generally			
Sec. 34-26.	Court hours.		
Sec. 34-27.	Eligibility for release.		
Sec. 34-28.	Contempt procedure.		
Secs. 34-29--34-55.	Reserved.		
Division 2. Municipal Judge			
Sec. 34-56.	Office created.		
Sec. 34-57.	Jurisdiction.		
Sec. 34-58.	Election.		
Sec. 34-59.	Bond and oath.		
Sec. 34-60.	Salary.		

***Cross references:** Administration, ch. 2; law enforcement, ch. 58; offenses and miscellaneous provisions, ch. 70; traffic and vehicles, ch. 102.

Article I. In General

Secs. 34-1--34-25. Reserved.

Article II. Municipal Court

Division 1. Generally

Sec. 34-26. Court hours.

The hours of the municipal court shall be established by the municipal judge.
(Code 1960, § 2.03(6))

Sec. 34-27. Eligibility for release.

(a) Before conviction, a defendant arrested for violation of the village ordinances is eligible for release under reasonable conditions designed to ensure his appearance in municipal court.

(b) In all ordinance violations, bail shall not exceed the maximum fine provided for the offense.

(c) In determining whether any conditions of release are appropriate, the judge shall first consider the likelihood of the defendant appearing in court if released on his own recognizance (signature bond).

(d) A person released on a signature bond shall appear in court on the date that appears on his summons, unless other arrangements have been made with the court.

(e) A person who has been released on a signature bond shall give written notice to the clerk of court of any change in his address within 48 hours after such change. This requirement shall be printed on all signature bonds.

(f) Penalties for violation of subsections (d) and (e) of this section, plus any cost to return the defendant to the court's jurisdiction, shall be as provided in section 1-11.

(Code 1960, § 12.02(9))

Sec. 34-28. Contempt procedure.

(a) The municipal judge may impose a sanction authorized under subsection (b) of this section for contempt of court, as defined in Wis. Stats. § 785.01(1), in accordance with the procedures under Wis. Stats. § 785.03.

(b) The municipal judge may impose a forfeiture for contempt under subsection (a) of this section in an amount not to exceed \$50.00 or, upon nonpayment of the forfeiture and the penalty assessment under Wis. Stats. § 165.87, by applicable domestic abuse

assessment under Wis. Stats. § 973.055 from Wis. Stats. § 800.12 and jail assessment under Wis. Stats. § 302.46, and a jail sentence not to exceed seven days.

(Code 1960, § 2.03(8))

Secs. 34-29--34-55. Reserved.

Division 2. Municipal Judge*

Sec. 34-56. Office created.

Pursuant to Wis. Stats. § 755.01, the elected office of municipal judge is created.

(Code 1960, § 2.03(1))

Sec. 34-57. Jurisdiction.

The judge shall have such powers, duties, and jurisdiction as are provided by statute, as amended, and exclusive jurisdiction of violation of village ordinances.

(Code 1960, § 2.03(2))

Sec. 34-58. Election.

The office of the municipal judge shall be elected, at large, by the electors of the village at the regular spring election in odd-numbered years for a term of two years commencing May 1 of the year of election. A permanent vacancy in the office of municipal judge may be filled by temporary appointment of the village board. The office shall then be permanently filled by special election, held concurrently with the next spring election following the occurrence of the vacancy, except that a vacancy occurring during the period after December 1 and on or before the date of the spring election shall be filled at the second succeeding spring election, and no such election may be held after the expiration of the term of office nor at the time of holding the regular election for the office.

(Code 1960, § 2.03(3))

Sec. 34-59. Bond and oath.

The municipal judge shall execute and file with the clerk of circuit court of the county an official oath and bond in the penal sum of \$20,000.00 to be paid by the village, as provided by Wis. Stats. § 755.03.

(Code 1960, § 2.03(5))

Sec. 34-60. Salary.

The salary, in lieu of fees and costs, of the municipal judge shall be set by the village board.

(Code 1960, § 2.03(7))

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

Chapters 35 - 37
Reserved

Chapter 38 ELECTIONS*

Section Number	Title	Ordinance Number	Date of Ordinance
Sec. 38-1.	Registry of electors.	2021-09	10/25/21
Sec. 38-2.	Opening and closing of polls.		
Sec. 38-3.	Election officials; appointment; duties and powers.		

***Cross references:** Any ordinance calling an election saved from repeal, § 1-10(16); any ordinance regarding the establishment of wards, ward boundaries and election precincts saved from repeal, § 1-10(21); village board, § 2-31 et seq.; officers and employees, § 2-101 et seq.

Sec. 38-1. Registry of electors.

The village clerk shall forthwith prepare, continue and revise a registry of electors and shall have control of the registry for the village, all pursuant to Wis. Stats. §§ 6.26 to 6.56, both inclusive.

(Code 1960, § 2.12(B))

Sec. 38-2. Opening and closing of polls.

The election polls shall be opened at 7:00 a.m. and shall be closed at 8:00 p.m. on election days.

(Code 1960, § 2.12(A))

Sec. 38-3. Election officials; appointment; duties and powers.

(a) Election officials for each polling place shall be appointed pursuant to Chapters 7.30, 7.31 and 7.32, Wis. Stats. Such election officials shall have all of the powers and perform all of the duties prescribed for such officers by the statutes. Inspectors shall serve as clerks of election as may be necessary.

(b) The village clerk is authorized to select alternate officials or two sets of officials to work at different times on election day.

(c) The village clerk may reduce the number of election officials for any given election to not less than three.

(d) Tabulators, if required, may be appointed by the village clerk.

(Amdmt. of 9-27-99, § 1)

Chapters 39 - 41
Reserved

Chapter 42 ENVIRONMENT*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Secs. 42-1--42-25.	Reserved.		
Article II. Public Nuisances			
Sec. 42-26.	State law adopted.		
Sec. 42-27.	Penalty.		
Sec. 42-28.	Affecting health.		
Sec. 42-29.	Offending morals and decency.		
Sec. 42-30.	Affecting peace and safety.		
Sec. 42-31.	Abatement procedures.	2012-05	08/27/2012
		2021-09	10/25/2021
		2021-10	12/13/2021
Sec. 42-32.	Cost of abatement.		

***Cross references:** Animals and fowl, ch. 14; buildings and building regulations, ch. 18; unsafe structures, § 18-326 et seq.; health and sanitation, ch. 50; hazardous materials, § 50-61 et seq.; manufactured homes and trailers, ch. 66; parks and recreation, ch. 74; planning, ch. 82; solid waste, ch. 86; streets, sidewalks and other public places, ch. 90; land divisions, ch. 94; abandoned vehicles, § 102-91 et seq.; utilities, ch. 106; vegetation, ch. 110; zoning, ch. 118; zoning performance standards, § 118-916 et seq.

Article I. In General

Secs. 42-1--42-25. Reserved.

Article II. Public Nuisances*

Sec. 42-26. State law adopted.

The provisions of Wis. Stats. ch. 823, as amended, are adopted by reference in this section as if fully set forth in this section.

Sec. 42-27. Penalty.

Any person who shall violate any section of this article shall be subject to a penalty as provided in section 1-11. A separate offense shall be deemed committed on each day on which a violation of any section of this article occurs or continues.

(Code 1960, § 13.05)

Sec. 42-28. Affecting health.

The following act, omissions, places, conditions and things are specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of section 42-26:

- (1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (2) Carcasses of animals, birds or fowls not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- (4) All stagnant water in which mosquitoes, flies or other insects can multiply.
- (5) Privy vaults and garbage cans that are not flytight.
- (6) All noxious weeds and other rank growth of vegetation.
- (7) The escape of smoke, soot, cinders, noxious acids, fumes, gases, flying ash, industrial dust or other atmospheric pollutants within the village limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to the property in the village.

***Cross references:** Public nuisances in zoning regulations, § 118-11.

- (8) The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (9) Any use of property, substances or things within the village and within one mile from the village limits emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons that annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the village.
- (10) All abandoned wells not securely covered or secured from public use.
- (11) Any use of property that shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the village.

(Code 1960, § 13.01(2); Amdmt. of 12-13-99(1), § 1)

Cross references: Health and sanitation, ch. 50.

Sec. 42-29. Offending morals and decency.

The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of section 42-26:

- (1) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (2) All gambling devices and slot machines.
- (3) All places where intoxicating liquors or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided in this Code.
- (4) Any place or premises within the village where village ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (5) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the state or ordinances of the village.

(Code 1960, § 13.01(3))

Cross references: Offenses endangering public morals and decency, § 70-101 et seq.

Sec. 42-30. Affecting peace and safety.

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of section 42-26:

- (1) All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (2) All buildings erected, repaired or altered within the fire limits of the village in violation of section 18-2 relating to materials and manner of construction of buildings and structures within such district.
- (3) All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, a railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.
- (4) All trees, hedges, billboards or other obstructions that prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (5) All limbs of trees that project over and less than 14 feet above the surface of a public sidewalk or street or less than ten feet above any other public place.
- (6) Every use or display of fireworks, except as provided by state statute and section 46-1.
- (7) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (8) All wires over streets, alleys or public grounds that are strung less than 15 feet above the surface thereof.
- (9) All loud, discordant and unnecessary noises or vibrations of any kind.
- (10) The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, shall greatly annoy or disturb a neighborhood or any considerable number of persons within the village.
- (11) All obstructions of streets, alleys, sidewalks, or crosswalks and excavations in or under such, except as permitted by this Code or which, although made in accordance with this Code, are kept or made in accordance for an unreasonable or illegal length of time after the purpose thereof has been accomplished.

- (12) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (13) All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for the opening from the inside.
- (14) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley, or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of streets or sidewalks.
- (15) Repeated or continuous violations of this Code or state statutes relating to the storage of flammable liquids.
- (16) All snow and ice not removed or sprinkled with ashes, sawdust or sand as provided in section 90-2.
- (17) No person shall deposit, or permit the deposit, of any material in any storm sewer catch basin without the permission of the village. Material consists of any matter foreign to the catch basin and includes, but is not limited to, vegetation, grass, stone, masonry materials and debris of any nature.

(Code 1960, § 13.01(4); Amdmt. of 4-23-07, § 1)

Cross references: Offenses endangering public safety, § 70-31 et seq.; offenses endangering public peace and order, § 70-66 et seq.

Sec. 42-31. Abatement procedures.

(a) *Inspection of premises.* Whenever complaint is made to the village president that a public nuisance exists within the village, he shall promptly notify the village police officer, or building inspector, who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the village president. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the photographs in the office of the village clerk.

(b) *Summary abatement.*

- (1) *Notice to owner.* If the inspection officer shall determine that a public nuisance exists within the village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the village president may direct the village police officer to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of the notice on the premises. The notice shall direct the person causing, permitting or maintaining the nuisance or the owner or occupant of the premises to abate or remove the nuisance within 24 hours and shall state that, unless the nuisance is so abated, the village will cause the nuisance to be abated and will charge the cost thereof to the owner, occupant or

person causing, permitting or maintaining the nuisance, as the case may be.

- (2) *Abatement by village.* If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the appropriate Village official or law enforcement officer shall cause the abatement or removal of such public nuisance.
- (3) *Abatement after ten (10) day notice.* If the inspecting officer determines that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, the officer may, after considering all relevant information and any special circumstances, serve notice on the person causing or maintaining the nuisance to remove the nuisance within ten days. If such nuisance is not removed within ten days, the proper officer may cause the nuisance to be removed as provided in subsection (b)(2) of this section, with the cost of abatement charged to the owner, occupant or person causing, permitting or maintaining the nuisance as the case may be. The notice shall also inform the person causing, permitting or maintaining the nuisance of the opportunity to appeal the public nuisance determination to the building board, utilizing the procedures set forth in Section 18-62, except that the appeal must be received by the Village Clerk no later than ten (10) days after the abatement notice is served. The application for appeal shall state the grounds upon which the person contends that the public nuisance determination should be modified or reversed. If an appeal is made within the allowed ten days, no action shall be taken to remove the nuisance until after the hearing is held. Following such hearing, the building board shall reduce its decision to writing, with specific reference to the facts underlying the decision. If the condition is found to constitute a nuisance, the individual causing or maintaining the nuisance shall thereafter be allowed such time as the building board deems reasonable under the circumstances in order to remedy the situation. The failure to appeal within the allowed ten-day period, or the failure to appear for the hearing when scheduled, shall constitute a waiver of the right to a hearing on the matter.

(c) *Abatement by court action.* If the inspecting officers shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the village president, who shall cause an action to abate such nuisance to be commenced in the name of the village in the circuit court of the county in accordance with Wis. Stats. ch. 280.

(d) *Other methods.* Nothing in this article shall be construed as prohibiting the abatement of public nuisances by the village or its officials in accordance with the state statutes.

(Code 1960, § 13.03)

Sec. 42-32. Cost of abatement.

In addition to any other penalty imposed by this article for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance. If notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

(Code 1960, § 13.04)

Chapters 43 - 45
Reserved

Chapter 46

FIRE AND RESCUE PROTECTION*

Section Number	Title	Ordinance Number	Date of Ordinance
Sec. 46-1.	Definitions.		
Sec. 46-2.	Fire and rescue department recognized.		
Sec. 46-3.	Department composition.		
Sec. 46-4.	Department funding and compensation.		
Sec. 46-5.	Department organization.		
Sec. 46-6.	Appointment, powers and duties of the chief.		
Sec. 46-7.	Control and care of apparatus, vehicles and equipment.		
Sec. 46-8.	Authority of department at fires, emergency incidents, and other emergencies.		
Sec. 46-9.	Records and reports.		
Sec. 46-10.	Fire inspectors.		
Sec. 46-11.	Fire inspection fees.		
Sec. 46-12.	Notification of use or occupancy change.		
Sec. 46-13.	Fire prevention.		
Sec. 46-14.	Adoption of International Code Council Inc. Codes.		
Sec. 46-15.	Adoption by reference NFPA publications.		
Sec. 46-16.	False alarms.		
Sec. 46-17.	Open burning.		
Sec. 46-18.	Ambulance service rates.		
Sec. 46-19.	Fire district.		
Sec. 46-20.	Fire walls.		
Sec. 46-21.	Automatic fire sprinkler, fire suppression and fire alarm systems and fire hydrants.		
Sec. 46-22.	Automatic fire sprinkler fees.		
Sec. 46-23.	Hazardous materials and spills.		
Sec. 46-24.	Elevators.		
Sec. 46-25.	Key lock box system.		
Sec. 46-26.	Storage tanks.		
Sec. 46-27.	Fees for response and service on roads, streets, highways, public waterways and railroads.		
Sec. 46-28.	Fees for recovery of costs.		
Sec. 46-29.	Violations and penalties.		
Sec. 46-30.	Appeals.		

***Editor's note:** An ordinance adopted January 12, 2009, § 3, repealed and reenacted chapter 46 to read as herein set out. Formerly, chapter 46, articles I--III pertained to fire prevention and protection, and derived from the Code of 1960, §§ 5.01(1)--(5), 5.02(1), 5.02(2), 5.03(1)--(4), 5.04, 5.05, 5.06(1)--(5), 5.07(1)--(6), 5.08, 12.01; an ordinance of February 8, 1999, § 1; and an amendment of February 11, 2002, § 1.

Cross references: Buildings and building regulations, ch. 18; flammable liquids, storage and equipment, § 18-4; civil emergencies, ch. 30; hazardous materials, § 50-61 et seq.; false fire alarm, § 70-71; maintaining fire in parks, § 74-38; unattended fire or tobacco products in parks, § 74-39; zoning regulation of fire and explosive hazards, § 118-918.

Sec. 46-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Access box means a steel key vault, mounted on the exterior of a building that contains keys, floor plans, maps or other items as required by the AHJ, for access to all portions of the building.

Adult day care means any place, that receives at any time for compensation four or more adults, for care and supervision, for less than 24 hours a day.

Adult family home has the meaning as set forth in Wis. Stats. § 50.01(1), and any amendments thereto.

Advanced life support (ALS) means emergency medical care provided by emergency medical technicians - intermediate that requires the use of life-sustaining equipment, utilizing an ambulance equipped with radio or constant telephone contact with a physician/hospital.

Advanced life support intercepts--Paramedic means when it is necessary for a patient that is being transported by a non-paramedic ambulance service to require the services of a paramedic - advanced life support ambulance service. This includes when it is necessary for two ambulance services to be involved in the transport of a patient, when either the patient is transferred from the non-paramedic ambulance to the paramedic ambulance or where the paramedic staff and/or equipment boards the non-paramedic ambulance.

Advanced life support (ALS)--Without transport means emergency medical care provided by emergency medical technicians - intermediate that requires the use of life-sustaining equipment, with radio or constant telephone contact with a physician/hospital, without transport.

Approved means acceptable to the fire department.

Approved agency means an agency accepted or acceptable to the bureau of fire prevention, such as Underwriters Laboratories, Inc., the National Institute of Standards and Technology, the American Gas Association laboratories or other nationally recognized testing authorities.

Area means the maximum horizontal projected area on one floor of building or structure using the exterior walls or between approved fire walls, including fire walls.

Assembly group A. Group A occupancies include, among others, the use of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civic, social or religious functions, recreation, food or drink consumption or awaiting transportation. A room or space used for assembly purposes by less than 50 persons and accessory to another occupant shall be included as a part of that occupancy. Assembly occupancies shall include the following:

- A. *A-1* Assembly uses, usually with fixed seating, intended for the production and viewing of performing arts or motion pictures.

- B. A-2 Assembly uses intended for food and/or drink consumption.
- C. A-3 Assembly uses intended for worship, recreation or amusement and other assembly uses not classified elsewhere in group A.
- D. A-5 Assembly uses intended for participation in or viewing outdoor activities.

Attic means the space not used for human occupancy located between the ceiling of the uppermost story and the roof.

Automatic fire detector means a device designed to detect specific products of fire-- Smoke, heat or both.

Authority having jurisdiction (AHJ) shall be the fire chief, or designee of the fire chief, to enforce this Code, the laws of the state, as designated in Wis. Admin. SPS 314, pertaining to the prevention of fires and public safety, and approving equipment installation, or procedures as outlined NFPA Standards, Codes and/or Recommended Practices.

Automatic closing device means a device that functions without human intervention and is actuated as a result of the predetermined temperature rise, rate of rise of temperature, combustion products or smoke density.

Automatic fire alarm system means a system which automatically detects fire condition and actuates notification appliances throughout the protected premises.

Automatic fire extinguishing system means an approved system of devices and equipment which automatically detects a fire and discharges an approved fire-extinguishing agent onto or in the area of fire.

Automatic fire sprinkler system means an integrated system of underground and overhead piping designed in accordance with fire protection and engineering standards. The system includes a suitable water supply, such as a gravity tank, fire pump, reservoir or pressure tank or connection beginning at the supply side of an approved gate valve located at or near the property line where the pipe or piping system provides water used exclusively for fire protection and related appurtenances and to standpipes connected to automatic sprinkler systems. The portion of the sprinkler system above ground is a network of specially sized or hydraulically designed piping installed in a building, structure or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system includes a controlling valve and a device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area.

Automatic fire suppression system means a mechanical system designed and equipped to detect a fire, actuate an alarm and suppress or control a fire using water, water spray, foam, carbon dioxide, or other approved suppression agent.

Basement means any story where less than half the height between floor and ceiling is above the average level of a street, sidewalk or finished grade.

Basic life support (BLS) means emergency first aid services that do not meet the ALS criteria.

Bonfire means a recreational fire larger than three feet in diameter or three feet tall.

Boarding house means a building arranged or used as lodging for compensation, with or without meals, not occupied as a single-family unit.

Business group B. Group B occupancy includes, among others, the use of a building or structure, or a portion thereof, for office, professional or service-type transactions, including storage of records and accounts.

Central station means:

- (1) An off-site facility equipped to receive and process fire alarms and that may act as the automatic fire alarm receiving center retained by the village/town.
- (2) The use of a system, or group of systems, in which the operations of circuits and devices are signaled automatically to, recorded in, maintained by, and supervised from a listed or approved central station having competent and experienced servers and operators who, upon receipt of a signal, take such action as required by this chapter. Such service is to be controlled and operated by a person, firm, or corporation whose business is the furnishing and maintaining of supervised signaling systems or whose properties are the protected premises.

Change of use (not reported) means a change in the use of property that was not made known by the owner to the fire department through procedures established by the village or town.

Change of use (reported) means a change in the use of property which has been made known by the owner to the fire department through procedures established by the village or town.

Chief means the chief of the fire department.

Closing device (fire door) means a closing device that will close the door and be adequate to latch or hold, or both, a hinged or sliding door in closed position. An automatic closing device is one that functions without human intervention and is actuated by a fire detection or suppression device.

Commercial waste means any material, including yard waste, that is transferred, delivered or received for the purpose of disposal by open burning.

Common area refers to any area in a building that can be accessed by more than one person from different families at one time.

Community based residential facility (CBRF) means generally, a community facility where five or more adults who are not related to the operator or administrator and who do not require care above intermediate level nursing care reside and receive care, treatment or services that are above the level of room and board, but that include no more than three hours of nursing care per week per resident. For specific definition, see Wis. Stats. § 50.01(1g), and any amendments thereto.

Conditional approval means an approval of plans and/or specifications by the AHJ based upon information provided to the AHJ, including but not limited to, any changes required by the AHJ to the above mentioned plans and/or specifications.

Consultant(s) means a company, individual or agency hired by the bureau of fire prevention to provide advice to the bureau of fire prevention on fire related issues. Consultants may provide services, which could include plan reviews of fire suppression systems, fire alarm systems, witness tests and/or conduct inspections.

Construction materials means lumber; piping used in plumbing, including but not limited to plastics, polyvinyl chloride, copper, lead, galvanized steel and cast iron; plaster; drywall; insulation, including but not limited to Styrofoam, cellulose fiber, fiberglass, rock wool vermiculite, various extruded foams, and asbestos; shingles, including but not limited to wiring, electrical boxes, transformers and outlets; paints, including but not limited to varnishes, stains, paint thinners and removers; and painting supplies.

Construction types mean:

- (1) *Construction Type I: Fire resistive* refers to a building in which the structural components are so designed and protected to resist the maximum severity of fire expected within the structure without any significant collapse.
- (2) *Construction Type II: Non-combustible* refers to a building in which the structural components are built of non-combustible or limited combustible materials. The materials used within the building are unprotected from the severity of fire.
- (3) *Construction Type III: Ordinary construction* refers to a structure in which the exterior walls are made of non-combustible materials with interior components designed and built of wood.
- (4) *Construction Type IV: Heavy timber* refers to a structure in which the exterior bearing and non-bearing walls are composed of non-combustible (masonry) components, and the interior members are made of wood with columns no less than 8" × 8" and girders no less than 6" × 10".
- (5) *Construction Type V: Wood frame* refers to a structure in which the bearing and non-bearing members are made of all wood.

Day care center means any place which receives at any one time for compensation four or more children under the age of seven years, for care and supervision, for less than

24 hours a day or more than ten days a month, without the attendance of a parent, relative or legal guardian.

Deputy of the department of commerce means the chief is the deputy of the department of commerce and is responsible for the enforcement of the state codes identified within this chapter.

DILHR means the division of state government formerly known as the department of industry, labor and human relations, now the department of commerce.

Disposable medical supplies mean that equipment designed to have a one-time use and then be properly disposed of, to aid in the prevention and spread of infectious disease.

Dwelling or dwelling unit means a single unit providing living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. For the purpose of this Code, dwelling unit includes apartments and condominiums but does not include hotel and motel rooms, guest suites, dormitories, boarding rooms, or sleeping rooms in nursing homes.

- (1) *Single family dwelling.* A detached building containing only one dwelling unit and designed for one family.
- (2) *Two family dwelling.* A detached building containing not more than two individual dwelling units which are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or common basement.

Educational group E. Group E occupancy includes, among others, the use of a building or structure, or a portion thereof, by six or more persons at any one time for educational purposes through the 12th grade.

Elevator shall be as defined within Wis. Admin. Code SPS 318, Elevators, Escalators and Lift Devices.

Factory group F. Group F occupancy includes, among others, the use of a building or structure, or a portion thereof, for assembly, disassembly, fabricating, finishing, manufacturing, packaging, repair or processing operations that are not classified as group H occupancy.

- (1) F-1 Moderate-hazard occupancy.
- (2) F-2 Low-hazard occupancy.

False alarm means the willful and knowing initiation or transmission of a signal, message or other notification of an event of fire when no such danger exists.

- (1) *Malicious alarm.* A false alarm of fire deliberately sounded by someone in order to inconvenience the fire department.

- (2) *Accidental alarm.* An alarm set off and transmitted through accidental operation of an automatic or manual fire alarm device.
- (3) *Good intent false alarm.* An alarm that turns out to be false, but was reported in good faith.

Family unit means two or more individuals who are related to each other by blood, marriage, adoption or legal guardianship. For purposes of this abode a group of not more than four persons not necessarily related by blood or marriage, living together in a single living unit will be considered equivalent to a single family.

Fire alarm annunciation device means a device connected to a fire alarm to signal either a fire or trouble condition. Fire alarm annunciation devices could include visual devices, horn/strobes, horns, bells, and/or annunciator panels.

Fire alarm initiating device means a device connected to a fire alarm system that causes a trouble, supervisory and/or alarm signal to be initiated. Fire alarm initiating devices could include smoke, heat, flame, ionization, or photoelectric detectors, water flow, low air, low temperature, low water, or supervisory switches.

Fire alarm system means a system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of the fire alarm or supervisory signal-initiating devices to activate notification appliances throughout the protected premises and to initiate the appropriate response to those signals.

Fire control system means a system designed and constructed with the intent of controlling or limiting a fire. Fire control systems may be automatic or non-automatic. Fire control systems could include automatic fire sprinkler systems, standpipe systems, chemical agent systems, fire hydrants and/or any other system acceptable to the AHJ.

Fire chief means the chief of the fire department or, in the absence of the chief, the designee in charge of the department.

Fire department means the Union Grove-Yorkville fire department. The provider of essential fire protection and emergency medical care to the people that live, work or travel through the Village of Union Grove and the Town of Yorkville.

Fire department connection (FDC) means a part of a sprinkler, standpipe, deluge and/or combination system to be used by the fire department to pump additional water into the system(s) it is connected to.

Fire door assembly means any combination of a fire door, frame, hardware, and other accessories that together provide a certain degree of fire protection to the opening.

Fire inspection means an examination of a public building or place of employment to determine and cause to be eliminated any fire hazard or any violation of law relating to fire hazards or to the prevention of fires.

Fire inspector. The chief shall hold the office of fire inspector and shall appoint one or more inspectors from within the department who shall perform the same duties and have the

same powers as the fire inspector. The fire inspector(s) is responsible for the enforcement of the state codes adopted within this chapter, as well as the enforcement of this chapter.

Fire-resistive means the type of construction in which the structural members, including walls, partitions, columns, floor and roof construction, are of noncombustible materials with fire-resistive rating of at least four hours.

Fire wall means a wall which has a fire-resistance rating of not less than four hours and which subdivides a building or separates a building to restrict the spread of fire, including a three-foot parapet wall beyond the furthest point of the sides and roof with sufficient structural stability under fire conditions to allow collapse of construction on either side without collapse of the wall.

Fireworks means anything manufactured, possessed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

- (1) Fuel or a lubricant.
- (2) A firearm cartridge or shotgun shell.
- (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
- (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
- (5) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- (6) A toy snake which contains no mercury.
- (7) A model rocket engine.
- (8) Tobacco and a tobacco product.
- (9) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.
- (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
- (11) A fuseless device that is designated to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter grain of explosive mixture.

- (12) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.
- (13) A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
- (14) A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

Floor area or square footage of a building refers to the total square footage of the sums of all basement, floor levels, balconies and mezzanines.

- (1) The area for basements and floor levels shall be measured from the outside perimeter of the outside walls.
- (2) The area for mezzanines shall be determined from the product of the length of the mezzanine multiplied by the width of the mezzanine.
- (3) For the purpose of determining square footage, fire division walls will not be accepted as outside walls or area dividers.
- (4) Buildings that are in close proximity to each other will have their building square footage added together to arrive at the total square footage. For the purpose of determining close proximity the following will hold true:
 - a. Single story buildings--Thirty feet apart or less.
 - b. Two story buildings--Sixty feet apart or less.
 - c. Three story buildings--Sixty feet apart or less.
 - d. All other multiple story buildings--Sixty feet apart or less.
 - e. Buildings of variable height next to each other--Thirty feet apart or less.
- (5) For the purpose of determining square footage a fire wall which has a fire resistance rating of not less than four hours and which subdivides or separates a building to restrict the spread of fire, including a three foot parapet wall is an approved area divider.

Floor ground means that level of a building on a sloping or multilevel site which has a floor line at or not more than three feet above exit discharge grade for at least one-half of the required exit discharges.

Frequenter means every person, other than an employee, who may go in or be in a place of employment or public building under circumstances which render such person other than a trespasser. Such term includes a pupil or student when enrolled in or receiving instruction at an educational institution.

Garbage means refuse and accumulation of animal, fruit and vegetable matter that attends the preparation, use, cooking, dealing in or storage of meats, fish, fowl, fruits and vegetables.

Grade plane means a reference plane representing the average of finished ground level adjoining the building exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

Hazardous material(s) means a substance (solid, liquid or gas) capable of posing an unreasonable risk to health, safety, the environment or property.

Hazardous group H. Group H occupancy includes, among others, the use of a building or structure, or a portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard in quantities in excess of those found in Tables 307.7(1) through 307.7(4) of the International Building Code.

- (1) H-1 buildings and structures which contain material that poses a detonation hazard.
- (2) H-2 buildings and structures which contain materials that pose a deflagration hazard or a hazard from accelerated burning.
- (3) H-3 buildings and structures which contain materials that readily support combustion or pose a physical hazard.
- (4) H-4 buildings and structures which contain materials that are health hazards.
- (5) H-5 semiconductor fabrication facilities and comparable research and development areas in which hazardous production materials are used and the aggregate quantity of materials is in excess of those listed in Tables 307.7(1) and 307.7(2) of the International Building Code.

Height building means the vertical distance from the grade plane to the average height of the highest roof surface.

Incident commander means the chief or other officer or other member of the department who is in charge of a fire, emergency medical or other emergency scene to which the services of the department have been requested.

Institutional group I. Group I occupancy includes, among others, the use of a building or structure, or a portion thereof, in which people having physical limitations because of health or age are harbored for medical treatment or other care or treatment, or in which

people are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Institutional occupancies are classified as I-1, I-2, I-3 or I-4, as described in the International Building Code.

Key lock box means a secure box placed upon a building that contains the keys to said building. The fire department is able to access that box using standard operating procedures.

Listed means included in a list published by a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation, that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or materials meet nationally recognized standards or has been tested and found suitable for use in a specified manner.

MABAS means the mutual aid box alarm system which is an organized method of providing mutual aid between departments located in both of the states of Wisconsin and Illinois.

Manual fire alarm system means a system or portion of a combination system that consist of components and circuits arranged to initiate the notification appliances and appropriate response to those signals only after a person manually activates the fire alarm system.

Mercantile group M. Group M occupancy includes, among others, building and structures or a portion thereof, for the display and sale of merchandise, and involves stock of goods, wares or merchandise incidental to such purposes and accessible to the public.

Mezzanine or mezzanine floor means an intermediate level or levels between floor and ceiling of any story with an aggregate floor area of not more than one-third of the area of the room or space in which the level or levels are located.

Miscellaneous group U means buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of this Code commensurate with the fire and life hazard incidental to their occupancy.

Multifamily dwelling means a building or portion thereof, containing three or more dwelling units, such as tenements, apartments, or rooming houses. Row houses with fire walls extending from the basement to the underside of the roof separating each living unit are not considered multifamily for the purpose of this chapter.

Mutual aid means the providing of and receiving fire or emergency medical services to and from other municipalities within the States of Wisconsin and Illinois with which the village/town has signed agreements.

National Fire Protection Association (NFPA) means an organization that facilitates the development and distribution of fire safety codes and standards.

NFPA means the National Fire Protection Association, an organization that facilitates the development and distribution of fire safety codes and standards.

Noncombustible materials. A noncombustible material is one which, in the form in which it is used, meets one of the requirements listed below. Materials used adjacent to or in contact with heat producing appliances, warm air ducts, plenums and chimneys shall be classified as noncombustible only on the basis of requirement (1). Noncombustible does not apply to the flame-spread characteristics of interior finish or trim materials. No material shall be classified as noncombustible building construction material, which is subject to increase in combustibility or Flame-Spread Classification (FSC) beyond the limits herein established through the effects of age, moisture or other atmospheric conditions. (See flame spread rating in Wis. Admin. Code.)

- (1) Materials which pass the test procedure of ASTM E-136 for non-combustibility of elementary materials when exposed to a furnace temperature of 1,382° for a minimum period of five minutes and do not cause a temperature rise of the surface or interior thermocouple in excess of 54° above the furnace air temperature at the beginning of the test and which do not flame after exposure of 30 seconds.
- (2) Materials having structural base of noncombustible material as defined in subsection (1), with a surfacing not more than one-eighth-inch thick which has a Flame-Spread Classification (FSC) not greater than 50 when tested in accordance with the method of test for surface burning characteristics of building materials (ASTM E-84).

Notification appliance means a fire alarm system component such as a bell, horn, speaker, light, or text display that provides audible, tactile, visible outputs, or any combination thereof.

Occupants means the person or persons, who physically reside, work or are present in a facility.

Open burning means the act of starting a fire by means of igniting combustible materials by a match, torch, or accelerant.

Other terms. Other terms not defined herein used in this section shall be as defined in the International Fire Code section 202 and are adopted herein by reference.

Outdoor cooking means any cooking activity which occurs in a grill or barbecue kettle or cooker designed expressly for cooking meals outside.

Owner includes his duly sworn agent or attorney, a purchaser, devisee, fiduciary, or person having a vested or contingent interest in the property in question.

Places of employment, as set forth in Wis. Stats. § 101.01(11), "place of employment" includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade, or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade, or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power

or in farming. "Farming" includes those activities specified in Wis. Stats. § 102.04(3), and also includes the transportation of farm products, supplies, or equipment directly to the farm by the operator of the farm or employees for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, "place of employment" does not include an adult family home, as defined in Wis. Stats. § 50.01(1), or, except for the purposes of Wis. Stats. § 101.11, a previously constructed building used as a community-based residential facility, as defined in Wis. Stats. § 50.01(1g), which serves 20 or fewer residents who are not related to the operator or administrator.

Protected premises means the physical location protected by a fire alarm system.

Pumper pad means an area designated for fire engine access to the Fire Department Connection (FDC) and fire hydrant combination. The site can be a shared portion of the pavement (however it must not cause driveway access to be blocked) or an area designated for the sole use of the fire department. The fire department shall grant final approval.

Recreational burning means a fire to be used for cooking or warmth similar to that of a campfire. The fire shall be three feet in diameter or less if it is placed on the ground.

Remodel means to remodel, alter or both, means to change any building or structure which affects the structural strength, fire hazard, internal circulation, or exits of the existing building or structure. This definition does not apply to maintenance, re-roofing, or alterations to the heating and ventilating or electrical system.

Residential group R. Group R occupancy includes, among others, the use of a building or structure, or portion thereof, for sleeping accommodations when not classed as an Institutional Group I.

- (1) R-1 residential occupancies where the occupants are primarily transient in nature.
- (2) R-2 residential occupancies containing more than two dwelling units where occupants are primarily permanent in nature.
- (3) R-3 residential occupancies where the occupants are primarily permanent in nature and not classified R-1, R-2 or I, and where buildings do not contain more than two dwelling units or adult and child care facilities, that provide accommodations for five or fewer persons of any age for less than 24 hours.
- (4) R-4 residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including five but not more than 16 occupants, excluding staff.

Roof spaces. Buildings with combustible roofs shall have all roof spaces subdivided every 3,000 square feet by one-hour rated partitions unless protected by an approved automatic fire sprinkler system. All openings must have a minimum of a one-hour rated self-closing door.

Rooming house means any building, which has a room or rooms for sleeping, without permanent provisions for cooking. Rooming house rooms do not include any room in a one- or two-family dwelling.

Rough inspection means visual observation from the floor and/or ground level of any system and/or component thereof required by this Code prior to being concealed in any way by any means.

Row house means a place of abode arranged to accommodate three or more attached side-by-side or back-to-back living units.

Rubbish and refuse mean old rags, paper, newspaper, furniture, white goods, metal, plastics, wood other than wood classified as yard waste, and other combustible materials.

Self-closing device (door) means a device that will maintain a door in a closed position.

Shall indicates a mandatory requirement.

Should means a recommendation which is advised but not required.

Solid waste means as defined in Wis. Stats. § 289.01.

Spacing means a horizontally measured dimension relating to the allowable coverage limits of fire detectors, automatic sprinkler systems, and fire alarm visual notification devices.

Standard means a document, the main text of which contains only mandatory requirements using the word "shall" to indicate mandatory requirements and which is in a form generally suitable for reference by another standard or code for adoption into law.

Standpipe means an arrangement of piping, valves, hose connections, and allied equipment installed in a building or structure with the hose connections located in such a manner that water can be discharged in streams or spray patterns through attached fire hose and nozzles for the purpose of extinguishing a fire and so protecting a building or structure and its contents in addition to protecting the occupants. This is accomplished by connections to water supply systems or by pumps, tanks, and other equipment necessary to provide an adequate supply of water to the those connections.

Story means that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. To determine the number of stories in a building, all floors will be counted whether they are above grade or below grade, including basements, sub-basements, and ground floors, but not including penthouses or mezzanines less than one-third of a story.

Temporary means less than 180 days.

Throughout, for the purpose of this Code, throughout shall mean the following:

- (1) Throughout for automatic fire sprinkler systems means providing fire sprinkler protection in all areas of a structure as required by NFPA 13.
- (2) Throughout for automatic fire alarm systems means installing detection, audible and visual notification devices in all areas of the protected premises installed in accordance with NFPA 72.
- (3) Throughout for manual fire alarm systems means installing audible and visual notification devices in all areas of the protected premises installed in accordance with NFPA 72.

Village/town means the Village of Union Grove and the Town of Yorkville.

Water flow alarm means a device that is listed for the service and so constructed and installed that any flow of water from a sprinkler system equal to or greater than that from a single automatic sprinkler of the smallest orifice size installed on the system will result in an audible, visual alarm and send such notification to a central station within one minute after such flow begins.

Water flow test means a test of an available water supply that indicates the quantity of water flowing out of a specific orifice, at a specific pressure, at a specific point in time.

Yard waste means leaves, branches, twigs and organic material from household gardens which have become dried to the extent that they are combustible without an accelerant.

(Ord. of 1-12-09, § 3)

Sec. 46-2. Fire and rescue department recognized.

(a) The Union Grove-Yorkville fire department is officially recognized as the provider of the essential services of fire protection and emergency medical care to the people that live, work or travel through the village/town. The department also provides service to those communities that reciprocally provide mutual aid to the village/town. The contemporary duties expected of the fire department include but may not be limited to intermediate level emergency care and transportation, fire prevention inspections, public fire and safety education, fire suppression, first responder first aid and defibrillation, hazardous material incident mitigation, rescue from water, ice, confined space, heights, transportation accidents, construction accidents, and industrial accidents, and assistance to law enforcement, as well as operations at natural and man-made disasters. The duties of the fire department need to stay current with the needs of a dynamic community.

(b) The fire department shall be in charge of fire fighting and emergency care where fires, emergency medical incidents, accidents or disasters threaten life and/or property and those duties related to the performance of this service within the village/town.

(c) Unless the context requires otherwise, all references in this Code to the “fire department” or “department” shall mean the Union Grove-Yorkville fire department and include the provision of emergency medical care and other rescue services where life(s) is threatened.

(Ord. of 1-12-09, § 3)

Sec. 46-3. Department composition.

The department is comprised of volunteers who are paid-on-call personnel. The department shall have a chief as well as other officers and personnel as may be authorized by the fire commission and department by-laws.

(Ord. of 1-12-09, § 3)

Sec. 46-4. Department funding and compensation.

(a) *Fire commission.*

- (1) A fire commission is created which shall consist of three members from the village board appointed annually by the village president and approved by the Union Grove village board, three members from the Yorkville town board and one member of the Union Grove-Yorkville fire department elected by the Union Grove-Yorkville fire department, who shall be a nonvoting member. The fire commission shall act in an advisory capacity to, and as a liaison between, the Union Grove village board, the Yorkville town board and the Union Grove-Yorkville fire department; and further to transact all business necessary to carry this chapter into effect.
- (2) Budgeted funds for the operation of the fire department will be retained by the fire commission and disbursed for the purchase of equipment and for expenses. The fire commission will report semiannually on its expenditures to the governing bodies. All fees for services of the Union Grove-Yorkville fire department will be billed and collected by the fire commission and held in escrow to be applied towards the operation and maintenance of the fire department. No expenditure will be made from this fund, without prior approval of the fire commission.

(b) *Budget and compensation.* The village and the town board shall appropriate funds to provide for operation and for such apparatus and equipment for the use of the fire department, as they may deem expedient and necessary to maintain efficiency and properly protect life and property from fire. The officers and members of the fire department shall receive such compensation as may from time to time be fixed by the fire commission.

(Ord. of 1-12-09, § 3)

Sec. 46-5. Department organization.

The organization and internal regulation of the department shall be governed by the provisions of this chapter and by such rules, regulations, standard operating procedures and guidelines as adopted by the department and approved by the fire commission.

(Ord. of 1-12-09, § 3)

Sec. 46-6. Appointment, powers and duties of the chief.

(a) *Fire chief.* Unless the context requires otherwise, all references in this Code to the "chief," "fire chief" or "incident commander" shall mean the chief of the fire department. In the absence of the chief, "chief" shall mean the next highest ranking officer.

(b) *Qualifications.* The fire chief shall have seven years of volunteer department or equivalent experience, part of which shall have been as a command officer. The fire chief shall be a certified firefighter or shall hold a current EMT license. The fire commission may waive this requirement with a five-sixths vote of the commission.

(c) *Appointment.* The office of fire chief shall be filled by appointment by a two-thirds vote of the members of the fire commission.

(d) *Tenure.* The chief shall immediately assume office upon appointment and shall hold office for a three year term which term may be renewed by a two-thirds vote of the fire commission, or until removed for cause by a two-thirds vote of the members of the fire commission after a hearing before the fire commission.

(e) *Vacancy.* A vacancy in the office of the chief shall be filled by appointment by a two-thirds vote of the fire commission. Upon creation of a vacancy in the office of the chief, the next highest ranking officer shall perform the duties of the chief until such time as an interim chief has been appointed or until the vacancy has been filled.

(f) *Review.* The fire chief shall have a performance review done annually. The review shall be conducted by the fire commission.

(g) *General supervision.* The chief shall have the responsibility of overall supervision of the department and personnel assigned to the department, which shall be subject to and not to conflict with this chapter. The chief shall be responsible for all activities within the department, as well as the personnel, department budget and general efficiency of the department, and shall report directly to the fire commission on all matters that do not conflict with Wis. Stats. § 66.0105. The chief shall perform such other duties as are usually incumbent upon the commanding officer of a fire department and as are detailed in the job description for this position.

(h) *Command at incidents.* The chief shall have all of the authority and responsibility for command at all fire-fighting, rescue, and emergency medical incidents and other incidents that the department may respond to where life and/or property is threatened within the village/town. The chief shall plan the control of the same, direct the actions of the department and/or mutual aid personnel and other agencies which may be called to assist, ensure that the department performs the duties required, and grant leaves and/or release personnel and equipment from the scene of the emergency when appropriate. In the absence of the chief, the next highest ranking officer or, in the absence of an officer, the most senior member of the department shall be in charge and shall have the same authority and responsibility at incidents as the chief.

(i) *Readiness.* The chief shall maintain the department, personnel and equipment in a constant state of readiness in anticipation of an emergency response. The chief shall keep the fire commission apprised of the department's readiness and report deficiencies in the department's ability to provide service.

(j) *Mutual aid.* The chief shall recommend and maintain the necessary mutual aid contracts as approved by the fire commission. Mutual aid with other municipalities within the States of Wisconsin and Illinois shall be organized within the mutual aid box alarm system or with a community directly when necessary. The chief shall have the authority to dispatch units to respond out of the village/town in response to mutual aid requests from signatories of a mutual aid agreement and the responsibility to ensure that the village/town is adequately protected during said incidents.

(k) *Enforcement of fire prevention ordinances.* The fire chief of the village/town or his/her designee shall enforce all fire prevention ordinances of the village/town and the State of Wisconsin. The chief and/or his/her designees are authorized to cite violations of the fire prevention ordinances of the village/town in accordance with this chapter.

(Ord. of 1-12-09, § 3)

Sec. 46-7. Control and care of apparatus, vehicles and equipment.

(a) *Chief responsible.* The chief shall have control of all apparatus, vehicles and equipment used by the department and shall be responsible for its proper maintenance. The chief may authorize emergency repairs.

(b) *Use.* Fire apparatus and rescue vehicles shall be used for official purposes only.

(c) *Damage to equipment.* No person shall willfully damage any hose, hydrant, fire apparatus, rescue vehicle and equipment related to the provision of said services that belongs to the village/town, and no vehicle or railroad equipment shall be driven over any unprotected hose of the department when laid down on any street, private driveway, track or other place to be used at any fire or alarm of fire or other emergency without the consent of the chief.

(Ord. of 1-12-09, § 3)

Sec. 46-8. Authority of department at fires, emergency incidents, and other emergencies.

(a) Pursuant to Wis. Stats. § 213.095, the chief or other officer acting as the incident commander at the scene of a fire, emergency medical call or other emergency where the department has been called to perform service to persons or property shall have the authority to do the following:

- (1) Suppress any disorder and order all individuals or companies to leave the neighborhood of any fire or first aid scene.
- (2) Command from the inhabitants of the village/town all necessary assistance for the suppression of fires and the preservation of property exposed to fire.

- (3) Enter any property or premises to do whatever may be reasonably necessary in the performance of the officer's duties while engaged in the work of extinguishing any fire or performing any duties incidental thereto and/or while engaged in the work of aiding persons or minimizing the loss to property at a first aid scene.

(b) The incident commander conducting operations in connection with the extinguishment and control of any fire, explosion or other emergency shall have the authority to direct all operations of fire extinguishment or control and to take the necessary precautions to save life, protect property, and prevent further injury or damage. During such operation, including the investigation of the cause of such emergency, the incident commander shall be permitted to control or prohibit the approach to the scene of such emergency by any vehicle, vessel or person.

(c) No person shall obstruct the operations of the department in connection with extinguishing or control of any fire, or actions relative to other emergencies, or disobey any lawful command of the incident commander in charge of the emergency, or any part thereof, or any lawful order of a police officer assisting the department.

(d) The incident commander in charge of an emergency scene shall have the authority to establish barriers to control access in the vicinity of such emergency and to place, or cause to be placed, ropes, guards, barricades, or other obstructions across any street or alley to delineate such emergency scene barrier. No person, except as authorized by the incident commander in charge of the emergency, shall be permitted to cross such barriers.

(e) The incident commander in charge of an emergency scene shall have the authority to have property damaged by fire or other emergency barricaded or otherwise protected from persons or the elements. The expense of such preventative action shall be borne by the property owner.

(f) The fire department shall investigate the cause and origin, and circumstances of fires occurring within its jurisdiction to determine if the fire is of carelessness or design. Such investigations may begin immediately upon the occurrence of such a fire, and if it appears to the officer making such an investigation that such fire is of suspicious origin and of a significant nature, the fire chief shall be notified of the facts. The AHJ shall notify the proper authorities designated by law to pursue the investigation of such matters and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case. A member of the fire investigation team shall file a written report of damage associated with every fire in a timely manner. It shall contain a statement of all facts relating to the cause and origin and circumstances of such fire and other information as may be required.

(g) The fire chief or officers in command and the fire Inspector at any fire are hereby vested with full and complete police authority. Any officer of the fire department may cause the arrest of any person failing to give the right-of-way to the fire department in responding to or investigating an incident.

(h) The fire chief or officers in command shall have the power to cause the removal of any property whenever it is deemed necessary and prudent for the preservation of such property. During the progress of any fire, they shall have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes work of the fire department during the progress of fire.

(i) It shall be lawful for any fire department personnel while acting under the direction of the fire chief or officer in command to enter premises adjacent to or in the vicinity of a building or other property that is on fire for the purpose of extinguishing, containing, or searching for extension of such fire or other exigent circumstances. No person shall hinder, resist or obstruct any firefighter in the discharge of his duties as is herein before provided. The person so offending shall be deemed guilty of resisting firefighters in the discharge of their duties.

(j) During the progress of fire the fire chief or officers in command shall have the power to order the removal or destruction of any property necessary to prevent the further spread of fire or to ensure that the fire has not extended to other areas; providing that it is likely that, unless such property is removed, other property is in danger of being destroyed by fire.

(Ord. of 1-12-09, § 3)

Sec. 46-9. Records and reports.

(a) *Legal custodian.* The chief is the legal custodian of the reports, records and property within the department.

(b) *Fire reports.* Per Wis. Stats. §101.141, the department shall maintain a record of all fires. The department shall participate in the national incident fire reporting system, supplying data collected to the department of commerce. Fire reports shall be maintained a minimum of seven years.

(Ord. of 1-12-09, § 3)

Sec. 46-10. Fire inspectors.

(a) *Chief to be a deputy of the department of commerce.* Pursuant to Wis. Stats. § 101.14, incorporated herein, the chief is a deputy of the department of commerce. The chief is responsible for the enforcement of the state codes adopted within this chapter.

(b) *Fire inspectors.* The chief shall hold the office of fire inspector and shall appoint one or more inspectors from within the department who shall perform the same duties and have the same powers as the fire inspector.

(c) *Required inspections.* The chief of the department shall be responsible for having all public buildings and places of employment inspected for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or any violations of any law or ordinance relating to fire hazards or to the prevention of fires. Repairs or

alterations necessary to remove a hazard or hazardous condition shall be at the owner's expense and within a reasonable time or sooner if so ordered by the chief.

(d) *Special inspections.* The chief, upon the request of the fire commission, or upon receiving the complaint of any person or whenever the chief deems it necessary, shall inspect any public building and premises where inspections are required within the village/town.

(e) *Number of inspections.* The chief shall be responsible for determining the number of public buildings and places of employment to be inspected within the village.

(f) *Scheduling of inspections.* Fire prevention inspections shall be conducted at least once in each non-overlapping six-month period per calendar year, or more often if ordered by the chief.

(g) *Written reports.* Written reports of inspections shall be made and kept on file.

(h) *Authority to inspect.* The chief acting as the fire inspector or other fire inspectors shall be authorized at all reasonable times to enter and examine any building, structure, vehicle or premises, excepting only the interior of private dwellings, where inspections are required for the purpose of making fire inspections. The owner, agent or occupant of any such premises who refuses to permit, or prevents or interferes with, any entry into or upon the premises by any such inspector shall be in violation of this chapter.

(i) *Special inspection warrant.* If consent for entry to personal or real properties which are not public buildings, or to portions of public buildings which are not open to the public, has been denied, the chief shall obtain a special inspection warrant under Wis. Stats. § 66.0119.

(j) *Correction of hazards.* At such time as the fire inspector identifies a violation or fire hazard, the fire inspector shall serve notice in writing upon the owner of the property, giving such owner a reasonable time in which to remove the hazard. However, where an extreme or hazardous condition exists which, for the protection of the public, must be corrected or removed immediately, the chief shall have the authority to take such steps as may be necessary to protect the public and property, including closing and vacating of a building, structure or premises. If the owner fails to comply with the order to correct the hazard within the time allowed, it shall be deemed a nuisance. The fire chief shall also have the authority to take such steps as may be necessary, including obtaining appropriate court orders, to enforce any order of the chief correcting a hazardous or potential fire condition. The fire chief may also have a hazard corrected or removed by the village/town. The cost of such removal shall be recovered in an action by the village/town against the property owner and may be entered in the tax roll as a special charge against the property. When the owner of any property or person in apparent control of the property is issued an order by the AHJ and fails to comply with the order, the municipality may do the work ordered and the cost of such work shall constitute a special assessment against the property upon which the work is done and shall be levied against such property pursuant to Wis. Stats. § 66.0703.

(k) *Special inspection requests.* If a building owner requests a fire inspection from the fire department for a building that is not a public building and premises where inspections are not required within the village or town, the building owner shall pay for the

cost of inspection. The inspection rate will be \$50.00 per hour, per inspector and any related reports generated from the inspection of the building will be charged an administrative fee of five percent of the subtotal.

(Ord. of 1-12-09, § 3)

Sec. 46-11. Fire inspection fees.

(a) An annual fire inspection fee shall be charged to the property owner by the fire department for required inspections of each building, structure, and premises. Fire inspection fees, shall be billed to the owner of each inspected parcel within the village or town.

(b) The fee for the required annual fire inspections and any re-inspections shall be based upon the building's square footage, as set forth by resolutions of the village and town board, from time to time.

(Ord. of 1-12-09, § 3)

Sec. 46-12. Notification of use or occupancy change.

(a) Whenever there is a change in occupancy or the agent(s) (manager, shift supervisor, after hour's emergency contact, etc.) of that occupancy, the owner or their duly authorized agent shall submit the changes in writing to the fire department within five working days. The information shall consist of the following:

- (1) Name and address of occupancy;
- (2) Owner's name, address and phone number(s);
- (3) Agent's name, address and phone number(s);
- (4) Other information as required by the AHJ.

(b) Whenever a change in the service company for the alarm system has occurred within the occupancy, the owner or authorized agent shall submit the changes in writing to the fire department within five working days. The information shall consist of the following:

- (1) All information required in subsection (a);
- (2) Type(s) of fire protection systems;
- (3) Service company name, address and phone number(s).

(c) No change can be made in the use or occupancy of any building or structure, or any space within a building, structure, or space of a building or structure either in a different division of the same occupancy group or in a different occupancy group, unless the

building or structure complies with this Code's requirements for the new division of occupancies, as these requirements exist.

Exception: This subsection does not apply to an approved temporary use or to a new use that will be less hazardous, based on life and/or fire risk, than the existing use.

(d) An inspection by the fire department shall be required for any new or change of occupancy. The fee for occupancy inspections and re-inspections shall be based upon the square footage of the building or tenant space, as set forth by resolutions of the village and town boards from time-to-time.

(Ord. of 1-12-09, § 3)

Sec. 46-13. Fire prevention.

(a) *Wisconsin regulations adopted.* The following chapters of the Wisconsin Administrative Code, Department of Safety and Professional Services, are hereby adopted by reference with the same force and effect as if fully set forth herein and as the same may be from time to time amended:

SPS 303	Petition for Variance Procedure.
SPS 305	Certifications and Registrations
SPS 307	Explosives and Fireworks
SPS 310	Flammable and Combustible Liquids
SPS 314	Fire Prevention
SPS 316	Electrical
SPS 318	Elevators, Escalators and Lift Devices
SPS 323	Heating, Ventilating and Air Conditioning
SPS 328	Smoke Detectors and Carbon Monoxide Detectors
SPS 330	Fire Department Safety and Health
SPS 334	Amusement Rides
SPS 335	Infectious Agents
SPS 340	Gas Systems
SPS 341	Boilers and Pressure Vessels
SPS 343	Anhydrous Ammonia
SPS 345	Mechanical Refrigeration
SPS 348	Petroleum and Other Liquid Fuel Products
SPS 361-365	Enrolled Commercial Building Code
SPS 366	Existing Buildings
SPS 371	Solar Energy Systems
SPS 372	Cleaning Methods for Historic Buildings
SPS 375	Definitions and General Requirements
SPS 376	Factories, Office and Mercantile Buildings
SPS 377	Theaters and Assembly Halls
SPS 378	Schools and other Places of Instruction
SPS 379	Apartment Houses, Hotels and Places of Detention
SPS 326	Manufactured Home Communities

(b) *Compliance.* Any act required to be performed or prohibited by any chapter of the Wisconsin Administrative Code incorporated herein by reference is required or prohibited by this section. Any violation of these provisions constitutes a violation of this chapter.

(c) *Code updates.* Any future updates to the Wisconsin Administrative Codes are also adopted prospectively by reference.

(d) *Fire department access.* A road shall be provided to all construction sites at the commencement of construction having suitable strength and width to support the apparatus operated by the department. Such road will have a minimum clear width of 12 feet and shall be subject to the approval of the fire chief and the building inspector.

(e) *Conflicts.* In cases of conflict between local and state codes, the most restrictive provisions shall govern.

(Ord. of 1-12-09, § 3)

Sec. 46-14. Adoption of International Code Council Inc. Codes.

The latest I.C.C. publication listed below, and any amendments thereto, is adopted by reference, enforced and incorporated into this Code as if fully set forth herein:

International Fire Code (applies only to sections specifically referenced in this Code)
2006 edition.

(Ord. of 1-12-09, § 3)

Sec. 46-15. Adoption by reference NFPA publications.

The latest NFPA publications and any amendments thereto, are adopted by reference, enforced and incorporated into this Code as if fully set forth herein. For the sake of easy reference, the following NFPA standards are routinely consulted:

NFPA	1	Uniform Fire Code (applies only to the use, maintenance, operation and testing) 2006 edition
NFPA	10	Standard for Portable Fire Extinguishers, 2007 edition
NFPA	11	Standard for Low-, Medium- and, High-Expansion Foam, 2005 edition
NFPA	12	Standard on Carbon Dioxide Extinguishing Systems, 2008 edition
NFPA	13	Standard for Installation of Sprinkler Systems, 2007 edition
NFPA	13D	Sprinkler Systems in One and Two-Family Dwellings and Manufactured Homes, 2007 edition
NFPA	13R	Sprinkler Systems in Residential Occupancies up to and Including four Stories in Height, 2007 edition
NFPA	14	Standard for the Installation of Standpipes, and Hose Systems, 2007 edition
NFPA	15	Standard for Water Spray Fixed Systems for Fire Protection 2007 edition
NFPA	16	Standard for the Installation of Foam-Water sprinkler and Foam-Water Spray Systems, 2007 edition

NFPA	17	Standard for Dry Chemical Extinguishing Systems, 2002 edition
NFPA	17A	Standard for Wet Chemical Extinguishing Systems, 2002 edition
NFPA	20	Standard for the Installation of Stationary Pumps for Fire Protection, 2007 edition
NFPA	22	Standard for Water Tanks for Private Fire Protection, 2008 edition
NFPA	24	Standard for the Installation of Private Fire Service Mains and their Appurtenances, 2007 edition
NFPA	25	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, 2008 edition
NFPA	30	Flammable and Combustible Liquids Code, 2008 edition
NFPA	30B	Code for the Manufacture and Storage of Aerosol Products, 2007
NFPA	33	Standard for Spray Application Using Flammable or Combustible Materials, 2007 edition
NFPA	34	Standard for Standard Dipping and Coating Processes Using Flammable or Combustible Liquids, 2007 edition
NFPA	35	Standard for the Manufacture of Organic Coatings, 2005 edition
NFPA	36	Standard for Solvent Extraction Plants, 2004 edition
NFPA	37	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, 2006 edition
NFPA	40	Standard for the Storage and Handling of Cellulose Nitrate Film, 2007 edition
NFPA	42	Code for the Storage of Pyroxylin Plastic, 2002 edition
NFPA	45	Standard on Fire Protection for Laboratories Using Chemicals, 2004 edition
NFPA	51	Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes, 2007 edition
NFPA	51A	Standard for Acetylene Cylinder Charging Plants, 2006 edition
NFPA	54	National Fuel Gas Code, 2006 edition
NFPA	55	Standard for the Storage, Use, and Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks, 2005 edition
NFPA	58	Liquefied Petroleum Gas Code, 2008 edition
NFPA	59	Utility LP-Gas Plant Code, 2008 edition
NFPA	59A	Standard for the Production, Storage, and Handling of Liquefied National Gas (LNG), 2006 edition
NFPA	61	Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities, 2008 edition
NFPA	68	Standard on Explosion Protection by Deflagration Venting, 2007 edition
NFPA	69	Standard on Explosion Prevention Systems, 2008 edition
NFPA	70	National Electrical Code®, 2008 edition
NFPA	72	National Fire Alarm Code, 2007 edition
NFPA	75	Standard for the Protection of Information Technology Equipment, 2003 edition
NFPA	76	Standard for the Fire Protection of Telecommunications Facilities, 2005 edition
NFPA	80	Standard for Fire Doors and Other Opening Protectives, 2007 edition
NFPA	82	Standard on Incinerators and Waste and Linen Handling Systems and Equipment, 2004 edition
NFPA	85	Boiler and Combustion Systems Hazards Code, 2007 edition
NFPA	86	Standard for Ovens and Furnaces, 2007 edition
NFPA	88A	Standard for Parking Structures, 2007 edition

NFPA	91	Standard for Exhaust Systems for Air Conveying of Vapors, Gases, Mists, and Noncombustible Particulate Solids, 2004 edition
NFPA	92B	Standard for Smoke Management Systems in Malls, Atria, and Large Spaces, 2005 edition
NFPA	96	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2008 edition
NFPA	99B	Standard for Hypobaric Facilities, 2005 edition
NFPA	99C	Standard on Gas and Vacuum Systems, 2005 edition
NFPA	101	Life Safety Code®, 2006 edition
NFPA	102	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures, 2006 edition
NFPA	105	Standard for the Installation of Smoke Door Assemblies and Other Opening Protectives, 2007 edition
NFPA	110	Standard for Emergency and Standby Power Systems, 2005 edition
NFPA	111	Standard on Stored Electronic Energy Emergency and Standby Power System, 2005 edition
NFPA	115	Standard on Laser Fire Protection, 2008 edition
NFPA	160	Standard for the Use of Flame Effects Before an Audience, 2006 edition
NFPA	170	Standard for Fire Safety and Emergency Symbols, 2006 edition
NFPA	204	Standard for Smoke and Heat Venting, 2007 edition
NFPA	214	Standard on Water-Cooling Towers, 2005 edition
NFPA	221	Standard for High Challenge Fire Walls, Fire Walls, and Fire Barrier Walls, 2006 edition
NFPA	232	Standard for the Protection of Records, 2007 edition
NFPA	241	Standard for Safeguarding Construction, Alteration, and Demolition Operations, 2004 edition
NFPA	291	Recommended Practice for Fire Flow Testing and Marking of Hydrants, 2007 edition
NFPA	303	Fire Protection Standards for Marinas and Boatyards, 2006 edition
NFPA	307	Standards for the construction and Fire Protection of Marine Terminals, Piers, and Wharves, 2006 edition
NFPA	318	Standard for the Protection of Semiconductor Fabrication Facilities, 2006 edition
NFPA	400	Hazardous Chemical Code, Proposed Standard
NFPA	418	Standard for Heliports, 2006 edition
NFPA	430	Code for the Storage of Liquid and Solid Oxidizers, 2004 edition
NFPA	432	Code for the Storage of Organic Peroxide Formulations, 2002 edition
NFPA	434	Code for the Storage of Pesticides, 2002 edition
NFPA	484	Standard for Combustible Metals, 2006 edition
NFPA	490	Code for the Storage of Ammonium Nitrate, 2002 edition
NFPA	495	Explosive Materials Code, 2006 edition
NFPA	499	Recommended Practice for the Classification of Combustible Dusts and of Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas, 2008 edition
NFPA	560	Standard for the Storage, Handling, and Use of Ethylene Oxide for Sterilization and Fumigation, 2007 edition
NFPA	654	Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids, 2006 edition.
NFPA	655	Standard for Prevention of Sulfur Fires and Explosions, 2007 edition
NFPA	664	Standard for the Prevention of Fires and Explosions in Wood Processing

		and Woodworking Facilities, 2007 edition
NFPA	704	Standard System for the Identification of the Hazards of Materials for Emergency Response, 2007 edition
NFPA	720	Standard for Installation of Carbon Monoxide (CO) Warning Equipment in Dwelling Units, 2005 edition
NFPA	750	Standard on Water Mist Fire Protection Systems, 2006 edition
NFPA	780	Standard for the Installation of Lightning Protection Systems, 2008 edition
NFPA	801	Standard for Fire Protection for Facilities Handling Radioactive Materials, 2008 edition
NFPA	804	Standard for Fire Protection for Advanced Light Water Reactor Electric Generating Plants, 2006 edition
NFPA	850	Recommended Practice for Fire Protection for Electric Generating Plants and High Voltage Direct Current Converter Stations, 2005 edition
NFPA	853	Standard for the Installation of Stationary Fuel Cell Power Systems, 2007 edition
NFPA	1123	Code for Fireworks Display, 2006 edition
NFPA	1124	Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition
NFPA	1125	Code for the Manufacture of Model Rocket and High Power Rocket Motors, 2007 edition
NFPA	1126	Standard for the Use of Pyrotechnics before a Proximate Audience, 2006 edition
NFPA	2001	Standard on Clean Agent Fire Extinguishing Systems, 2008 edition
NFPA	2010	Standard for Fixed Aerosol Fire Extinguishing Systems, 2006 edition

(Ord. of 1-12-09, § 3)

Sec. 46-16. False alarms.

No person shall give a false alarm of fire with intent to deceive, or pull the lever of any signal box except in case of fire, or tamper, meddle or interfere with the fire alarm system or any part thereof.

(Ord. of 1-12-09, § 3)

Sec. 46-17. Open burning.

(a) Definitions.

Campfire means a small outdoor fire intended for recreation or cooking not including a fire intended for disposal of waste wood or refuse.

Clean wood means natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

Outdoor burning means open burning or burning in an outdoor wood-fired furnace.

Open burning means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.

Outdoor wood-fired furnace means a wood-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

Refuse means any waste material except clean wood.

(b) *General prohibition on outdoor burning and refuse burning.* Open burning, outdoor burning and refuse burning are prohibited unless the burning is specifically permitted by this chapter.

(c) *Materials that may not be burned.*

- (1) Unless a specific written approval has been obtained from the department of natural resources, the following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating device.
- (2) Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.
- (3) Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 590, Wisconsin Administrative Code.
- (4) Asphalt and products containing asphalt.
- (5) Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
- (6) Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- (7) Rubber including tires and synthetic rubber-like products.
- (8) Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the recycling ordinance.

(d) *Open burning of leaves, brush, clean wood and other vegetative debris.* Open burning of leaves, weeds, brush, stumps, clean wood and other vegetative debris is allowed only in accordance with the following followings:

- (1) All allowed open burning shall be conducted in a safe nuisance free manner, when wind and weather conditions are such as to minimize adverse effects and not create a health hazard or a visibility hazard on

roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.

- (2) Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the fire chief or the state department of natural resources has issued a burning ban applicable to the area.
- (3) Open burning shall be conducted only on the property on which the materials were generated or at a facility approved by and in accordance with provisions established by the department of natural resources and the fire chief.
- (4) Unless explicitly allowed elsewhere in this chapter, a commercial enterprise other than an agricultural or silvicultural operation may open burn only at a facility approved by and in accordance with provisions established by the department of natural resources and the fire chief.
- (5) Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this chapter.
- (6) Fires set for forest, prairie or wildlife habitat management are allowed with the approval of the department of natural resources.
- (7) Outdoor campfires and small bonfires for cooking, ceremonies or recreation are allowed provided that the fire is confined by a control device or structure such as a barrel, fire ring, or fire pit. Bonfires are allowed only if approved by and in accordance with provisions established by the fire chief.
- (8) Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-way is allowed if approved by the fire chief and if in accordance with other provisions of this chapter.
- (9) In emergency situations such as natural disasters burning that would otherwise be prohibited is allowed if specifically approved by the department of natural resources.
- (10) Open burning under this section shall only be conducted at a location at least 25 feet from any structure and ten feet from any property line.
- (11) Except for campfires and permitted bonfires, open burning shall only be conducted between 9:00 a.m. and the earlier of the following: Sunset or 7:00 p.m. All recreational fires shall be out by 12:00 a.m.
- (12) Open burning shall be constantly attended and supervised by a competent person until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

- (13) No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.
- (14) Except for barbecue, gas and charcoal grills, no burning shall be undertaken within 25 feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the fire chief.
- (15) No open burning may be conducted on days when the department of natural resources has declared an ozone action day applicable to the County of Racine.
- (16) Fires shall not be ignited with flammable or combustible liquids, such as gasoline, kerosene, fuel oil, diesel fuel, etc.

(e) *Outdoor wood-fired furnaces.* An outdoor wood-fired furnace may be installed and used in the town and village only in accordance with the following provisions:

- (1) The outdoor wood-fired furnace shall be installed and used only in an area zoned for agricultural use.
- (2) The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed above.
- (3) The outdoor wood-fired furnace shall be located at least 300 feet from the nearest building which is not on the same property as the outdoor wood-fired furnace.
- (4) The outdoor wood-fired furnace shall have a chimney that extends at least 15 feet above the ground surface. If there are any residences within 500 feet the chimney shall also extend at least as high above the ground surface as the height of the roofs of all such residences. The fire chief may approve a lesser height on a case-by-case basis if necessary to comply with manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors.

(f) *Fire department practice burns.* Notwithstanding subsections (b) and (c), the fire department may burn a standing building if necessary for fire fighting practice and if the practice burn complies with the requirements of the department of natural resources.

(g) *Liability.* A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

(h) *Right of entry and inspection.* The fire chief or any authorized officer, agent, employee or representative of the town or village who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this chapter.
(Ord. of 1-12-09, § 3)

Sec. 46-18. Ambulance service rates.

(a) The Union Grove-Yorkville fire department provides emergency ambulance service to those needing emergency medical attention after the sudden onset of a medical condition manifesting itself by acute symptoms of such severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, or the serious impairment of bodily functions, or serious dysfunction of any bodily organ or part.

(b) The fire department shall be in charge of fire fighting and emergency care where fires, emergency medical incidents, accidents or disasters threaten life and/or property and those duties related to the performance of this service within the village/town.

(c) Fees for outlying areas (with a mutual aid agreement). In all cases where the emergency service of the village/town is summoned in response to an emergency call in areas outside the village/town where a mutual aid agreement does exist, every person receiving such emergency service, the administration of medical drugs and disposable medical equipment used in attending at the scene of the incident and transporting such person to an emergency hospital shall be charged for such service.

(d) Fees for outlying areas (without a mutual aid agreement). In all cases where the emergency service of the village/town is summoned in response to an emergency call in areas outside the village/town where no mutual aid agreement exists, every person receiving such emergency service, the administration of medical drugs and disposable medical equipment used in attending at the scene of the incident and transporting such person to a private or emergency hospital shall be charged for such service.

(e) The schedule of fees for service, transfer service, medical drugs and disposable medical equipment shall be established by resolutions of the village and town boards, from time to time.

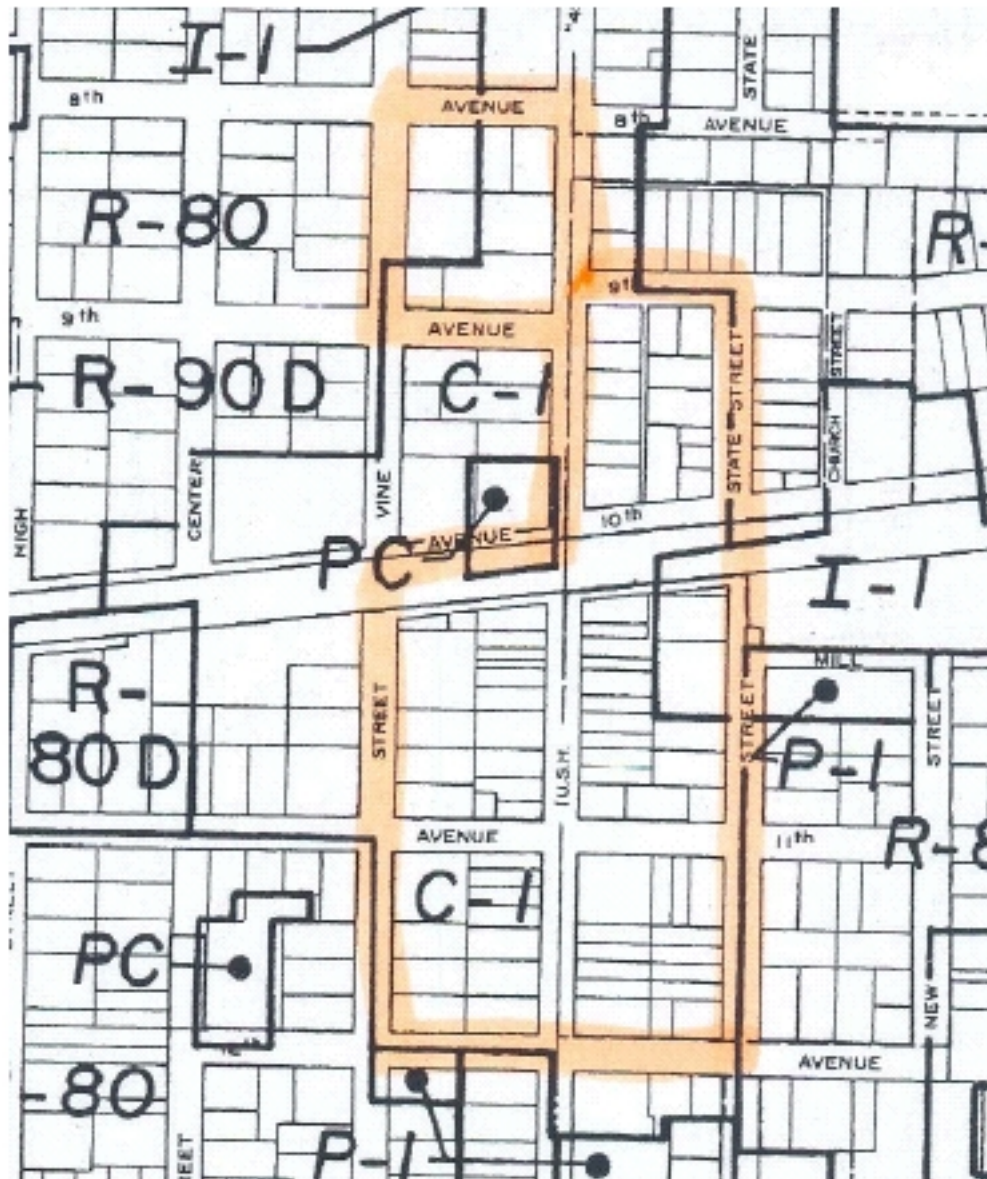
(Ord. of 1-12-09, § 3)

Sec. 46-19. Fire district.

(a) *Definitions.* As used in this section, the terms "fire resistive construction," "mill construction," "ordinary construction," "frame construction," and "fire retardant roof coverings" shall have the meanings as defined in the Wis. Admin. Code.

(b) *Established.* The part of the village included within the following described territory shall be known as the fire district:

- (1) Block 1, Taber's addition to the village.
- (2) Blocks 1 and 2, Salisbury's addition to the village.
- (3) Blocks 2, 3 and 5 of the original plat of the village.



(c) *Building construction requirements.* Every building erected, enlarged or moved within or into the fire district shall be fire resistive, mill or ordinary construction, except as otherwise provided by this section. Enclosing walls and party walls shall be four-hour, fire resistive walls of a construction as provided in Wis. Admin. Code which is adopted by reference and made a part of this section with respect to all buildings and structures within the fire district.

(d) *Exceptions for certain frame construction.* No building of frame construction shall be constructed within or moved within or into the fire district except the following:

- (1) The entire building is sprinklered regardless of size.
- (2) A greenhouse, not more than 15 feet in height.

- (3) A construction trailer, for use only in connection with a duly authorized building operation.

(e) *Bulk oil tanks prohibited.* The storage of class I flammable liquids, as defined in the Wis. Admin. Code SPS 310-01(37), in above ground tanks outside of buildings is prohibited within the fire district.

(f) *Razing old or damaged buildings.* Any building of frame construction within the fire limits which may be damaged by fire or which has deteriorated to an amount greater than one-half of its value, exclusive of the foundation, as determined by the village assessor, shall be subject to a raze order, as issued by the building inspector, pursuant to Wis. Stats. § 66.0413.

(g) *Fire retardant roofing.*

- (1) Every roof constructed within the fire district, including buildings listed in subsection (d), shall be covered with roofing having a fire resistive rating equivalent to class B or better of the Underwriters' Laboratories, Inc., classification in their List of Inspected Materials, which is adopted by reference and incorporated in this section as if fully set forth in this section.
- (2) No roofing on a roof shall be renewed or repaired to a greater extent than one-tenth of the roof surface, except in conformity with the requirements of subsection (g)(1).

(h) *Enforcement.* The building inspector or fire chief or other designated person is authorized and it shall be his/her duty to enforce this section.

(Ord. of 1-12-09, § 3)

Sec. 46-20. Fire walls.

(a) *Purpose.* The purpose of this section is to establish uniform standards for the identification of fire walls.

(b) *Identification.* Every owner of a building within the village or town shall identify the location of a fire wall at the exterior walls of the building with a sign. A sign may not be required to identify a fire wall:

- (1) Abutting exterior walls of two or more buildings along streets in downtown areas;
- (2) With a visible parapet from the street;
- (3) Which extends above a roof and is an exterior wall of another part of the building; and

- (4) In a building of more than three stories.
- (c) *Sign requirements.* A sign required by this section shall be subject to the following:
 - (1) *Generally.* The sign shall consist of three circles arranged vertically on the exterior wall marking the location of the fire separation wall or occupancy separation wall and centered on the fire separation wall or occupancy separation wall. The circles may be affixed directly to the surface of the building or may be placed on a background material which is affixed to the building.
 - (2) *Size of circle.* Each circle shall be the same size. The diameter of the circle shall be at least one and one-half inches, but shall not be greater than two inches.
 - (3) *Spacing.* The circles shall be spaced an equal distance apart. The maximum distance measured from the top of the uppermost circle to the bottom of the lowermost circle shall be 12 inches.
 - (4) *Color.* The circles shall be orange and of a reflective material.
 - (5) *Location.* The top of the sign shall be located on the face of the exterior wall of the building and located no more than 12 inches below the eave, roof edge, fascia or parapet.

(Ord. of 1-12-09, § 3)

Sec. 46-21. Automatic fire sprinkler, fire suppression and fire alarm systems and fire hydrants.

- (a) *Purpose.* The purpose of this section is to protect the health, safety and welfare of the those that live, work, visit, or travel through the village/town, including the fire personnel who serve the village/town or assist the village/town, by establishing minimum standards for fire safety through the standardization of the design, installation, testing and maintenance requirements for automatic fire sprinkler, fire suppression and fire alarm systems.
- (b) *Enforcement.* The Union Grove-Yorkville Fire Department shall be responsible for the enforcement of this section.
- (c) *State regulations.* All building code requirements, rules and laws of the state shall apply to all buildings located within the village/town. The requirements of this section shall not lessen any building code requirements, rules or laws of the state. Should any conflict arise between this section and the codes, rules or laws of the state, the more stringent regulation shall govern.
- (d) *Owner's responsibility.*

- (1) Within buildings that the fire department is required to inspect, no owner may construct or alter any building, or portion of a building, or permit any building to be constructed or altered except in compliance with this chapter.
- (2) The owner is also responsible for maintaining a current set of plans for all detection, suppression and fire alarm systems.
- (3) The owner shall maintain all automatic fire sprinkler, suppression and alarm systems (and the alarm monitoring of those systems) that were required by the village/town as a condition of occupancy.

(e) Installation required. An automatic fire sprinkler System shall be installed in all structures where the floor area exceeds the thresholds established the Wisconsin Administrative Code, or where otherwise required by State law.

(f) How installed.

- (1) Incorporation of standards by reference. The most current editions of all NFPA documents are hereby incorporated by reference into this section.
- (2) Material and test certificates. All fire protection systems installed in the village/town shall be tested in accordance with the requirements of the state code and NFPA provisions. In the event that a conflict between these documents occurs, the fire protection contractor shall comply with the most stringent requirements. Two copies of each material and test certificate shall be provided to the department before an occupancy permit will be granted.
- (3) When using nonpotable water and/or a nonfreeze solution. Whenever nonpotable water is used to supply a fire sprinkler system and/or when a fire sprinkler system uses any type of nonfreeze solution, a reduced pressure backflow preventer (R-P-Z) shall be required as part of those systems.
- (4) Fire pump test header. Fire pump test headers shall be placed on the exterior of the fire pump room.
- (5) Fire pump relief valve. When a fire pump is required to have a relief valve and that relief valve discharges to the exterior, the relief valve shall discharge directly into a storm water catch basin.
- (6) Safety factor. The safety factor for a hydraulically calculated sprinkler system shall be a minimum of ten percent or five psi, whichever is greater.
- (7) Sprinkler control rooms shall be located with adequate access for fire department, sprinkler maintenance and inspection personnel and shall

not be located within private dwellings with the exception of NFPA 13D systems.

- (8) There shall be direct access from the exterior to the sprinkler control valve as determined by the AHJ, with a door labeled as such which will include reflective lettering.
- (g) Standpipes and hose connections.
 - (1) Wet automatic standpipes shall be provided in all buildings three stories or more in height. Standpipes shall be sized and distributed as described in subsection (2).
 - (2) When the NFPA requires the installation of small hose and small hose valve connections, this department will require the installation of two and one-half-inch hose valves in lieu of the former. The two and one-half-inch hose valves shall be supplied from a separate piping system or from adjacent sprinkler systems. The two and one-half-inch NST valve shall be capable of delivering 250 gpm at 75 psi measured at the hose valve. The standpipes shall be wet and placed first adjacent to the exterior exit doors and then move inward to provide the required coverage. Hose valves shall be no further than 150 feet apart, per floor.
- (h) Fire department connection. The fire department connection (FDC) for both the sprinkler system and standpipe systems shall be located remote from the building, curbside to a street or driveway. The minimum distance from the building shall be equal to the height of the building. An FDC may be placed at a greater distance from the building if the building is of extra hazard occupancy. The location of the FDC shall be approved by the fire department. The FDC shall have an automatic drip for drainage of the waterline enclosed within an inspection pit and accessed through a manhole, when the automatic drip cannot be placed within the structure.
- (i) Fire hydrant(s) and pumper pad.
 - (1) *Scope.* The requirements of this section apply to fire hydrants and water main systems supplying private fire hydrants or fire suppression systems.
 - (2) *Installation and maintenance standards.* Private fire hydrants and water mains shall be installed in accordance with NFPA 24 and the village/town water utility. Private fire hydrants and water mains shall be maintained in accordance with NFPA 25.
 - (3) *Approval required.* Plans shall be submitted to the designated third party for review to determine compliance with the applicable standards prior to the installation of private fire hydrants.
 - (4) *Approved water hydrant.* An approved water hydrant shall mean a water hydrant connected to a municipal water main, and the hydrant

shall have one five-inch Storz connection and two two-and-five-tenths-inch connections. The connecting waterline between the municipal water main and the approved water hydrant shall not be less than six inches. All water hydrants shall be installed in such a manner and location so as to be accessible at all times to the fire department. Note: The hydrant must flow a minimum of 1,500 gpm with 20 psi residual.

- (5) *Number of required fire hydrants.* A minimum of one fire hydrant shall be installed on the property where a sprinkler system (or standpipe system) is installed within the building. The hydrant shall be located remote from the building at a minimum distance equal to the height of the building and adjacent (maximum distance five feet) to the fire department connection(s), curbside. Hydrants may be placed at a greater distance from the building if the building is of extra hazard occupancy. The FDC and the fire hydrant shall be incorporated into a pumper pad to assure access for the fire department pumpers. This access must be maintained at all times. Additional hydrant(s) shall be provided around the perimeter of the building so that no hydrant is more than 250 feet from other approved hydrants measured by normal access routes.
- (6) *Setback distances.* Private fire hydrants shall be no more than five feet from the curb or edge of the street or fire apparatus access. Alternative setback distances may be considered when site conditions conflict with the provisions of this section.
- (7) *System design.*
 - a. *Valves.* Control valves shall be provided to limit the number of private hydrants and/or sprinkler systems affected by maintenance, repair or construction. Valves shall be located at street intersections and at no more than 800-foot intervals, and sectional control valves shall be placed so that no more than a combination of five hydrants and sprinkler systems can be isolated between control valves. Valves shall be provided in each hydrant lead.
 - b. *Outlet position.* All hydrants shall be positioned so that the largest outlet faces the street or fire apparatus access route.
 - c. *Hydrant height above grade.* The center of the lowest outlet cap of the fire hydrants shall be at least 18 inches above grade and not more than 23 inches above grade.
- (8) *Hydrant specifications.* All fire hydrants shall meet the specifications of the village/town water utility.

- (9) *Bollards.* Private hydrants shall be protected from vehicular traffic damage with bollards. The chief shall determine the number of bollards needed.
- (10) *Hydrant colors.*
- a. For private hydrants fed by a fire pump, the hydrants shall be painted red, both barrel and caps.
 - b. Hydrants fed by municipal water shall be painted a solid color, both barrel and caps that match the hydrant's flow rate.
 - c. No person shall alter the color or paint scheme of an approved municipal fire hydrant or an approved private fire hydrant. That person or persons who alter the color of a fire hydrant identified above shall be in violation of this chapter.
- (11) *Hydrant markers.* Whenever the location of a fire hydrant may be obscured by its placement, or due to the placement of a building, structure, fencing, grade or land, vegetation, snow accumulation or other obstruction of vision, the fire chief may require such fire hydrants to be identified and marked with above-grade markers. Above-grade markers are any devices, approved for use by the fire chief, designed to promote and enhance the ready identification of fire hydrant locations.
- (12) *Obstructions.* No obstructions, including but not limited to power poles, trees, bushes, fences or posts, shall be located within five feet of a fire hydrant. Grade changes exceeding one and one-half feet are not permitted within five feet of a fire hydrant or hydrant lead. Owners shall remove snow, vegetation or other material that has covered or obstructed the view of a hydrant(s) on their property.
- (13) *Installation prior to construction.* Fire hydrants shall be installed, tested and placed in service prior to combustible construction.
- (14) *Out of service fire hydrants.* Private fire hydrants and water systems placed out of service or made inoperable for maintenance, repair or construction shall be covered with a durable and weather-resistant bag to indicate the hydrant is unusable. The fire department shall be notified immediately when hydrants and/or systems are out of service. Fire hydrants and/or water systems shall be repaired and returned to service within 48 hours.
- (15) *Maintenance.* The inspection(s), test and maintenance of required fire hydrants shall be recorded on forms approved by the fire chief. Completed forms shall be maintained on premises and made available to the fire department upon request or during required fire inspections. Copies of the above records shall be mailed to the department upon completion of tests. Failure to provide the completed forms as required

shall constitute a rebuttable presumption that required inspections, tests and maintenance have not been performed.

(j) Protection of fire hydrants and other control valves. Private fire hydrants and those fire protection control valves and devices placed along drives and parking areas of a building shall be protected by bollards. The department shall determine the number of bollards needed.

(k) Strobe light.

(1) A red strobe light shall be placed in the vertical position above the audible water flow alarm. The light shall be activated by a sprinkler water flow. Additional strobe lights will be required on the exterior of buildings that have multiple sprinkler (risers in multiple locations) systems.

(2) Strobe specifications. The following strobe lights are acceptable for use: Federal, Model 131 ST/DST and Whelen, Model 1550. Alternate manufacturers must be approved by the department prior to installation.

(l) Annual inspections.

(1) Every standpipe system or sprinkler system required by the village/town Code or by the administrative rules of the state of shall be inspected at least once within each consecutive 12-month period and maintained in accordance with the most current edition of the applicable department of commerce provisions, and NFPA 25, Inspection, Testing and Maintenance of Water-Based Fire Protection Systems.

(2) Annual maintenance permit and inspection form. Prior to performing the annual inspection required by NFPA 25 of a fire sprinkler system and/or fire pump, the owner shall obtain a permit and inspection form from the fire department. The results of the inspection shall be recorded on the department form and copies given to the fire chief, owner and all others authorized by the owner within ten days of the date the inspection was performed. In the case that deficiencies are found, the department shall be given a schedule as to when repairs will be made at such time the inspection report is filed with the department. In the event that a permit is not obtained prior to the inspection being performed, the owner may be subject to an additional fee, in accordance with penalties set forth in these chapters.

(m) Completion of work. At such time that each sprinkler project is completed, the sprinkler contractor shall provide the owner of the building and the fire department with a letter stating that the sprinkler system, or portion thereof, is 100 percent operational and built according to the design of the licensed and certified fire protection engineer.

(n) Maintenance of automatic fire sprinkler, suppression and alarm systems. Sprinkler systems, standpipe systems, fire alarm systems and other fire protective or extinguishing systems or appliances which have been installed in compliance with a permit or order, or because of any law or ordinance, shall be maintained in operative condition at all times in accordance with NFPA 25, Inspection, Testing and Maintenance of Water-Based Fire Protection Systems, and other applicable NFPA codes. Further, it shall be unlawful for any owner or occupant to reduce the effectiveness of the protection so required, except that this shall not prohibit the owner or occupant from temporarily reducing or discontinuing the protection where necessary to make tests, repairs, alterations or additions. The chief of the fire department shall be notified before repairs, alterations or additions are begun and shall be notified again when the system has been restored to service.

(o) Exemptions. Rooms or buildings devoted to the manufacture or storage of aluminum powder, calcium carbide, calcium phosphate, metallic sodium or potassium, quick lime, magnesium powder, sodium peroxide or like materials where the application of water may cause or increase combustion are exempt from the use of automatic water sprinkling systems but are required to install other forms of fire protection systems approved by the fire chief.

(p) Automatic closing devices.

(1) Where installed.

- a. Except on single and two-family dwellings, there shall be an automatic closing device on all fire and smoke doors, except doors leading directly outside in all buildings, regardless of size.
- b. On all fire shutters and vents.
- c. Wired into the fire alarm system when a fire alarm system is required.

(2) How installed. Per National Fire Protection Association Standard 80, Fire Doors and Other Opening Protectives.

(3) How maintained and inspected. Per National Fire Protection Association Standard 80, Fire Doors and Other Opening Protectives.

(q) Fire alarm systems.

Intent. The intent of this section is to provide a means for automatic detection of fire conditions and to provide warning notification throughout all buildings and occupancies built herein after, structurally altered, and/or added to.

Installation required. A fire alarm system shall be installed in all structures where the floor area, inclusive of any additions to structures, exceeds 5,000 square feet. However, this section shall have no applicability to single-family residential structures.

- (1) *Minimum system requirements.* When a fire alarm system is required, the following minimum system requirements shall be met:
- a. Audible notification appliances shall be installed throughout protected premises.
 - b. Visible notification appliances shall be installed throughout protected premises. Exceptions:
 1. Closets and/or other similar small storage rooms that do not exceed 50 square feet in floor area and are not normally occupied.
 2. Normally unoccupied crawl spaces.
 3. Normally unoccupied attic spaces.
 4. Any non-accessible area.
 5. Any area the AHJ deems visible notification appliances are not required.
 - c. Appliances that automatically detect fire and/or products of combustion shall be installed throughout protected premises. The type of appliance used in each specific application and/or area must be appropriate for the applicable conditions and acceptable to the AHJ. The determination of the acceptability of any type of detector (products of combustion, flame, heat, etc.) shall be based upon occupancy and/or building use.

Exceptions:

1. Closets and/or other similar small storage rooms that do not exceed 50 square feet in floor area and are not normally occupied.
2. Normally unoccupied crawl spaces.
3. Normally unoccupied attic spaces.
4. Any non-accessible area.
5. Appliances that automatically detect fire and/or products of combustion are not required in buildings that have complete automatic fire sprinkler systems installed in accordance with NFPA 13, unless required by the AHJ.
6. Any area the AHJ deems appliances that automatically detect fire and/or products of combustion are not required.

- d. Manual initiating devices (pull stations) shall be located at all points of egress including all exit doors on every floor and/or building level.
 - e. Water flow detection devices shall be connected to the protected premises fire alarm system to specifically activate the notification appliances upon water flow.
 - f. Fire suppression system activation alarms shall be connected to the protected premises fire alarm system to specifically activate the notification appliances upon system activation. This includes but is not limited to wet chemical, CO2, clean agent, water mist and dry chemical systems.
 - g. Fire control and/or suppression systems supervisory condition indicators shall be connected to and monitored by the protected premise fire alarm system. This specifically includes but is not limited to: valve supervisory switches (tamper switches), low air switches, low water switches, low temperature switches, fire pump condition indicators and/or any other situation or condition deem necessary by the AHJ.
 - h. Fire alarm systems shall be addressable and capable of indicating the status of all specific components connected to the system.
 - i. All fire alarm systems shall be monitored by a service acceptable to the AHJ.
 - j. Fire alarm annunciators shall be installed in all protected premises. The number and locations of the fire alarm annunciators installed shall be acceptable to the AHJ.
 - k. As determined by the AHJ, any additional notification and/or initiation appliances/devices may be required due to size, occupancy hazards, building construction, and/or occupancy use.
- (2) Shop drawings for fire alarm systems. Shop drawings for fire alarm systems are intended to provide basic information consistent with the objective of installing a fully operational, code compliant fire alarm system and to provide the basis for the record drawings required by NFPA 72. Conditional approval of shop drawings is not intended to imply waiver or modification of any requirements of any Code or any other applicable criteria.
- a. A minimum of three sets of plans, specifications, equipment data sheets and calculations must be submitted for conditional approval. The municipality will retain two copies of each

submittal and one copy will be returned to the installing contractor.

- b. Fire alarm submittals shall include, shop drawings that include to an extent commensurate with the extent of the work being performed, floor plan drawings, riser diagrams (except for systems in single-story buildings), control panel wiring diagrams, point-to-point wiring diagrams, and typical wiring diagrams as described herein.
- c. All shop drawings shall be drawn on sheets of uniform size and shall include the following information:
 - 1. Name of owner and occupant.
 - 2. Location, including street address.
 - 3. Device legend.
 - 4. Date.
 - 5. Floor plan drawings shall be drawn to an indicated scale and shall include the following information:
 - I. Floor identification.
 - II. Point of compass.
 - III. Graphic scale.
 - IV. All walls and doors.
 - V. All partitions extending to within 18 inches of the finished ceiling.
 - VI. Room descriptions.
 - VII. Fire alarm device/component locations.
 - VIII. Locations of monitor/control interfaces to other systems.
 - IX. Riser locations.
 - X. The location of the electrical panel that has the control panel circuit breaker.
 - XI. Name and address of installation contractor.
 - XII. Name and address of system designer.
 - 6. Fire alarm system riser diagrams shall include the following information:
 - I. General arrangement of the system, in building cross-section.
 - II. Number of risers.
 - III. Type and number of circuits in each riser.
 - IV. Type and number of fire alarm system components/devices on each circuit, on each floor or level.

7. Control panel wiring diagrams shall be provided for all control equipment (i.e., equipment listed as either a control unit or control unit accessory), power supplies, battery chargers, and annunciators and shall include the following information:
 - I. Identification of the control equipment depicted.
 - II. Location(s) of control panels.
 - III. All field wiring terminals and terminal identifications.
 - IV. All indicators and manual controls, including the full text of all labels.
 - V. All field connections to supervising station signaling equipment, releasing equipment, and fire safety control interfaces.
8. Typical wiring diagrams shall be provided for all initiating devices, notification appliances, remote alarm light emitting diodes (LEDs), remote test stations, and end-of-line and power supervisory devices.

(r) Door, floor and stairway identification. Any occupancy having more than five exterior means of egress and or more than two floors in height shall number the individual egress areas according to this section.

- (1) An identifying number shall be placed on the interior and exterior of each means of egress doorway not less than six inches high in contrasting color and light reflective. The main entrance or means of egress shall be numbered one with each additional means of egress, progressing clockwise around the exterior of the structure to reflect its relationship to the main entrance. All means of egress leading into the structure shall be numbered not just the required exit egresses.
- (2) Each interior door providing access to an enclosed stairway that is considered part of an accessible means of egress shall be identified with numbers and letters not less than three and one-half inches high in the following manner:
 - a. Have a sign indicating floor level posted on both sides of the egress door in a location acceptable to the AHJ.
 - b. Have a sign indicating the exterior exit door egress assigned in compliance with subsection (1) located on both sides of the egress door in a location acceptable to the AHJ.
- (3) Identification numbers shall be placed on the exterior windows of all hotels, motels, nursing homes, and multi-family occupancies to identify the room number or address it services. The numbers shall be not less than three and one-half inches high and light reflective and in a location acceptable to the AHJ.

- (s) Exit lights and emergency lights.
 - (1) Exit and emergency lights are required in all places of public occupancy.
 - (2) Exit and emergency lights shall have battery backup unless connected to an emergency generator.
 - (3) Combination exit and emergency lights are acceptable and recommended.
- (t) Plan review, approval and conditions.
 - (1) The department uses a third party contractor to perform the review. The owner or owner's contractor is responsible for payment of all third party review fees. The plans for all fire sprinkler, fire suppression and fire alarm systems, both new and modified, must be submitted to the third party contractor for review.
 - (2) No automatic fire sprinkler, fire suppression or fire alarm equipment shall be installed or altered in a building until plans have been submitted and approved by the department. Upon payment of the review fees the village/town on behalf of the fire department shall issue a permit. Work started before a permit is issued may be subject to fine up to three times the original permit fee.
 - (3) The state-registered fire protection contractor or other contractor(s) who was given the permit to work shall keep at the job site at all times one set of approved plans bearing the stamp of conditional approval from the department and a copy of the specifications. The plans shall be open to inspection by an authorized representative of the department immediately upon request.
- (u) Engineered roof and floors.
 - (1) All new residential and commercial buildings within the Town of Yorkville and the Village of Union Grove shall have the required emblems affixed as provided in this section to indicate that they are equipped or have installed truss supports.
 - (2) Identifying emblems shall be permanently affixed to the meter sockets of residential properties in the lower left corner of the exterior cover. On commercial properties they shall be located on the meter trans socket. If the meters are located in the building, the emblem shall be affixed to the front doorway. If the building is sprinklered and no trans socket is located outside, the emblem shall be located on the sprinkler control room door. With the approval of the fire department, emblems may be placed in other locations.

- a. The emblem shall be of white reflective background with red reflecting trim and lettering. The shape of the emblem shall be a house and the size shall be three inches horizontally by five inches vertically. The following letters, four inches in size and in red reflective shall be printed on the emblem.
 - "F" to signify a floor with truss construction.
 - "R" to signify a roof with truss construction
 - b. The emblem shall be permanently affixed by the Building Inspector at the final inspection, and before an occupancy permit is granted.
- (v) Revocation, extension and liability.
- (1) *Revocation of approval.* The fire department may revoke any approval issued under the provisions of this section for any false statements or misrepresentation of facts on which the approval was based.
 - (2) *Expiration of plan approval.* Plan approvals issued by the department shall expire two years after the approval date indicated on the fire protection plans.
 - (3) *Extension of plan approval.* Upon written request and payment of the fees specified under of this chapter, the expiration date described under subsection (w)(2) may be extended for a single two-year period, provided that the written request and fee are submitted prior to the expiration date of the original approval and the originally approved plans are revised to comply with the requirements of this section at the time that the request is made.
 - (4) *Limitation of liability.* The conditional approval of an automatic fire sprinkler, suppression or fire alarm design by the fire department shall not be construed as an assumption of any design responsibility.

Sec. 46-22. Automatic fire sprinkler fees.

Automatic fire sprinkler fees shall be established by third party consultants or resolutions of the village and town boards, from time to time.

(Ord. of 1-12-09, § 3)

Sec. 46-23. Hazardous materials and spills.

(a) *Prohibited discharges.* No person, firm or corporation shall discharge or cause to be discharged, leaked, leached or spilled upon any public or private street or alley, or public, private or village/town-owned property, or onto the ground, surface waters, subsurface waters, or aquifers, within the village/town, except those areas specifically licensed for waste disposal activities and to receive such materials, any explosive, flammable or combustible liquid or gas, any radioactive material at or above nuclear

regulatory restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas have a deleterious effect on the environment.

(b) *Containment, cleanup and restoration.* Any person, firm or corporation in violation of this section shall, upon direction of the chief, begin immediate actions to contain, cleanup and remove to an approved repository the offending material(s) and restore the site to its original condition. The spiller (offending person, firm, or corporation) is responsible for all expenses incurred by the department, mutual aid departments and contractors retained during the mitigation, removal and cleanup. Should any person, firm, or corporation fail to engage the necessary personnel and equipment to comply with or to complete the requirements of this section, the chief shall notify the office of emergency government, which may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the village/town and those assisting the village/town in this matter.

(c) *Response by emergency services.* A response by emergency services includes but is not limited to fire services, emergency medical services, and police and law enforcement services. A person, firm or corporation who or which possesses or controls a hazardous substance which is discharged or who or which causes the discharge of a hazardous substance shall be responsible for reimbursement to the responding agencies for actual and necessary expenses incurred in carrying out their duties under this section.

(d) *Expenses.* Actual and necessary expenses may include but are not limited to personnel hourly costs; fire and rescue vehicle hourly costs; equipment expense; replacement of equipment damaged by the hazardous material; the replacement costs of any extinguishing agent or chemical, neutralizer or materials used to extinguish a fire or suppress a vapor; confinement, neutralizing or cleanup of any flammable or combustible liquid, gas, solid or any hazardous material or chemical involved in any fire or accidental spill; cleaning, decontamination, and maintenance of the equipment specific to the incident; costs incurred in the procurement and use of specialized equipment specific to the incident; specific laboratory expenses incurred in the recognition and identification of hazardous substances in the evaluation of the response; and decontamination, cleanup and medical surveillance of response personnel as required by the responding agency's medical advisor.

(Ord. of 1-12-09, § 3)

Sec. 46-24. Elevators.

(a) *Purpose; intent.* It is the purpose of this section to establish minimum requirements relating to the specification and installation of an elevator within a building or structure that adequately meets the needs of the department. It is the intent of this section to ensure adequate access to any floor or level that is above or below the ground or first floor level. It has been the past experience that elevators have been specified and installed within buildings and structures within the village/town that do not adequately meet the needs of the department. It is recognized that an ordinance is needed to identify the minimum size elevator that will be accepted by the department.

(b) Scope. This section applies to all new construction that is covered within Wis. Admin. Code §§ 61 to 66. All existing public buildings or places of employment and all additions shall conform to this section, as follows.

Additions, remodeled buildings, and change of use.

- (1) Any existing building that is to be modified by addition or remodel in a percentage of 25 percent or more shall comply with the intent of this section when a new elevator installation is required.
- (2) If the use of an existing building is changed to a new use and the building undergoes physical remodeling, the building shall comply with the intent of this section when a new elevator installation is required.
- (3) Exemptions:
 - a. Multi-tenant dwelling buildings which have separated, private entrances and that do not share an internal common corridor.
 - b. Mezzanine levels which are not utilized as work environments, provided that their primary function is as storage space.

(c) Minimum rated load and capacity for elevators. At least one elevator for each building or structure shall be designed to accommodate an ambulance stretcher that is a minimum 80 inches by 24 inches in the horizontal position along with three department personnel and all associated equipment. The door and car size shall permit the entrance and exit of an ambulance stretcher without tilting the stretcher at any time.

Acceptable minimum size.

- (1) Passenger (general purpose). Capacity 4,000 pounds with a minimum clear cab inside of seven feet eight inches by five feet five inches.
- (2) Hospital/service. Capacity 4,500 pounds with a minimum clear cab inside of five feet eight inches by seven feet nine and one-half inches.
- (3) The proposed elevator shall meet or exceed these minimum clear cab inside dimensions.

(d) Location within the building. The department shall review and approve the proposed location being considered for the elevator. This is to ensure that the elevator is easily accessible and readily available to the emergency services. This will be done in conjunction with site and operational approval for a building permit and is not associated with the shop drawing approval process described in the following sections.

(e) Submittal. All shop drawings of proposed elevators for each building or structure shall be submitted to the third party reviewer for review and approval.

(f) All shop drawings will be reviewed and returned accepted or not accepted within three weeks of being received.

(g) No installation shall begin until the department has completed a satisfactory review and issued a permit.
(Ord. of 1-12-09, § 3)

Sec. 46-25. Key lock box system.

(a) *Definition.* As used in this chapter, the term "key lock box" means a locking metal container, UL approved, approved by the Union Grove-Yorkville fire chief, designated to hold keys for emergency entry into buildings, which can be opened by a key to be kept by the Union Grove-Yorkville fire department for emergency use only.

(b) *General provisions.* The following structures shall be equipped with a key lock box at or near the main entrance or such other location as required by the fire chief:

- (1) Commercial, retail or industrial structures;
- (2) Multifamily residential structures that have restricted access through locked doors and have a common corridor for access to the living units; and
- (3) Governmental structures and nursing care facilities.

(c) *Lock box installation.* All structures subject to this chapter shall have a key lock box installed and operational prior to the issuance of an occupancy permit.

(d) *Requirements.*

- (1) The fire chief shall designate the type and quantity of the key lock box system to be implemented and shall have the authority to require all structures to use the designated system.
- (2) The owner or operator of a structure required to have a key lock box shall, at all times, keep keys in the lock box that will allow for access to the following:
 - a. Keys to locked points of egress, whether on the interior or exterior of such buildings;
 - b. Keys to locked mechanical equipment rooms;
 - c. Keys to locked electrical rooms;
 - d. Keys to elevator controls; and
 - e. Keys to other areas as directed by the fire chief.
 - f. Each key shall be legibly labeled to indicate the lock that it opens in such a manner as is approved by the fire chief.

(e) *Rules and regulations.* The fire chief shall be authorized to implement rules and regulations for the use of the lock box system, which rules shall be approved by the Union Grove-Yorkville fire commission.

(f) *Security procedures.* The fire chief shall promulgate and enforce procedures to protect the security of the fire department's master lock box key, which rules shall be approved by the Union Grove-Yorkville fire commission.

(g) *Contact information.* Any person who owns or operates a structure subject to this chapter shall annually provide a list of emergency contacts and telephone numbers to the fire department.

(h) *Penalties.* Any person who owns or operates a structure subject to this chapter shall be subject to the penalties set forth below. Any person who tampers with, removes, or otherwise renders any key lock box inoperable shall be subject to the penalties set forth in this chapter.

(Ord. of 1-12-09, § 3)

Sec. 46-26. Storage tanks.

(a) *Plan and permits.* A permit is required for the installation, upgrade or removal of new and existing aboveground or below-ground storage tanks, piping or appliances. The department shall be notified when tanks are installed or removed.

(b) *Department of commerce codes.* The installation, upgrade and/or removal of storage tanks shall be in compliance with the state department of commerce codes.

(c) *Violation.* Any person failing to obtain a permit is in violation of this chapter.

(Ord. of 1-12-09, § 3)

Sec. 46-27. Fees for response and service on roads, streets, highways, public waterways and railroads.

The Union Grove-Yorkville fire department from time to time responds to provide emergency service on a local street, county trunk highway, state trunk highway, the interstate system, public waterways, and the railroad system, where emergencies such as vehicle fires, vehicle accidents, transportation incidents and spills create a hazardous condition.

(1) *Definitions.* As used in this section, the following terms shall have the meanings indicated:

County trunk highway means a road maintained by the county highway department.

Disposable supplies mean any material used to control and/or remove a hazard and then must be replenished, such as fire-fighting foam and/or oil dry.

Emergency vehicles means fire apparatus, ambulance vehicles, and support vehicles operated by the village/town and/or by the municipalities that are signatories to the MABAS (mutual aid box alarm system) mutual aid agreement that are providing service within the village/town.

Hazardous condition means a condition or substance (solid, liquid or gas) capable of posing an unreasonable risk to health, safety, the environment or property.

National highway system means any highway maintained by the state department of transportation that is a part of the national system of interstate highways, including entrance and exit ramps, frontage access roads, service centers, and inspection and weigh stations.

Service means an act performed by the fire department upon the national highway system, state trunk highway or local street that includes but is not limited to extinguishing a vehicle fire, using extrication equipment to aid in the removal of victims of a vehicular accident, and cleanup of a hazardous condition or spill.

Specialized vehicles means vehicles such as heavy lifting tow trucks, cranes, and vacuum trucks, owned or operated by the village/town or a subcontractor to the village/town, that are needed to control and/or remove a hazardous condition.

State trunk highway means a road maintained by the state department of transportation.

Street means a local thoroughfare or roadway, either private or owned and maintained by the village/town.

- (2) Fees to be charged for emergency service shall be established by resolutions of the village and town boards, from time to time.

(Ord. of 1-12-09, § 3)

Sec. 46-28. Fees for recovery of costs.

The Union Grove-Yorkville fire department from time to time responds to provide a service after which it can be determined that a fire was intentionally set, a false alarm occurred because a fire or rescue call was falsely reported either verbally or through the activation of a fire alarm device, a fire detection device and/or a fire suppression system, or by the failure of the property owner to properly and adequately make prior notification that would have prevented the unnecessary response by the fire department during a scheduled test, scheduled maintenance or scheduled repair of either a fire alarm device, fire detection device and/or fire suppression systems. When in fact it is determined that an event such as those described above has occurred, the village/town will seek to recover the costs expended during such a response from the responsible party or the property owner when applicable.

- (1) Definitions. As used in this section, the following terms shall have the meanings indicated:

False alarm means a report of an emergency that was found to be not true and caused by an unintentional or accidental activation.

- a. *Preventable false alarm* means a report of an emergency either verbally, automatically or during a scheduled test, scheduled maintenance or scheduled repair of either a fire alarm device, fire detection device and/or fire suppression system that could have been prevented by prior notification to the central station and/or local fire department which in fact would have prevented an emergency response by the fire department.
- b. *Malicious false alarm* means a report of an emergency that was found to be not true and caused by an intentional verbal reporting or manual activation of a fire alarm or fire suppression system.

Fire alarm and detection device means a device designed to send a fire alarm thus reporting an emergency and/or which monitors the products of combustion, most commonly known as heat, smoke and radiant energy, and which in fact will send an alarm of emergency when appropriate.

Fire suppression system means a device or system that uses water or special agents to automatically or manually release for the purpose of extinguishing a fire.

Fire, deliberately set, lawful means a fire where the evidence supports the conclusion that the fire was intentionally set but the circumstances indicate that no law was broken, such as an open burning fire where there is a valid open burning permit in effect.

Fire, deliberately set, unlawful means a fire where the evidence supports the conclusion that the fire was intentionally set and that it was unlawful, such as an open burning fire where there is no valid open burning permit in effect.

Property owner means the owner of record.

Responsible party means the person or persons found to be responsible for causing the incident.

Service means the service provided by the fire and rescue department during such events as fires, hazardous material, emergency medical calls, and other events requiring the department to contain, control and remove.

Unintentional false alarm means when a device such as a fire alarm, fire detection system or fire suppression system is accidentally tripped, such as being struck by a forklift or falling boxes or excessive heating of a fusible link.

- (2) Cost recovery for emergency service at intentionally set fires. The person or persons found to be responsible for intentionally setting an unlawful fire may

be charged for the services provided by the village/town and/or by the departments identified within the mutual aid agreement for the use of emergency fire and rescue vehicles, equipment, disposable supplies, such as fire-fighting foam, and other material used to remove a hazardous condition, as well as contracted services and services from other municipal departments within the village/town, and shall pay for such services when rendered within the village/town.

- (3) Cost recovery for emergency service provided at what is determined to be a false alarm.
 - a. When a person(s) is found to be responsible for a fire or rescue call that was falsely reported either verbally or through the activation of a fire alarm device, a fire detection device and/or a fire suppression system, that person may be charged for the services provided by the village/town and/or by the departments identified within the mutual aid agreement for the use of emergency fire and rescue vehicles during the response to the incident described within.
 - b. When the property owner fails to properly and adequately make prior notification that would prevent an unnecessary response by the fire department during a scheduled test, scheduled maintenance or scheduled repair of either a fire alarm device, fire detection device and/or fire suppression system, the property owner may be charged for the services provided by the village/town and/or by the departments identified within the mutual aid agreement for the use of emergency fire and rescue vehicles.
- (4) Fees to be charged for emergency service shall be established by resolutions of the village and town boards, from time to time.

(Ord. of 1-12-09, § 3)

Sec. 46-29. Violations and penalties.

(a) Any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty, which shall be as follows:

- (1) *First offense.* Any person who shall violate any provision of the chapter shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$500.00, together with the cost of prosecution, and in default of payment of such forfeiture, assessment and costs of prosecution shall be imprisoned in the county jail at a rate of one day for each \$25.00 of forfeiture imposed, subject to a maximum period of imprisonment of 90 days.
- (2) *Second offense.* Any person who shall violate any provision of the chapter shall, upon conviction thereof, forfeit not less than \$100.00 nor more than \$500.00, together with the cost of prosecution, and in default of payment of such forfeiture, assessment and costs of

prosecution shall be imprisoned in the county jail at a rate of one day for each \$25.00 forfeiture imposed subject to a maximum period of imprisonment of 90 days.

(b) *Continued violations.* Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the village/town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.
(Ord. of 1-12-09, § 3)

Sec. 46-30. Appeals.

(a) Appeals.

- (1) The owner of a building or structure, or any other person who is aggrieved and directly affected ("Person Aggrieved"), may appeal from decisions or orders of the building inspector, Fire Chief or his designate relative to the application and interpretation of ("Fire and Rescue Protection Ordinance"), to the building board.
- (2) All applications for appeal shall be in writing and must be received by the village clerk no later than thirty (30) days after notice of the building inspector's, Fire Chief's or his designate decision or order ("Determination"). The request for review shall state the grounds upon which the Person Aggrieved contends that the Determination should be modified or reversed.
- (3) A determination or action subject to administrative or judicial review procedures set forth under the Wisconsin Administrative Code or state statutes or other provisions of this code is not reviewable under this chapter.
- (4) An application for an appeal shall be accompanied by a fee of fifty dollars (\$50.00) made payable to the Village of Union Grove.
- (5) The building board shall provide the Person Aggrieved with a hearing on an appeal within thirty (30) days of receipt of the notice of appeal, providing the appellant with notice of the hearing at least ten (10) days before such hearing, unless such notice is waived in writing by the appellant. At the hearing, the appellant and the Village may be represented by counsel and may present evidence, call and examine witnesses and cross-examine witnesses of the other party.

(b) Decision on Appeals.

- (1) The board shall affirm, modify or reverse the decision of the building inspector, Fire Chief or his designate. Appeal of the action of the board shall be to circuit court.

- (2) The board shall affirm the decision of the building inspector, Fire Chief or his designate unless it determines that:
 - a. The building inspector, Fire Chief or his designate has misinterpreted or misapplied the applicable ordinance, rule or code provision; or
 - b. The compliance time established by the building inspector, Fire Chief or his designate is unreasonable; or
 - c. An equally good or better form of construction can be used.
 - (3) The board shall send the applicant a written decision, including reasons for the decision. The building inspector, Fire Chief or his designate shall act immediately to carry out the board's decision.
- (c) Modification or Waiver.
- (1) Authority. Where, in the judgment of the building board, it would be inappropriate to apply literally the provisions of an ordinance because an exceptional circumstance exists, the building board may waive or modify any requirements to the extent deemed just and proper. However, the building board does not have the authority to interpret or waive the requirements of the Wisconsin Administrative Code, as the Department of Commerce exercises jurisdiction with respect to such matters.
 - (2) Application. Application for any such modification or waiver shall be made by the Person Aggrieved in writing as part of the request for clarification or review of Determination, stating fully all facts relied upon in requesting the modification or waiver, and shall be supplemented with any additional data that may aid the building board in the analysis of the proposed modification or waiver. This application may be supplemented at any time during the review process.
 - (3) Considerations. The building board may consider the following factors, in addition to any other factors deemed relevant by the building board:
 - a. Whether the request for a waiver or modification, if granted, would be consistent with the general intent of the ordinance.
 - b. Whether the request for a waiver or modification, if granted, would adversely affect any property owners in the village.
 - c. Whether the request for waiver or modification, if granted, would benefit the Person Aggrieved in a way that is not consistent with the village's interests.

- d. Whether, instead of granting the request for a waiver or modification, the ordinance itself should be changed to accommodate the kind of situation presented by the Person Aggrieved.
 - e. Whether, the conditions upon which the request for a modification or waiver is based are unique to the situation or property for which the modification or waiver is sought and are not applicable generally to other situations or property.
- (4) Conditions for Granting. The building board shall not grant a modification or waiver to an ordinance unless it makes findings based upon the evidence presented to it in each specific case and based upon the consideration of the above factors that the granting of the modification or waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the village. Any decision to grant a modification or waiver shall not be arbitrary, capricious, or prejudicial in nature.
- (5) Granting by Building Board.
- a. The building board, if it approves of the modification or waiver of an ordinance or any portion of it, shall do so only after a hearing.
 - b. Such relief shall be granted without detriment to the public good and without impairing the intent and purpose of the ordinance.
 - c. The reasons why such modification or waiver was granted shall be entered as part of the record of hearing.
 - d. If the building board grants a modification or waiver, the building board may also recommend to the village board that the ordinance itself be changed to accommodate the kind of situation presented by the Person Aggrieved.
- (6) Past Non-compliance Not Waived. A waiver or modification that is granted pursuant to a written request as described in this Section shall not waive any fines, forfeitures or other penalties that may have accrued due to violations of the ordinance that took place prior to the date of the Appeal, unless specifically stated otherwise in the decision of the building board.

(d) Chapter 68 of the Wisconsin Statutes.

Pursuant to Wis. Stat. Section 68.16, the Village of Union Grove elects not to be governed by those provisions of Chapter 68 which are in conflict with this ordinance. In the event of any conflict between this ordinance and Chapter 68, the provisions of this ordinance shall govern.

Chapters 47 - 49
Reserved

Chapter 50
HEALTH DEPARTMENT
(2016-05 – 09/12/16)

Repealed 2021-10 – 12/13/2021

Chapters 51 - 53
Reserved

Chapter 54
HUMAN RELATIONS
(Ordinance No. 2023-04; 05/08/23)

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Secs. 54-1--54-25.	Reserved.		
Article II. Human Relations Commission			
Sec. 54-26.	Created.		
Sec. 54-27.	Purpose.		
Sec. 54-28.	Composition; appointment; vacancies; quorum; compensation; oath.		
Sec. 54-29.	Open meetings.		
Sec. 54-30.	Officers and bylaws.		
Sec. 54-31.	Designation as cooperating agency under federal law.		
Sec. 54-32.	Powers and duties.		
Sec. 54-33.	Appropriation and allotment of funds.		
Secs. 54-34--54-60.	Reserved.		
Article III. Discrimination			
Division 1. Generally			
Secs. 54-61--54-85.	Reserved.		
Division 2. Fair Housing			
Sec. 54-86.	Title.		
Sec. 54-87.	Definitions.		
Sec. 54-88.	Declaration of policy.		
Sec. 54-89.	Prohibited acts.		
Sec. 54-90.	Representations designed to induce panic sales.		
Sec. 54-91.	Design and construction of covered multifamily housing.		
Sec. 54-92.	Exemptions and exclusions.		
Sec. 54-93.	Complaints and conciliation.		
Sec. 54-94.	Other remedies.		
Sec. 54-95.	Penalties.		

Article I. In General

Secs. 54-1--54-25. Reserved.

Article II. Human Relations Commission*

Sec. 54-26. Created.

A community relations-social development commission, to be known as the commission on human relations, is created pursuant to the authority of Wis. Stats. § 66.433.
(Code 1960, § 2.17)

Sec. 54- 27. Purpose.

The purpose of the commission on human relations is to study, analyze and recommend solutions for the major social, economic, and cultural problems that affect people residing or working within the village, including without restriction because of enumerations, problems of the family, youth, education, the aging, juvenile delinquency, health and zoning standards, and discrimination in housing, employment and public accommodations on the basis of sex, race, religion, color, disability, national origin, marital status, lawful source of income, age or ancestry.

(Code 1960, § 2.17(1))

Sec. 54-28. Composition; appointment; vacancies; quorum; compensation; oath.

(a) The commission on human relations shall be nonpartisan and shall be composed of citizens residing in the village, including representatives of the clergy and minority groups.

(b) The commission on human relations shall consist of three members, each appointed to a three-year term. As terms expire, appointments shall be made by the village president, subject to confirmation by a majority of the village board. A vacancy occurring otherwise than by expiration of a term shall be filled by appointment, as provided in this subsection, of a new member for the unexpired term.

(c) Vacancies shall not impair the powers of the commission, and two members shall constitute a quorum for the purpose of conducting the business thereof.

(d) Members of the commission on human relations shall serve without compensation.

(e) Every person appointed as a member of the commission on human relations shall take and shall file the official state oath.

(Code 1960, § 2.17(5))

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

State law references: Community relations generally, Wis. Stats. § 66.433.

Sec. 54-29. Open meetings.

All meetings of the commission on human relations and its consulting committees shall be publicly held and open to all citizens at all times, as required by Wis. Stats. § 19.83.

(Code 1960, § 2.17(6))

Sec. 54-30. Officers and bylaws.

(a) The commission on human relations shall elect a chairman, vice-chairman, secretary and treasurer.

(b) The commission may adopt, from time to time, bylaws and rules of procedure fixing the time and place of meetings, prescribing the manner of keeping records and the manner of treating other matters.

(Code 1960, § 2.17(7))

Sec. 54-31. Designation as cooperating agency under federal law.

(a) The commission on human relations shall be the official agency of the village to accept assistance under the federal economic opportunity acts. However, no assistance shall be accepted with respect to any matter to which objection is made by the village board.

(b) The commission on human relations shall be the official agency of the village to accept assistance from the community relations service of the United States Department of Justice under title X of the Federal Civil Rights Act of 1964, as subsequently amended and supplemented by new federal legislation, as it provides for assistance to communities in resolving disputes, disagreements or difficulties relating to discriminatory practices based on race, color, sex, religion, disability, marital status, lawful source of income, age, ancestry or national origin which may impair the rights of persons in the village under the Constitution or laws of the United States or which affect or may affect interstate commerce.

(c) The commission on human relations shall be the official agency of the village to cooperate with and accept assistance from the United States Department of Housing and Urban Development under title VIII of the Civil Rights Act of 1968, as amended, as it provides for referral of complaints and provides assistance to cooperating state and local agencies charged with the administration of fair housing laws. The commission may, subject to approval of the village board, enter into written agreements with the Department of Housing and Urban Development for that purpose.

(Code 1960, § 2.17(8))

Sec. 54-32. Powers and duties.

The commission on human relations shall have the functions, powers and duties to:

(1) Meet and function at any place within the village as it may select.

- (2) Appoint committees to carry out any of its investigation and research functions.
- (3) Request additional persons to serve as special advisors to the commission.
- (4) Make such recommendations to agencies, officers and bodies of the village and other governmental agencies, officers and bodies as may be deemed advisable in aid of the purpose of this article.
- (5) Receive complaints alleging discrimination because of race, color, sex, disability, religion, marital status, lawful source of income, age, ancestry, or national origin; make such investigations and hold such hearings as are required to establish the facts; require the attendance of witnesses and their production of documentary evidence at such hearings; and administer oaths to persons testifying before it.
- (6) Publish the findings of the commission with respect to any complaint, if such publication is deemed advisable and approved by a majority of the commission's members.
- (7) Conduct such research and issue such publications as in its judgment will promote good will and minimize or eliminate discrimination because of race, creed, color, sex, religion, disability, marital status, lawful source of income, age, ancestry or national origin.
- (8) In general, act as an advisory, conciliatory and investigatory agency on all matters threatening the general welfare because of discrimination.
- (9) Cooperate with state and federal agencies and nongovernmental organizations having similar or related functions.
- (10) Examine the need for publicly and privately sponsored studies and programs in any field of human relations that will aid in accomplishing the objectives of this article, and initiate such public programs and studies and participate in and promote such privately sponsored programs and studies.

(Code 1960, § 2.17(2))

Sec. 54-33. Appropriation and allotment of funds.

The village board shall make an allocation in its yearly budget for funds for the use of the commission on human relations in the proper performance of its activities and shall make further allocations as required by the commission for any additional or special function deemed necessary or proper.

(Code 1960, § 2.17(4))

Secs. 54-34--54-60. Reserved.

Article III. Discrimination

Division 1. Generally

Secs. 54-61--54-85. Reserved.

Division 2. Fair Housing*

Sec. 54-86. Title.

This division shall be known as the Union Grove Fair Housing Ordinance. Wis. Stat. § 66.1011, regarding equal rights, is adopted by reference in this section as if fully set forth.

Sec. 54-87. Definitions.

For the purpose of this division, the definitions of Wis. Stat. §§ 66.1011, 106.50, and 101.132 shall apply.

Sec. 54-88. Declaration of policy.

It is declared to be the policy of the Village, pursuant to the Constitution of the United States and the Constitution of the State, and also its power to protect the public health, safety and general welfare that all persons are entitled to fair and equal access to housing. To that end the Village has enacted this Division to ensure the right of all persons to have equal opportunities for housing regardless of their sex, race, color, disability, sexual orientation, religion, national origin, marital status, family status, status as a victim of domestic abuse, sexual assault, or stalking, lawful source of income, age or ancestry and, to thereby prohibit discrimination in housing by any person on the basis of this ordinance and the statutes incorporated herein. This Division shall be considered an exercise of the police powers of the Village for the protection of the welfare, health, peace, dignity, and human rights of the people of the Village of Union Grove.

Sec. 54-89. Prohibited acts.

- (a) It is a prohibited act for any person to discriminate:
 - (1) By refusing to sell, rent, finance or contract to construct housing or by refusing to negotiate or discuss the terms thereof.
 - (2) By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease, financing or rental of housing.
 - (3) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such a lot.
 - (4) By advertising in a manner that indicates discrimination by a preference or limitation.

- (5) For a person in the business of insuring against hazards, by refusing to enter into, or by exacting different terms, conditions or privileges with respect to, a contract of insurance against hazards to a dwelling.
- (6) By refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant.
- (7) In providing the privileges, services or facilities that are available in connection with housing.
- (8) By falsely representing that housing is unavailable for inspection, rental or sale.
- (9) By denying access to, or membership or participation in, a multiple listing service or other real estate service.
- (10) In making available any of the following transactions, or in the terms or conditions of such transactions for a person whose business includes engaging in residential real estate-related transactions:
 - a. The making or purchasing of loans or the provision of other financial assistance for purchasing, constructing, improving, repairing or maintaining housing or the making or purchasing of loans or the provision of other financial assistance secured by residential real estate.
 - b. Selling, brokering or appraising residential real property.
- (11) By otherwise making unavailable or denying housing.
- (12) By refusing to permit, at the expense of a person with a disability, reasonable modifications of existing housing that is occupied, or is to be occupied, by such a person if the modifications may be necessary to afford the person full enjoyment or use of the housing.
 - a. In the case of rental housing, a landlord may, where it is reasonably to do so, condition the permission for a modification on the tenant's agreement to restore the interior of the housing to the condition that existed before the modification, other than reasonable wear and tear.
 - b. In the case of rental housing, the landlord may not increase any customarily required security deposit when a person with a disability requests a modification to the housing.
 - c. Where it is necessary to ensure that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of a restoration agreement a requirement that the tenant pay into an interest-bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations.

The interest in any such account shall accrue to the benefit of the tenant. If escrowed funds are not used by the landlord for restorations, they shall be returned to the tenant.

- (13) By segregating, separating, excluding or treating unequally in the sale or rental of, or otherwise make unavailable or deny, housing to a buyer or renter because of a disability of that buyer or renter, a disability of a person residing in or intending to reside in that housing after it is sold, rented or made available or a disability of a person associated with that buyer or renter.
- (14) By segregating, separating, excluding or treating unequally a person in the terms, conditions or privileges of sale or rental of housing, or in the provision of services or facilities in connection with such housing, because of a disability of that person, a disability of a person residing in or intending to reside in that housing after it is sold, rented or made available or a disability of a person associated with that person.
- (15) By refusing to make reasonable accommodations in rules, policies, practices or services that are associated with the housing, when such accommodations may be necessary to afford the person equal opportunity to use and enjoy housing, unless the accommodation would impose an undue hardship on the owner of the housing.
- (16) By refusing to rent or sell housing to an individual that has a disability and a disability-related need for an animal that is individually trained to do work or perform tasks for that individual, cause the eviction of that individual from housing, require extra compensation from that individual as a condition of continued residence in housing, or engage in the harassment of that individual because he or she keeps such an animal.
 - a. If an individual keeps or is seeking to keep an animal that is individually trained to do work or perform tasks in housing, an owner, lessor, lessor's agent, owner's agent, or representative of a condominium association may request that the individual submit to the owner, lessor, agent, or representative reliable documentation that the individual has a disability and reliable documentation of the disability-related need for the animal, unless the disability is readily apparent or known. If the disability is readily apparent or known but the disability-related need for the animal is not, the individual may be requested to submit reliable documentation of the disability-related need for the animal.
 - b. An individual with a disability who keeps an animal that is individually trained to do work or perform tasks in housing shall accept liability for sanitation with respect to, and damage to the premises caused by, the animal.
- (17) By refusing to rent or sell housing to an individual that has a disability

and a disability-related need for an emotional support animal, cause the eviction of that individual from housing, require extra compensation from that individual as a condition of continued residence in housing, or engage in the harassment of that individual because he or she keeps such an animal.

- a. If an individual keeps or is seeking to keep an emotional support animal in housing, an owner, lessor, lessor's agent, owner's agent, or representative of a condominium association may request that the individual submit to the owner, lessor, agent, or representative reliable documentation that the individual has a disability and reliable documentation of the disability-related need for the emotional support animal from a licensed health professional.
- b. An individual with a disability who keeps an emotional support animal in housing shall accept liability for sanitation with respect to, and damage to the premises caused by, the animal.

(b) No person may coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, any right granted or protected by this Division, or with a person who has aided or encouraged another person in the exercise or enjoyment of a right granted or protected by this Division.

Sec. 54-90. Representations designed to induce panic sales.

It is a prohibited act for any person to induce or attempt to induce any other person to sell, rent or lease housing by representations regarding the present or prospective entry into the neighborhood of a person of a particular economic status or a member of a protected class or by representations to the effect that such present or prospective entry will or may result in any of the following:

- (1) The lowering of real estate values in the area concerned.
- (2) A deterioration in the character of the area concerned.
- (3) An increase in criminal or antisocial behavior in the area concerned.
- (4) A decline in the quality of the schools or other public facilities serving the area.

Sec. 54-91. Design and Construction of Covered Multifamily Housing.

(a) In addition to discrimination prohibited under Sections 54-89 and 54-90 of this Code, no person may design or construct covered multifamily housing, unless it meets the standards set forth in Wis. Stat. Section 101.132 (2).

(b) No person may remodel housing with 3 or more dwelling units unless the remodeled housing meets the standards specified above as required under s. 101.132 (2) (b) 1., 2., or 3., whichever is applicable.

Sec. 54-92. Exemptions and Exclusions.

(a) Nothing in this division shall prohibit discrimination on the basis of age in relation to housing designed to meet the needs of elderly individuals subject to the statutes incorporated above.

(b) Further exemptions and exclusions are set forth in the statutes incorporated above.

Sec. 54-93. Complaints and conciliation.

(a) An Aggrieved Person may file a complaint with the Village Clerk. Upon a receipt of such a complaint, the Village Clerk shall forward a copy of the complaint to the Village Board, or a duly authorized representative, which shall conduct an investigation of the complaint and will then attempt to resolve each complaint in a timely manner to comply with the one (1) year statute of limitations imposed by Wis. Stat. § 106.50(6)(a)(1) for review of the complaint by the Department of Workforce Development, Equal Rights Division.

(b) Failure to achieve a resolution acceptable to both parties and compliance with this Ordinance shall cause the Village Board to forward the complaint and findings to appropriate State and Federal agencies including those referenced under Wis. Stat. 106.50(6).

(c) If the complaint alleges the Village is the discriminatory party, the complaint will be received but referred to the proper state or deferral agency and notice of the same will be provided to the complainant by the Village in writing.

(d) Nothing in this Division shall be construed as prohibiting or in any way limiting the right of complainants to pursue in any appropriate court, any remedy or cause of action available to them under state or federal law.

Sec. 54-94. Other remedies.

(a) A complainant, aggrieved person or respondent may elect to remove the action to circuit court after a finding has been made that there is reasonable cause to believe that a violation this Division has occurred.

(b) The Village is hereby authorized, at any time after a complaint has been filed alleging an ordinance violation, to file a complaint in circuit court seeking a temporary injunction or restraining order pending final disposition of the complaint.

Sec. 54-95. Penalties.

(a) Any natural person or entity that is not a natural person adjudged to have violated this division shall, for the first such violation, forfeit not more than \$10,000.00.

(b) Any entity that is not a natural person adjudged to have violated this division within five years after having first been adjudged to have violated this division, for every violation committed within the five years, shall forfeit not more than \$25,000.00.

(c) Any entity that is not a natural person adjudged to have violated this division two (2) or more prior times within seven years after having been adjudged to have violated this division the first time, shall forfeit not more than \$50,000.00.

Chapter 55
Reserved

Chapter 56 IMPACT FEES

Section Number	Title	Ordinance Number	Date of Ordinance
Sec. 56-1.	Legislative findings to support impact fees.		
Sec. 56-2.	Authority		
Sec. 56-3.	Intent and Purpose		
Sec. 56-4.	Rules of construction		
Sec. 56-5.	Definitions		
Sec. 56-6.	Imposition of the impact fee	2014-06	04-28-14
Sec. 56-7.	Computation of the amount of impact fees		
Sec. 56-8.	Fee payment		
Sec. 56-9.	Administration of impact fees		
Sec. 56-10.	Use of funds		
Sec. 56-11.	Refunds		
Sec. 56-13.	Exemptions		
Sec. 56-14.	Review		
Sec. 56-15.	Penalty provision		
Sec. 56-16.	Variance/appeal provision		

Sec. 56-1. Legislative findings to support impact fees.

(a) The village has expanded or must expand its public facilities if new development is to be accommodated without decreasing current levels of service. This must be done in order to promote and protect the public health, safety and welfare.

(b) The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of public facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.

(c) Each of the types of land development described in this chapter will create a need for the construction, equipping, or expansion of the public facilities.

(d) The fees established by this chapter are derived from, are based upon, and do not exceed the costs of providing additional facilities necessitated by the new land developments for which the fees are levied;

(e) A separate report entitled "Public Facility Needs Assessment and Methodology for Village of Union Grove," dated June 15, 1998, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need and costs for additional public capital facilities in the village.

(Ord. of 12-14-98, § 1)

Sec. 56-2. Authority.

The village has the authority to adopt this chapter pursuant to Wis. Stats. § 66.55, and ch. 236.

(Ord. of 12-14-98, § 1)

Sec. 56-3. Intent and purpose.

The purpose of this chapter is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide needed improvements in the village.

(Ord. of 12-14-98, § 1)

Sec. 56-4. Rules of construction.

(a) The provisions of this chapter shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.

(b) For the purposes of administration and enforcement of this chapter, unless otherwise stated, the following rules of construction shall apply to the text:

- (1) In case of any difference of meaning or implication between the text and any caption, illustration, summary table, or illustrative table, the text shall control.

- (2) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
- (3) Words used in the present tense shall include the future; and words used in the singular tense shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (4) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "and/or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected terms, conditions, provisions or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - c. "And/or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (5) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

(Ord. of 12-14-98, § 1)

Sec. 56-5. Definitions.

Capital costs means the capital costs to construct, expand or improve public facilities, including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than ten percent of capital costs may consist of legal, engineering and design costs unless the political subdivision can demonstrate that its legal, engineering and design costs which relate directly to the public improvement or which the impact fees are proposed exceed ten percent of capital cost. "Capital costs" does not include other noncapital costs to construct, expand or improve public facilities or the costs of equipment to construct, expand or improve public facilities.

Developer means a person that constructs or creates a land development.

Feepayer is a person seeking the development for which the impact fee is being imposed.

Housing for the elderly means housing which is deed restricted to residents aged 62 and above.

Impact fees means cash contributions, contributions of land or interests in land or any other items of value that are imposed on a developer by a political subdivision under this chapter.

Independent fee calculation study means the demographic and/or public facilities

documentation prepared by a fee payer to allow the determination of the impact fee other than by the use of the table in section 56-7 of this chapter.

Land development means the construction or modification of improvements to real property that creates additional residential dwelling units within a political subdivision or that results in nonresidential uses that create a need for new, expanded or improved public facilities within a political subdivision.

Political subdivision means a city, village, town or county.

Public facilities means highways, as defined in Wis. Stats. § 340.01(22) of the state statutes, and other transportation facilities, traffic control devices, facilities for collecting and treating sewage, facilities for collecting and treating storm and surface waters, facilities for pumping, storing and distributing water, parks, playgrounds and other recreational facilities, solid waste and recycling facilities, fire protection facilities, law enforcement facilities, emergency medical facilities and libraries.

Service area means a geographic area delineated by a political subdivision within which there are public facilities.

Service standard means a certain quantity or quality of public facilities relative to a certain number of persons, parcels of land or other appropriate measure, as specified by the political subdivision.

(Ord. of 12-14-98, § 1)

Sec. 56-6. Imposition of the impact fee.

(a) Any person who, after the effective date of this chapter seeks to develop land within the village by applying for a building permit, an extension of a building permit issued prior to the effective date of this chapter, or issuance of a final subdivision plat, condominium plat, or certified survey map for land division is hereby required to pay an impact fee in the manner and amount set forth in this chapter.

(b) No new building permit, final subdivision plat, condominium plat, or certified survey map for land division for any activity requiring payment of an impact fee pursuant to section 56-9 of this section shall be issued unless and until the impact fee(s) hereby required has been determined.

(c) The following provisions are established pursuant to section 236.45(1), Wis. Stats. to provide for public open spaces and parks that are properly located and preserved as the village develops and, further, to provide that the cost of additional public park and recreation sites and facilities necessary to serve additional families brought into the village by new subdivision development may be equitably apportioned on the basis of the additional need created by the new subdivision development:

(1) *Reservation of potential future sites.*

- a. In the design of a plat, consideration shall be given to the adequate provision of and correlation with open public park

and recreation sites and facilities.

- b. When it is determined by the recreation commission that a portion of a plat is required by such future public park and recreation sites and facilities, the subdivider may be required to reserve such area.

(2) *Park and open space obligation.* The subdivider shall pay a fee to the village to provide for land and facilities to meet the park and recreation needs of the subdivision, as set forth in section 56-7, except as provided in subsection (3).

(3) *Dedication of land.*

- a. Where land has been required to be reserved pursuant to subsection (c)(1)b. of this section, or when the subdivider owns other land that has been determined by the plan commission to be acceptable for park and recreation purposes, the subdivider may be required to dedicate such land as part or all of the fee payment, at the recommendation of the plan commission and the approval by the village board.
- b. Where the dedication is not compatible with the comprehensive plan, or for other reasons is not feasible as recommended by the plan commission, and as approved by the village board, the subdivider shall, in lieu thereof, pay to the village a fee as established by this section or a combination thereof.

(Ord. of 12-14-98, § 1; Amd. of 6-9-03(1), § 1)

Sec. 56-7. Computation of the amount of impact fee.

(a) At the option of the fee payer, the amount of the impact fee may be determined by the following fee schedule. The fee schedule reflects a discount of ten percent from net cost to, among other things, encourage use of this schedule and discourage the time consuming processing of variance requests for independent fee calculation.

FIRE & RESCUE FACILITY IMPACT FEE SCHEDULE

<i>Land Use Type</i>	<i>Gross Fee¹</i>	<i>Discounted Fee⁴</i>
Single-family residential ²	\$135.03/unit	\$121.53/unit
Multi-family residential ²	119.34/unit	107.41/unit
Commercial ⁵	0.22/sq. ft.	0.20/sq. ft.
Industrial ⁵	0.12/sq. ft.	0.10/sq. ft.

PARK FACILITY IMPACT FEE SCHEDULE

<i>Land Use Type</i>	<i>Gross Fee¹</i>	<i>Discounted Fee⁴</i>
Single-family residential ²	\$475.44/unit	\$427.90/unit
Multi-family residential ²	336.00/unit	302.40/unit

LIBRARY FACILITY IMPACT FEE SCHEDULE

<i>Land Use Type</i>	<i>Gross Fee¹</i>	<i>Discounted Fee⁴</i>
Single-family residential ²	\$178.13/unit	\$160.32/unit
Multi-family residential ²	125.89/unit	113.30/unit

WATER FACILITY IMPACT FEE SCHEDULE

<i>Land Use Type</i>	<i>Gross Fee¹</i>	<i>Credit Reduction</i>	<i>Net Fee³</i>	<i>Discounted Fee⁴</i>
Single-family residential ²	\$360.00/unit	\$744.00/unit	\$606.00/unit	\$545.40/unit
Multi-family residential ²	240.00/unit	474.00/unit	426.00/unit	383.40/unit
Restuarant ⁶	50.40/seat	91.79/seat	97.92/seat	87.49/seat
Office ⁵	0.018/sq. ft.	0.027/sq. ft.	0.041/sq. ft.	0.036/sq. ft.
Retail ⁵	0.120/sq. ft.	0.217/sq. ft.	0.233/sq. ft.	0.210/sq. ft.
Industrial ⁵	0.018/sq. ft.	0.027/sq. ft.	0.041/sq. ft.	0.036/sq. ft.

Total Fees:

- Single-family residential \$1,255.15/unit
- Multi-family residential 906.51/unit
- Office land use 0.370/square foot of gross floor area
- Retail land use 0.580/square foot of gross floor area
- Industrial land use 0.226/square foot of gross floor area
- Restaurant 0.370/square foot of gross floor area + 87.49/seat

Notes:

1. Fees assessed on the basis or square feet (i.e. sq. ft.) shall be calculated by gross floor area.
2. Single-family residential shall be defined as 1-4 units per building. Multifamily residential shall be defined as 5 or more units per building.
3. Net fee = Gross fee -- applicable credit

4. Discounted fee = Net fee x 90 percent and rounded down to nearest dollar.
5. Industrial shall be defined as manufacturing, warehousing, distribution, wholesaling, mining, transportation, and construction activities. Commercial shall be generally defined as retail, finance, insurance, real estate, and service trades. Office, where specifically noted, shall be defined as finance, insurance, real estate, and similar professional activities. Retail, where specifically noted, shall be defined as retail and retail service activities.
6. Restaurant shall be defined as sit-down, fast-food, or carry-out facilities.

(b) If a proposed development activity is not specified on the above fee schedule, the village administrator shall use the fee applicable to the most nearly comparable type of land use on the above fee schedules. The village administrator shall be guided in the selection of a comparable type by the zoning ordinance and consideration of the unique characteristics of the development. If the village administrator determines that there is no comparable type of land use on the above fee schedule then the village board shall determine the appropriately discounted fee by considering demographic or other documentation which is available from state, local and regional authorities.

(c) In case of change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit, the impact fee shall be based upon the net positive increase in the impact generated from the new use as compared to the previous use. The village administrator shall be guided in this determination by the sources listed above.

(Ord. of 12-14-98, § 1)

Sec. 56-8. Fee payment.

The feepayer shall pay the impact fee required by this section to the village administrator or his/her designee prior to issuance of a building permit.

(Ord. of 12-14-98, § 1)

Sec. 56-9. Administration of impact fees.

(a) There is hereby established separate impact fee trust accounts for the following categories:

- Fire and rescue facility trust account
- Fire and rescue vehicle trust account
- Library facility trust account
- Water facility trust account
- Park facility trust account

(b) Upon receipt of impact fees, the village treasurer shall be responsible for placement of such funds into separate accounts. All such funds shall be deposited in interest-bearing accounts in a bank authorized to receive deposits of village funds. Interest

earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds of such account.

- (c) The village treasurer shall maintain and keep accurate financial records for each such account that shall show the source and disbursement of all revenues; that shall account for all moneys received; that shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the capital improvements program; and that shall provide an annual accounting for each impact fee account showing the source and amount of all funds collected and the projects that were funded.

(Ord. of 12-14-98, § 1)

Sec. 56-10. Use of funds.

(a) Funds collected from impact fees shall be used solely for the purpose of acquiring or making capital facilities and shall not be used for maintenance or operations.

(b) Funds shall be expended in the order in which they are collected.

(c) In the event that bonds or similar debt instruments are issued for advanced provisions of capital facilities for which impact fees may be extended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in the definition section.

(d) At least once each fiscal period the village administrator shall present to the village board a proposed capital improvement program for assigning funds, including any accrued interest, from the impact fee trust accounts to specific improvement projects and related expenses. Moneys, including any accrued interest, not assigned in any fiscal period shall be retained in the same impact fee trust accounts until the next fiscal period except as provided by the refund provisions of section 56-11.

(e) Funds may be used to provide refunds as described in section 56-11.

(Ord. of 12-14-98, § 1)

Sec. 56-11. Refunds.

(a) If a building permit expires without commencement of construction, then the feepayer shall be entitled to a refund, without interest, of the impact fee previously paid. The feepayer must submit an application for such a refund to the village administrator within 30 days of the expiration of the permit. The application shall include such supporting documentation as the village may reasonably require.

(b) Any funds not expended or encumbered by the end of the calendar quarter immediately following ten years from the date the impact fee was paid shall be returned to the current landowner, without interest.

(Ord. of 12-14-98, § 1)

Sec. 56-12. Exemptions.

The following shall be exempted from payment of the impact fee:

- (1) Alterations or expansion of an existing residential building where no additional residential units are created.
- (2) The construction of accessory residential buildings or structures.
- (3) The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use.
- (4) Any claim of exemption must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

(Ord. of 12-14-98, § 1)

Sec. 56-13. Credits.

The following procedures apply regarding credits to the impact fee:

- (1) The impact fee program shall, if appropriate, establish and apply a credit equaling the net present value of any direct future payments the feepayer will pay towards capital facilities to be funded by impact fees and/or credit to compensate for moneys received by the village from the federal or state government specifically to provide or pay for the public facilities for which the impact fees are imposed.
- (2) Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
- (3) Determinations made by the village administrator pursuant to this paragraph may be appealed to the village board by filing a written request with the village administrator within ten days of the village administrator's determination.

(Ord. of 12-14-98, § 1)

Sec. 56-14. Review.

The fee schedule contained in section 56-7 shall be reviewed by the village at least once each fiscal year and modified, if necessary, as a result of (a) changes in credit calculation; (b) changing facility needs; (c) inflation; (d) revised cost estimates for capital improvements; (e) changes in the availability of other funding sources applicable to public facility projects; and (f) such other factors as may be relevant.

(Ord. of 12-14-98, § 1)

Sec. 56-15. Penalty provision.

A violation of this chapter shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to law; however, in addition to or in lieu of any criminal persecution, the village shall have the power to sue in civil court to enforce the provisions of this chapter.

(Ord. of 12-14-98, § 1)

Sec. 56-16. Variance/appeal provision.

If a feepayer contests the impact fee determined according to section 56-7, then the feepayer shall apply for a variance to the village board and prepare and submit to the village board an independent fee calculation study for the land development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The village board shall consider the documentation submitted by the feepayer and, if necessary, request clarification or additional information. If an acceptable independent fee calculation study is not presented, the feepayer shall pay impact fees based upon the schedule shown in section 56-7. If an acceptable independent fee calculation study is presented, the village board may adjust the fee to that appropriate to the particular development.

(Ord. of 12-14-98, § 1)

Chapter 57
Reserved

Chapter 58 LAW ENFORCEMENT*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 58-1.	Police protection.		
Sec. 58-2.	Special peace officers.		
Sec. 58-3.	Assistance by civilians.		
Secs. 58-4--58-30.	Reserved.		
Article II. Police Commission			
Sec. 58-31.	Created.		
Sec. 58-32.	Appointment.		
Sec. 58-33.	Officers; quorum.		
Sec. 58-34.	Authority for contract of police services.		
Sec. 58-35.	Annual report and budget request.		

***Cross references:** Administration, ch. 2; civil emergencies, ch. 30; courts, ch. 34; offenses and miscellaneous provisions, ch. 70; obedience to officers, § 70-72; assisting escape of prisoner, § 70-73; personating law enforcement officers, § 70-74; traffic and vehicles, ch. 102.

Article I. In General

Sec. 58-1. Police protection.

(a) The village police protection shall be provided by the county sheriff's department on a contract basis.

(b) County sheriff's department deputies and officers, while on duty in the village, will enforce all village ordinances.

(c) Any reference to police chief or police in this Code is to mean the county sheriff's department.

(Code 1960, § 3.01)

Sec. 58-2. Special peace officers.

The village president and trustees of the village board shall have and shall exercise the powers of peace officers and may summarily suppress any riotous or disorderly conduct in the streets or public places of the village.

(Code 1960, § 3.06)

Sec. 58-3. Assistance by civilians.

It shall be the duty of all persons in the village, when called upon by any police officer or peace officer, to promptly aid and assist the police officer or peace officer in the execution of his duties. Any person who shall neglect or refuse to give such aid or assistance shall be subject to a penalty as provided in section 1-11.

(Code 1960, § 3.02)

Secs. 58-4--58-30. Reserved.

Article II. Police Commission*

Sec. 58-31. Created.

A police commission is created under the authority of Wis. Stats. §§ 61.65 and 62.13.

(Code 1960, § 2.14)

Sec. 58-32. Appointment.

Five citizens of the village shall be appointed by the village president to the police commission, subject to confirmation by the village board. No appointment shall be made that will result in more than three commissioners belonging to the same political party at one time. No appointment shall be made that will result in more than two commissioners being members of the village board. At the last meeting in April of each year, a commissioner shall be appointed for five terms.

(Code 1960, § 2.14)

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

Sec. 58-33. Officers; quorum.

- (a) The police commission shall elect its own president and secretary.
- (b) Three members shall constitute a quorum.

(Code 1960, § 2.14)

Sec. 58-34. Authority for contract of police services.

The police commission shall be governed by Wis. Stats. §§ 61.65 and 62.13 and shall have exclusive authority regarding matters pertaining to control, management and administration of the contract for police services in the village with the county sheriff's department.

(Code 1960, § 2.14)

Sec. 58-35. Annual report and budget request.

The police commission shall submit an annual report and a budget request for the police service contract on or before October 1 of each year.

(Code 1960, § 2.14)

Chapters 59 - 61
Reserved

Chapter 62 LIBRARY*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 62-1.	Theft of materials.		
Sec. 62-2.	Fines and restrictions for overdue materials.		
Secs. 62-3--62-30.	Reserved.		
Article II. Library Board			
Sec. 62-31.	Appointment.		
Sec. 62-32.	Powers and duties.		
Secs. 62-33--62-60.	Reserved.		
Article III. Graham Public Library			
Division 1. Generally			
Secs. 62-61--62-85.	Reserved.		
Division 2. Memorial Trust Fund			
Sec. 62-86.	Created.		
Sec. 62-87.	Administration.	2021-09	10/25/21
Sec. 62-88.	Use of monies.	2021-09	10/25/21

***Cross references:** Administration, ch. 2; streets, sidewalks and other public places, ch. 90.

Article I. In General

Sec. 62-1. Theft of materials.

(a) *Statutes adopted; penalties.* For the purpose of this section, Wis. Stats. §§ 943.50 and 943.61(1), (2), (3), and (4) are adopted by reference. A person found guilty of these sections shall pay a forfeiture of not less than \$50.00 or more than \$500.00.

(b) *Responsibility of parents.* When a person under the age of 18 violates subsection (a) of this section, his parent, guardian, foster parent, or other adult person having the care and custody of the person shall be liable and shall be subject to the same forfeitures as set forth in subsection (a) of this section.

(Code 1960, § 12.04(7)(a), (b); Amd. of 11-13-00, § 1)

Cross references: Offenses against public and private property, § 70-131 et seq.

Sec. 62-2. Fines and restrictions for overdue materials.

A patron's library privileges will be restricted when overdue fines have exceeded \$15.00. A parent of a minor child 17 years of age or younger will be held responsible for the child's fines and will be restricted accordingly. Library material may be circulated with a minimum payment of \$5.00 or one-third of the fine, whichever is the greater. If further material is desired, another partial payment is required. When the fine is paid in full, no restriction shall apply to any family member.

(Code 1960, § 12.04(7)(c))

Secs. 62-3--62-30. Reserved.

Article II. Library Board*

Sec. 62-31. Appointment.

All members of the library board will be appointed for terms of three years and shall serve from May 1 of the year of their appointment. The village president may appoint, with the consent of the village board, one of the trustees of the village board as a member to hold office for two years from May 1 of the year of appointment. The principal of the Union Grove Graded School or the Union High School or their designated representative shall also be a member of the library board.

(Code 1960, § 2.08)

Sec. 62-32. Powers and duties.

The library board shall have the powers and duties as prescribed by Wis. Stats. ch. 43.
(Code 1960, § 2.08)

Secs. 62-33--62-60. Reserved.

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

Article III. Graham Public Library

Division 1. Generally

Secs. 62-61--62-85. Reserved.

Division 2. Memorial Trust Fund

Sec. 62-86. Created.

There is created a Graham Public Library Memorial Trust Fund, into which fund shall be placed all contributions, donations, funds and gifts for the Graham Public Library when and as such are received.

(Code 1960, § 14.08(1))

Sec. 62-87. Administration.

(a) All money received for the memorial trust fund shall be deposited with the village treasurer.

(b) The fund shall be administered by the board of the Graham Public Library, and disbursements from the fund shall be made only upon forms and in accordance with the procedure approved by the village clerk. The disbursement documents shall be signed by the president and secretary of the Graham Public Library Board.

(Code 1960, § 14.08(3))

Sec. 62-88. Use of monies.

Any and all monies received shall be retained in the memorial trust fund and shall be disbursed only in accordance with the instructions of the donor expressed at the time of making the gift. All monies deposited with the village treasurer in the memorial trust fund are to be used for property and capital improvements. Any earnings upon the deposit, loan or investment of the fund shall remain in and become part of the fund.

(Code 1960, § 14.08(2))

**Chapters 63 - 65
Reserved**

Chapter 66 MANUFACTURED HOMES AND TRAILERS*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Secs. 66-1--66-25.	Reserved.		
Article II. Mobile Home Parks			
Division 1. Generally			
Sec. 66-26.	State statutes and definitions adopted.		
Sec. 66-27.	Penalties for violations.		
Sec. 66-28.	Parking of mobile homes.		
Sec. 66-29.	Mobile home park plan.		
Sec. 66-30.	Standards for mobile homes.		
Sec. 66-31.	Accessory buildings, sheds, garages, carports.		
Sec. 66-32.	Water supply.		
Sec. 66-33.	Waste and garbage disposal.		
Sec. 66-34.	Limitations on length of stay and number of occupants.		
Sec. 66-35.	Management.	2021-10 2023-01	12/13/21 03/13/23
Sec. 66-36.	Applicability of plumbing, electrical and building requirements.		
Sec. 66-37.	Parking permit fees.	2020-10	11/16/20
Secs. 66-38--66-65.	Reserved.		
Division 2. License			
Sec. 66-66.	Required.		
Sec. 66-67.	Application; fee.		
Sec. 66-68.	Inspection and enforcement.	2020-10	11/16/20
Sec. 66-69.	Property maintenance and health and safety inspections fees.	2020-10	11/16/20
Sec. 66-70.	Revocation and suspension.	2020-10	11/15/20

***Cross references:** Buildings and building regulations, ch. 18; environment, ch. 42; health and sanitation, ch. 50; planning, ch. 82; solid waste, ch. 86; streets, sidewalks and other public places, ch. 90; land divisions, ch. 94; traffic and vehicles, ch. 102; utilities, ch. 106; vegetation, ch. 110; zoning, ch. 118.

Article I. In General

Secs. 66-1--66-25. Reserved.

Article II. Mobile Home Parks*

Division 1. Generally

Sec. 66-26. State statutes and definitions adopted.

For the purpose of this article, Wis. Stats. § 66.058 and the definitions therein are adopted as and for the general law of the village and are made applicable in the village.
(Code 1960, § 11.10(1))

Cross references: Definitions generally, § 1-2.

Sec. 66-27. Penalties for violations.

Any person violating any section of this article shall upon conviction forfeit not less than \$100.00 or more than \$500.00 and the costs of prosecution, and in default of payment of such forfeiture and the costs shall be imprisoned in the county jail until payment is made of such forfeiture and the costs of prosecution, but not exceeding 30 days for each violation, provided that the forfeiture for violation of section 66-28 shall not exceed \$25.00. Each day of violation shall constitute a separate offense.
(Code 1960, § 11.10(15))

Sec. 66-28. Parking of mobile homes.

(a) It shall be unlawful for any person to park any mobile home on any street, alley or highway or other public place or on any tract of land owned by any person, within the limits of the village.

(b) Emergency or temporary stopping or parking is permitted on any street, alley, or highway for not longer than one hour, subject to any further prohibitions, regulations, or limitations imposed by the traffic and parking regulations or ordinances for that street, alley or highway.

(c) No person shall park any mobile home on any premises which are situated outside an approved mobile home park.

(Code 1960, § 11.10(2))

***Cross references:** Businesses, ch. 22.

Sec. 66-29. Mobile home park plan.

A mobile home park plan shall consist of the following:

- (1) No mobile home or mobile home park shall be located in any fire district.

- (2) The minimum mobile home park size shall be five acres, with a minimum park width of 300 feet at the street right-of-way line.
- (3) The maximum number of mobile home sites within a mobile home park shall be 7.2 per net acre.
- (4) A minimum of ten percent of the mobile home park development area, exclusive of streets, shall be devoted to common recreational uses.
- (5) The minimum lot area for a mobile home shall be 6,000 square feet. The minimum lot width shall be 50 feet, with corner lots being not less than 60 feet.
- (6) The minimum setbacks for mobile homes shall be 25 feet from a mobile home park exterior lot line, 15 feet from a service road, and 12 feet from another mobile home unit. The minimum setbacks for accessory buildings will be three feet from exterior lot lines, and three feet from internal lot lines.
- (7) All drives and service roads shall be a minimum of 20 feet wide. All drives, service roads, parking areas, and walkways shall be surfaced with concrete or asphalt, shall be maintained in good condition, shall have natural drainage, shall be well lighted at night, and shall not be obstructed.
- (8) There shall be a minimum of two parking spaces per mobile home unit located on each lot. The parking area shall be well drained and shall be surfaced with concrete or asphalt.
- (9) Additional parking for visitors shall be provided at the rate of one space per mobile home site. Supplemental parking areas shall be provided in each mobile home park for boats, camping trailers, and utility trailers. No such equipment shall be parked on any mobile home site.
- (10) All mobile homes shall be provided with village water, sanitary sewer, and storm sewer facilities.
- (11) Where portable fuel tanks are utilized, they shall be placed at the rear or side of the mobile home in as close proximity to the rear of the unit as possible.
- (12) All electric, telephone, and cable TV lines shall be installed underground, except where determined unfeasible or otherwise undesirable by the plan commission.
- (13) Every mobile home park shall submit a solid waste disposal plan. Garbage and rubbish shall be collected weekly and disposed of by the park owner in accordance with the approved plan.
- (14) No business or commercial use, except permitted home occupations, shall be located on the mobile home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage, and a manager's office are permitted.
- (15) Each mobile home park shall be completely enclosed, except for permitted entrances and exits, by either:

- a. A grassed earthen berm at least six feet in height.
 - b. A fence of uniform material that is at least six feet in height and provides an effective screen.
 - c. A densely planted line of coniferous plants that will grow to a height of at least six feet within three years of planting.
 - d. Any combination of subsections (15)a through (15)c that provides a visual screen and is at least six feet in height.
- (16) Additional mobile homes shall be subject to the sewer connection fees as provided in article III of chapter 106.
- (17) Every mobile home unit shall be furnished with an electric service outlet. Such outlet shall be equipped with an externally operated switch or fuse of not less than 100 amperes capacity. Electric outlets shall be weatherproof, and no power lines shall be less than 15 feet above the ground.

(Code 1960, § 11.10(5))

Sec. 66-30. Standards for mobile homes.

- (a) The minimum setbacks for mobile homes shall be as provided in subsection 66-29(6).
- (b) All mobile homes shall be parked in designated spaces.
- (c) The total minimum floor area of the mobile home shall be 980 square feet.
- (d) The sum total of the floor area of the mobile home and all accessory buildings shall not exceed 30 percent of the lot area.
- (e) All mobile homes shall meet the construction standards of the Mobile Home Manufacturing Association.

(Code 1960, § 11.10(6))

Sec. 66-31. Accessory buildings, sheds, garages, carports.

- (a) No accessory building shall be closer than five feet to a mobile home.
- (b) Any structure within ten feet of a mobile home shall be 100 percent fire resistive as defined in the Wisconsin Administrative Code.
- (c) One shed is permitted per unit, with a maximum size of eight feet by 12 feet and with a maximum height of nine feet.

(d) The maximum size of a garage or carport shall be 336 square feet. The structure shall be no closer than five feet to any other structure.

(e) Additions, decks, porches, lean-tos, etc., shall be subject to the following:

(1) All enclosed additions will be 100 percent fire resistive, as defined in the Wisconsin Administrative Code.

(2) No addition shall be closer than ten feet to another structure.

(3) No structure shall extend past either the front or the back of the mobile home.

(f) No deck shall be closer than ten feet to the neighboring mobile home.

(g) Only one accessory building consisting of a garage, shed, or carport or other structure shall be allowed per mobile home lot.

(Code 1960, § 11.10(7))

Sec. 66-32. Water supply.

(a) An adequate supply of pure water, furnished through a pipe distribution system connected directly with the public water main, shall be furnished for drinking and domestic purposes in all mobile home parks.

(b) Individual water service connections provided for direct use of a nondependent unit shall be so constructed that they will not be damaged by the parking of such unit. Such system shall be adequate to provide 30 pounds of pressure per square inch and shall be capable of furnishing a minimum of 125 gallons per day per space.

(Code 1960, § 11.10(8))

Cross references: Water service generally, § 106-26 et seq.

Sec. 66-33. Waste and garbage disposal.

(a) All liquid waste from showers, toilets, laundries, faucets, lavatories, etc., shall be discharged into a sewer system extended from and connected with the public sewer system.

(b) Every space designed to service a nondependent unit shall be provided with sewer connections which shall comply with the state plumbing code. The sewer connection shall be provided with suitable fittings so that watertight connections can be made. Such connections shall be constructed so that they can be closed when not connected and shall be trapped in such a manner as to maintain an odor-free condition.

(c) All sanitary facilities in any unit that are not connected with a public sewer system by approved pipe connections shall be sealed, and their use is declared unlawful.

(d) Each faucet shall be equipped with facilities for drainage of waste and excess water.

(e) The licensee shall provide an adequate supply of dumpsters. Every mobile home owner shall use a dumpster provided by the mobile home park owner. No garbage or sanitary waste shall be stored outside a mobile home unit on any lot in the mobile home park.

(Code 1960, § 11.10(9))

Cross references: Solid waste, ch. 86; sewer service, § 106-161 et seq.

Sec. 66-34. Limitations on length of stay and number of occupants.

It shall be unlawful for any person to occupy any mobile home within the village except as provided in section 66-66.

(Code 1960, § 11.10(10))

Sec. 66-35. Management.

(a) Except as provided in subsection (c), in every mobile home park there shall be located the office of the attendant or person in charge of the park. A copy of the mobile home park license and of this article shall be posted therein, and the mobile home park register shall at all times be kept in the office.

(b) It is the duty of the attendant or person in charge, together with the licensee, to:

- (1) Keep a register of all residents, to be open at all times to inspection by the village, state, and federal officials, containing the following:
 - a. Names and addresses.
 - b. Dates of entrance and departure.
- (2) Maintain the park in a clean, orderly, and sanitary condition at all times. The licensee shall provide for waste, garbage, and recycling collection facilities as required by article II of chapter 86.
- (3) Ensure that the sections of this article are complied with and enforced and report promptly to the proper authorities any violation of this article or any other violation of law that may come to his attention.
- (4) Report to the health officer all cases of persons or animals affected or suspected of being affected with any communicable disease.
- (5) Maintain in convenient places, approved by the fire chief, hand fire extinguishers in the ratio of one to each eight units.
- (6) Collect the monthly parking permit fee provided for in section 66-37. A book shall be kept showing the names of the persons paying the service charges and the amount paid.

- (7) Prohibit the lighting of open fires on the premises.
- (c) A physical office may be omitted provided all of the following requirements are met:
 - (1) A weather-proof station is placed within a fully-accessible portion of the mobile home park that properly displays the following:
 - a. Mobile home park license.
 - b. Primary and secondary emergency contact information.
 - c. Location of the register of the mobile home park residents.
 - (2) The mobile home park operator or a designee in charge of the mobile home community in the absence of an operator shall, during the hours of 8 am to 5 pm, be available in, or in close proximity to, the community, or accessible via electronic means.
 - a. If the operator or designee resides in the mobile home park, a sign (no larger than 2 sq. ft. in area) bearing the title "Operator" or "Manager" shall be displayed on or near the unit number or on the front door

(Code 1960, § 11.10(11))

Sec. 66-36. Applicability of plumbing, electrical and building requirements.

(a) All plumbing, electrical, building and other work on or at any mobile home park licensed under this article shall be in accordance with this Code, other ordinances of the village and the requirements of the state plumbing, electrical, and building codes and the regulations of the state board of health. Licenses and permits granted under this article grant no right to erect or repair any structure, to do any plumbing work, or to do any electrical work.

(b) A permit for replacement mobile home must be completed prior to the installation of a new mobile home on a lot.

(Code 1960, § 11.10(12))

Cross references: Buildings and building regulations, ch. 18.

Sec. 66-37. Parking permit fees.

(a) There is imposed on each owner of a nonexempt, occupied mobile home in the village a monthly parking permit fee determined in accordance with Wis. Stat. §66.0435(3), which is adopted by reference and made a part of this article as if fully set forth in this section. It shall be the full and complete responsibility of the mobile homeowner to pay the monthly parking permit fee on or before the tenth day of the month following that month in which the parking permit fee is due.

(b) The monthly parking permit fee shall be collected by the licensee in accordance with Wis. Stat. §66.0435(3m). The permit fees, less two percent of the moneys collected, shall be remitted to the village clerk by the 15th day of the month to allow for timely payment to the school districts.

(c) Licensees of mobile home parks and owners of land on which are parked any occupied mobile homes shall furnish information to the village clerk and the village assessor on such homes added to their parks or land within five days after arrival of such homes, on forms furnished by the village clerk in accordance with Wis. Stat. §66.0435(3)(c) and (e).

Secs. 66-38--66-65. Reserved.

Division 2. License

Sec. 66-66. Required.

(a) It shall be unlawful for any person to establish, operate, or maintain or permit to be established, operated, or maintained upon any property owned, leased, or controlled by him a mobile home park within the limits of the village, without first having secured a license from the village board pursuant to this division.

(b) Not more than one such license shall be issued by the village board for any such mobile home park to be located in any common school district area in the village.

(c) Such license shall expire one year from the date of issuance, but may be renewed under this division for additional periods of one year.

(Code 1960, § 11.10(3)(a))

Sec. 66-67. Application; fee.

(a) The application for the mobile home park license or the annual renewal, accompanied by the state license and current inspection report thereof, shall be filed with the village clerk-treasurer and shall be accompanied by a fee for each 50 spaces or fraction thereof. The fee shall be as provided in the schedule of fees on file in the village clerk-treasurer's office.

(b) The application for a mobile home park license or a renewal thereof shall be made on forms furnished by the village clerk-treasurer and shall include the name and address of the owner in fee of the tract (if the fee is vested in some person other than the applicant, a duly verified statement by that person that the applicant is authorized by him to construct or maintain the mobile home park and make the application), and such legal description of the premises upon which the mobile home park is or will be located as will readily identify and definitely locate the premises. The application shall be accompanied by two copies of the park plan showing the following, either existing or as proposed:

- (1) The extent and area used for park purpose.
- (2) Roadways and driveways.

- (3) Location of units for mobile homes.
- (4) Method and plan of sewage disposal.
- (5) Method and plan of garbage disposal.
- (6) Plan for water supply.
- (7) Plan for electric lighting of units.
- (8) Plan for cable television.

(c) If the existing or proposed park is designed to serve nondependent mobile homes, such plans shall clearly set forth the location of all sewer and water pipes and connections.

(Code 1960, § 11.10(3)(b), (c))

Sec. 66-68. Inspection and enforcement.

(a) No mobile home park license shall be issued until the village clerk shall notify the law enforcement agency, fire inspector, and building inspector or their authorized agents for such application, and these officials shall inspect or cause to be inspected each application and the premises to determine whether the applicant and the premises on which mobile homes will be located comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the village board in writing the information derived from such investigation and a statement as to whether the applicant and the premises meet the requirements of the department for whom the officer is certifying. No license shall be renewed without a reinspection of the premises. For the purpose of making inspection and securing enforcement, such officials or their authorized agents shall have the right and are empowered to enter on any premises on which a mobile home is located or about to be located and to inspect the mobile home and all accommodations connected therewith at any reasonable time.

(b) Fees for inspections under this Section shall be as provided in the schedule of fees on file in the village clerk's office. Fees shall be charged for the following:

- (1) An annual inspection to be made by the building inspector, per unit, to be paid by the mobile home park owner.
- (2) Inspection fees for new or relocated units will be for placement, for electrical, and for plumbing.

Sec. 66-69. Property maintenance and health and safety inspections fees.

(a) When a mobile home's exterior has become so blighted or dilapidated, or a tenant of a rented mobile home complains to any Village official regarding an interior issue of a mobile home, including but not limited to electrical, plumbing, health and safety, a law enforcement agency, fire inspector, building inspector, or their authorized agents shall inspect or cause to be inspected the mobile home or the premises to determine whether the mobile

home or the premises on which the mobile home is located complies with the regulations, ordinances, and laws applicable thereto.

(b) Fees for inspections under this Section shall be as provided in the schedule of fees on file in the village clerk's office. Fees shall be charged for the following:

- (1) Inspection fees that are necessary as a result of property maintenance and health and safety concerns, to be paid by the mobile home park owner.
- (2) Inspection fees as a result of tenant complaints, to be paid by the mobile home park owner.

Sec. 66-70. Revocation and suspension.

The village board is authorized to revoke any license or permit issued pursuant to this division in accordance with Wis. Stat. §66.0435.

Chapters 67 - 69
Reserved

Chapter 70 OFFENSES AND MISCELLANEOUS PROVISIONS*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 70-1.	State nonfelony offenses and violations adopted.		
Sec. 70-2.	Penalties.	2013-02	05/13/13
Sec. 70-3.	Possession of controlled substance.		
Sec. 70-4.	Sale, possession, manufacture, delivery and advertisement of drug paraphernalia.		
Sec. 70-5.	Juvenile justice code adopted.		
Sec. 70-6.	Purchase or possession of tobacco products by minors prohibited.	2014-08 2021-02	09/08/14 01/01/21
Secs. 70-7	Smoking Prohibited Under Certain Conditions.	2011-05 2020-02	05/09/11 02/10/20
Secs. 70-8.	Electronic smoking devices	2018-14	08/10/18
Secs. 70-9 — 70-30.	Reserved.		
Article II. Offenses Endangering Public Safety			
Sec. 70-31.	Discharging and carrying firearms and guns.		
Sec. 70-32.	Throwing or shooting of arrows, stones and other missiles.		
Sec. 70-33.	Reserved.		
Sec. 70-34.	Obstructing streets and sidewalks.		
Sec. 70-35.	Sitting on parked vehicles.		
Sec. 70-36.	Drinking intoxicants in public or within parked motor vehicle.		
Sec. 70-37.	Sitting or standing on back rests of public benches.		
Sec. 70-38.	Occupying parkways.		
Sec. 70-39.	Emergency telephone system.		
Sec. 70-40.	Residency restrictions for sexual offenders.	2017-03	12/11/17
Sec. 70-41.	Sale and discharge of fireworks.	2021-09	10/25/21
Secs. 70-42--70-65.	Reserved.		
Article III. Offenses Endangering Public Peace and Order			
Sec. 70-66.	Disorderly conduct.		
Sec. 70-67.	Drunkenness; disturbances.		
Sec. 70-68.	Loud and unnecessary noise.		
Sec. 70-69.	Motor vehicle noise.		
Sec. 70-70.	Assault; abusive language.		
Sec. 70-71.	False fire alarms.		
Sec. 70-72.	Obedience to officers.		
Sec. 70-73.	Assisting escape of prisoner.		
Sec. 70-74.	Personating law enforcement officers.		
Secs. 70-75--70-100.	Reserved.		

***Cross references:** Courts, ch. 34; law enforcement, ch. 58; traffic and vehicles, ch. 102.

Article IV. Offenses Endangering Public Morals and Decency

Sec. 70-101. Gambling, lotteries, fraudulent devices and
practices.
Sec. 70-102. Loitering of minors.
Sec. 70-103. Disorderly houses.
Secs. 70-104--70-130. Reserved.

Article V. Offenses Against Public and Private Property

Sec. 70-131.	Destruction of property.	2014-05	02/10/14
Sec. 70-132.	Littering.	2012-05	08/27/12
Sec. 70-133.	Shoplifting.		
Sec. 70-134.	Theft.		
Sec. 70-135.	Worthless checks.		
Sec. 70-136.	Trespass.		
Sec. 70-137.	Loitering.		
Sec. 70-138.	Order to disperse.		
Sec. 70-139.	Truancy.	2013-02	05/13/13
Sec. 70-140.	Adult Contributing to Truancy.	2014-07	09/08/14
Secs. 70-141-70-200.	Reserved.		

Article VI. Reserved

Article I. In General

Sec. 70-1. State nonfelony offenses and violations adopted.

The nonfelony offenses and violations of the state criminal code, as amended, including the punishments thereof are adopted by reference in this section as if fully set forth, and violations thereof occurring in the village shall constitute violations of this section and shall be punished as provided therein or in section 1-11.

Sec. 70-2. Penalties.

A person violating any section of this chapter, except sections 70-4, 70-69, 70-132 and article IV of this chapter, shall be subject to a penalty as provided in this chapter. Any person who violates, disobeys, neglects, omits or refuses to comply with this chapter shall be fined not less than \$50.00 or more than \$200.00, together with the costs of prosecution, and in default of payment thereof shall be imprisoned in the county jail for a term of not more than 30 days or until such judgment is paid. In the event any person again violates, disobeys, neglects, omits or refuses to comply with the same section within one year from the conviction date of such first offense, the minimum and maximum fines for the second, and all subsequent offenses, shall be doubled.

Sec. 70-3. Possession of controlled substance.

It shall be unlawful for any person to carry, possess, sell, give, or use a controlled substance, as that term is defined in Wis. Stats. § 961.571, not constituting a felony, unless such substance was obtained directly from or pursuant to a valid prescription or order of a practitioner filled out in the course of his professional practice, or except as otherwise authorized by Wis. Stats. ch. 961.

(Code 1960, § 12.06)

Sec. 70-4. Sale, possession, manufacture, delivery and advertisement of drug paraphernalia.

(a) The nonfelony offenses and violations of Wis. Stats. § 961.571 et seq., as amended, including the punishments thereof constituting a forfeiture, are adopted by reference in this section as if fully set forth, and violations thereof occurring in the village shall constitute violations of this section and shall be punished as provided therein or in section 1-11.

(b) Penalties. Any drug paraphernalia used in violation of this section shall be seized and forfeited to the village.

(Code 1960, § 12.07)

Sec. 70-5. Juvenile justice code adopted.

(a) This section is enacted pursuant to the authority granted in Wis. Stats. § 938.17(2)(cm).

(b) Where a juvenile is adjudged to have violated an ordinance, the municipal court is authorized to impose any of the dispositions listed in Wis. Stats. §§ 938.343 and 938.344, in accordance with the provisions of those statutes.

(c) Where a juvenile adjudged to have violated an ordinance and who violates a condition of a dispositional order under Wis. Stats. § 938.343 or 938.344, the municipal court is authorized to impose any of the sanctions listed in Wis. Stats. § 938.355(6)(d), in accordance with the provisions of those statutes.

(Ord. of 11-25-96, § 1 (12.10))

Sec. 70-6. Purchase or possession of tobacco products by minors prohibited.

(a) Statutory authority. This section is created pursuant to chapters 254.92 and 938.343, Wis. Stats., as well as the 2019 amendment to the Federal Food, Drug and Cosmetic Act.

(b) Definitions.

Cigarette has the meaning given in section 139.30(1m), Wis. Stats.

Law enforcement officer has the meaning given in section 30.50(4s), Wis. Stats.

Nicotine product has the meaning given in section 134.66(1)(f), Wis. Stats.

Tobacco product has the meaning given in section 139.75(12), Wis. Stats.

(c) *Prohibition.*

(1) Except as provided in subsection (e), no person under the age of 21 years may do any of the following:

Buy or attempt to buy any cigarette, tobacco product, or nicotine product.

Falsely represent his or her age for the purpose of receiving any cigarette, tobacco product, or nicotine product.

Possess any cigarette, tobacco product or nicotine product.

(2) No person may purchase cigarettes, tobacco products, or nicotine products on behalf of, or to provide to, any person who is under 21 years of age.

(d) With respect to juveniles, as defined in 938.01(10m), Wis. Stats., the court may impose any penalty set forth in Chap. 938.343, Wis. Stats., upon conviction of a violation of this section. Any person ordered to pay a forfeiture under Chap. 938.343(2), Wis. Stats., shall forfeit not more than fifty dollars (\$50.00). Costs and penalty assessment may not be added for juveniles under 14 years of age. Any adult convicted of violating subsection (c)(2) hereof shall be assessed a penalty as provided in section 70-2.

(e) A person under the age of 21 years (1) may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under Chap. 134.65(1), Wis. Stats., or, (2) provided the person is at least 15 years old, a person under 21 years old may purchase, attempt to purchase or possess cigarettes, tobacco products, or nicotine products if the person is participating in an investigation under 254.916, Wis. Stats., conducted in accordance with 254.916(3), Wis. Stats.

Secs. 70-7. Smoking Prohibited Under Certain Conditions.

(a) **Purpose and authority.** This ordinance is adopted, pursuant to Wis. Stat. § 101.123(1), for the purpose of protecting the public health, safety, comfort and general welfare of the people of the Village of Union Grove.

(b) Findings.

- (1) Tobacco smoking is a well-recognized health risk for young people and adults and tobacco use is recognized as the single most preventable cause of death in the United States. Inhalation of nicotine is proven to be dangerous to everyone, as exposure to ultrafine particles may exacerbate respiratory illness such as asthma and may constrict arteries which could trigger a heart attack.
- (2) Electronic smoking devices are known by many different names. They are sometimes called “e-cigarettes”, “e-cigs”, “e-hookahs,” “mods,” “vape pens,” “vapes,” “tank systems,” and “electronic nicotine delivery systems.” Some devices are made to look like regular cigarettes, cigars, or pipes while other resemble pens, USB sticks, and other everyday items.
- (3) Electronic smoking devices produce an aerosol by heating a liquid that usually contains nicotine, the addictive drug in regular cigarettes and other tobacco products, as well as flavorings and other chemicals that help to make the aerosol. Users inhale this aerosol into their lungs. Bystanders can also breathe in this aerosol when the user exhales into the air. Electronic smoking devices can be used to deliver marijuana and other drugs.
- (4) While the aerosol from electronic smoking devices contain fewer toxic chemicals than found in regular cigarettes, the aerosol is not harmless, and such devices are not currently approved by the United States Food and Drug Administration (“FDA”) as a “smoking cessation” device. The aerosol can contain harmful and potentially harmful substances, including nicotine, heavy metals like lead, volatile organic compounds, and cancer-causing agents such as formaldehyde and diacetyl.

(c) **Adoption of State Law.** The provisions of Wis. Stats. § 101.123, as amended from time-to-time, regulating smoking in various enclosed places are hereby adopted and made part of this Section by reference. As prescribed by state statutes, a warning notice shall be issued to the “person in charge” for the first violation. As defined in this section, “smoking” shall include Electronic Smoking Devices.

(d) **Definitions.** Except as set forth below, the definitions of Wis. Stat. § 101.123(1) are hereby adopted. In this section:

“Cigarette” means any roll of tobacco wrapped in paper or any substance other than tobacco.

“Electronic smoking device” means any product containing or delivering nicotine or any other similar substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. “Electronic smoking device” includes any component part of such product whether or not sold separately. The term shall include such devices whether they are manufactured as electronic cigarettes, electronic cigars, electronic pipes or any other product name. “Electronic smoking device” is not included in any product that has been approved by the FDA for sale as a tobacco cessation product or is being marketed and sold solely for approved purposes.

“Law enforcement office” means any person employed by the state or any political subdivision of the state for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances that the person is employed to enforce.

“Smoke” or “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated oral smoking device, including lighted pipes, cigars, cigarettes, tobacco, and hookah. Smoking shall include the use of an Electronic Smoking Device which creates an aerosol or vapor, in any manner or in any form or the use of any oral smoking device.

“Tobacco Products” means cigars; Cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff, including moist snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking.

“Village buildings” and “village property” mean all village owned or operated buildings and those portions of buildings leased or operated by the village, and municipal property such as motor vehicles.

(e) **Prohibition.**

- (1) No person shall smoke in a place prohibited by Wis. Stat. § 101.123(2).
- (2) No person shall smoke or use Cigarettes, Electronic Smoking Devices, or Tobacco Products in Village buildings or Village-owned or leased motor vehicles.
- (3) No person shall smoke or use tobacco products, including chewing tobacco and other smokeless tobacco products, in Village Buildings or Village-owned motor vehicles.

(f) **Sale or possession of cigarettes, Electronic Smoking Devices, and Tobacco Products to or of persons under the age of eighteen.**

- (1) No person shall sell or offer for sale or provide for nominal or no consideration any electronic smoking device to any person under eighteen (18) years of age.
- (2) No person under eighteen (18) years of age shall possess or use any electronic smoking device.

(g) **Penalties.**

- (1) Any person violating the prohibition against smoking in enclosed places or upon those unenclosed spaces identified in Wis. Stats. § 101.123(d) and (e), shall be subject to a forfeiture of not less than \$100 nor more than \$250. Any person over the age of eighteen (18) violating Subsections (e)-(f) of this Section shall be subject to a forfeiture of not less than \$100 nor more than \$250. Any person over the age of eighteen (18), upon failure to pay the forfeiture, may be subject to not less than 2 nor more than 5 days of confinement in the county jail or house of corrections.
- (2) Any person in charge of property as defined in Wis. Stats. § 101.123(1)(d), who violates the provisions of Wis. Stats. §§ 101.123(2m)(b) to (d), or Sections 70-7(e)-(f), shall be subject to a forfeiture of \$100 and, upon failure to pay the forfeiture, may be confined in the county jail or house of correction for a period of 2 days. No person may be held subject to more than \$100 total forfeiture for violations occurring on the same calendar day. For violations subject to the forfeiture provided in this paragraph, no citation shall be issued to a person in charge who has not received a prior written warning notice.
- (3) If any person under the age of eighteen (18) is issued a citation for violating any portion of this Section, the Municipal Court is authorized to impose any of the dispositions listed in Wis. Stat. §§ 938.343 and 938.344.

(h) **Designation of outside smoking areas.** Notwithstanding any other provision of this section, any person in charge of a restaurant, tavern, private club or retail establishment may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club or retail establishment may smoke as provided in s. 101.123(4m), Wis. Stats. governing local authority to regulate smoking on public property. Any person in charge of a restaurant, tavern, private club or retail establishment that designates an area for smoking which is a reasonable distance from any entrance to a restaurant, tavern, private club or retail establishment shall assure that the designated area is kept free of litter including cigarette butts or other tobacco products.

(i) **Seizure.** A law enforcement officer shall seize any cigarette, electronic smoking device, or tobacco product from a person under the age of eighteen (18) found in violation of Subsection (f) of this Section.

(j) **Effect of Future Amendment to Wisconsin Statutes.** In the event that the provisions of Wis. Stats. § 101.123 are amended to delete the regulation of smoking in various enclosed places or the State removes the authority of municipalities to regulate smoking in enclosed places, this section shall have no effect and shall not be enforced within the Village, regardless of whether the ordinance remains included as a section of the Village's Code of Ordinances. In the event that the provisions of Wis. Stat. § 254.92 or other state statutes are amended to change the age of sale or possession of Cigarettes, Electronic Smoking Devices, or Tobacco Products from eighteen (18) to twenty-one (21), the amendment shall apply to this Section.

(k) **Severability.** Each section, paragraph, sentence, clause, word, and provision of this ordinance is severable, and if any such section or provision shall be held unconstitutional or invalid for any reason, such decision(s) shall not affect the remainder of the ordinance nor any part thereof other than that affected by such decision.

Secs. 70-8. Electronic smoking devices.

(a) Findings.

- (1) Electronic smoking devices are known by many different names. They are sometimes called "e-cigarettes", "e-cigs", "e-hookahs," "mods," "vape pens," "vapes," "tank systems," and "electronic nicotine delivery systems." Some devices are made to look like regular cigarettes, cigars, or pipes while other resemble pens, USB sticks, and other everyday items.
- (2) Electronic smoking devices produce an aerosol by heating a liquid that usually contains nicotine, the addictive drug in regular cigarettes and other tobacco products, as well as flavorings and other chemicals that help to make the aerosol. Users inhale this aerosol into their lungs. Bystanders can also breathe in this aerosol when the user exhales into the air. Electronic smoking devices can be used to deliver marijuana and other drugs.
- (3) While the aerosol from electronic smoking devices contain fewer toxic chemicals than found in regular cigarettes, the aerosol is not harmless, and such devices are not currently approved by the United States Food and Drug Administration ("FDA") as a "quit smoking" device. The aerosol can contain harmful and potentially harmful substances, including nicotine, heavy metals like lead, volatile organic compounds, and cancer-causing agents such as formaldehyde and diacetyl.

(b) **Purpose and authority.** This ordinance is adopted, pursuant to Wis. Stat. § 101.123(1), for the purpose of protecting the public health, safety, comfort and general welfare of the people of the Village of Union Grove.

(c) **Definitions.** Except as set forth below, the definitions of Wis. Stat. § 101.123(1) are hereby adopted. In this section:

“Village buildings” and “village property” mean all village owned or operated buildings and those portions of buildings leased or operated by the village, and municipal property such as motor vehicles.

“Electronic smoking device” means any product containing or delivering nicotine or any other similar substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. “Electronic smoking device” includes any component part of such product whether or not sold separately. The term shall include such devices whether they are manufactured as electronic cigarettes, electronic cigars, electronic pipes or any other product name. “Electronic smoking device” is not included in any product that has been approved by the FDA for sale as a tobacco cessation product or is being marketed and sold solely for approved purposes.

“Smoking” including the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form or the use of any oral smoking device.

(d) Prohibition.

- (1) No person may smoke an electronic smoking device in Village buildings or Village-owned or leased motor vehicles.
- (2) No person shall sell or offer for sale or provide for nominal or no consideration any electronic smoking device to any person under eighteen (18) years of age.
- (3) No person under eighteen (18) years of age shall possess or use any electronic smoking device.

(e) Severability. Each section, paragraph, sentence, clause, word, and provision of this ordinance is severable, and if any such section or provision shall be held unconstitutional or invalid for any reason, such decision(s) shall not affect the remainder of the ordinance nor any part thereof other than that affected by such decision.

(f) Penalty. Any person who violates provisions of this ordinance shall be subject to the penalties set forth in Section 1-11 of the Code of Ordinances, except that where a juvenile is adjudged to have violated an ordinance, the Municipal Court is authorized to impose any of the dispositions listed in Wis. Stat. §§ 938.343 and 938.344.

Secs. 70-9. --70-30. Reserved.

***Cross references:** Public nuisances affecting peace and safety, § 42-30; sale and discharge of fireworks, § 46-1.

Article II. Offenses Endangering Public Safety*

Sec. 70-31. Discharging and carrying firearms and guns.

No person, except a sheriff, constable, police officer or their deputies, shall fire or discharge any firearm, rifle, spring gun or airgun of any description within the village, provided that this section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the village board or the firing or discharging of BB guns upon premises by persons over 16 or under the direct personal supervision of a parent or guardian. This section shall be deemed to prohibit hunting within the village, provided that the sheriff may issue written permits to owners or occupants of private premises to hunt or shoot on such premises if he finds such privileges necessary for the protection of life or property, and subject to such safeguards as he may impose for the safety of the lives and property of other persons within the village.

(Code 1960, § 12.01(1))

Cross references: Weapons and fireworks in parks, § 74-31.

Sec. 70-32. Throwing or shooting of arrows, stones and other missiles.

No person shall throw or shoot any object, arrow, stone, snowball or other missiles or projectile, by hand or by any other means, at any other person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the village.

(Code 1960, § 12.01(2))

Sec. 70-33. Reserved.

Editor's note: Ord. No. 2009-1, § 2, adopted January 12, 2009, repealed § 70-33 in its entirety, which pertained to open burning, and derived from the Code of 1960, § 12.01(3), and an amendment of May 22, 2006, § 1. For current provisions pertaining to open burning, the user's attention is directed to chapter 46.

Sec. 70-34. Obstructing streets and sidewalks.

No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the village in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, or any church, public hall or meeting place.

(Code 1960, § 12.01(5)(a))

Cross references: Streets, sidewalks and other public places, ch. 90.

Sec. 70-35. Sitting on parked vehicles.

No person shall sit, stand or lie upon any portion of the exterior of any vehicle parked upon any public street or alley.

(Code 1960, § 12.01(5)(c))

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

Sec. 70-36. Drinking intoxicants in public or within parked motor vehicle.

(a) It shall be unlawful for any person to sell or serve or give to another person or offer to sell or serve or give to another person any fermented malt beverage or intoxicating liquor while upon any public street or sidewalk or within a parked motor vehicle located on any street within the village.

(b) It shall be unlawful for any person to consume any fermented malt beverage or intoxicating liquor while upon any public street or sidewalk or within a parked vehicle located on any street with the village.

(Code 1960, § 12.01(5)(d))

Cross references: Alcohol beverages, ch. 6; streets, sidewalks and other public places, ch. 90; stopping, standing and parking generally, § 102-36 et seq.

Sec. 70-37. Sitting or standing on back rests of public benches.

No person shall sit or stand upon any portion of the back rest of any public bench. However, sitting on public benches on the seats of the benches is encouraged and authorized.

(Code 1960, § 12.01(5)(e))

Sec. 70-38. Occupying parkways.

No person shall occupy that portion of the street right-of-way commonly known as the "parkway" except during the period from 5:00 a.m. prior to the scheduled beginning of a parade or demonstration until one hour after the end thereof, along the designated route of such parade or demonstration.

(Ord. of 7-13-98, § 1.A.2.)

Sec. 70-39. Emergency telephone system.

(a) *Definition.* "911 emergency telephone system" has the meaning specified in Wis. Stats. 146.70(1)(l).

(b) *Regulated use.*

- (1) No person shall use the 911 emergency telephone system for regular business or nonemergency telephone calls. If the identity of the caller is not or cannot be determined, the person or entity to whom the 911 service is billed shall be deemed to be in violation of this section.
- (2) No person shall intentionally dial the telephone number 911 to report an emergency, knowing that the fact or situation which the reports does not exist.

(c) *Penalty for violation of section.* Any person convicted of a violation of this section shall forfeit not less than \$25.00 nor more than \$300.00, plus costs and penalty assessments, for nonemergency use, and not less than \$50.00 nor more than \$750.00, plus

costs and penalty assessments, for an intentional violation, and in default of payment thereof, may be confined in the county jail for not more than 30 days.

(Ord. of 3-8-99(1), § 1)

Sec. 70-40. Residency restrictions for sexual offenders.

(a) *Recitals, Findings and Intent.*

(1) *Recitals.*

- a. Whereas, after reviewing and discussing examples of sex offender residency restriction ordinances from several other Cities, Towns and Villages, including maps of prohibited locations for the residency of sex offenders corresponding to such ordinances, the locations of places where children are known to congregate in the Town and a power point presentation on Sex Offender Residency Restrictions, after several public meetings, the Village Board adopted the first version of this ordinance on August 8, 2008.
- b. Whereas the United States District Court for the Eastern District of Wisconsin issued an Order on April 17, 2017, in the case titled *Hoffman v. Village of Pleasant Prairie*, which contained holdings that directly impact the terms of the Village's Municipal Code Section 70-40 and make it necessary to amend the terms of this Section to comply with the District Court's holdings.
- c. Whereas, on September 26, 2017 and October 17, 2017, the Village's Police Commission held public meetings on proposed revisions to the Village's Residency Restrictions Sexual Offenders. At these meetings, the Committee reviewed and discussed the existing ordinance, proposed revisions to the existing ordinance and discussed the following written materials:
 1. "Recidivism of Adult Sexual Offenders." U.S. Department of Justice, July 2015, SOMAPI (Sex Offender Management Assessment and Planning Initiative); and
 2. "An Overview of Sex Offender Management." July 2002, U.S. Department of Justice, CSOM (Center for Sex Offender Management); and
 3. "There goes the Neighborhood? Estimates of the Impact of Crime Risk on Property Values from Megan's Laws." May 2006, National Bureau of Economic Research; and

4. Order of the Honorable J.P. Stadtmueller of the United States District Court, Eastern District of Wisconsin, Hoffman et al. v. Village of Pleasant Prairie, Case No. 16-CF-697-JPS.

d. Whereas, the Village Board held a public meeting on November 13, 2017 on this ordinance. At this meeting the Village Board reviewed the existing ordinance, proposed revisions to the existing ordinance and discussed the same materials as the Commission as set forth under subsection (d) above.

- (2) Findings. This ordinance is a regulatory measure aimed at protecting the health and safety of children in the Village from the risk that convicted sex offenders may reoffend in locations close to their residences. The Village Board finds and declares that repeat sexual offenders who use physical violence and sexual offenders who prey on children, are sexual offenders who present an extreme threat to the public safety and the health of children. Sexual offenders are extremely likely to use physical violence and to repeat their offenses; and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large and the community where they reside, while incalculable, clearly exorbitant. It is further believed that such persons present an alarmingly high risk of re-offending once released and as such it is better for sex offenders to reside in their home community where their support systems exist rather than in a community where the sex offender may not have a support network. The Village Board finds the risk of recidivism increases if the sex offender recently offended and if the sex offender does not have a strong social network, including community and familial ties. The Village Board is aware of many studies and reports concerning recidivism of sex offenders and the effectiveness of sex offender residency restrictions. The Village Board acknowledges that literature on the subject includes some studies that support the practice of sex offender residency restrictions and others that are critical of the practice. As such, the Village hereby establishes regulations which restrict certain offenders from residing or congregating in areas that are at or near where there is a high concentration of children in order to provide better protection for children in the Village by minimizing immediate access and proximity to children and thereby reducing opportunity and temptation for recidivism.
- (3) Intent. It is expressly not the intent of this Ordinance to impose additional punishment on sex offenders, but rather to serve the Village's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the Village by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sex offenders and sex predators are prohibited from establishing residency. The Village establishes these regulations in order to provide protection to children in the Village by minimizing

immediate access and proximity to children and thereby reducing opportunity and temptation for recidivism. Due to the high rate of recidivism for sexual offenders, and because reducing both opportunity and temptation would help minimize the risk of reoffense, there is a compelling need to protect children where they congregate or play in public places.

(b) *Definitions.* The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except when the context clearly indicates a different meaning:

- (1) “Child” or “Children” means person(s) under the age of eighteen (18) years for purposes of this Ordinance.
- (2) “Crime Against Children” shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction or adjudication, respectively: § 940.22(2) Sexual Exploitation by Therapist; § 940.30 False Imprisonment where victim was a minor and not the offender's child; § 940.31 Kidnapping where victim was minor and not the offender's child; § 944.01 Rape (prior statute); § 944.06 Incest; § 944.10 Sexual Intercourse with a Child (prior statute); § 944.11 Indecent Behavior With a Child (prior statute); § 944.12 Enticing Child for Immoral Purposes (prior statute); § 948.02(1) First Degree Sexual Assault of a Child; § 948.02(2) Second Degree Sexual Assault of a Child; § 948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child; § 948.05 Sexual Exploitation of a Child; § 948.055 Causing a Child to View or Listen to Sexual Activity; § 948.06 Incest with a Child; § 948.07 Child Enticement; § 948.075 Use of a Computer to Facilitate a Child Sex Crime; § 948.08 Soliciting a Child for Prostitution; § 948.095 Sexual Assault of a Student by School Instructional Staff; § 948.11(2)(a) or (am) Exposing Child to Harmful Material, felony sections; § 948.12 Possession of Child Pornography; § 948.13 Convicted Child Sex Offender Working with Children; § 948.30 Abduction of Another's Child; § 971.17 Not Guilty by Reason of Mental Disease, of an included offense; and § 975.06 Sex Crimes Law Commitment.
- (3) “Designated Offender” means any person who (1) has been convicted of a Crime Against Children; (2) has been adjudicated delinquent for a Crime Against Children; (3) is required to register under Section 301.45, Wisconsin Statutes, for any sexual offense; or (4) any person who is required to register under Section 301.45, Wisconsin Statutes, and who has been designated a Special Bulletin (SBN) sex offender pursuant to Sections 301.46(2) and (2m), Wisconsin Statutes.
- (4) “Juvenile” means a person under the age of eighteen (18) years.
- (5) “Residence” means a place where the Designated Offender resides or dwells or is used by a Designated Offender as the primary location for

basic life functions such as sleeping or eating, whether short or long-term but for an aggregate of 14 or more days in any one-year period.

- (6) "Protected Location" means any School Property, Day Care Center, Library, Park, Recreational Trail, Playground, Athletic Fields used by children, Place of Worship, Swimming Pool, the Village Hall, or any other place designated in the Map adopted by the Village under Sec. 70-40(c)(3) as a place where children are known to congregate. The defined terms included in the definition of Protected Location are:
- a. "School Property" means any public school as defined by Wis. Stat. § 115.01(1); a private school as defined by Wis. Stat. § 115.001(3); a charter school as defined by Wis. Stat. § 115.001(1); a specialty school, including, but not limited to, a Montessori school, a gymnastics academy, dance academy, or music school.
 - b. "Day Care Center" means a facility that has been licensed under Wis. Stat. § 48.65 to provide care and supervision of children and includes "before- and after-school daycare," which has the meaning as defined by Wis. Stat. § 120.125(1).
 - c. "Library" means any library that is held open for use by the public where such library includes a collection of material specifically intended for use by children.
 - d. "Park" means any area held open for use by the public for active or passive leisure purposes, including, but not limited to, any park, recreation area or beach. "Park" shall also mean any privately owned neighborhood parks and open spaces where children congregate such as those owned by a homeowners association of a subdivision.
 - e. "Playground" means any public outdoor area set aside for recreation and play and includes any area with playground equipment including, but not limited to, swings, slides, sandboxes, seesaws.
 - f. "Place of Worship" means a church, synagogue, mosque, temple or any other building where congregations gather for prayer.
 - g. "Swimming Pool" means where children swim or wade in a pool or other aquatic facility held open for use by the public or where no lifeguard is on duty and children are known to congregate.
 - h. "Recreational Trail" means a trail where children walk, ride bicycles, or ride horses, whether publicly or privately owned.

(c) *Sex Offender and Sex Predator Residence; Prohibitions, Zones and Exceptions.*

- (1) Child Safety Zones. The following distance restriction provides areas within which Designated Offenders are not allowed to reside based upon specific criteria. These areas are referred to in this Ordinance as "Child Safety Zone(s)."
 - a. It is unlawful for any Designated Offender to establish a Residence within 500 feet (500') of a Protected Location.
 - b. A Designated Offender shall not establish a Residence within a one hundred foot (100') radius of an existing Residence of another Designated Offender.
- (2) Determination of Minimum Distance Separation. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight and shortest line from the outer property boundary line of the Residence of a Designated Offender to the nearest outer property boundary line of a Protected Location.
- (3) Maps. A map depicting the above Protected Locations and the resulting residency restriction distances known as Child Safety Zones shall be adopted by Resolution of the Village Board, and which map may be amended from time-to-time, is on file in the Office of the Village Clerk for public inspection. This Map is a tool that the Village chooses to utilize to provide notice to the public of the requirements of the Ordinance. In the event of a conflict between the Map and this Ordinance where a Protected Location is inadvertently omitted from the Map, the written provisions of this Ordinance shall control.
- (4) Notification. A Designated Offender must notify the Village Clerk a minimum of twenty-eight (28) days prior to establishing a Residence within the Village of Union Grove.
- (5) Exceptions. A Designated Offender shall not be in violation of this Ordinance if any of the following apply:
 - a. The Designated Offender established the Residence and reported and registered the residence pursuant to Section 301.45, Wisconsin Statutes, before the original effective date of this Ordinance of April 19, 2008.
 - b. The Designated Offender is a Juvenile placed with a guardian.
 - c. The Protected Location situated within Five Hundred (500) feet of the Designated Offender's Residence was opened or established after the Designated Offender established the Residence and reported and registered the Residence pursuant to Section 301.45, Wisconsin Statutes.
 - d. The residence is also the primary residence of the Designated Offender's parents, spouse or adult children, provided that such parent, spouse or adult children established the residence at

least two (2) years before the Designated Offender established residence at the location and the residence is owner-occupied.

- e. The person is a Designated Offender that has been adjudicated a sexually violent person pursuant to Wisconsin Statutes Chapter 980 if the Designated Offender is subject to supervised release under Wisconsin Statutes Chapter 980, the Designated Offender is residing where he or she is ordered to reside under Wis. Stat. §980.08, and the Sex Offender is in compliance with all court orders issued under Wisconsin Statutes Chapter 980.
- f. The Designated Offender had not attained the age of 19 at the time of the offense, was determined by the Circuit Court to meet the criteria under Wis. Stat. § 301.45(1m)(a) and is not required to register pursuant to Wis. Stats. § 301.45 or § 301.46.
- g. The Designated Offender is a ward under guardianship, is placed in accordance with the guardianship orders, and is living with the appointed guardian;
- h. In such cases involving a ward or Juvenile placed in accordance with an exception, when the ward or Juvenile turns 18 years of age, the ward or Juvenile would be allowed to continue to reside at the already established residence.

(d) *Property Owners Prohibited From Renting Real Property To Certain Sexual Offenders and Sexual Predators.* It shall be unlawful for any property owner to lease or rent any place, structure, mobile home, trailer or any part thereof, with the knowledge that it will be used as a Residence by any Designated Offender prohibited from establishing a Residence therein pursuant to this Ordinance, if such place, structure, or mobile home, trailer or any part thereof, is located within a Child Safety Zone as defined in this ordinance.

(e) *Public Nuisance.* Any violation of this Chapter shall be deemed a public nuisance affecting peace and safety and the Village may proceed under Chapter 42 of the Code of Ordinances and/or Chapter 823 of the Wisconsin Statutes to abate the nuisance.

(f) *Injunction for Violation of Residency Restrictions.* If an offender establishes a Residence in violation of subsection (c) above, the Village Clerk, in conjunction with the Village's law enforcement officer may refer the matter to the Village Attorney. The referral shall include a written determination by the law enforcement officer that, upon all of the facts and circumstances and the purpose and intent of this Ordinance, such violation interferes substantially with the comfortable enjoyment of life, health, and safety of another or others. Upon such referral, the Village Attorney shall bring an action in the name of the Village in Circuit Court to permanently enjoin such residency as a public nuisance.

(g) *Appeal for an exemption.*

- (1) A Designated Offender may seek an exemption from this ordinance by appealing to the sex offender residency board (the "Appeals Board").

- (2) The Appeals Board shall consist of three citizens and one alternate, who are residents of the Village, who shall serve without compensation. For the initial appointments to the Appeals Board, the Village President shall appoint three members to staggered terms of one, two or three years, subject to confirmation by the Village Board and one alternate for a term of three years. After the initial appointment of members to a term of one, two and three years respectively, the Village President shall annually appoint one member for a term of three years and one alternate for a term of three years every third year, subject to confirmation by the Village Board, commencing on May 1st. At the first meeting held of the Appeals Board after the first Monday of May of each year, the members of the Appeals Board shall vote by majority vote to select a chair for its meetings and appeals that come before it.
- (3) The Appeals Board shall approve of an official appeal form, establish filing procedures, a hearing schedule and deadlines for filing an appeal. An offender shall complete this official form and submit it to the Village Clerk, who shall forward it to the Appeals Board. The filing fee for the appeal may be set by resolution of the Village Board from time-to-time. Notice in the form of an agenda shall be posted and/or published as required by law and provided to the Appeals Board, the property owner if not the applicant, and published on the Village's website at least seven days prior to the hearing date.
- (4) The Village elects not to be bound by Wis. Stat. Ch. 68 with respect to administrative procedure in the appeals process. The Appeals Board shall hold a hearing on each appeal to conduct an individual risk assessment in each case, during which the Appeals Board may review any pertinent information and may accept oral and written statements from any person. The Designated Offender that filed the appeal shall appear at any hearing held, unless otherwise approved by the Appeals Board. The Appeals Board shall consider the public interest as well as the applicant's presentation and concerns, giving the applicant a reasonable opportunity to be heard. The Appeals Board shall also consider any oral, emailed, and written statements from any person at the hearing or received in advance of the hearing. The Appeals Board shall consider the specific facts and circumstances of each applicant and determine whether the applicant presents a threat to public safety if he or she resides at that proposed location. The Appeals Board shall consider factors which may include, but are not limited to, the following:
- a. Circumstances surrounding the offense.
 - b. Relationship of offender and victim.
 - c. Presence or use of force.
 - d. Presence of enticement.
 - e. Need to protect victim or similarly situated individuals.
 - f. Current dangerousness of the offender.
 - g. Proximity in time from original offense.
 - h. Any criminal offenses, ordinance or rule violations committed since original offense including failures to register or comply with restrictions set by bond, parole or probation.

- i. Time out of incarceration.
- j. Current supervision status by the Department of Corrections.
- k. Counseling and treatment history.
- l. Credibility of offender.
- m. Remorse.
- n. Proximity of proposed residence to a child safety zone.
- o. Support network of offender near proposed residence.
- p. Alternative options for housing.

- (5) The Appeals Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or be conditional to a certain address or period of time. In the case of an approval or denial, the Appeals Board shall provide a written copy of the decision containing the reasons therein for its decision to the Village Clerk, the law enforcement officer and to the applicant. The decision of the Appeals Board may be appealed to the Racine County Circuit Court by any aggrieved party within 30 days of filing of the final decision in the Village's Clerk's office, a copy of which shall be mailed to the Designated Offender who appealed. The review shall be a review by certiorari and the Circuit Court may affirm or reverse the final decision, or remand to the decision maker for further proceedings consistent with the Court's decision.

(h) *Loitering.*

- (1) *Offense.* It shall be unlawful for any Designated Offender to loiter or prowl within 200 feet of a Protected Location or other location where children regularly congregate; in a place, at a time, or a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a code enforcement officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstances makes it impractical, a code enforcement officer shall, prior to any citation for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself, or explain his or her presence and conduct at the aforementioned locations. No person shall be convicted of an offense under this section if the code enforcement officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true, and, if believed by the code enforcement officer at the time, would have dispelled the alarm.

- (2) *Exceptions.* The prohibitions set forth in subsection (1) shall not apply where:
- a. The actor was a juvenile or ward with his or her parent or other adult person having his or her care, custody or control; or the actor was exercising First Amendment rights protected by the

United States Constitution, including freedom of speech, free exercise of religion and the right of assembly.

- b. The actor is on the property for a legitimate purpose, including but not limited to visits for employment, education, or health purposes, and the property owner has given prior written permission for the offender to be present on the property during such times and dates.
- (i) *Severability.* Should any section, paragraph, sentence, clause or phrase of this Section be declared unconstitutional or invalid, or be repealed, it shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or repealed.
- (j) *Penalties.* Any person who violates any provision of this Section shall, upon conviction thereof, be subject to a forfeiture not to exceed Five Hundred (\$500.00) Dollars, together with the costs of prosecution, and in default of payment thereof, shall be committed to the County Jail for a period not to exceed ninety (90) days. Each violation and each day such violation continues shall be considered a separate offense. Neither the issuance of a citation nor the imposition of forfeiture hereunder shall preclude the Village from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this Section.

Sec. 70-41. Sale and discharge of fireworks.

(a) *Definition.* The term "fireworks" as used in this section shall be defined as provided in Wis. Stats. § 167.10(1), and shall be deemed to include all rockets or similar missiles containing explosive fuel.

(b) *Private use and sale.* No person shall sell, expose or offer for sale, use, keep, discharge or explode any fireworks, except toy pistol paper caps, sparklers and toy snakes, within the village limits unless he shall be authorized by a fireworks permit as provided in this section.

(c) *Fireworks permits.* Fireworks, other than those prohibited by state statutes, may be used and displayed in open fields, parks, rivers, lakes and ponds by public authorities, fair associations, amusement parks, park boards, civic organizations and other groups of individuals when a permit for such display has been granted by the village president. All applications shall be referred to the fire chief for investigation. No permit shall be granted unless the village president from the report of the fire chief determines that the applicant will use the fireworks in a public exhibition, that all reasonable precautions will be exercised with regard to the protection of the lives and property of all persons and that the display will be handled by a competent operator and conducted in a suitable, safe place and manner. Before granting any fireworks permit, the village president shall require the applicant to post with the village clerk an approved indemnity bond in the sum provided in the fee schedule on file with the clerk, for the payment of all claims that may arise because of injuries to persons or property from the handling, use or discharge of fireworks under such permit.

(Code 1960, § 12.01; Ord. No. 2009-1, § 1, 1-12-09)

Editor's note: Ord. No. 2009-1, § 1, adopted January 12, 2009, intended to amend the Code by renumbering the former § 46-1 as § 70-40. Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been redesignated as § 70-41. The historical notation has been preserved for reference purposes.

Cross references: Offenses endangering public safety, § 70-31 et seq.; weapons and fireworks in parks, § 74-31.

Secs. 70-42--70-65. Reserved.

Article III. Offenses Endangering Public Peace And Order*

Sec. 70-66. Disorderly conduct.

No person within the village shall:

- (1) In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons.
- (2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

(Code 1960, § 12.02(1))

Sec. 70-67. Drunkenness; disturbances.

(a) No person shall be found in or upon any public place in the village in a state of intoxication.

(b) No person shall play any musical instrument or play or cause to be played any radio, recording machine or any other sound reproducing machine, to the annoyance and disturbance of the public.

(c) No person shall be guilty of any boisterous revelry or obscenity, any breach of the peace, any improper noise or disturbance, indecent exposure of his person, or fighting or threatening to fight.

(d) It shall be the duty of the police officers to summarily arrest and take before the municipal court any person violating this section.

(Code 1960, § 12.02(2))

Cross references: Alcohol beverages, ch. 6.

Sec. 70-68. Loud and unnecessary noise.

No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises, which may annoy or disturb a person of ordinary sensibilities in or about any public street, alley or park or any private residence.

(Code 1960, § 12.02(3))

***Cross references:** Public nuisances affecting peace and safety, § 42-30.

Sec. 70-69. Motor vehicle noise.

(a) No person shall make unnecessary and annoying noise with a motor vehicle by squealing tires, excessive acceleration of the engine or by emitting unnecessary and loud muffler noises.

(b) Any person who shall violate this section shall, upon conviction, be subject to a forfeiture of not less than \$50.00 or more than \$200.00, together with the costs of prosecution, and in default of the payment thereof, shall be imprisoned in the county jail for a period of not more than ten days.

(Code 1960, § 12.03(2))

Cross references: Traffic and vehicles, ch. 102.

Sec. 70-70. Assault; abusive language.

(a) No person shall assault another when not excusable or justifiable.

(b) No person shall use in reference to and in the presence of another or in reference to and in the presence of a member of his family abusive or obscene language intended or naturally intending to provoke an assault or any breach of the peace.

(Code 1960, § 12.02(4))

Sec. 70-71. False fire alarms.

No person shall give or send or cause to be given or sent in any manner any alarm of fire which he knows to be false.

(Code 1960, § 12.02(5))

Cross references: Fire prevention and protection, ch. 46.

Sec. 70-72. Obedience to officers.

No person shall, without reasonable excuse or justification, resist or in any way interfere with any officer of the village while such officer is doing any act in his official capacity and with lawful authority.

(Code 1960, § 12.02(6))

Cross references: Law enforcement generally, ch. 58.

Sec. 70-73. Assisting escape of prisoner.

No person shall intentionally aid any prisoner or person to escape from the lawful custody of a police officer or peace officer of the village.

(Code 1960, § 12.02(7))

Cross references: Law enforcement generally, ch. 58.

Sec. 70-74. Personating law enforcement officers.

No person shall personate a law enforcement officer in the village.

(Code 1960, § 12.02(8))

Cross references: Law enforcement generally, ch. 58.

Secs. 70-75--70-100. Reserved.

Article IV. Offenses Endangering Public Morals and Decency*

Sec. 70-101. Gambling, lotteries, fraudulent devices and practices.

All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the limits of the village. Any village law enforcement officer is authorized to seize anything devised solely for gambling or found in actual use for gambling within the village and to dispose thereof, after a judicial determination that the device was used solely for gambling or found in actual use for gambling.

(Code 1960, § 12.03(1))

Sec. 70-102. Loitering of minors.

(a) *Curfew.* It shall be unlawful for any person under the age of 17 years to congregate, loiter, wander, stroll, stand or play in or upon public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots or any public places in the village, either on foot or in or upon any conveyance being driven or parked thereon, between the hours of 11:00 p.m. and 5:00 a.m. of the following day, official village time, unless accompanied by his parent, guardian or other adult person having his care, custody or control.

(b) *Responsibilities of parents, guardians, etc.* It shall be unlawful for any parent, guardian or other adult person having legal custody and control of any person under the age of 17 years of age to allow or permit such minor to violate this section.

(c) *Penalties.*

(1) Any minor found violating subsection (a) of this section shall be delivered by any police officer of the village to the custody of the person having legal control over the minor. Any minor found violating subsection (a) of this section shall be dealt with in accordance with Wis. Stats. ch. 48.

(2) Any person who shall violate subsection (b) of this section shall, upon conviction, forfeit not less than \$1.00 or more than \$50.00, together with the costs of prosecution, and in default of payment thereof shall be imprisoned in the county jail until such forfeiture and costs are paid, but not to exceed ten days.

(Code 1960, § 12.03(4))

*Cross Reference: Public Nuisances offending morals and decency, § 42-29.

Sec. 70-103. Disorderly houses.

(a) "Disorderly house" means any building, place or room in which gambling, prostitution or liquor and fermented malt beverage violations occur or which is used for the purpose of unlawfully selling, storing, keeping or giving away controlled substances as defined in Wis. Stats. Ch. 961.

(b) No person shall knowingly keep, control, operate or own a disorderly house, or knowingly frequent, patronize or otherwise be found within any disorderly house.

(c) In addition to the forfeiture provision of this section, the operation of a disorderly house shall be deemed to be a public nuisance and may be enjoined by the village.

(d) Each day during which a violation occurs shall constitute a separate offense. Upon conviction, any person found to be in violation of this article shall forfeit not less than \$20.00 nor more than \$1,500.00, except in the case of controlled substance violations, for which the forfeiture shall not be less than \$500.00 nor more than \$2,500.00. (Ord. of 7-13-98, § 1.A.4.)

Secs. 70-104--70-130. Reserved.

Article V. Offenses Against Public and Private Property*

Sec. 70-131. Destruction of property.

(a) No person shall willfully injure or intentionally deface, destroy, or meddle with any property of any kind or nature belonging to any private person, company or corporation or to any public body, without the consent of the owner or proper authority.

(b) No person shall willfully or intentionally remove or take any property of any kind or nature belonging to any private person, company or corporation or to any public body, without the consent of the owner or proper authority."

(Code 1960, § 12.04(1))

Cross references: Destruction of park property, § 74-30.

Sec. 70-132. Littering.

(a) It shall be unlawful for any person to place, throw, leave or permit to remain any rubbish, paper, dirt or filthy substance upon any street, gutter, sidewalk, alley or public ground in the village. It shall be the duty of each and every owner or occupant of any building, dwelling house, store, shop, tenement or structure of any kind and description fronting on or abutting any street, sidewalk, gutter, alley or public ground to clean by sweeping, scraping or shoveling away any such rubbish, dirt, or filth from the sidewalks.

***Cross references:** Businesses, ch. 22; theft of library materials, § 62-1; damage to or tampering with sewer service facilities, § 106-168.

(b) It shall be the duty of every owner, lessee and tenant of any vacant, sunken or excavated lot in the village to keep the lot at all times clean and inoffensive, and when required by the Village Board to provide around the lot a proper fence, so as to effectually prevent the throwing or depositing therein or thereupon of any garbage or offensive thing whatsoever at any time.

(c) No person having control or charge of any lot, tenement, premises, building or other place shall cause or permit any nuisance to be or remain in or upon the lot, tenement, building, or other place or between such and the center of the street, lane or alley adjoining at any time.

(d) It shall be the duty of owner(s), occupant(s), agent(s) or person(s) in charge of any lot or parcel of land within the limits of this village to not allow such area(s) to deteriorate to such a condition as to be a blighting influence on surrounding areas or adjoining premises. It shall also be the duty of owner(s), occupant(s), agent(s) or person(s) in charge of any lot or parcel of land within the limits of this village to remove or destroy all rubbish. The term "rubbish" includes but is not limited to: garbage, refuse, ashes, manure, tin cans, tires, batteries, paper, lumber, concrete, junk, inoperable bicycles, lawn mowers, motorcycles, used or rusty metals which include any pieces or parts of autos or trucks, items that have mold or mildew present, rank growth of vegetation, and all other waste materials which may be in, upon or adjacent to the premises. If the owner(s), occupant(s), agent(s) or other person(s) in charge of any lot or parcel of land within the limits of the village fails, neglects or refuses to remove or destroy such materials from the premises and to maintain the premises free from all such materials, the president of the village board, or such other official as the president of the board shall designate, shall have cause to have all such materials removed at the expense of the owner(s), occupant(s), agent(s) or other person(s) of said premises. The expense for removal of such materials will become a lien against the lot, and the amount of such expense shall be charged against the premises in the next tax roll as a special charge to be collected in all respects like any other village taxes upon real estate.

(e) Any person who violates this section shall be subject to up to four forfeitures of \$150.00 each, together with the costs of prosecution, and in default of the payment thereof, shall be imprisoned in the county jail for a period of not more than 30 days or until such judgment is paid.

(Code 1960, § 12.04(2); Amd. of 2-27-06, § 1)

Cross references: Littering in parks, § 74-40; solid waste, ch. 86.

Sec. 70-133. Shoplifting.

(a) Whoever intentionally alters indicia of price or value of merchandise or who takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant or property of the merchant without his consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise may be penalized as provided in section 1-11.

(b) The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of unpurchased

merchandise concealed upon the person or among the belongings of such person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.

(c) A merchant or merchant's adult employee who has probable cause for believing that a person has violated this section in his presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to his parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose of the detention and be permitted to make phone calls, but he shall not be interrogated or searched against his will before the arrival of a peace officer, who may conduct a lawful interrogation of the accused person. Any merchant or merchant's adult employee who acts in good faith in any act authorized under this section is immune from civil or criminal liability for those acts.

(d) No person shall be charged under this section where the value of the merchandise exceeds \$500.00.
(Code 1960, § 12.04(3))

Sec. 70-134. Theft.

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

Movable property means property whose physical location can be changed, without limitation including electricity and gas; documents which represent or embody intangible rights; and things growing on, affixed to or found in land.

Property means all forms of tangible property, whether real or personal, without limitation including electricity, gas and documents which represent or embody a chosen action or other intangible rights.

Property of another includes property in which the actor is a co-owner and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife.

Value means the market value at the time of the theft or the cost to the victim of replacing the property within a reasonable time after the theft, whichever is less, but if the property stolen is a document evidencing a chosen action or other intangible right, value means either the market value of the chosen action or other right or the intrinsic value of the document, whichever is greater. If the thief gave consideration for or had a legal interest in the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.

(b) *Prohibited acts.* A person who does any of the following may be penalized as provided in section 1-11:

- (1) Intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without his consent and or with intent to deprive the owner permanently of possession of such property.

- (2) By virtue of his office, business or employment or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally uses, transfers, conceals, or retains possession of such money, security, instrument, paper or writing without the owner's consent, contrary to his authority, and with intent to convert to his own use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing, which is in his possession or custody by virtue of his office, business or employment or as trustee or bailee, upon demand of the person entitled to receive it or as required by law, is prima facie evidence of an intent to convert to his own use within the meaning of this subsection.
- (3) Having a legal interest in movable property, intentionally and without consent takes such property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of such property.
- (4) Obtains title to property of another by intentionally deceiving him with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. False representation includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.
- (5) Intentionally fails to return any personal property which is in his possession or under his control by virtue of a written lease or written rental agreement, within ten days after the lease or rental agreement has expired.
(Code 1960, § 12.04(5))

Sec. 70-135. Worthless checks.

The provisions of Wis. Stats. § 943.24(1) and (3) pertaining to issuance of worthless checks for amounts of \$500.00 or less are adopted. A person found guilty of this section shall pay a forfeiture of not less than \$50.00 or more than \$500.00.

(Code 1960, § 12.04(6); Amd. of 4-14-08(1), § 1)

Sec. 70-136. Trespass.

- (a) Except as otherwise provided by law, no person shall:
 - (1) Be in or on any private property, dwelling or business establishment without the consent, express or implied, of the owner of such private property, dwelling or business establishment or his agent or representative.
 - (2) Remain in or on any public property, dwelling or business establishment after consent to remain has been expressly withdrawn

by the owner of such private property, dwelling or business establishment or by his agent or representative.

- (3) Be in or on any public property, dwelling or business establishment owned by the village for any purposes other than those specific purposes and during the hours for which the area is held open to the public.

(b) Except as otherwise specifically provided in this section, the statutory provisions of Wis. Stats. § 943.13, describing trespass to land, are adopted and by reference made a part of this section as if fully set forth in this section. Any act required to be performed or prohibited by any statute incorporated in this section is required or prohibited by this section. Any amendments, revisions or modification of the statutes incorporated in this section are intended to be made a part of this section in order to secure uniform application of the trespass regulations.

(Code 1960, § 12.08) **Cross references:** Trespass in parks, § 74-44.

Sec. 70-137. Loitering.

(a) No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property within the vicinity. Among the circumstances that may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object.

(b) Unless flight by the person or other circumstances make it impractical, a police or peace officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct.

(c) No person shall be convicted of an offense under this section if the police or peace officer did not comply with subsection (b) of this section or if it appears at trial that the explanation given by the person was true, and if believed by the police or peace officer at the time would have dispelled the alarm.

(d) No person shall loiter, loaf, wander, stand, remain idle either alone or in consort with others in a public place so as to obstruct any public street, highway, sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicle or pedestrians in such a manner that it is reasonable to believe will cause a threat to public safety or a breach of the peace.

(Code 1960, § 12.09; Ord. of 7-13-98, § 1.A.1.)

Sec. 70-138. Order to disperse.

When any person causes or commits any of the conditions enumerated in this chapter, a police officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such order may be arrested for violation of this order.

(Ord. of 7-13-98, § 1.A.3.)

Sec. 70-139. Truancy.

(a) Definitions.

- (1) "Dropout" means a child who has ceased to attend school, continues to reside in the school district, does not attend a public, private, or vocational, technical and adult education district school or home-based private educational program on a full-time basis, has not graduated from high school and does not have an acceptable excuse under Sections 115.15(1)(b) to (d) or (3), Wis. Stats.
- (2) "Truant" means a pupil who is absent from school without an acceptable excuse under Sections 118.15 and 118.16(4), Wis. Stats., for part or all of any day on which school is held during a school semester.
- (3) "Habitual truant" means a pupil who is absent from school without an acceptable excuse under Sections 118.15 and 118.16(4), Wis. Stats., for part or all of five or more days on which school is held during a school semester.
- (4) "Operating privilege" has the meaning given in Section 340.01(40), Wis. Stats.
- (5) "Acceptable excuse" has the meaning given in Sections 118.15 and 118.16(4), Wis. Stats.

(b) Prohibitions.

- (1) *Truancy.* Any person under the age of 18 years is prohibited from being truant.
- (2) *Habitual truancy.* Any person under the age of 18 years is prohibited from being habitually truant.

(c) Dispositions.

- (1) *Truancy.* Any person cited for being truant shall appear before the municipal judge with the person's parent or guardian. If the court finds that a person under the age of 18 years has violated subsection (b)(1) above, one or more of the following dispositions are authorized:
 - a. An order for the person to attend school.
 - b. A forfeiture of not more the \$50.00 plus costs for a first violation, or a forfeiture of not more than \$100.00 plus costs for any second or subsequent violation committed within 12 months of a previous violation, subject to Wis. Stats. § 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during a school semester.

All or part of the forfeiture plus costs may be assessed against the person, the parents, or guardian of the person, or both.

- c. An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1d) (c).
- (2) *Habitual truancy.* Any person cited for habitual truancy shall appear before the municipal judge with the person's parent or guardian. If the court finds that a person under the age of 18 years has violated (b)(2) above, one or more of the following dispositions are authorized:
- a. An order for the department of workforce development revoke, under Section 103.72, Wis. Stats., a permit under Section 103.70, Wis. Stats., authorizing the person's employment.
 - b. Suspension of the person's operating privilege for not less than 30 days nor more than one year. The court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation a notice stating the reason for and the duration of the suspension.
 - c. An order for the person to attend school.
 - d. A forfeiture of not more than \$500.00 plus costs, subject to Section 938.37, Wis. Stats., and subject to a maximum cumulative forfeiture amount of not more than \$500.00 per semester for all truancy and habitual truancy violations. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person or both.
 - e. Any other reasonable conditions consistent with this subsection, including curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
 - f. An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's, or legal custodian's own expense or to attend school with the person, or both.
 - g. An order for the person to participate in counseling or supervised work program or other community service work under Section 938.34(5g), Wis. Stats., and the cost for any such counseling, supervised work program. or other community service work may be assessed against the person, the parents, or guardian of the person, or both.

- h. An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.
- i. An order for the person to attend an educational program under Section 938.34(7d), Wis. Stats.
- j. An order for the person to be placed in a teen court program as described in s. 938.342 (1g) (f).
- k. An order placing the person under formal or informal supervision, as described in s. 938.34 (2), for up to one year.
- l. An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1g) (k).

(d) *Evidence.* Except as provided in Section 118.16(5m), Wis. Stats., before any proceeding may be brought against any person under subsection (b)(2) above, habitual truancy, the school attendance officer must provide evidence that the appropriate school personnel in the school or school district in which the child is enrolled have, within the school year during which the truancy occurred, met the conditions of Section 118.16(5), Wis. Stats.

(Amdmt. of 11-22-99(1), § 1; Amdmt. of 12-13-99(2), § 1; Amdmt. of 2-26-07, § 1)

Sec. 70-140. Adult Contributing to Truancy.

No person 17 years of age or older shall, by any act or omission knowingly encourage or contribute to the truancy, as defined under Wis. Stat. § 118.16(1)(c), of a person 17 years of age or under, except that this prohibition does not apply to a person who has under his or her control a child who has been sanctioned under Wis. Stat. § 49.26(1)(h). An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be truant.

Secs. 70-141 – 70-200. Reserved.

Article VI. Reserved*

***Editor's note:** An amendment of April 14, 2008(2), § I, enacted provisions intended for use as § 70-200. To preserve the style of this Code, and at the discretion of the editor, said provisions were designated as article VI, §§ 70-201--70-207. Subsequently, an amendment of October 13, 2008, § 1, redesignated said provisions as § 70-40.

Chapters 71 - 73
Reserved

Chapter 74 PARKS AND RECREATION*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 74-1.	Committee on Recreation and Parks	2014-06 2015-03 2018-18	04/28/14 03/09/15 07/23/18
Sec. 74-2. – 74.3.	Reserved.	2018-18	07/23/18
Sec. 74-4.	Powers.	2013-03 2014-06 2018-18	06/24/13 04-28-14 07/23/18
Sec. 74-5. – 74.25.	Reserved.	2018-18	07/23/18
Article II. Use Regulations			
Sec. 74-26.	Scope of article; applicability.		
Sec. 74-27.	Enforcement and penalties.	2021-05	05/10/2021
Sec. 74-28.	Reserved for Future Use	2013-03	06/24/13
Sec. 74-29.	Closing hours.		
Sec. 74-30.	Destruction of property.		
Sec. 74-31.	Weapons and fireworks.	2013-03	06/24/13
Sec. 74-32.	Unnecessary noises.	2020-03	0/309/20
Sec. 74-33.	Disorderly conduct.		
Sec. 74-34.	Liquor or beer; glass containers.		
Sec. 74-35.	Illegal gathering.		
Sec. 74-36.	Peddling.		
Sec. 74-37.	Dogs.	2018-17	07/23/18
Sec. 74-38.	Maintaining fire.		
Sec. 74-39.	Unattended fire or tobacco products.		
Sec. 74-40.	Littering.		
Sec. 74-41.	Operation of vehicles.		
Sec. 74-42.	Speed limits.		
Sec. 74-43.	Parking and stopping.		
Sec. 74-44.	Trespass.		

***Cross references:** Any ordinance naming public grounds and parks saved from repeal, § 1-10(20); environment, ch. 42; streets, sidewalks and other public places, ch. 90; vegetation, ch. 110; parking conservancy district, § 118-591 et seq.; signs permitted with permit in park and conservancy districts, § 118-1115.

State law references: Parks generally, Wis. Stats. §§ 27.13, 61.36.

Article I. In General

Sec. 74-1. Committee on Recreation and Parks.

The recreation commission is hereby abolished and its powers, duties and responsibilities shall be conferred on the Committee on Recreation and Parks.

Sec. 74-2. – 74-3. Reserved.

Sec. 74-4. Powers.

- (a) The Committee on Recreation and Parks shall have the power to:
 - (1) Provide supervision of all recreational and parks activities and programs.
 - (2) Provide general supervision of the activities of the Recreation Director who shall report directly to the village administrator.
 - (3) Prepare and recommend to the village board an annual budget for park and recreation programs.
 - (4) Prepare and recommend to the village board a comprehensive plan of park and recreation improvements, looking to the future development of the village, which plans shall be known as the official plan of the village. Such plan shall include reasonable requirements with reference to all new growth and redevelopment considering park space, recreation areas, green spaces and nature conservancies. The planning improvements are intended to foster community involvement, consolidate and prioritize available funding sources and develop a strategic vision for parks and recreation facilities within the village.
 - (5) Conduct an evaluation of existing codes to ensure future growth and redevelopment are consistent with the comprehensive plan.
 - (6) Prepare and recommend to the village board from time to time such changes in the plan as it deems necessary.
 - (7) Prepare and recommend to the village board from time to time plans for specific improvements in pursuance of such official plan.
 - (8) Aid the village officials in carrying out the program of the recreation commission.
 - (9) Recommend park maintenance projects to the Village Board, which shall determine the appropriate source of funding and refer approved projects to the Department of Public Works for implementation.

- (10) Exercise such other powers as may be conferred by the village board or by ordinance or statute.

Sec. 74-5. – 74-25. Reserved.

Article II. Use Regulations

Sec. 74-26. Scope of article; applicability.

(a) This article shall constitute the rules and regulations governing the conduct and behavior of visitors to village parks and recreation areas.

(b) This article shall apply to all lands, structures, and property owned, leased, or administered by the village for park and recreational purposes.

(Code 1960, § 12.05(1), (2))

Sec. 74-27. Enforcement and penalties.

(a) It shall be the duty of the police department, whether regular or special, to enforce this article.

(b) Any person who violates, disobeys, neglects, omits or refuses to comply with this article shall be fined not less than \$10.00 or more than \$200.00, together with the costs of prosecution, and in default of payment thereof by imprisonment in the county jail for a term of not more than 30 days or until such judgment is paid.

(c) When a person is arrested for one or more violations of this article and desires to stipulate to a plea of nolo contendere (no contest) in writing, he may do so in accordance with the following schedule of forfeitures:

<i>Section of Article</i>	<i>Unlawful Act</i>	<i>Forfeiture</i>
74-29	Closing hours	\$ 70.00
74-30	Destruction of property	150.00
74-31	Weapons and fireworks	150.00
74-32	Unnecessary noises	150.00
74-33	Disorderly conduct	150.00
74-34	Liquor or beer; glass containers	70.00
74-35	Illegal gathering	70.00
74-36	Peddling	70.00
74-37	Dogs	70.00
74-38	Maintaining a fire	70.00
74-39	Unattended fire or tobacco products	70.00
74-40	Littering	150.00
74-41	Operation of vehicles	70.00

74-42	Speed limits	70.00
74-43	Parking and stopping	25.00
74-44	Trespass	70.00

(Code 1960, § 12.05(4))

Sec. 74-28. Reserved.

Sec. 74-29. Closing hours.

No person shall enter or be upon any village park property between the hours of 9:00 p.m. and 6:00 a.m., except where specifically permitted by ordinance. This section shall not apply when sanctioned baseball games are being played.

(Code 1960, § 12.05(3)(p))

Sec. 74-30. Destruction of property.

No person shall destroy, deface, mutilate, or cause physical damage to any real or personal property, including trees, shrubbery and landscaping, located in or upon any village park or recreational area.

(Code 1960, § 12.05(3)(a))

Cross references: Destruction of property generally, § 70-131.

Sec. 74-31. Weapons and fireworks.

No person shall have in his or her possession or under his or her control within any Village park or recreational areas any firearm, air gun, bow and arrow or other weapon, explosives or fireworks of any kind nor shall he or she discharge any of the same while in or upon any of the Village park or recreational areas. This provision shall not apply to:

- 1 Duly appointed law enforcement officers, or
2. Persons licensed or authorized to set off public fireworks displays in such park or recreational areas, or
3. Persons licensed or authorized by law to carry a "weapon", as defined in Wis. Stat. §175.60. The restriction on discharge of a firearm does not apply and may not be enforced if the actor's conduct is justified or, had it been subject to a criminal penalty, would have been subject to a defense described in Wis. Stat. §939.45.

Cross references: Sale and discharge of fireworks, § 46-1; discharging and carrying firearms and guns generally, § 70-31.

Sec. 74-32. Unnecessary noises.

No person shall operate any sound truck, loudspeaker, motor or any other mechanical device that produces undue or unnecessary noises. This section shall not apply to events in School Yard Park that are granted a written event permit from the recreation and parks committee.

Sec. 74-33. Disorderly conduct.

No person shall be intoxicated or engage in any violent, abusive, loud, boisterous, vulgar, lewd, wanton, obscene, or otherwise disorderly conduct that tends to create a breach of the peace or that tends to disturb or annoy others in or upon any village park or recreational area. (Code 1960, § 12.05(3)(d))

Sec. 74-34. Liquor or beer; glass containers.

(a) No person shall bring upon or consume any intoxicating liquor or fermented malt beverages in or upon any village park or recreational area without first obtaining a permit from the village clerk. Application forms for the permit shall be available from the village clerk.

(b) No person shall bring upon or consume anything in any glass bottle or glass container in any village park or recreational area. (Code 1960, § 12.05(3)(e); Ord. of 4-13-99, § 1)

Cross references: Alcohol beverages generally, ch. 6.

Sec. 74-35. Illegal gathering.

No person shall hold or take part in any musical, theatrical or other entertainment or any parade, procession, or public meeting or gathering of any kind, or make any political or religious address, oration, harangue, or demonstration of any kind in any village park or recreational area, without a written permit from the recreation committee of the village board. (Code 1960, § 12.05(3)(f))

Sec. 74-36. Peddling.

No person shall peddle or distribute any handbills or other advertising matter or post unauthorized signs on any lands, structures, or property or solicit, transact or conduct any business of any nature in or upon any village park or recreational area, without having first obtained written consent of the recreation committee of the village board. (Code 1960, § 12.05(3)(g))

Cross references: Peddlers and solicitors generally, ch. 78.

Sec. 74-37. Dogs.

No person shall suffer or permit his/her dog to be in or upon any village park or recreational area at any time except that dogs are allowed in designated areas of the Dog Park, which is part of Legion Park, at designated times.

Sec. 74-38. Maintaining fire.

No person shall build or maintain any fire, except at areas designated for cooking and for fires, in any village park or recreational area.
(Code 1960, § 12.05(3)(i))

Cross references: Fire prevention and protection, ch. 46.

Sec. 74-39. Unattended fire or tobacco products.

No person at any time shall leave any fire unattended or throw away any matches, cigarettes, cigars, or pipe ashes, without first extinguishing them.
(Code 1960, § 12.05(3)(j))

Cross references: Fire prevention and protection, ch. 46.

Sec. 74-40. Littering.

No person shall discard or leave any refuse or sewage, including garbage, rubbish, bottles, tin cans, glass, debris, or any other waste material, on the ground or in any building or in any installation or throw such into the water of any lake or stream or other body of water in or upon any village park or recreational area, but the person shall dispose of such in designated containers.
(Code 1960, § 12.05(3)(k))

Cross references: Littering generally, § 70-132; solid waste, ch. 86.

Sec. 74-41. Operation of vehicles.

No person shall drive or ride any bicycle, motorcycle, motor vehicle, recreational vehicle, or a horse in any part of the village parks or recreational areas, except on the regular drives designated therefor.
(Code 1960, § 12.05(3)(l))

Cross references: Traffic and vehicles, ch. 102.

Sec. 74-42. Speed limits.

No person shall operate any vehicle at a speed in excess of 15 miles per hour, unless different limits are indicated by official traffic signs.

(Code 1960, § 12.05(3)(m))

Cross references: Traffic and vehicles, ch. 102.

Sec. 74-43. Parking and stopping.

No person shall park, stop, or leave standing, whether attended or unattended, any vehicle:

- (1) In any manner as to block, obstruct, or limit the use of any road or trail;
- (2) Outside of any area provided for such purposes of parking; or
- (3) Contrary to posted notices.

(Code 1960, § 12.05(3)(n))

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

Sec. 74-44. Trespass.

In any park or recreation area, no person shall enter in any way any building, installation or area that may be locked or closed to public use or contrary to posted notice.

(Code 1960, § 12.05(3)(o))

Cross references: Trespass generally, § 70-136.

Chapters 75 - 77
Reserved

Chapter 78 PEDDLERS AND SOLICITORS*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Secs. 78-1--78-25.	Reserved.		
Article II. Peddlers, Canvassers and Transient Merchants			
Division 1. Generally			
Sec. 78-26.	Penalty for violation.		
Sec. 78-27.	Exemptions.		
Sec. 78-28.	Consent required.		
Sec. 78-29.	Display of license.		
Sec. 78-30.	Misrepresentation prohibited.		
Sec. 78-31.	Loud noises and speaking devices.		
Sec. 78-32.	Use of streets.		
Secs. 78-33--78-55.	Reserved.		
Division 2. License			
Sec. 78-56.	Required.	2021-09	10/25/21
Sec. 78-57.	Application; investigation fee.	2021-09	10/25/21
Sec. 78-58.	Fee.	2021-09	10/25/21
Sec. 78-59.	Bond.	2021-09	10/25/21
Sec. 78-60.	Investigation; issuance.	2021-09	10/25/21
Sec. 78-61.	Contents; expiration; renewal; transfer.	2021-09	10/25/21
Sec. 78-62.	Suspension or revocation.		

***Cross references:** Businesses, ch. 22; peddling in parks, § 74-36; streets, sidewalks and other public places, ch. 90.

Article I. In General

Secs. 78-1—78-25. Reserved.

Article II. Peddlers, Canvassers and Transient Merchants*

Division 1. Generally

Sec. 78-26. Penalty for violation.

The penalty for violation of any section of this article shall be as provided in section 1-11. A separate offense shall be deemed committed on each day on which a violation occurs or continues.

(Code 1960, § 11.02(10))

Sec. 78-27. Exemptions.

This article or any part thereof shall not apply to the following: newsboys; merchants delivering goods in the regular course of business; vendors of milk, bakery goods, groceries or ice, distributing products to only regular customers on established routes; farmers and truck gardeners; religious, charitable, patriotic or philanthropic organizations; persons selling property at wholesale to dealers.

(Code 1960, § 11.02(2))

Sec. 78-28. Consent required.

No peddler, canvasser or transient merchant shall go in or upon any private residence, business establishment or office in the village for the purpose of soliciting orders for goods, wares and merchandise or peddling or hawking such or soliciting subscriptions for magazines or other periodicals without having been requested or invited to do so by the owner or occupant of such place.

(Code 1960, § 11.02(8)(a))

Sec. 78-29. Display of license.

Every person licensed under division 2 of this article shall carry his license with him while engaged in licensed activities and shall display such license to any police officer or citizen upon request.

(Code 1960, § 11.02(8)(b))

Sec. 78-30. Misrepresentation prohibited.

No person licensed under division 2 of this article shall intentionally misrepresent to any prospective customer the purpose of his visit or solicitation; the name or business of his principal, if any; or the source of supply of the goods, wares or merchandise which he sells or offers for sale or the disposition of the proceeds or profits of his sales.

(Code 1960, § 11.02(8)(c))

Sec. 78-31. Loud noises and speaking devices.

No person licensed under division 2 of this article or any person in his behalf shall shout, cry out, blow a horn, ring a bell or use any sound-amplifying device upon any of the streets, alleys, parks or other public places of the village or upon private premises, where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise such licensee proposes to sell.

(Code 1960, § 11.02(8)(d))

Sec. 78-32. Use of streets.

No person licensed under division 2 of this article shall have exclusive right to any location in the public streets, nor shall any licensee be permitted a stationary location thereon or be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.

(Code 1960, § 11.02(8)(e))

Secs. 78-33--78-55. Reserved.**Division 2. License****Sec. 78-56. Required.**

No person shall engage in the business of peddler, hawker, trucker, solicitor, canvasser or transient merchant within the village without first obtaining a license from the village clerk in compliance with this division, except as provided in Wis. Stats. § 66.003.

(Code 1960, § 11.02(1))

Sec. 78-57. Application; investigation fee.

(a) The application for the license required under this division shall be sworn to by the applicant and filed with the village clerk and shall contain such information as the clerk shall require for the effective enforcement of this article and the safeguarding of the residents of the village from fraud, misconduct or abuse.

(b) At the time of filing the application, an investigation fee, as provided in the license fee schedule on file in the village clerk's office, shall be paid to the clerk to cover the cost of investigation of the facts stated in the application.

(Code 1960, § 11.02(3))

Sec. 78-58. Fee.

The fee for a peddler's license shall be as provided in the fee schedule on file in the village clerk's office. The fee for a transient merchant's license shall be as provided in the fee schedule on file in the village clerk's office. Annual licenses issued on or after July 1 shall be issued for one-half the required annual fee. No fee shall be required for a solicitor's or

canvasser's license. Peddlers may employ one assistant and transient merchants may employ two assistants without payment of an additional license fee, but such persons must comply with the other sections of this article.
(Code 1960, § 11.02(5))

Sec. 78-59. Bond.

Under this division, if the clerk determines from his investigation of the application that the interests of the village or of inhabitants of the village require protection against possible misconduct of the licensee or that the applicant is otherwise qualified but, due to causes beyond his control, is unable to supply all of the information required by section 78-57, the applicant may be required to file with the village clerk a bond in the sum of \$500.00 with surety acceptable to the village president running to the village. The bond shall be conditioned that he will fully comply with the village ordinances and state laws relating to peddlers, canvassers or transient merchants and shall guarantee that the property purchased will be delivered according to the representations of the applicant. Action to recover on any such bond shall be commenced within six months after the expiration of the license of the principal.
(Code 1960, § 11.02(6))

Sec. 78-60. Investigation; issuance.

Upon receipt of each application for the license required under this division, the village clerk shall immediately institute such investigation of the applicant's business and moral character as he deems necessary for the protection of the public good. The village clerk shall endorse his approval or disapproval upon the application within 72 hours after it has been filed with him and shall issue or deny the license in accordance with his findings after presentation by the applicant of a receipt of the village clerk showing payment of the required fee.
(Code 1960, § 11.02(4))

Sec. 78-61. Contents; expiration; renewal; transfer.

The clerk shall date all licenses issued under this division and shall specify thereon the fee paid and the date of expiration. Annual licenses shall be issued on a calendar-year basis and shall expire December 31 of the year of issue. An application for renewal shall be handled in the same manner as the original application. A license issued under this division is personal and may not be transferred.
(Code 1960, § 11.02(7))

Sec. 78-62. Suspension or revocation.

A license issued under this division may be revoked or suspended by the village president for a period not to exceed five days, pending hearing by the village board, for fraud, misrepresentation or an incorrect statement contained in the application or made in the course of carrying on business; for conviction of the licensee of any crime or misdemeanor; or for conducting the licensed business in an unlawful or disorderly manner or in such a manner as to menace the health, safety or general welfare of the public.
(Code 1960, § 11.02(9))

Chapters 79 - 81
Reserved

Chapter 82 PLANNING*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 82-1.	Comprehensive plan.	2013-05	10-28-13
		2015-01	01-26-15
		2016-06	10-24-16
		2018-01	04/02/18
		2018-12	05/29/18
		2019-04	08/12/19
		2020-08	08/03/20
Secs. 82-2--82-25.	Reserved.		
Article II. Plan Commission			
Sec. 82-26.	Composition.		
Sec. 82-27.	Terms of office.		
Sec. 82-28.	Officers; compensation; technical advice.		
Sec. 82-29.	Powers.		
Sec. 82-30.	Records.		
Sec. 82-31.	Subdivision compliance with official plan.		

***Cross references:** Any land use, rezoning ordinance or amendment to the zoning map saved from repeal, § 1-10(9); administration, ch. 2; buildings and building regulations, ch. 18; environment, ch. 42; manufactured homes and trailers, ch. 66; solid waste, ch. 86; streets, sidewalks and other public places, ch. 90; land divisions, ch. 94; utilities, ch. 106; vegetation, ch. 110; zoning, ch. 118.

Article I. In General

Sec. 82-1. Comprehensive plan.

The Village Board of the Village of Union Grove, Wisconsin, formally adopts the document titled "Multi-Jurisdictional Comprehensive Plan for Racine County: 2035," pursuant to Wis. Stat. §66.1001(4)(c), as the Village of Union Grove comprehensive plan, as well as the following amendments to the Comprehensive Plan:

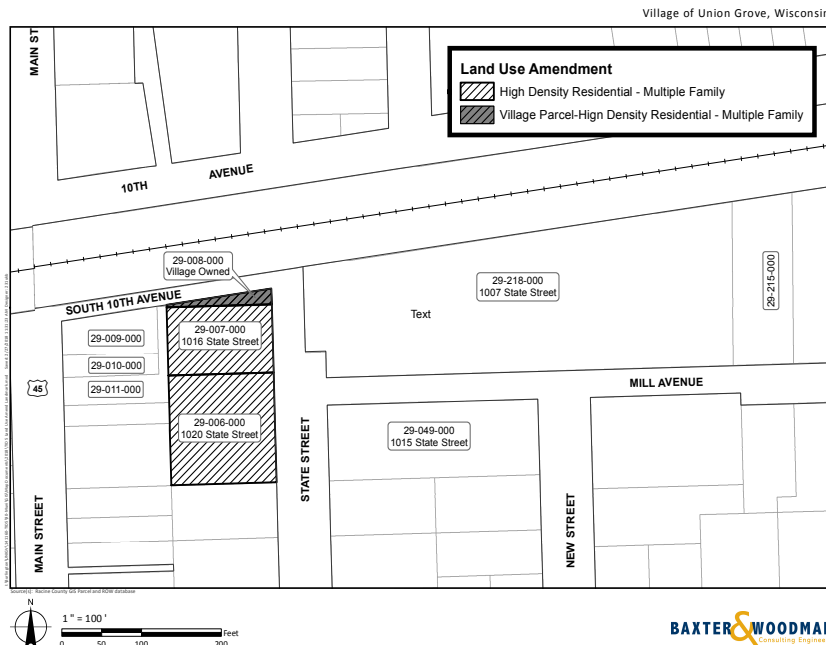
(a) Amendment to parcel I.D. No. 186-03-21-31-117-000, as provided in Ordinance 2013-05, adopted on October 28, 2013.

(b) Amendment to parcels 186-03-21-29-218-000, 186-03-21-29-215-000, and 186-03-21-29-049-000 from Commercial to a new category to be added to the Comprehensive Plan for dwelling units on parcels of less than 6,200 square feet entitled "High Density Residential – Multiple Family."

(c) Amendment to parcels 186-03-21-29-006-011 and 186-03-21-29-006-021 from Low Density Residential to Governmental and Institutional.

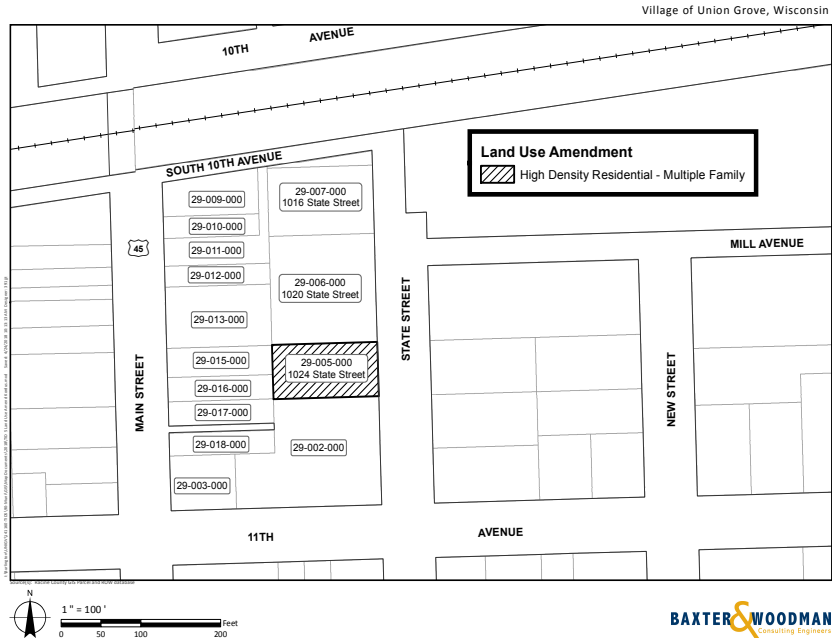
(d) Amendment to parcels 186-03-21-29-007-000 (1016 State Street), 186-03-21-29-006-000 (1020 State Street), and 186-03-21-29-008-000 (Mill Avenue) from "Commercial" to "High Density Residential – Multiple Family" as depicted below:

PROPOSED LAND USE PLAN AMENDMENT

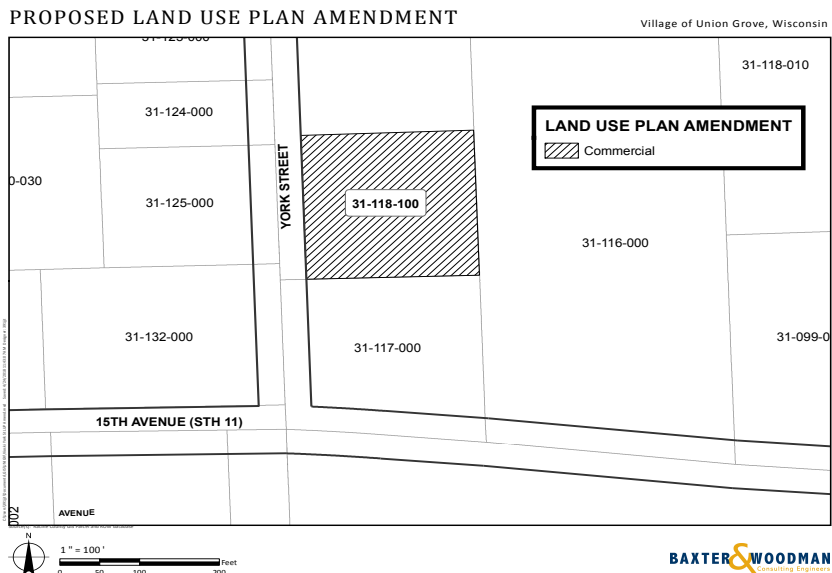


(e) Amendment to parcel located at 1024 State Street (Parcel No. 186032129005000 and legally described as Salisbury Addition Lot 3 Block 1) from "Commercial" to "High Density Residential –Multiple Family" as depicted below:

PROPOSED LAND USE PLAN AMENDMENT

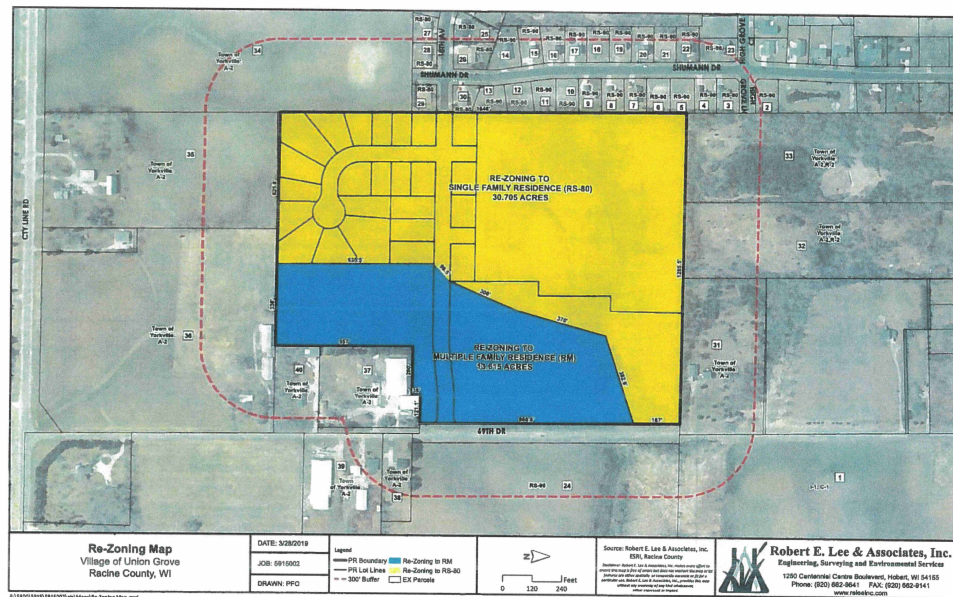


(f) Amendment to a parcel with no assigned address that fronts on the east side of York Street approximately 211 feet north of Highway 11 (Durand Avenue) (Parcel No. 186032131118100) and legally described as Lot 1 of Certified Survey Map No. 3283, recorded in volume 10 of Certified Survey Maps on pages 837-839 as Document No. 2489098) from Industrial to Commercial as depicted below:



(g) Amendment to Parcel 186-03-21-32-040-103, located between 69th Drive and Shumann Drive and between State Highway 11 and County Highway KR, as provided in Ordinance 2019-04, adopted on August 12, 2019, from low density residential to medium

density residential and high density residential on the Village land use plan map as depicted below:



The legal description for this amendment can be found in the adopted ordinance on file with the Clerk for the Village of Union Grove.

(h) Amendments as indicated to the following parcels, as provided in Ordinance 2020-08, adopted on August 3, 2020, and as depicted in Exhibit A.

Parcel No.	Site address:	Existing Future Land Use	Proposed Future Land Use
186032129002000	908 11TH AVE	Commercial	Mixed Use
186032129003000	1035 MAIN ST	Commercial	Mixed Use
186032129004010	3133 COLONY AVE S	Isolated natural resource area/secondary environmental corridor/low density residential (19,000 square feet to 1.49 acres per dwelling unit)	Mixed use/isolated natural resource area/ Medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032129009000	1007 MAIN ST	Commercial	Mixed Use
186032129009010	500 9TH AVE	Secondary environmental corridor/low density residential (19,000 square feet to 1.49 acres per dwelling unit)	Secondary environmental corridor/low density residential (19,000 square feet to 1.49 acres per dwelling unit)/medium density residential (6,200 to 18,999 square feet per dwelling unit)

186032129009010	500 9TH AVE	Secondary environmental corridor / low density residential (19,000 square feet to 1.49 acres per dwelling unit)	Secondary environmental corridor / medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032129011000	1009 MAIN ST	Commercial	Mixed Use
186032129012000	1013 MAIN ST	Commercial	Mixed Use
186032129013000	1017 MAIN ST	Commercial	Mixed Use
186032129015000	1023 MAIN ST	Commercial	Mixed Use
186032129016000	1027 MAIN ST	Commercial	Mixed Use
186032129017000	1029 MAIN ST	Commercial	Mixed Use
186032129018000	1033 MAIN ST	Commercial	Mixed Use
186032129021000	1129 MAIN ST	Commercial	Mixed Use
186032129023000	1125 MAIN ST	Commercial	Mixed Use
186032129025000	1121 MAIN ST	Commercial	Mixed Use
186032129027000	1117 MAIN ST	Commercial	Mixed Use
186032129029000	1113 MAIN ST N	Commercial	Mixed Use
186032129033000	1101 MAIN ST	Commercial	Mixed Use
186032129055010	951 MAIN ST	Commercial	Mixed Use
186032129062000	901 MAIN ST	Commercial	Mixed Use
186032129063000	907 MAIN ST	Commercial	Mixed Use
186032129064000	909 MAIN ST	Commercial	Mixed Use
186032129065000	919 MAIN ST	Commercial	Mixed Use
186032129075000	815 MAIN ST	Commercial	Mixed Use
186032129076000	809 MAIN ST	Commercial	Mixed use
186032129084000	925 CHURCH RD	Industrial	Medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032129088000	10TH AVE	Industrial	Medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032129089000	10TH AVE	Industrial	Medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032129090000	10tTH AVE	Industrial	Medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032129091000	10TH AVE	Industrial	Medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032129107000	747 9TH AVE	Industrial / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032129129004	715 MAIN ST	Commercial	Mixed use
186032129129009	727 MAIN ST	Commercial	Mixed use
186032129129010	733 MAIN ST	Commercial	Mixed use
186032129129018	739 MAIN ST	Commercial	Mixed use
186032129129019	916 8TH AVE	Commercial	Mixed use
186032129151000	803 MAIN ST	Commercial/streets and highways	Mixed use / streets and highways
186032129167000	1201 MAIN ST	Commercial	Mixed use
186032129168000	1201 MAIN ST	Commercial	Mixed use
186032129170000	1201 MAIN ST	Commercial	Mixed use

186032129171000	1215 MAIN ST	Governmental and institutional	Mixed use
186032129172000	1216 STATE ST	Governmental and institutional	Mixed use
186032129173000	STATE ST	Governmental and institutional	Mixed use
186032129174000	1221 MAIN ST	Medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use
186032129176000	1231 MAIN ST	Medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use
186032130001000	1228 MAIN ST	Medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use
186032130001011	COLONY AVE S	Governmental and institutional / secondary environmental corridor / low density residential (19,000 square feet to 1.49 acres per dwelling unit)	Secondary environmental corridor / governmental and institutional / medium density residential (6,200 to 18,999 square feet per dwelling unit) / high density residential (less than 6,200 square feet per dwelling unit)
186032130001012	COLONY AVE S	Isolated natural resource area / secondary environmental corridor / low density residential (19,000 square feet to 1.49 acres per dwelling unit)	Secondary environmental corridor / / medium density residential (6,200 to 18,999 square feet per dwelling unit) / high density residential (less than 6,200 square feet per dwelling unit)
186032130001012	COLONY AVE S	Low density residential (19,000 square feet to 1.49 acres per dwelling unit)	High density residential (less than 6,200 square feet per dwelling unit) / Medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032130001013	COLONY AVE S	Low density residential (19,000 square feet to 1.49 acres per dwelling unit)	Medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032130003000	1222 MAIN ST	Commercial	Mixed use
186032130003010	3200 COLONY AVE S	Streets and highways / low density residential (19,000 square feet to 1.49 acres per dwelling unit)	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032130004010	3320 COLONY AVE S	Governmental and institutional	Governmental and institutional / medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032129006011	3303 COLONY AVE S	Isolated natural resource area / Low density residential (19,000 square	Isolated natural resource area / Governmental and institutional

		feet to 1.49 acres per dwelling unit)	
186032130005000	1216 MAIN ST	Commercial	Mixed use
186032130005001	1222 MAIN ST	Commercial	Mixed use
186032130007000	1208 MAIN ST	Commercial	Mixed use
186032130009000	1200 MAIN ST	Commercial	Mixed use
186032130011000	1120 MAIN ST	Commercial	Mixed use
186032130012000	1120 MAIN ST	Commercial	Mixed use
186032130013000	1120 MAIN ST	Commercial	Mixed use
186032130014000	1120 MAIN ST	Commercial	Mixed use
186032130015000	1114 MAIN ST	Commercial	Mixed use
186032130016000	1115 VINE ST	Commercial	Mixed use
186032130017000	1110 MAIN ST	Commercial	Mixed use
186032130018000	1106 MAIN ST	Commercial	Mixed use
186032130019000	1104 MAIN ST	Commercial	Mixed use
186032130019001	COMMERCE DR	Industrial	Transportation, communication, and utilities
186032130019033	COMMERCE DR	Industrial	Transportation, communication, and utilities
186032130020000	1100 MAIN ST	Commercial	Mixed use
186032130021000	1021 11TH AVE	Commercial	Mixed use
186032130022000	1010 11TH AVE	Commercial	Mixed use
186032130023000	1036 MAIN ST	Commercial	Mixed use
186032130024000	1030 MAIN ST	Commercial	Mixed use
186032130024041	1601 LEIDER DR	Industrial	Transportation, communication, and utilities
186032130024050	1625 LEIDER DR	Industrial	Industrial
186032130024060	1625 LEIDER DR	Industrial	Industrial
186032130025000	1024 MAIN ST	Commercial	Mixed use
186032130028000	1020 MAIN ST	Commercial	Mixed use
186032130029000	1018 MAIN ST	Commercial	Mixed use
186032130030000	1014 MAIN ST	Commercial	Mixed use
186032130031000	1012 MAIN ST	Commercial	Mixed use
186032130032000	1010 MAIN ST	Commercial	Mixed use
186032130033000	1002 MAIN ST	Commercial	Mixed use
186032130036000	1000 MAIN ST	Commercial	Mixed use
186032130037000	VINE ST	Commercial	Mixed use
186032130039000	1021 VINE ST	Commercial	Mixed use
186032130040000	1027 VINE ST	Commercial	Mixed use
186032130041000	1010 11TH AVE	Commercial	Mixed use
186032130042000	RUSSELL DR	Recreational	Mixed use
186032130043000	914 MAIN ST	Commercial	Mixed use
186032130044000	908 MAIN ST	Commercial / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032130045000	1005 9TH AVE	Commercial	Mixed use
186032130047000	1024 10TH AVE	Commercial	Mixed use
186032130048010	830 MAIN ST	Commercial	Mixed use
186032130048020	862 MAIN ST	Commercial	Mixed use
186032130048030	826 MAIN ST	Commercial	Mixed use
186032130049000	816 MAIN ST	Commercial	Mixed use
186032130050000	802 MAIN ST	Commercial	Mixed use
186032130051000	1011 8TH AVE	Commercial	Mixed use

186032130056000	740 MAIN ST	Commercial	Mixed use
186032130056003	720 MAIN ST	Commercial	Mixed use
186032130057000	700 MAIN ST	Governmental and institutional	Mixed use
186032130068000	710 VINE ST	Governmental and institutional	Medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032130069000	715 CENTER ST	Governmental and institutional	Medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032130093000	1014 VINE ST	Commercial	Mixed use
186032130094000	1006 VINE ST	Commercial	Mixed use
186032130098000	12TH AVE	Medium density residential (6,200 to 18,999 square feet per dwelling unit)	Transportation, communication, and utilities
186032130105000	12TH AVE	Recreational	Transportation, communication, and utilities
186032131014001	1901 15TH AVE	Commercial / governmental and institutional / streets and highways	Commercial / streets and highways
186032131069000	1436 MAIN ST	Commercial / streets and highways	Mixed use / streets and highways
186032131070000	1430 MAIN ST	Commercial / streets and highways	Mixed use / streets and highways
186032131071000	1422 MAIN ST	Commercial / streets and highways	Mixed use / streets and highways
186032131074000	1400 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032131076000	1358 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032131077000	1342 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032131079000	1348 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032131081000	1336 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032131082000	1332 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Streets and highways / mixed use / medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032131083000	1326 MAIN ST	Medium density residential (6,200 to 18,999 square	Mixed use

		feet per dwelling unit)	
186032131085000	1320 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Streets and highways / mixed use / medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032131086000	1312 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032131088000	1304 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032131091000	1300 MAIN ST	Medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use
186032131099000	1500 15TH AVE	Industrial / streets and highways	Commercial / streets and highways
186032131114010	1500 15TH AVE	Industrial / streets and highways	Commercial / streets and highways
186032131115000	1414 15TH AVE	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Commercial / streets and highways
186032131117000	1560 15TH AVE	Industrial / streets and highways	Commercial / streets and highways
186032131118001	13TH AVE	Medium density residential (6,200 to 18,999 square feet per dwelling unit)	Commercial
186032131128000	1300 INDUSTRIAL PARK DR	Industrial	Commercial
186032131129000	1350 INDUSTRIAL PARK DR	Industrial	Transportation, communication, and utilities
186032131130000	1660 15TH AVE	Industrial	Commercial
186032131130020	1680 15TH AVE	Industrial	Commercial
186032131132000	1600 15TH AVE	Industrial / streets and highways	Commercial / streets and highways
186032131135100	1201 15TH AVE	Commercial	Mixed use
186032131135110	1221 15TH AVE	Commercial	Mixed use
186032131135200	1141 15TH AVE	Commercial	Mixed use
186032132001000	1301 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132003000	1305 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways

186032132003010	18426 DURAND AVE	Isolated natural resource area / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Commercial / isolated natural resource area / medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032132005000	1313 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132005010	101 15TH AVE	Commercial	Transportation, communication and utilities
186032132007000	1319 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132008000	1325 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132009000	1333 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132010000	1341 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132014000	1347 MAIN ST	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132015000	1355 MAIN ST	Medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use
186032132018020	409 15TH AVE	Low density residential (19,000 square feet to 1.49 acres per dwelling unit)	Governmental and institutional
186032132022000	901 14TH AVE	Commercial	Mixed use
186032132023000	909 14TH AVE	Commercial / streets and highways	Mixed use / streets and highways
186032132024000	1409 MAIN ST	Commercial	Mixed use
186032132025000	1401 MAIN ST	Commercial	Mixed use
186032132026000	1417 MAIN ST	Commercial / streets and highways	Mixed use / streets and highways
186032132027000	1423 MAIN ST	Commercial / streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Streets and highways / mixed use / medium density residential (6,200 to 18,999 square feet per dwelling unit)
186032132028000	1429 MAIN ST	Commercial / streets and highways	Mixed use / streets and highways
186032132029000	1437 MAIN ST	Commercial / streets and highways	Mixed use / streets and highways

186032132030000	1443 MAIN ST	Commercial / streets and highways	Mixed use / streets and highways
186032132031000	910 15TH AVE	Commercial / streets and highways	Mixed use / streets and highways
186032132032000	902 15TH AVE	Commercial / streets and highways	Mixed use / streets and highways
186032132033001	902 15TH AVE	Commercial	Mixed use
186032132034000	830 15TH AVE	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132035000	830 15TH AVE	Medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use
186032132036000	824 15TH AVE	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132037000	816 15TH AVE	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132038000	800 15TH AVE	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132040104	69TH DR	Isolated natural resource area / low density residential (19,000 square feet to 1.49 acres per dwelling unit)	Industrial / isolated natural resource area
186032132042000	816 POND ST	Medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use
186032132043000	742 15TH AVE	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132044000	730 15TH AVE	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132045000	722 15TH AVE	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132054000	706 15TH AVE	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132055000	620 15TH AVE	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways

186032132056000	712 15TH AVE	Streets and highways / medium density residential (6,200 to 18,999 square feet per dwelling unit)	Mixed use / streets and highways
186032132075000	925 15TH AVE	Governmental and institutional / streets and highways	Mixed use / streets and highways
186032132135010	1728 STATE ST 1	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135020	1726 STATE ST 2	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135030	1736 STATE ST 3	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135040	1732 STATE ST 4	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135050	1734 STATE ST 5	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135060	1730 STATE ST 6	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135070	1716 STATE ST 7	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135080	1714 STATE ST 8	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135090	1724 STATE ST 9	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135100	1720 STATE ST 10	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135110	1722 STATE ST 11	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135120	1718 STATE ST 12	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135130	1704 STATE ST 13	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135140	1702 STATE ST 14	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135150	1712 STATE ST 15	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135160	1708 STATE ST 16	Commercial	High density residential (less than 6,200 square feet per dwelling unit)

186032132135170	1710 STATE ST 17	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135180	1706 STATE ST 18	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135190	1740 STATE ST 19	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135200	1738 STATE ST 20	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135210	1748 STATE ST 21	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135220	1744 STATE ST 22	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135230	1746 STATE ST 23	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135240	1742 STATE ST 24	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135250	1741 STATE ST 25	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135260	1743 STATE ST 26	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135270	1745 STATE ST 27	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135280	1747 STATE ST 28	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135290	1749 STATE ST 29	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135300	1751 STATE ST 30	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135310	1753 STATE ST 31	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135320	1729 STATE ST 32	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135330	1731 STATE ST 33	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135340	1733 STATE ST 34	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135350	1735 STATE ST 35	Commercial	High density residential (

			less than 6,200 square feet per dwelling unit)
186032132135360	1737 STATE ST 36	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135370	1739 STATE ST 37	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135380	1727 STATE ST 38	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135390	1717 STATE ST 39	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135400	1715 STATE ST 40	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135410	1725 STATE ST 41	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135420	1721 STATE ST 42	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135430	1723 STATE ST 43	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135440	1719 STATE ST 44	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135450	1713 STATE ST 45	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135460	1703 STATE ST 46	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135470	1701 STATE ST 47	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135480	1711 STATE ST 48	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135490	1707 STATE ST 49	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135500	1711 STATE ST 50	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132135510	1705 STATE ST 51	Commercial	High density residential (less than 6,200 square feet per dwelling unit)
186032132191000	1765 NEW ST	Medium density residential (6,200 to 18,999 square feet per dwelling unit)	Transportation, communication, and utilities

Secs. 82-2--82-25. Reserved.

Article II. Plan Commission*

Sec. 82-26. Composition.

The plan commission shall consist of seven members including the village president, two village trustees and four village electors appointed by the president with the approval of the village board.

(Code 1960, § 2.07(1); Ord. of 11-24-94, § 21.1; Ord. of 5-24-99, § 1; Amd. of 4-24-06(2), § 1)

Sec. 82-27. Terms of office.

The terms of the citizen members of the plan commission shall be three years. Such terms shall commence from May 1.

(Code 1960, § 2.07(2); Ord. of 11-24-94, § 21.2)

Sec. 82-28. Officers; compensation; technical advice.

(a) As soon as possible after their appointment, the members of the plan commission shall organize and shall elect a secretary.

(b) If the plan commission shall deem it advisable to secure technical advice or service, it may do so on authority from the village board.

(Ord. of 11-24-94, § 21.3; Amd. of 12-12-00(1), § 1; Amd. of 10-22-07, § 1)

Sec. 82-29. Powers.

(a) The plan commission shall have the power to:

- (1) Prepare and recommend to the village board a comprehensive plan of public improvements, looking to the future development of the village, which plan shall be known as the official plan of the village. Such plan shall include reasonable requirements with reference to streets, alleys and public grounds in lands within the corporate limits of the village, not subdivided, and shall be effective whenever such land shall be subdivided.
- (2) Prepare and recommend to the village board from time to time such changes in the plan as it deems necessary.

- (3) Prepare and recommend to the village board from time to time plans for specific improvements in pursuance of such official plan.
- (4) Grant a permit for the extension of a general zoning district boundary for a distance of not more than 35 feet only where the boundary of a district divides a lot in a single ownership on the effective date of the ordinance from which this section derives.
- (5) Aid the village officials in carrying out the program of the plan commission.
- (6) Exercise such other powers as may be conferred by the village board or by ordinance or statute.

(b) The commission, its members and employees, in the performance of its functions, may enter upon any land and make examinations and surveys. In general, the plan commission shall have such powers as may be necessary to enable it to perform its function and promote municipal planning.

(Ord. of 11-24-94, § 21.4)

Sec. 82-30. Records.

The plan commission shall keep written records of its proceedings, which shall at all times be open to inspection by the village board.

(Ord. of 11-24-94, § 21.6)

Sec. 82-31. Subdivision compliance with official plan.

After the adoption of the official plan, no map or plat of any subdivision presented for record, affecting land within the corporate limits of the village, shall be entitled to be recorded or shall be valid, unless the subdivision thereon shown shall provide for streets, alleys and public grounds in conformity with the requirements of such official plan.

(Ord. of 11-24-94, § 21.5)

Chapters 83 - 85
Reserved

Chapter 86 SOLID WASTE*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Secs. 86-1--86-25.	Reserved.		
Article II. Collection, Disposal, Recycling			
Sec. 86-26.	Definitions.		
Sec. 86-27.	Purpose.		
Sec. 86-28.	Penalty.		
Sec. 86-29.	Refusal of service.		
Sec. 86-30.	Collection by unauthorized persons.		
Sec. 86-31.	Commercial, service and industrial units.		
Sec. 86-32.	Garbage and rubbish collection.		
Sec. 86-33.	Placement of nonrecyclable materials for collection.	2016-02	05/23/2016
Sec. 86-34.	Recyclable materials.		
Sec. 86-35.	Placement of containers for collection.		
Sec. 86-36.	Yard waste and grass clippings.	2014-04	01/27/2014
Sec. 86-37.	Leaf collection.		
Sec. 86-38.	Heavy objects.		
Sec. 86-39.	Brush chipping.		
Sec. 86-40.	Noncollectible items and lumber.		
Sec. 86-41.	Waste oil.		
Sec. 86-42.	Rimless automobile tires.		
Sec. 86-43.	Household sharp medical waste.		
Secs. 86-44--86-70.	Reserved.		
Article III. Industrial Waste			
Sec. 86-71.	Definitions.		
Sec. 86-72.	Collection.		

***Cross references:** Removal of animal fecal material, § 14-2; buildings and building regulations, ch. 18; removal of building rubbish, § 18-8; environment, ch. 42; health and sanitation, ch. 50; manufactured homes and trailers, ch. 66; waste and garbage disposal in mobile home parks, § 66-33; littering, § 70-132; littering in parks, § 74-40; planning, ch. 82; streets, sidewalks and other public places, ch. 90; abandoned vehicles, § 102-91 et seq.; utilities, ch. 106.

Article I. In General

Secs. 86-1--86-25. Reserved.

Article II. Collection, Disposal, Recycling*

Sec. 86-26. Definitions.

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

Apartment unit means any apartment unit containing more than two residential units.

Collector means the person specifically authorized by the village board to collect garbage, rubbish, and recyclable materials and to dispose of such.

Commercial means any unit where activity is done for sale or profit. This includes but is not restricted to mobile home parks. A commercial unit with residential apartments shall be treated as a commercial unit.

Dumping or disposal includes but is not limited to unloading, throwing away, discarding, emptying, abandoning, discharging, or burying waste, garbage, refuse, yard waste, rubbish, recyclables into or under any property or lands, whether publicly or privately owned within the village.

Garbage means all waste that rots and decomposes.

Heavy objects includes but is not limited to appliances and household furniture.

Industrial unit means any unit where activity is done for manufacturing, industrial and wholesale purposes.

Municipality means any city, village, town, or county.

Newspaper means printed matter on newsprint, which excludes any shiny surface paper and bound publications such as books, magazines, catalogs, or similar publications.

Noncollectible items include but are not limited to the following:

- (1) Concrete and construction materials.
- (2) Stumps.

***Editor's note:** An amendment of December 8, 2003, § 1, amended article II in its entirety to read as herein set out. Formerly, article II pertained to similar subject matter and derived from the Code of 1960, §§ 10.14(I--X), 10.16, 10.18; Ord. of January 21, 1998, § 1; Amdmt. of April 14, 2003, § 1; Amdmt. of May 12, 2003, § 1.

- (3) Stones or cement.
- (4) Fuel tanks of any type.
- (5) Thirty-gallon and 55-gallon drums.
- (6) Automobile parts.
- (7) Shingles.
- (8) Yard waste and brush.

Recyclables means:

- (1) Newspapers and office paper in bundles.
- (2) Magazines in bundles.
- (3) Corrugated cardboard and chipboard.
- (4) Cleaned aluminum in cans and other pure aluminum items.
- (5) Cleaned steel/tin cans (not paint cans or aerosols).
- (6) Cleaned glass bottles, all colors (not china dishes, window/mirror glass, light bulbs or ceramic dishes).
- (7) Plastic bottles and containers, all colors and cloudy frosted, but not crystal-clear or bottles from automotive products (except plastic soda bottles).
- (8) Short steel pipes and pieces, four feet in length or shorter.
- (9) Appliances.
- (10) Vehicle batteries.
- (11) Rimless automobile tires.

Refuse means combustible and noncombustible discarded material, including but not limited to trash, rubbish, paper, wood, metal, glass, plastic, rubber, cloth, ashes, litter and street rubbish, industrial waste, dead animals, toxic and hazardous waste, heavy objects, noncollectible items, and material and debris resulting from construction and demolition.

Residential units include single- and two-family homes, duplexes and apartments containing up to and including two residential units.

Rubbish means all waste that does not easily rot or decompose or that is not considered recyclable. Rubbish does not include yard waste, heavy objects, and noncollectible items.

Service unit means any school, church, day care center or home for the elderly.

Sludge means sewage treatment residue in any form whatsoever, whether solid, semisolid, or liquid, which has been processed or treated in any form, way or manner.

Waste means garbage, refuse, rubbish, and or other discarded or salvageable material, including waste materials and materials resulting from industrial, commercial, and agricultural operations and from domestic use and public service activities.

Yard waste consists of three categories defined as follows:

- (1) *Yard debris* means nonwoody plant material, including but not limited to garden waste, weeds, vegetables, flowers, grass clippings, sod, and shrubbery clippings of less than six inches in length.
- (2) *Leaves* means the foliage of a deciduous tree.
- (3) *Brush* means woody plant material, where an individual piece is not greater than six inches in diameter and not greater than ten feet in length.

(Amdmt. of 12-8-03, § 1)

Sec. 86-27. Purpose.

The purpose of this article is to regulate the collection, dumping, and disposal of garbage, rubbish, refuse, and recyclable materials by persons, entities, and municipalities within the village. Because of the possible danger to the health, safety, and welfare of the public and the incumbent need to recycle reusable materials, such collection, dumping, or disposal shall only be permitted under the terms and conditions set forth in this article.

(Amdmt. of 12-8-03, § 1)

Sec. 86-28. Penalty.

(a) A person who violates this article shall be subject to a penalty as provided in section 1-11.

(b) Any individual who or corporation or municipality that places waste, garbage, refuse, yard waste, rubbish, heavy objects, noncollectible items on the property of another or on public property anywhere within the village corporate limits shall be subject to the penalty as set forth in section 1-11.

(Amdmt. of 12-8-03, § 1)

Sec. 86-29. Refusal of service.

The collector shall refuse to furnish collection service to any person not complying with or refusing to comply with this article for the collection of garbage and rubbish and the separation of recyclable materials. Incorrectly prepared materials shall be left at the curb.

(Amdmt. of 12-8-03, § 1)

Sec. 86-30. Collection by unauthorized persons.

From the time of placement of waste, garbage, rubbish, refuse, heavy objects and/or recyclables, at the collection point for collection by the village or its authorized agent(s) in accordance with the terms herein, such materials shall be the property of the village or its authorized agent(s). It shall be a violation of this article for any person not authorized by the village to collect or pick up, or cause to be picked up, any such materials. Any and each such collection, in violation hereof, of any such materials at the curb for collection shall constitute a separate and distinct offense punishable as hereinafter provided.

(Amdmt. of 12-8-03, § 1)

Sec. 86-31. Commercial, service and industrial units.

The village shall not provide waste and disposable material pickup to commercial, service and industrial units.

Commercial establishments are required to have pickup, at the least, on a bi-weekly basis.
(Amdmt. of 12-8-03, § 1)

Sec. 86-32. Garbage and rubbish collection.

Under this article, collection of garbage and rubbish shall be subject to the following:

- (1) Residential units shall receive weekly, curbside collection.
- (2) Waste from remodeling and new construction projects shall be disposed of by the contractor or resident.
- (3) Commercial and industrial waste collection shall be done by a private contractor at the user's expense.
- (4) Residential units, apartment units, commercial units, and service units that provide their own private hauler, not contracted by the village, shall have garbage and recyclables separated for collection as provided by this Code and by state statutes.

(Amdmt. of 12-8-03, § 1)

Sec. 86-33. Placement of nonrecyclable materials for collection.

Garbage and refuse shall be placed at the curb for collection as follows:

- (1) All containers with contents should not exceed a weight that one person can safely lift (approximately 50 pounds). All garbage containers shall be equipped with handles and tight covers.
- (2) Plastic bags may be used for garbage and refuse if they are tied securely and not so loaded as to break or spill when lifted.
- (3) Garbage cans must be verminproof and kept in a sanitary condition.

(Amdmt. of 12-8-03, § 1)

Sec. 86-34. Recyclable materials.

(a) *Biweekly collection.* Recyclable material shall be collected biweekly by the contractor selected by the village in accordance with this section.

(b) *Separation of recyclable materials.* All residential units, apartment units, commercial units and service units located within the village shall recycle according to the

village schedule of recyclables. All entities other than single- and two-family residences shall recycle at the expense of the owner.

(c) *Disposition.* Containers and instructions for preparing recyclable materials shall be provided to residents. Persons shall place recyclable materials in village-approved containers for collection. Damaged containers shall be replaced at the resident's cost.

(d) *Preparation and placement for collection.* Recyclable material shall be prepared for collection as follows:

- (1) Metal cans shall be rinsed and shall be placed in the recycling container.
- (2) Glass shall be unbroken and rinsed, metal caps and rings shall be removed, and the glass shall be placed in the recycling container.
- (3) Newspapers shall be bundled in eight- to ten-inch bundles, tied with string, and placed inside the recycling container.
- (4) Corrugated cardboard shall be flattened, bundled in eight- to ten-inch bundles, and placed inside the recycling container.
- (5) Plastic bottles shall be rinsed, metal and plastic rings shall be removed, and the bottles shall be placed inside the recycling container.
- (6) Any other items that may be deemed necessary to recycle will be prepared for collection in the manner prescribed by the village board and the contractor.
- (7) The contracting collector of recyclables shall make the final determination as to what is recyclable and what is not. This decision will be based on state requirements and the marketability of the collected materials.

(Amdmt. of 12-8-03, § 1)

Sec. 86-35. Placement of containers for collection.

(a) Under this article, all containers shall be placed at the curb edge and in plain sight by 6:00 a.m. on the scheduled collection day. No container shall be placed at curb edge prior to 12 hours before collection time, and the container shall be removed within 12 hours of collection.

- (b) All containers shall be placed as close to the edge of the street as possible.
- (c) Containers shall be placed away from mailboxes to allow for mail delivery.

(d) The owner or occupant at each residence is responsible for all refuse until it is picked up by the collector.

(Amdmt. of 12-8-03, § 1)

Sec. 86-36. Yard waste and grass clippings.

(a) *Yard waste.* All yard waste and garden clippings shall be cut to four-foot lengths and tied into bundles or shall be placed in open containers. Yard waste will be collected during the last full week of the month, or at such other time as the Village deems appropriate.

(b) *Grass clippings.* The village will not provide any disposal of grass clippings. A resident will have three options to handle grass clippings as follows:

- (1) Leave the clippings on the lawn.
- (2) Compost the grass clippings in a compost pile located in the back of his/her property, not near the street and without creating a nuisance to the neighbors.
- (3) Pay a private contractor for removal.

(c) *Disposal of yard waste or grass clippings in streets.* No person shall use the public streets or any other public property as a place for disposal of yard waste or grass clippings. If the occupant, owner or person acting on behalf of the occupant or owner does not comply with this section, the Village may cause the debris to be removed and the expense billed to the owner, occupant or person in charge. Said bill, if unpaid by the date set forth in the statement, shall be delinquent and may be collected via the benefited parcel's next tax bill as a special charge, under Wis. Stat. § 66.0627. The Village shall cause notice of this requirement and procedure to be given at least once annually, on or before December 1st, via the Village's website and newsletter, or such other media as the Village Board deems appropriate. In addition to a special charge, a violation of this section is subject to a forfeiture as provided in Section 1-11 of the Code of Ordinances for the Village of Union Grove.

Sec. 86-37. Leaf collection.

The village will collect and dispose of leaves during the leaf season. Leaves are to be placed in the gutter or at the edge of the pavement.

(Amdmt. of 12-8-03, § 1)

Sec. 86-38. Heavy objects.

Residents or entities wishing to have objects and household items picked up should put them at the curbside during the last full week of the month. Residents wishing to dispose of freon-containing appliances or appliances with electric motors shall contact an outside agency for disposal.

(Amdmt. of 12-8-03, § 1)

Sec. 86-39. Brush chipping.

Brush will be chipped during the last full week of the month. The length of brush should be as long as possible, with a minimum length of six feet and a maximum diameter of six inches. Brush should be placed at the curb with all butts facing the same direction.

(Amdmt. of 12-8-03, § 1)

Sec. 86-40. Noncollectible items and lumber.

Noncollectible items will not be picked up in the regular garbage and rubbish collection, the recyclable program, or the heavy object collection program. Large amounts of lumber shall be considered uncollectible. The determination will be made by the director of public works. Residents disposing of lumber should call the office of the director of public works before placing any lumber at the curb to pickup. Persons or entities may contact the collector for advice on how to dispose of noncollectible items.

(Amdmt. of 12-8-03, § 1)

Sec. 86-41. Waste oil.

Residents of the village must take waste oil to an approved waste oil collection site.

(Amdmt. of 12-8-03, § 1)

Sec. 86-42. Rimless automobile tires.

Rimless automobile tire disposal methods and scheduling will be determined by director of public works.

(Amdmt. of 12-8-03, § 1)

Sec. 86-43. Household sharp medical waste.

(a) For the purpose of this section, household sharp medical waste shall be defined as any intact or broken objects capable of puncturing, lacerating or otherwise penetrating the skin, including but not limited to scalpels or needles.

(b) Household sharp medical waste shall not be deposited in any other place or manner in the village other than as provided in this section.

(c) Acceptable means of disposing of household sharp medical waste shall be limited to heavy plastic containers (i.e., plastic bleach bottles or the like that are resealable) and then given to authorities at a recognized disposal site, either Hauper Pharmacy or the village hall. The containers shall be clearly marked "do not recycle."

(d) It is unlawful to deposit any household sharp medical waste in any manner with household or commercial garbage or mixed with recyclables.

(e) Any person who shall violate this section shall, upon conviction, forfeit not less than \$10.00 or more than \$500.00, together with the costs of prosecution, and in default

of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until the forfeiture and costs are paid, but not exceeding 90 days.

(Amdmt. of 12-8-03, § 1)

Secs. 86-44--86-70. Reserved.

***Editor's note:** An amendment of December 8, 2003, § 1, amended article III in its entirety to read as herein set out. Formerly, article III pertained to similar subject matter and derived from the Code of 1960, §§ 10.15(1--3, 5).

Cross references: Businesses, ch. 22; industrial sewer waste, § 106-266 et seq.
Industrial waste means the refuse that accumulates in or upon land used for manufacturing, industrial, wholesale purposes.
(Amdmt. of 12-8-03, § 1)

Article III. Industrial Waste*

Sec. 86-71. Definitions.

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

Sec. 86-72. Collection.

The collection of industrial waste shall be done by private contract haulers.
(Amdmt. of 12-8-03, § 1)

***Editor's note:** An amendment of December 8, 2003, § 1, amended article III in its entirety to read as herein set out. Formerly, article III pertained to similar subject matter and derived from the Code of 1960, §§ 10.15(1--3, 5).

Cross references: Businesses, ch. 22; industrial sewer waste, § 106-266 et seq.

Chapters 87 - 89
Reserved

Chapter 90 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 90-1.	Street and sidewalk grades established.	2014-01	01/13/2014
Sec. 90-2.	Snow and ice removal.		
Secs. 90-3--90-30.	Reserved.		
Article II. Sidewalks			
Division 1. Generally			
Secs. 90-31--90-55.	Reserved.		
Division 2. Construction and Repair			
Sec. 90-56.	Penalty for violation.	2011-07	06/27/2011
Sec. 90-57.	Owner to construct.	2011-07	06/27/2011
Sec. 90-58.	Permit required.		
Sec. 90-59.	Cement walks.	2021-09	10/25/2021
		2011-07	06/27/2011
Sec. 90-60.	Subgrade.	2021-09	10/25/2021
Sec. 90-61.	Expansion joints.		
Secs. 90-62.	Repair or replacement of sidewalks.	2018-13	06/11/2018
Secs. 90-63. – 90-90.	Reserved.		
Division 3. Commercial Use of Downtown Sidewalks		2011-07	06/27/2011
Sec. 90-91.	In General.	2011-07	06/27/2011
		2022-03	05/23/2022
Sec. 90-92	Sidewalk seating limitations.	2011-07	06/27/2011
		2022-03	05/23/2022
Sec. 90-93	Sidewalk display limitations.	2011-07	06/27/2011
		2022-03	05/23/2022
Secs. 90-94-90-100.	Reserved.		

***Cross references:** Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street, alley or public way in the village saved from repeal, § 1-10(5); any ordinance establishing or prescribing the street grades of any street in the village saved from repeal, § 1-10(10); any ordinance providing for local improvements, assessing taxes therefor saved from repeal, § 1-10(11); any ordinance authorizing street maintenance agreements saved from repeal, § 1-10(17); any ordinance establishing grades, curblines and widths of sidewalks in the public streets and alley saved from repeal, § 1-10(18); any ordinance regarding the lighting of streets and alleys saved from repeal, § 1-10(19); any ordinance regarding construction of public works saved from repeal, § 1-10(24); dogs and cats running at large, § 14-29; buildings and building regulations, ch. 18; moving of buildings, § 18-296 et seq.; businesses, ch. 22; cable communication, ch. 26;

environment, ch. 42; health and sanitation, ch. 50; library, ch. 62; manufactured homes and trailers, ch. 66; obstructing streets and sidewalks, § 70-34; drinking intoxicants in public or within parked motor vehicle, § 70-36; parks and recreation, ch. 74; peddlers and solicitors, ch. 78; planning, ch. 82; solid waste, ch. 86; land divisions, ch. 94; traffic and vehicles, ch. 102; utilities, ch. 106; vegetation, ch. 110; vehicles for hire, ch. 114; zoning, ch. 118.

Article III. Driveways

Division 1. Generally

Secs. 90-101-90-115. Reserved.

Division 2. Construction and Repair

Sec. 90-116.	Penalty.	2011-04	04/15/2011
Sec. 90-117.	Approval required.	2011-04	04/15/2011
Sec. 90-118.	Specifications.	2011-04	04/15/2011
Sec. 90-119.	Manner of making cut.	2011-04	04/15/2011
Sec. 90-120.	Expansion joints.	2011-04	04/15/2011
Secs. 90-121--90-145.	Reserved.		

Article IV. Excavations

Sec. 90-146.	Penalty.		
Sec. 90-147.	Village work excluded.		
Sec. 90-148.	Dedication of streets and alleys.		
Sec. 90-149.	Street opening permit required.	2019-02	01/14/2019
Secs. 90-150.-90-153.	Reserved.	2019-02	01/14/2019
Sec. 90-154.	Excavation in new streets limited.		
Sec. 90-155.	Emergencies.		
Sec. 90-156.	Curb and gutter.		
Sec. 90-157.	Storm sewer installation and assessment in existing streets and subdivisions.		
Secs. 90-158--90-185.	Reserved.		

Article V. Obstructions and Encroachments

Sec. 90-186.	Penalty.		
Sec. 90-187.	Prohibited.		
Sec. 90-188.	Exceptions.		
Sec. 90-189.	Street privilege permit.	2021-09	10/25/2021
Sec. 90-190.	Removal by village.	2021-09	10/25/2021
Secs. 90-191--90-220.	Reserved.		

Article VI. Building Numbering

Sec. 90-221.	Violations.		
Sec. 90-222.	Establishment of system.		
Sec. 90-223.	Baselines.		
Sec. 90-224.	Sides of streets.	2021-09	10/25/2021
Sec. 90-225.	Survey to assign numbers.		
Sec. 90-226.	Plat book of numbers.	2021-09	10/25/2021
Sec. 90-227.	Newly erected houses or buildings.	2021-09	10/25/2021

Article I. In General

Sec. 90-1. Street and sidewalk grades established.

The grades of all streets, alleys and sidewalks shall be established by the village engineer. No street, alley or sidewalk shall be constructed until the grade thereof is established.
(Code 1960, § 6.01(1); Ord. of 6-23-97)

Sec. 90-2. Snow and ice removal.

(a) *Village responsibility.* The department of public works will be responsible for the removal of snow and ice from the street.

(b) *Responsibility of owners and occupants.* The owner, occupant or person in charge of each and every building or structure or unoccupied lot in the village fronting or abutting any street shall clean, or cause to be cleaned, the sidewalk in front of or adjoining such home, building, or unoccupied lot, as the case may be, of snow or ice to the width of such sidewalk within 24 hours after the end of the snowfall. If snow or ice is not cleared, the village will clear the sidewalk. The owner, occupant, or person in charge shall be sent a statement for the actual labor cost of removal by the village. Any snow or ice clearance charge that is unpaid by the due date set forth in the statement shall be delinquent and shall be collected via the benefited parcel's next tax bill as a special charge, under Wis. Stat. §66.0627. The village shall cause notice of this requirement and procedure to be given at least once annually, on or before December 1st, via the village's website and newsletter, or such other media as the village board deems appropriate.

(c) *Disposal of snow in streets.* No person shall use the public streets or any other public property as a place for disposal of snow from private property. Pushing, dumping, blowing, throwing or otherwise transferring snow from private property to a public street or any other public property is prohibited. Provisions of this section shall not apply to snow removal under the direction of the Department of Public Works by Village Employees or contractors performing work under contract with the Village. If the occupant, owner or person acting on behalf of the occupant or owner does not comply with this section, the Village may cause the work to remove the snow to be done and the expense billed to the owner, occupant or person in charge utilizing the procedure set forth in Section 90-2(b).

(d) *Penalty.* The penalty for violation of this section shall be as provided in section 1-11. A separate offense shall be deemed committed during each hour or part thereof during which a violation occurs or continues.

Secs. 90-3--90-30. Reserved.

Article II. Sidewalks

Division 1. Generally

Secs. 90-31--90-55. Reserved.

Division 2. Construction And Repair

Sec. 90-56. Penalty for violation.

Every person who shall violate this article or who shall construct or allow to be constructed any sidewalk or driveway within the village contrary to this article shall, upon conviction, be subject to a forfeiture of not less than \$50.00 and not more than \$200.00, plus costs, and each day of such violation shall constitute a separate offense.

Sec. 90-57. Owner to construct.

It shall be the duty of the abutting owner to build, repair, construct and perpetually maintain sidewalks along or upon any street, alley or highway in the village and to pay the entire cost thereof. Whenever the village board shall by resolution determine that a sidewalk should be installed, rebuilt, repaired, lowered, or raised along or upon any public street, alley, or highway within the village, it shall proceed according to Wis. Stats. § 66.615.

(Code 1960, § 6.02(1); Ord. of 6-23-97, § 1(6.02(1)))

Sec. 90-58. Permit required.

No person shall install, remove, replace or repair any public sidewalk within the village unless he is under contract with the village to do such work or has obtained a permit from the director of public works or building inspector at least seven days before work is to be undertaken and subject to the applicable permit fee on file at the office of the village clerk.

Sec. 90-59. Cement walks.

Public walks shall be of Portland cement concrete and built to specifications on file in the office of the village engineer. All contractors building public walks shall conform to these specifications and to the grades for the walk as given by the village engineer. A permit shall be obtained from the director of public works or building inspector prior to beginning such work. Public walks, except those built by the village, shall be inspected by the building inspector. and subject to the applicable permit fee on file at the office of the village clerk.

Sec. 90-60. Subgrade.

(a) All sidewalk subgrades shall be repaired, rebuilt and constructed in accord with the specifications in this section.

(b) The subgrade shall be prepared by excavating to the line, grade and cross section as furnished by the village. Soft and unsuitable material shall be removed and replaced with suitable material, and the subgrade shall be compacted and thoroughly moistened immediately before the concrete is placed. When so indicated by the village plans, a subbase of sand, sand and gravel or other approved porous material shall be placed under the sidewalk or driveway. At all places where the existing ground level is below subgrade elevation, the owner shall furnish and place suitable material in successive layers of four inches or less, and each layer shall be rolled and thoroughly compacted until subgrade elevation is reached. In all cases where the grading is carried to a line below the subgrade elevation, the owner shall furnish and refill the space with material satisfactory to the director

of public works and shall roll, tamp and sprinkle the fill in a thorough manner approved by the director of public works.

(Code 1960, § 6.02(3)(a))

Sec. 90-61. Expansion joints.

Where cement walks are built to the curbs, either at crosswalks or in front of private property, an expansion joint made up of two one-half-inch strips of asphalt felt shall be inserted.

(Code 1960, ch. 8, § 11(4))

Secs. 90-62. Repair or replacement of sidewalks.

(a) The Public Works Director or his/her designee is authorized to order the repair or replacement of defective sidewalks in accordance with the ordinances and policies of the Village. Any person ordered by the Public Works Director or his/her designee to repair or replace a sidewalk abutting or adjacent to a lot or parcel of land owned by said person shall be required to perform such work or to have the same performed in accordance with the ordinances and policies of the Village. The Village Board shall adopt policies and procedures for the implementation of the inspection and replacement of defective sidewalks.

(b) The landowner with defective sidewalks shall have 30 calendar days from the date of the order to repair or replace said sidewalk. Repair alternatives may include sidewalk mud-jacking and/or grinding/milling the vertical edge to create a smooth transition between squares. If repairing or replacing, the landowner shall be required to get a permit from the Village to perform said work. The landowner shall use qualified concrete contractors to perform the work. The Village will reinspect any repaired or replaced sidewalks to determine if the sidewalk is in compliance.

(c) If the landowner does not perform the work within 30 calendar days, the Village will replace said sidewalk through a third party contractor. If the Village performs the work the landowner will be charged 100% of the cost in addition to a 15% administration cost.

(d) If the Village performs the work, the landowner will get a bill from the Village. If the cost of the work is under \$300, the bill shall be paid within thirty (30) days of invoicing and if not paid the amount shall be entered by the Clerk in the tax roll as a special charge against the property. If the bill is over \$300, at the option of the landowner, the special charge will be spread over three years. Failure of the landowner to pay within thirty (30) days of billing will, in the absence of other instructions, be considered an election to pay on the basis of a three year special charge.

(e) The provisions of Wis. Stat. Sec. 66.0907, so far as applicable, are hereby adopted by reference and made a part of this ordinance.

90-63. – 90-90. Reserved.

Division 3.
Commercial Use of Downtown Sidewalks

Sec. 90-91. In General.

(a) Definitions.

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

Sidewalk has the meaning given in Wis. Stat. § 340.01(58).

(b) Prohibition. The commercial use of sidewalks is prohibited, unless the property owner or tenant possesses proof of the following insurance in amounts not less than stated, from a carrier permitted to transact business in the State of Wisconsin with an AM Best rating of "A-,VII" or better, covering the sidewalk area:

Commercial general liability: \$1,000,000 per occurrence/general aggregate.

Worker's compensation: statutory.

Employer's liability: \$300,000 disease policy limit; \$100,000 per employee.

The property owner or tenant shall also provide, upon request, policies and endorsements. The policies shall be endorsed to name the village, its officers, department, employees and authorized volunteers as additional insureds, and shall provide that the policies of insurance shall not be canceled or altered without thirty days prior written notice to the village. The insurance requirements are not intended to waive any immunity or statutory procedures that the village may have or be entitled to under provisions of law.

Secs. 90-92. Sidewalk seating limitations.

(a) Customer seating may be permitted on sidewalks in the C-1 Downtown District only on Main Street between 10th Avenue and 12th Avenue, and only when the property owner or tenant possesses the proof of insurance provided in section 90-91.

(b) Sidewalk throughway access of 48 inches shall be maintained by all businesses at all times to permit pedestrian accessibility. All ADA standards will be applied to determine pedestrian accessibility.

(c) No tables, chairs or displays shall be placed closer than 40 inches to the back of curb to allow proper and safe clearances for vehicle door swing, egress and ingress.

(d) No outdoor seating is permitted within the required vision triangle clearances of sec 118-996.

(e) Only open and operating first-floor commercial businesses or professional offices may be permitted to have seating on the public sidewalk outside of the business. No extending over onto a neighboring property's frontage is permitted, even if the business obtains permission from the neighboring property owner to do so.

(f) No open intoxicants will be permitted on any public sidewalk or right-of-way, including areas where outdoor seating is permissible, except as allowed by a duly-issued alcohol license for such sidewalk seating area.

(g) Proper accessible entrance and egress clearances shall be maintained at business entrances in compliance with all ADA regulations.

(h) Only the following outdoor seating items shall be permitted to be placed on the public sidewalk in compliance with these other requirements: tables, chairs or other furniture or trash receptacles of a diameter of 30 inches or less. No umbrellas are permitted. No candles or other artificial lighting, no condiments and no accessories of any kind shall remain on any table or other furniture, unless that table or furniture is occupied. "Other furniture" is defined as furniture designed for or modified to withstand the elements and is intended for outdoor seating use.

(i) No tables, chairs or other furniture or trash receptacles may be anchored in any manner to the public property.

(j) All tables, chairs or other furniture or trash receptacles are subject to removal by the Village.

(k) All outdoor seating areas must provide a trash receptacle to be emptied or removed by the permitted business when full, and at least daily. Trash receptacles must be covered to prevent the wind from spreading trash around.

(l) All tables, chairs or other furniture or trash receptacles placed on the public sidewalk must be maintained in good working order and safe condition.

(m) No tables, chairs or other furniture or trash receptacles may be placed outside at any time when there is snow or ice accumulation of one inch or more.

(n) Serving of food and/or nonalcoholic beverages may be permitted for sidewalk seating areas. The service of alcohol is only as allowed pursuant to a duly-issued alcohol license for such sidewalk seating area.

(o) Doorways may not be blocked by any placement of the tables, chairs or other furniture or trash receptacles placed on the public sidewalk.

(p) It is the responsibility of the business owner to regularly check on the placement of tables, chairs or other furniture or trash receptacles placed on the public sidewalk to comply with these requirements.

(q) The placement of any item on the public sidewalk that is not in compliance with these regulations is subject to removal by the Village, or its designee, without warning. Items removed by the Village shall be disposed of without compensation provided to the owner of said items.

Secs. 90-93. Sidewalk display limitations.

(a) Displays of wares or services offered for sale by a business may be permitted on sidewalks in the C-1 Downtown District or, on Main Street between 10th Avenue and 12th Avenue, only when the property owner or tenant possesses the proof of insurance provided in section 90-91.

(b) Sidewalk throughway access of 48 inches shall be maintained by all businesses at all times to permit pedestrian accessibility. All ADA standards will be applied to determine pedestrian accessibility.

(c) No displays shall be placed closer than 40 inches to the back of curb to allow proper and safe clearances for vehicle door swing, egress and ingress.

(d) No outdoor display is permitted within the required vision triangle clearances of sec 118-996.

(e) Only open and operating first-floor commercial businesses or professional offices may be permitted to have displays on the sidewalk outside of the business. No extending over onto a neighboring property's frontage is permitted, even if the business obtains permission from the neighboring property owner to do so.

(f) Proper accessible entrance and egress clearances shall be maintained at business entrances in compliance with all ADA regulations.

(g) No displays may be anchored in any manner to the public property.

(h) All displays must be removed at the end of each business day or no later than 9:00 p.m., whichever is sooner, or the same is subject to removal by the Village.

(i) All displays placed on the public sidewalk must be maintained in good working order and safe condition.

(j) No display may be placed outside from November through April, nor on any snow day outside of such months.

(k) Doorways may not be blocked by any placement of a sidewalk display.

(l) It is the responsibility of the business owner to regularly check on the placement of the display placed on the public sidewalk to comply with these requirements.

(m) The placement of any item on the public sidewalk that is not in compliance with these regulations is subject to removal by the Village, or its designee, without warning. Items removed by the Village shall be disposed of without compensation provided to the owner of said items.

Secs. 90-94--90-100. Reserved.

Article III. Driveways

Division 1. Generally

Secs. 90-101--90-115. Reserved.

Division 2. Construction and Repair

Sec. 90-116. Penalty.

The penalty for violation of any section of this division shall be as provided in section 1-11.

Sec. 90-117. Permit required.

No person shall construct, enlarge or make any improvements to a private driveway extending into a public right-of-way without obtaining a driveway permit from the Building Inspector. The fee for a driveway permit shall be as is set periodically by resolution of the village board. All new construction costs and the cost of any and all repairs to existing driveways extending into public rights-of-way, including, but not limited to, the moving of existing culverts, maintenance and the covering with gravel, shall be borne by the permittee, unless the repairs were necessitated by the reconstruction of any portion of the public right-of-way by the Village.

Sec. 90-118. Specifications.

(a) *Width.* No driveway shall exceed 24 feet in width at the street edge of the sidewalk unless prior permission is obtained from the plan commission. Minimum driveway widths shall be as provided in Sec. 118-1027(j).

(b) *Interference with intersection prohibited.* At or near street intersections, a driveway shall not provide direct ingress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Village Board for effective traffic control or for highway signs and signals. All driveway openings created after the effective date of this ordinance shall be located a minimum of 25 feet from the intersection of the intersecting road right-of-way lines, except in case of practical difficulty or unnecessary hardship, as determined by the Village Engineer and Building Inspector, in which case lesser intersection setbacks may be allowed. All driveways shall be located so as to provide adequate sight distance in both directions along the street for safe access to the street and without interfering with vehicular or pedestrian traffic on the street. Driveways must also comply with DOT standards, where applicable.

(c) *Culverts.*

- (1) If necessary due to the absence of curb and gutter, driveway culverts shall be constructed of such size and length as required for proper drainage along the right-of-way but shall not be less than 15 inches by 24 feet and shall be installed with end walls and animal guards. Culverts shall be constructed of corrugated metal pipe (CMP), ductile iron pipe (DIP), HDPE, PVC, or reinforced concrete pipe. The design and sizing are to be reviewed by the Building Inspector or the Village Engineer.

No burning of any kind shall be allowed within 10 feet of any HDPE or PVC culvert.

- (2) The permittee may not construct any abutment above the existing road grade at the ends of the culvert underlying the driveway. At a distance of eight feet from the edge of the pavement, the finished grade of the driveway shall be four inches below the grade of the edge of the adjacent driveway unless approved otherwise by the Building Inspector. A plan for the culvert showing all necessary elevations shall be submitted to the Building Inspector for review.
- (3) Any drainage ditch and public right-of-way affected by the construction of a driveway entrance shall be reconstructed to the original shape, grade and contour of such ditch and right-of-way at the expense of the permittee.
- (4) Erosion control practices shall be in place and maintained at all times during construction of driveways and ditches, as deemed necessary by the Building Inspector.
- (5) If a culvert is not properly installed or maintained by the permittee or his agent, employee, or contractor, the village shall have the right to remove, reset and/or replace any such culvert at the property owner's expense. Prior to any such removal, resetting and/or replacement, the village shall notify the property owner in writing of any defect as to such culvert and shall order the owner to correct any defect within such period of time that the Building Inspector shall specify, but not less than 30 days. The property owner may request a hearing before the Planning Commission with respect to the same, in which event the order shall be stayed until after such hearing. The village shall promptly bill the property owner for the costs of removal, resetting and/or replacement. If the bill is not paid, the same shall be placed upon the property tax roll as a special assessment and shall be collected as such. If permitted, two driveway approaches shall be at least six feet apart at the street side of the sidewalk unless permitted by the Building Inspector.

(d) *Number of approaches limited.* No more than one driveway entrance and approach shall be constructed for any lot or premises except where deemed necessary and feasible by the Building Inspector, in due consideration of safety, convenience and utility of the street.

(e) *Liability of owner or applicant for damage or injury.* The permittee shall assume all responsibility for any injury or damage to persons or property occurring directly or indirectly as a result of the construction or repair of driveway approaches or entrances. When curb and gutter is removed, the new connection shall be of equivalent acceptable material and curb returns shall be provided or restored in a neat, workmanlike manner. Driveway surfaces shall connect with the street pavement and sidewalk in a neat workmanlike manner. Any sidewalk areas which are damaged during construction shall be replaced or repaired and left in a neat workmanlike manner.

(f) *Curb cuts, driveway construction.* No curb cutting is allowed without a permit issued by the Building Inspector under this division. The Building Inspector will furnish detailed information as to how this work is to be accomplished.

(g) *Driveway area within public right-of-way.* Driveways from back of curb to a point flush with the inside edge of a public sidewalk or the intersection with the public right-of-way lot line shall be constructed with a minimum gravel base of 6 inches compacted and concrete at a depth no less than 6 inches for one and two family applications and 8 inches of gravel and 8 inches of concrete for all other applications.

(h) *Driveway setbacks.* Driveways shall be constructed so that no storm water discharges toward adjacent property. Without prior Building Inspector approval, for good cause shown, the edge of the driveway may not be closer than 3 feet to the parcel's side lot lines, and only if parcel width and grade permit.

(i) *Project inspection.* All driveway work within the village right-of-way must be inspected by the Building Inspector before and after installation of concrete for compliance with the permit and this division.

Sec. 90-119. Manner of making cut.

Where it is necessary to cut through an existing concrete curb of a village street to install a driveway, the location and the method of removal will be determined by the Building Inspector. The entire portion of curbing removed for the purpose of flaring the driveway shall be within the confines of the lot the driveway serves unless agreeable to the adjacent property owners to extend the flare over the lot line. The exact manner of cutting and replacing the curb is shown on a sketch furnished the contractor at the time the curb permit is issued.

Sec. 90-120. Expansion joints.

Where concrete driveways are built to the curbs, either at crosswalks or in front of private property, an expansion joint made up of one-half inch (1/2") strip of asphalt felt equivalent to the depth of the required pour shall be inserted.

Secs. 90-121--90-145. Reserved.

Article IV. Excavations

Sec. 90-146. Penalty.

The penalty for violation of this article shall be as provided in section 1-11.
(Code 1960, § 6.04(13))

Sec. 90-147. Village work excluded.

This article shall not apply to excavation work under the direction of the director of public works by the village employees or contractors performing work under contract with the village necessitating openings or excavations in village streets.
(Code 1960, § 6.04(9))

Sec. 90-148. Dedication of streets and alleys.

Prior to accepting the dedication of any street, alley or other public way, either as part of a platted subdivision or otherwise, or prior to permitting any private street, alley or way to be placed on the official map, the following shall be required:

- (1) That portion of the street (from one intersection to the next or to the extent of development, which shall be no less than 66 feet in width), alley or way shall be brought to grade, rough graded, and graveled with eight inches of fractured stone and covered with four inches of crushed road gravel, and the street shall be surfaced for a minimum width of 33 feet, with concrete or asphalt pavement as specified by the village engineer and the village board. That portion of the street not covered by asphalt pavement or concrete pavement as specified by the village engineer and the village board shall be terraced, and sod or grass seed shall be applied. Alleys and other public ways shall be surfaced in the same manner to the width required. The village board, after receiving a report from the village engineer and the director of public works that all work is completed, shall, by resolution, accept the street or alley. If the surface described in this subsection has not been laid, the acceptance of the street or alley shall be conditional until such time as the surface is laid.
- (2) All grading and surfacing required by this article, together with the engineering work to accomplish the same shall be at the expense of the owner or subdivider of the street, alley or way at no expense to the village, except as provided in this article.
- (3) No street or alley will be accepted or opened when it is laid adjacent to publicly owned property.
- (4) All utilities shall be initially laid before the street is surfaced and approved. Utility trenches shall be filled with sand or gravel backfill.
- (5) No building permit shall be issued for any structure, other than an accessory building, which does not abut a street permanently laid out in compliance with this Code.
- (6) The requirements of this section may be withheld until such time, but no longer, as there is either development or sale of property adjacent to the street, alley or sidewalk, provided that the village board, by a five-sevenths vote, determines that it is desirable for the future growth of the community and that the owner signs a recordable agreement providing for future compliance with this section.

(Code 1960, § 6.04(1)(a), (c)--(g))

Sec. 90-149. Excavations In public rights-of-way and village owned property regulated.

(a) Purpose and Findings.

- (1) In the exercise of governmental functions, the Village has priority over all other uses of the public Rights-of-Way. The Village desires to anticipate and minimize the number of obstructions and Excavations taking place therein and to regulate the placement of Facilities in the Rights-of-Way to ensure that the Rights-of-Way remain available for public services and safe for public use. The taxpayers of the Village bear the financial burden for the upkeep of the Rights-of-Way and a primary cause for the early and excessive deterioration of its Rights-of-Way is the frequent Excavation by Persons and Public Utilities who locate Facilities therein.
- (2) The Village finds increased use of the public Rights-of-Way and increased costs to the taxpayers of the Village and that these costs are likely to continue into the foreseeable future.
- (3) The Village finds that occupancy and Excavation of its property and Rights-of-Way causes costs to be borne by the Village and its taxpayers including, but not limited to:
 - a. Administrative costs associated with public Right-of-Way projects such as registration, permitting, inspection and supervision, supplies and materials.
 - b. Management costs associated with ongoing management activities necessitated by public users.
 - c. Repair or Restoration costs to the public property and/or Right-of-Way associated with the actual Excavation.
 - d. Degradation costs defined as depreciation caused to the public property and/or Rights-of-Way in terms of decreased useful life, directly and/or indirectly arising or resulting from such Excavations and related activities thereon.
- (4) The Village enacts this ordinance to regulate the temporary Excavation, obstruction and/or occupancy of public property and/or the public Rights-of-Way. This ordinance imposes reasonable regulations on the placement and maintenance of equipment currently within its public property and/or Rights-of-Way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies.
- (5) This ordinance provides the Village with a legal, uniform and reasonable framework within which to regulate, manage, inspect, properly maintain, engineer and regulate Excavations, Repairs, Restorations and related effects and aftereffects of and into the

Village's public properties and Rights-of-Way, and to provide for recovery of the reasonable associated costs, fees and expenses incurred by the Village in doing so.

- (6) This ordinance protects the health, safety and welfare of the residents of the Village as they use public properties and the Rights-of-Way of the Village, as well as to ensure the structural integrity of public property and the public Rights-of-Way.

(b) **Definitions.** The following definitions shall apply in this Section. Defined terms remain defined terms whether or not capitalized. Words used in the present tense shall include the past and future tense. Words used in the singular form shall include the plural form. Words used in the plural form shall include the singular form. The word "shall" is mandatory and the word "may" is permissive.

Applicant. Any Person or Public Utility requesting permission to Excavate, cut into, bore into, obstruct and/or occupy public property and/or a public Right-of-Way.

Degradation. The decrease in the useful life of the public property and/or improved or paved portion of a Right-of-Way, excluding the sidewalk right-of-way, caused by an Excavation of the public property or Right-of-Way, resulting in the need to reconstruct such property and/or Right-of-Way earlier than would be required if the Excavation did not occur.

Department. The Village Department of Public Works.

Emergency. A condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.

Excavate and/or Excavation. To dig, cut, bore into, remove, physically disturb, penetrate and/or in any manner affect the existing condition of any Village property, Right-of-Way or other land included in this ordinance.

Facilities. All equipment owned, operated, leased or subleased in connection with the operation of a service or utility service, and shall include but is not limited to poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, lines and other structures and appurtenances.

In. When used in conjunction with "public property" and/or "Right-of-Way", shall mean upon, over, above, within, on or under such public property and/or Right-of-Way.

Local Representative. A local person or persons, or designee of such persons or persons, authorized by an Applicant to accept service and to make decisions for that Applicant regarding all matters within the scope of this Section.

Obstruct. To place any object in a Right-of-Way so as to hinder free and open passage over that or any part of the Right-of-Way.

Permittee. Any person or Public Utility to whom a permit to occupy, Excavate or obstruct public property and/or Right(s)-of-Way has been granted by the Village under this Section of the ordinances

Person. A corporation, company, association, firm, partnership, limited liability company, limited liability partnership, joint venture, association, organization and individuals and their lessors, transferees, receivers, heirs, personal representatives, agents and all others acting on their behalf.

Property. The surface and space above and below an improved or unimproved part or whole of any and all Village owned or leased real property including, but not limited to, parks, vacant lots, open spaces, developed lands, green belts, parking lots, roads, sidewalks, terraces, rights-of-way, curbs, gutters, alleys, bicycle ways, bike trails, paths, beaches, river banks, easements, drainage ways, and other lands.

Public Utility. The meaning provided in Wis. Stats. 196.01(5), as from time to time amended or renumbered.

Public Works Director. The Village Public Works Director or his/her designee(s).

Repair. To perform construction work necessary to make the public property and/or Right-of-Way useable for appropriate and safe use and, if a Right-of-Way, in accord with the written and/or verbal requirements, specifications, rules and regulations of the Village and/or as promulgated from time-to-time by the Village Public Works Director; and/or, as applicable, to restore equipment to an operable and appropriate condition.

Restore or Restoration. That process by which an excavated public property and/or Right-of-Way and surrounding area, including pavement and foundation, is reconstructed in accord with the written and/or verbal requirements, specifications, rules and regulations of the Village and/or as promulgated from time-to-time by the Village Public Works Director.

Right-of-Way. The surface and space above and below an improved or unimproved public roadway, highway, road, bicycle lane and public sidewalk in which the Village has an interest, including other dedicated Rights-of-Way for travel purposes.

Site. The specific geographic location for a proposed Excavation accurately diagrammed and exactly described with particularity by the applicant in an application.

Village. The Village of Union Grove, a Wisconsin municipal corporation located in the County of Racine, Wisconsin.

(c) Prohibition -- Excavation permit required.

- (1) No cut, Excavation, or service connection shall be made by any Person or Public Utility in any Village property or Right-of-Way unless a permit under this Section is applied for, the fee paid for, the permit issued by the Village Public Works Director, obtained and held under this

ordinance and then only in strict accord with all provisions and requirements of this ordinance.

- (2) No Person or Public Utility shall undertake to perform the work of making any connection with, installing or Repair of any Facilities, gas pipe, water pipe, sewer, communication, cable, or electric line or facility laid or constructed in any road or public ground, or to Repair or remove any such item without having obtained a permit under this Section authorizing him to do such work. No annual permit fee is required but individual permits and permit fees for each Excavation are required.
- (3) Every cut, Excavation and service connection in any Village property that is not a Right-of-Way shall also require, in addition to the permit, payment of fees and fulfillment of other requirements set forth in this ordinance, and separate permission, lease(s) and/or easement(s) from the Village Board, as applicable. Such additional permission is discretionary with the Village Board, is not a matter of right regardless of whether a permit has been applied for and/or issued under this ordinance and may be denied or withheld without cause. Compliance with this ordinance does not take the place of such additional required permission.

(d) Application for permit.

Written application for an Excavation permit shall be made to the Village Public Works Director prior to any Excavation. Permit applications shall contain and will be considered complete only upon compliance with each of the following requirements:

- (1) *Application Form.* An accurate and complete written Excavation Permit Application Form shall be submitted to the Public Works Director. The application shall be signed and dated by a duly authorized representative of the Applicant. The application form shall be in such form, content and requirements as the Village Public Works Director may determine and/or direct from time-to-time. The application form shall contain, at a minimum, the following information:

Each Applicant's name, Diggers Hotline registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.

- a. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a Local Representative. The Local Representative or designee shall be available at all times. Current information regarding how to contact the Local Representative in an emergency shall be provided at the time of application.
- b. A detailed description of the scope and plan of the Excavation work and Repair/Restoration proposed, including a description of the property and name of the Right-of-Way if applicable, the

approximate location of the Excavation(s), the purpose for the Excavation, and the method by which the Excavation is to made.

- c. Indemnification language protecting and holding harmless the Village and each and every of the Village's elected and appointed officials, officers, employees, agents, contractors and representatives from and against any and all injury, payments, penalties and damages arising from any and all intentional and negligent activities of the Applicant and the Applicant's appointed officials, officers, employees, agents, contractors and representatives.
 - d. The applications shall be signed by the Applicant's authorized representative or agent. If the work is not to be performed by the Applicant directly, the person engaged to do the work shall co-sign the application and the permit shall be issued in the name of the person performing the work along with the Applicant.
- (2) *Form and Drawings.* Submission of the completed permit application form as established by the Village Public Works Director, including all required attachments, drawings showing the location and area of the proposed Facilities, and the size of the cut, Excavation or service connection. The proposed Excavation must accommodate all existing underground Facilities within the proposed route.
- (3) *Insurance Certificate.* The applicant shall file Certificates of Insurance with the Village Public Works Director giving evidence of liability insurance in the following minimum amounts:

Worker's Compensation	Statutory Limits
Commercial Automobile Liability	\$2,000,000.00 per Accident for Bodily Injury and Property Damage Liability Combined.
Commercial General Liability	\$2,000,000.00 per Occurrence for Bodily Injury and Property Damage Liability Combined.

The Village Public Works Director may require higher amounts of liability insurance depending on the scope of the Excavation project. The Village and its officials, employees and agents shall be named as additional insureds on the commercial general and automobile liability policies. The insurance shall cover liability to third parties for the acts of the Applicant and Applicants officials and employees, agents, contractors, representatives and related others. The insurance shall cover bodily injury and property damage for the individual incidents and aggregates required by the Village Public Works Director. Such insurance shall not be cancelled or reduced without the insurer giving at least 10 days prior written notice to the Village Public Works Director.

Cancellation or reduction of insurance shall automatically suspend the permit, and no further work shall be done under such permit until a new certificate of insurance complying herewith is filed with the Village Public Works Director. The Certificate of Insurance shall remain in full force and effect for not less than one year from the date of the Village's final inspection after completion of the project. The insurance requirements under this subsection may be modified or waived by the Village Public Works Director when the applicant is a Public Utility and the Village Public Works Director has no reasonable grounds to question the financial responsibility or compliance ability of the Public Utility.

- (4) *Bond.* A bond in the form of cash, performance bond issued by a licensed company in Wisconsin or irrevocable letter of credit issued by a financial institution acceptable to the Village shall be deposited or filed with the Village Public Works Director and preserved by the Village Treasurer prior to the issuance of the permit. The Village Public Works Director shall determine the minimum amount of a cash bond and the form and the minimum dollar amount of the performance security bond and letter of credit based upon the estimated cost of the project and to Restore the area involved to a condition the same or similar to that prior to the cut and/or Excavation. The bond or letter of credit shall be payable to the Village upon demand by the Village Public Works Director for any actual or suspected violation of any provision of this ordinance. The Village Public Works Director shall be able to demand payment upon the bond or letter of credit in whole or in-part at any time and from time-to-time. The bond or letter of credit shall be in such further form, content and requirements as the Village Public Works Director and Village Attorney may determine necessary and/or desirable to effect the intent of the Village Board in this ordinance. The Village need not resort to any other remedy or provide any prior notice to the applicant or permittee before making demand upon, resorting to or receiving payment from the bond or letter of credit. In the event the cash bond, performance bond or letter of credit shall be insufficient for such purposes, the Permittee shall be liable to the Village for the excess cost over the amount of the bond or the amount collected by the Village on the irrevocable letter of credit. The bond or letter of credit shall remain in full force and effect for one (1) year from the date of the Village's final inspection after completion of the project. The bond requirements under this subsection may be modified or waived by the Village Public Works Director when the applicant is a Public Utility and the Village Public Works Director has no reasonable grounds to question the financial responsibility or compliance ability of the Public Utility.
- (5) *Certificate of Authority.* A copy of the applicant's certificate of authority from the Wisconsin Public Service Commission or other applicable state or federal agency, where the Applicant is lawfully required to have such certificate from said commission or other state or federal agency.

- (6) *Corporate or Similar Certificate.* If the registration is a corporation, a LLC or LLP, a copy of any certificate required to be filed under Wisconsin Statutes as recorded and certified by the Wisconsin Department of Financial Institutions.
 - (7) *Site Plan.* Each application shall contain, attached thereto, an accurate diagram and description of the Excavation site.
 - (8) *Payment.* Payment of the permit fees and costs as set forth in this ordinance.
 - (9) *Notice of Change.* The Applicant shall keep all of the information listed above current at all times by providing to the Village Public Works Director information as to changes within three (3) working days following the date on which the applicant has knowledge of any change.
 - (10) *One Permit Per Site.* A separate permit must be applied for and held, and a separate fee paid, for each site, Excavation, cut and/or project. A separate permit is required for a new or emergency Excavation at a previously permitted site if the previous work or Excavation was completed.
 - (11) *Permits Not Transferable.* Permits are not transferable to a different Person or Public Utility. Permits are not transferable from place to place.
 - (12) *Permit Posting Required.* A photocopy of each issued Village Excavation Permit shall be conspicuously posted and maintained at the site until the project is completed.
- (e) Fees.
- (1) Each Applicant shall pay a base application fee of \$35.00 to the Village. In addition, the following additional fees, as applicable, shall be calculated by the Village Public Works Director and paid to the Village by the Applicant at the time the written application is filed with the Village Public Works Department:

Proposed work in the Right-of-Way	Fee
Fiber Optic (Basic)	\$100.00
Road Opening Minimum	\$100.00
Bore Right-of-Law	\$25.00 per bore
Bore Sidewalks and Driveways	\$5.00 per bore
Standard Per 50' For Larger Jobs (overhead)	\$5.00 per 50'
Standard Per 50' For Larger Jobs (underground)	\$10.00 per 50'

Pole Installation	\$5.00 per pole
Cabinet and Pedestal	\$25.00 per cabinet/pedestal

- (2) *Fees non-refundable.* Permit fees are not refundable for any reason. The permit fees shall be in addition to any forfeiture provided elsewhere in this ordinance.
- (f) Costs Arising from Permittee Exceeding Specifications.
- (1) *Reimbursement Required.* A Permittee exceeding the scope of the project reported in the written application shall fully and forthwith reimburse the Village for all additional Village costs incurred in addition to the fees otherwise applicable and/or paid for the entire project as established. Such additional costs shall include, but not be limited to, actual salaries and staff time, benefits, overhead, vehicle and equipment costs, copies, inspections and other similar costs as specified under Wis. Adm. Code Sec. 130.05.
 - (2) *Substantial Projects.* For applications that provide for a substantial undertaking of Excavation within a public Right-of-Way attended by disruption of the general public and traffic, the Village Public Works Director may assess the actual costs of the Village employees' time engaged in review and inspection of the anticipated plans and work, multiplied by a factor determined by the Village Public Works Director to represent the Village's actual costs and expenses, benefits, insurance, sick leave, holidays, vacation and similar benefits, overhead and supervision, said factor not to exceed 2.0, plus the costs of mileage, vehicle rental/use attributed to the work, plus all consultant fees associated with the work at the invoiced amount plus ten percent (10%) for administration.
- (g) Exemptions.
- (1) The Village and its public works contractors shall not pay fees or post a bond for Excavations pertaining to general governmental functions and projects.
 - (2) Plumbers who have applied for, paid the fee for, have been issued, and hold a connection permit for a particular site.
- (h) Revocations, Suspensions, Refusals to Issue or Extend Permit.
- (1) The Village Public Works Director may refuse to issue a permit or may administratively revoke, suspend or refuse to extend an existing permit if the Village Public Works Director finds any of the following grounds:
 - a. The Applicant, Permittee or occupant has failed to obtain a permit, failed to pay the full required fee(s) for, and/or has not fully complied with any provision or requirement of this ordinance;

- b. Issuance of a permit for the requested date would interfere with an exhibition, celebration, festival or other event;
- c. Issuance of a permit would not be in the public's best interest;
- d. Issuance of the permit would be contrary to the health, welfare, safety or good order of the public, community or Village;
- e. There is a limitation of space as determined by the Village Public Works Director;
- f. Misrepresentation of any fact by the Applicant, Permittee or occupant, or anyone on their behalf;
- g. Failure of the Applicant, Permittee or occupant to obtain, maintain or show proof of required bonds and/or insurance;
- h. Failure of the Applicant, Permittee or occupant to complete work in a timely or appropriate manner on any current or past Excavation project in the Village;
- i. Any current or past violation, breach or non-conformity with any provision of this ordinance by the Applicant, Permittee or occupant;
- j. The competing demands for the particular space in the Right-of-Way or other public property.
- k. The availability of other locations in the Right-of-Way or in other public property for the Facilities of the Permittee or Applicant;
- l. The applicability of ordinances or other regulations of the Right-of-Way or other public property that affect location of Facilities in the Right-of-Way; and
- m. The Excavation is proposed for a road, sidewalk, bike way, alley or other Right-of-Way or portion thereof newly installed, or recently resurfaced or reconstructed, and the Applicant chose not to Excavate and/or Repair/replace the utility before such new installation, resurfacing or reconstruction activities were completed. No excavation shall be allowed in newly installed or recently repaired or resurfaced public property and/or Rights-of-Way for five (5) years from completion of such new installation or recent repair or resurfacing. The Village Public Works Director may make exceptions to this rule for extraordinary circumstances and emergencies.

- (2) *Discretionary Issuance.* The Village Public Works Director may waive a particular requirement and issue a permit where issuance is necessary: (a) to prevent substantial economic hardship to a customer of the Permittee or Applicant, or (b) to allow such customer to materially

improve its utility service, or (c) to allow the Permittee or Applicant to comply with state or federal law or Village ordinance or an order of a court or administrative agency.

(i) Reporting Obligations.

It is in the best interests of all affected parties to attempt to coordinate construction in public property and/or the public Right-of-Way whenever it is reasonably possible. Therefore, periodic reporting by the Public Utility or the Applicant to the Village Public Works Director of known or projected construction plans shall occur and will be useful to achieve this objective.

(j) Location of Facilities Underground.

The permittee shall endeavor to install Facilities underground or within buildings or other structures in conformity with applicable codes and requirements of the Village Public Works Director, unless in conflict with state or federal law, existing above-ground Facilities are used, or otherwise approved by the Village Public Works Director. The Village Public Works Director may direct that the installation be made underground if the public health, safety, or welfare so require.

(k) Limitation of Space.

The Village Public Works Director may prohibit or limit the placement of new or additional Facilities within public property and/or public Rights-of-Way if, in his determination, there is insufficient space to accommodate all of the requests of Persons or a Public Utility to occupy the site, public property and/or Right-of-Way. In making such decisions, the Village Public Works Director shall strive to the extent reasonably possible to accommodate all existing and potential users of the public property Right-of-Way, but may prohibit or limit the placement of new or additional Facilities when s/he determines such is required to protect, safeguard and/or facilitate the public health, safety, or welfare. In reaching this conclusion, the Village Public Works Director may consider the Public Utility's or Person's obligation to serve.

(l) Attachment to bridges.

Whenever an Applicant requests permission to attach pipes, conduits, cables, or wires to any village bridge structure, the Applicant shall pay all costs associated with the granting of such permission, including, but not limited to, administrative expenses in the analysis and inspection of such installation and Applicant's plans. The owner of such pipes, conduits, cables, or wires shall be entitled to no compensation for removal or relocation of the same in case of repair, removal, or replacement of said bridge structure by the Village or others on the Village's behalf, and/or any consequential damages directly and/or indirectly arising therefrom.

(m) Standards; Construction, Repair and/or Restoration of paved or improved areas.

All Excavations shall comply with the following:

- (1) *Surrounding Area; Precautions; Notices.* All paving and excavated materials shall be removed with the least possible damage to the surrounding area, and shall be placed where it will cause the least inconvenience to the public and where the same will not interfere with drainage or traffic. All Excavations shall be enclosed with sufficient barricades, and flashers shall be maintained upon said location during the hours of darkness. The Permittee shall provide and maintain proper barricades, signs, flags and flagmen at its expense. The Village may order the placement or use of additional safety devices and the Permittee shall pay all costs associated with their placement. All other necessary precautions to guard the public against accidents shall be taken by the permittee. If necessary to protect the health, safety and public welfare, in addition to repairing its own work, the Permittee shall repair the general area of the work, and the surrounding areas, including the paving and its foundations, to the specifications of the Village. Permittee shall provide notice to all public and private individuals, firms and corporations affected by the work and Digger's Hotline at least three (3) working days before such work is to start. Permittee shall notify the Village Public Works Director prior to the commencement of work and again at various stages of the work in the timeframes as specified by the Village Public Works Director.
- (2) *Style of Cut.* All Excavations in permanently improved Right-of-Way, roads and/or parking lots, sidewalks, bike trails, and the like, shall be made by final saw cuts around the perimeter of the Excavation in accordance with the specifications established by the Village Public Works Director.
- (3) *Boring; Backfilling.* Wherever feasible, boring under rather than excavating the paved portion of the Right-of-Way, shall be the method used in the case of paved, hard surface, highways. If boring is not feasible, the paved portion of Village Rights-of-Way may be open cut provided slurry fill shall be used to backfill the trench. If, at the discretion of the Public Works Director, an exception is made to allow granular fill, backfill material shall be placed in lifts not to exceed two (2) feet in depth and compacted in place with a boom mounted hydraulic compactor.
If an Applicant wishes to vary the requirements of this subsection so as to employ an equal or more effective method of compaction, the Applicant shall first obtain the written permission of the Village Public Works Director. If such permission is received and it later appears that the alternate method being employed is not, in the judgment of the Village Public Works Director, equally or more effective than the provisions of this subsection, the contractor shall revert to the means specified in this subsection.
- (4) *Trench Flooding Prohibited.* In no case will flooding of the trenches be allowed as a compaction method.
- (5) *Pavement Restoration.* After filling of the trench is completed to the satisfaction of the Village Public Works Director, the Permittee shall

Restore the pavement of the highway so as to conform to the surrounding pavement as soon as such repavement is practical and feasible. Unless otherwise required by the Village Public Works Director, disturbed pavement shall be replaced by the Permittee, or an authorized contractor retained by the Village, at the Permittee's sole cost and expense. The Permittee shall use only materials approved by the Village Public Works Director. The site shall be fully and timely restored by the Permittee to a condition better than it was immediately prior to the Excavation and in full accord with each and every specification of the Village as from time-to-time supplemented, amended or otherwise modified. However, when a Permittee is a Public Utility, the Right-of-Way shall be restored to at least its original condition.

- (6) *Restoration of Unpaved Areas.* All Excavations in areas which are not paved shall be backfilled with natural material compacted in 12" layers with mechanical compaction equipment. The surface shall be restored to its original condition, subject to the approval of the Village Public Works Director. The Permittee shall guarantee this work for twenty-four (24) months from the date of Village final inspection after project completion.
- (7) *Maintenance.* The Permittee shall be responsible for all costs associated with maintaining the temporary and permanent Repairs and Restorations in accordance with Village Public Works Director specifications until the Repairs/Restorations are accepted by the Village. Upon acceptance, the guarantee provisions under subsection (n) below are applicable. In all cases, the permittee shall be required to Repair the site to Village specifications and standards subject to inspection and acceptance by the Village.
- (8) *Inspections and Acceptance.* At the beginning and at the end of the project, the Permittee shall immediately notify the Village Public Works Director. The Village Public Works Director shall inspect the area of the work and accept the work at the end when the Village Public Works Director determines that proper Repair and/or Restoration has been made in accord with all specifications and requirements of the Village. The Permittee shall make the work site available to the Village Public Works Director and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
- (9) *Failure to Repair/Restore.* In the event that the Village Public Works Director determines that the initial or any subsequent Repair and/or Restoration work or work area have not been timely or otherwise not Repaired or Restored as required or directed, then the Village Public Works Director shall inform or notify the Permittee who shall then forthwith perform and/or re-do the required work solely at Permittee's cost and expense. Permittee shall then notify the Village Public Works Director of the remedial work completion. The Village Public Works Director shall then reinspect the work. If the Permittee fails to restore

the worksite to its specified condition within fourteen (14) days of being notified to do so, the Village Public Works Director shall have the right to do any and all necessary restoration work. The Permittee shall be liable for the actual cost thereof plus twenty-five percent (25%) of such cost for overhead and administrative expenses, including but not limited to those expenses identified under Adm. Code. Sec. 130.05. The costs of said work shall be deducted from the cash deposit, drawn on the bond or letter of credit or billed directly to the Permittee. Should the costs of repairs exceed the cash deposit, bond or letter of credit posted, the additional amount shall be billed. Any billed costs shall be paid within thirty (30) days of the billing date. No future Excavation permits shall be issued to the Applicant until such invoices are paid in full. At any time after the fourteen (14) day notice and opportunity to cure as specified above, the Village Public Works Director may demand and/or draw upon the Permittee's bond to cause the work to be performed adequately. In addition to all of these steps and remedies, and in addition to and not in lieu of any enforcement, forfeitures, penalties, injunctive and/or other relief, the Village Public Works Director may use Village crews and/or contract with third parties to perform and/or complete the Repairs and/or Restoration, and charge/invoice the Permittee for the costs and expenses of such work. The Permittee shall forthwith pay in full such invoice to the Village within thirty (30) days of the billing date.

- (n) *Guarantee.* The Permittee guarantees its work and shall maintain it for twenty-four (24) months following its completion. During this period it shall, upon notification from the Village Public Works Director, immediately correct, repair, restore and/or re-do any and all work and portions thereof to the extent required or directed by the Village Public Works Director, using the method and within the time required by the Village Public Works Director. Said work shall be completed within ten (10) calendar days of the receipt of the notice from the Village, not including days during which work cannot be done because of circumstances constituting force majeure. If the repair and/or replacement pavement or material settles or cracks within five (5) years of the date of the permit and if failure of the repair and/or replacement is due to improper backfill, compaction or materials, the pavement and backfill in the Excavation area shall be forthwith removed and replaced at the expense of the Permittee.
- (o) *Relocation of Facilities.* An occupant must promptly and at its own expense permanently remove and relocate its Facilities in the public property or Right-of-Way whenever the Village and/or Village Public Works Director, jointly or severally acting in his/her or its governmental capacity, and having determined that the public health, safety, or welfare so requires, requests such removal and relocation. Notwithstanding the foregoing, an occupant shall not be required to remove or relocate its Facilities from any Right-of-Way or other public property that has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the occupant therefor.
- (p) *Interference With Other Facilities During Municipal Construction.* When the Village performs work in the Right-of-Way or other public property and the Village Public Works Director finds it necessary to maintain, support, shore, or move an occupant's Facilities, the Village Public Works Director shall notify the

Local Representative. The occupant shall meet with the Village's representative within twenty-four (24) hours and coordinate the protection, maintenance, supporting, and/or shoring of the occupant's Facilities. The occupant shall accomplish the needed work within seventy-two (72) hours, unless the Village agrees to a longer period. In the event that the occupant does not proceed to maintain, support, shore, or move its Facilities within such time, the Village may arrange to do the work and bill the occupant, said bill to be paid within thirty (30) days of the billing date.

(q) *Abandoned and Unused Facilities.*

(1) *Discontinued Operations.* An occupant or Permittee who has decided to discontinue its operations must either:

- a. Timely provide information satisfactory to the Village Public Works Director that the occupant's or Permittee's obligations under this ordinance for its Facilities have been lawfully assumed by another occupant or Permittee; or
- b. Submit to the Village Public Works Director a proposal and instruments for transferring ownership of its Facilities to the Village. If an occupant proceeds under this clause, the Village may, at its option:
 1. Accept the dedication for all or a portion of the Facilities; or
 2. Require the occupant, at its own expense, to remove the Facilities; or
 3. Require the occupant to forthwith post a bond or provide payment in an amount determined by the Village Public Works Director sufficient to reimburse the Village for reasonably anticipated costs to be incurred in removing the Facilities.

(2) *Abandoned Facilities.* Facilities that remain unused for two (2) years shall be deemed abandoned. Any occupant or Permittee having abandoned equipment in any public property and/or Right-of-Way shall remove it within two years, unless the Village Public Works Director waives this requirement. Abandoned Facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the Village may, at its option, abate the nuisance, take possession of the Facilities, or require the removal of the Facilities by the occupant or the occupant's successor in interest, or exercise any of its other rights under this ordinance. A determination by the Village Public Works Director that a facility is abandoned shall be conclusive, final and binding on the occupant and/or Permittee.

(r) *Emergency situations.* Each occupant, Permittee and/or their agent shall immediately notify the Village Public Works Director by verbal notice on an

emergency phone number provided by the Village Public Works Director of any event regarding its Facilities that it considers to be an emergency. The occupant, Permittee and/or their agent may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the occupant, Permittee and agent shall apply for the necessary permits, pay the fees associated therewith, and otherwise fully comply with the requirements of this ordinance.

- (s) *Compliance with Village Public Works Director Directions.* An Applicant, Permittee and occupant shall forthwith comply with each and every lawful verbal and written direction and requirement of the Village Public Works Director consistent with advancing the intended purposes of the ordinance.
- (t) *Compliance with Other Laws.* Obtaining a permit to Excavate and/or occupy the Right-of-Way or other Village property does not relieve Permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other Village, County, State, or Federal rules, laws or regulations. A Permittee shall comply with all requirements of local, state and federal laws. A Permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the Right-of-Way pursuant to its permit, regardless of who does the work.
- (u) *Vicarious Liability.* Each Applicant, Permittee and occupant is vicariously responsible and liable under this ordinance for the actions of the respective Applicant's, Permittee's and occupant's employees, contractors and agents, and is liable for violations by them, jointly and severally.
- (v) *No Repeal of Tree Requirements.* Nothing herein shall be construed to repeal or amend the provisions of a Village ordinance requiring persons to plant or maintain a tree lawn in the area of the Right-of-Way between their property and the road curb or pavement, construct sidewalks or driveways or other similar activities. Persons performing such activities shall not be required to obtain any permits under this ordinance.
- (w) *Raising or lower road grade or surface prohibited.* No Person or Public Utility, unless duly authorized in writing by the Village Public Works Director or by formal action of the Village board, shall raise or lower the surface of any road above or below the established grade, or remove any earth or soil from any road, or interfere with the surface or soil of any road in any manner whatsoever.
- (x) *Double Fees.*
 - (1) Any Person or Public Utility who commences any activities for which a permit is required under this ordinance without first having applied for, paid the fee for and/or holding the required permit shall still be required to apply for, pay the fees for and hold the requisite permit before continuing any Excavation or other activities upon the site.
 - (2) Such Person or Public Utility shall also be required to pay double the fees otherwise applicable.

- (y) *Appeal of Decisions.* Any Applicant, Permittee, occupant or other person aggrieved by a decision of the Village Public Works Director under this ordinance may file a written appeal with the Village Public Works Director requesting review before the Village Plan Commission. An appeal shall be filed within ten (10) days of the decision or direction. The Plan Commission shall commence a hearing within sixty (60) days of the filing of the appeal. The determination of the Plan Commission shall be subject to review and approval by the Village Board. The appeal shall be signed and dated by a person authorized to appeal or to act on behalf of such person. The appeal form shall require such other information as the Village Public Works Director may from time-to-time require.
- (z) *Severability.* If any subsection, sentence, clause, phrase or portion of this Section is held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.
- (aa) *Violations -- Penalty -- Injunctive and Other Relief.*
- (1) Any person, employee, officer or principal of any Person or Public Utility who violates, causes or permits to be violated any provision of this ordinance, requirement or specification of the Village or Village Public Works Director, upon conviction thereof, shall pay a forfeiture to the Village of not less than One Hundred Dollars (\$100.00) nor more than Ten Thousand Dollars (\$10,000.00), together with the costs of prosecution and in default of payment thereof, shall be imprisoned in the Racine County Jail for not less than five (5) days nor more than ninety (90) days, or dealt with as otherwise provided by law.
 - (2) It shall be the ongoing responsibility of the offender to timely abate the violation(s) as quickly as possible.
 - (3) Each and every violation constitutes a separate punishable offense.
 - (4) Each and every day that a violation continues constitutes a separate punishable offense.
 - (5) The Village, in addition to the above penalties, may institute and seek injunctive relief through circuit court and/or may commence, maintain and prosecute one or more related or additional actions to achieve compliance and/or enjoin, abate or remove the violation(s); and the Village Board may also revoke or suspend any permit issued hereunder. The Village Public Works Director may deny the issuance of a permit to an Applicant who has been convicted of a previous violation of this ordinance, or who has violated, or is violating any provision of this ordinance as determined in the sole discretion of the Village Public Works Director.
 - (6) If a permit were issued, such issuance shall not constitute a defense for the offender, nor shall any error, oversight, previous non-

enforcement of a similar or separate violation, or dereliction of duty on the part of any Village official, board or body constitute any defense.

Secs. 90-150. – 90-153. Reserved for future use.

Sec. 90-154. Excavation in new streets limited.

Whenever the village board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than 30 days before the work of improvement or repaving shall begin. Immediately after such determination by the village board, the director of public works shall notify in writing each person, utility, village department or other agency owning or controlling any sewer, water main, conduit or other utility in or under the street or any real property abutting the street that all such excavation work in such street must be completed within 30 days. After such permanent improvement or repaving, no permit shall be issued to open, cut or excavate the street for a period of five years after the date of improvement or repair, unless in the opinion of the director of public works an emergency exists which makes it absolutely essential that the permit be issued.

(Code 1960, § 6.04(8))

Sec. 90-155. Emergencies.

If an emergency occurs, any person owning or controlling any sewer, water main, conduit or utility in or under any street and his agent or employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person shall apply for an excavation permit not later than the end of the next succeeding business day and shall not make any permanent repairs without first obtaining an excavation permit required under this article.

(Code 1960, § 6.04(10))

Sec. 90-156. Curb and gutter.

The following specifications shall be included in any contract for curb and gutter:

- (1) The village engineer's plans shall include the elevation and location of streets to be improved.
- (2) All grading, graveling and excavating necessary for installation of the curb and gutter.
- (3) Backfilling, black dirt topping and seeding of the area between the curb and sidewalk where necessary.
- (4) Resurfacing of the street at village expense, the method of resurfacing to be determined by the village.
- (5) Curb and gutter assessments shall include all costs incidental to planning and construction, which shall include engineering fees, all cement works and forming, radius, finishing dirt, fill, and seeding. Black

dirt topping (finishing dirt) and seeding may be deleted; provided, however, that if the improvements are not completed by the property owner within nine months from the date the curb and gutter are installed, the village shall seed or sod such area at the cost of the property owner, and the property owner shall be so assessed. The total cost of the curb and gutter project shall be divided equally on a per-front-foot basis to each property owner so benefited, and each property owner shall be assessed for his share of the entire project.

(Code 1960, § 6.04(11))

Sec. 90-157. Storm sewer installation and assessment in existing streets and subdivisions.

(a) Storm sewer improvements shall be provided at village expense on existing streets of record prior to the subdivision control ordinance found in chapter 94 which became effective on September 5, 1968.

(b) Storm sewers shall be installed prior to and in conjunction with curb and gutter improvements.

(c) Resurfacing of a street after installation of a storm sewer shall be at village expense and to village specifications.

(d) Storm sewers and storm sewer catchbasins are to be maintained at village expense only on village property, on public streets, and on easements of record to the village.

(e) Storm sewers in new subdivisions shall be installed and assessed in accordance with the subdivision control ordinance found in chapter 94.

(Code 1960, § 6.04(12))

Secs. 90-158--90-185. Reserved.

Article V. Obstructions And Encroachments

Sec. 90-186. Penalty.

The penalty for violation of this article shall be as provided in section 1-11.
(Code 1960, § 6.05(5))

Sec. 90-187. Prohibited.

No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use or any part thereof or permit such encroachment or encumbrance to be placed or remain in any public way adjoining the premises of which he is the owner or occupant, except as provided in section 90-188.

(Code 1960, § 6.05(1))

Sec. 90-188. Exceptions.

The prohibition of section 90-187 shall not apply to the following:

- (1) Signs or clocks attached to buildings which project not more than six feet from the face of such building and which do not extend below any point 12 feet above the sidewalk, street or alley.
- (2) Awnings which do not extend below any point seven feet above the sidewalk, street or alley.
- (3) Public utility encroachments duly authorized by state law or the village board.
- (4) Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than three feet on the sidewalk, provided such goods, wares, etc., do not remain thereon for a period of more than two hours.
- (5) Temporary encroachments or obstructions authorized by permit under section 90-189.
- (6) Excavations and openings permitted under article IV of this chapter.
- (7) Sidewalk uses permitted under article II of this chapter.

Sec. 90-189. Street privilege permit.

(a) *Required.* A permit for the use of the streets, alleys, sidewalks or other public ways or places of the village may be granted to an applicant by the director of public works for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure, provided such applicant has complied with the other requirements of this section and has obtained a building permit if required by division 4 of article II of chapter 18.

(b) *Bond.* No street privilege permit shall be issued until the applicant shall execute and file with the village clerk a bond in an amount determined by the director of public works, conditioned that the applicant will indemnify and save harmless the village from all liability for accidents or damage caused because of operations under the permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the village resulting from such building or moving operations.

(c) *Fee.* The fee for a privilege permit shall be as specified in the public works fee schedule on file in the village clerk's office.

(d) *Conditions of occupancy.* The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving buildings or structures and shall be given upon

the following terms and conditions and subject to revocation without notice by the director of public works for violations thereof:

- (1) Such temporary obstruction shall not cover more than one-third of any street or alley.
- (2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
- (3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four feet in width guarded by a closed fence at least four feet high on both sides may be maintained during the period of occupancy.
- (4) The process of moving any building structure shall be as continuous as practicable until completed, and if ordered by the director of public works shall continue during all hours of the day and night.
- (5) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.
- (6) Buildings shall be moved only in accordance with the route prescribed by the director of public works.
- (7) Upon termination of work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.

(e) *Termination.* All street privilege permits shall automatically terminate at the end of three months from the date of issuance, unless an earlier termination date is specified thereon at the direction of the director of public works.

(Code 1960, § 6.05(3))

Sec. 90-190. Removal by village.

In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any unlawfully obstructed sidewalk shall refuse or neglect to remove such obstruction within 24 hours after notice from the director of public works to do so, it shall be the duty of the director of public works to remove such obstruction and make return of the cost and expense thereof to the village treasurer, who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

(Code 1960, § 6.05(4))

Secs. 90-191--90-220. Reserved.

Article VI. Building Numbering*

Sec. 90-221. Violations.

It shall be the duty of all police officers to report violation of any section of this article. If the owner or his agent of any building required to be numbered by this article shall neglect for

***Cross references:** Buildings and building regulations, ch. 18.

the period of 30 days to duly attach and maintain the proper number on such building, the street committee shall serve upon him a notice requiring such owner or agent of the owner to properly number the building, and if he neglects to do so for 15 days after the service of notice, he shall be deemed to have violated this article. Upon conviction he shall be subject to the penalties as provided in section 1-11.

(Code 1960, § 6.08(7))

Sec. 90-222. Establishment of system.

There is established a uniform system of numbering houses and buildings fronting on all streets, avenues and public ways in the village, and all houses and buildings shall be numbered in accordance with this article.

(Code 1960, § 6.08(1))

Sec. 90-223. Baselines.

Seventh Avenue, being the present northern corporate limits of the village, shall constitute the baseline for numbering along all streets running north and south, and the eastern corporate limits of the village shall constitute the baseline for numbering along all streets running east and west. The numbering for each street or avenue shall begin at the baseline. The numbers for the first block or part of a block running north and south shall be 700 to 742, and the numbers in each succeeding block or part of a block shall increase from the baseline in units of 100, namely: the first block or part of a block shall be the 700 block or part of a block; the second block or part of a block shall be the 800 block or part of a block. The numbers for the first block or part of a block running east and west shall be 615 to 645, and the numbers in each succeeding block or part of a block shall increase in units of 100, namely: the first block or part of a block shall be the 600 block or part of a block; the second block or part of a block shall be the 700 block or part of a block, etc. One number shall be assigned to each 20 feet of footage.

(Code 1960, § 6.08(2))

Sec. 90-224. Sides of streets.

All lots and houses on the north and west sides of all streets shall be numbered with even numbers, each commencing with the number in hundred assigned pursuant to the official house numbering map on file with the village clerk. Where any building has more than one door serving separate occupants, a separate number shall be assigned to each door serving a separate occupant, provided the building is 20 feet or more in width. If the building is not more than 20 feet in width and the entrances are not that far apart, the next consecutive number shall be marked fractionally. A building fronting on two or more streets shall have a number assigned only to the main entrance, unless other entrances serve different occupants, or if the building is located on a corner of an intersection in a commercial district, in which

case, the property owner may select the street address on either street of the intersection. All streets not extending through to the baseline shall be assigned the same relative numbers as if the street had extended to the baseline.

(Code 1960, § 6.08(3))

Sec. 90-225. Survey to assign numbers.

(a) The village board shall cause the necessary survey to be made, and there shall be assigned to each house and building located on any street, avenue, alley or highway in the village its respective number under the uniform system provided for in this article. When the survey shall have been completed and each house and building has been assigned its respective number, the owner or agent shall place or cause to be placed upon each house or building controlled by him the number assigned under the uniform system provided by this article.

(b) Such number shall be placed within 30 days after the assignment of the proper number. The cost of the number shall be paid for by the property owner or his agent. Replacements of numbers shall be procured and paid for by the owner or his agent. The numbers used shall be not less than 2 1/2 inches in height, and the owner may procure the style of number he desires, so long as the style conforms with the minimum height stated in this subsection.

(c) The numbers shall be conspicuously placed immediately above or at the side of the proper door of each building so that the number can be plainly seen from the street. Whenever any building is situated more than 50 feet from the street line, the number of such building shall be conspicuously displayed at the street line, near the walk, driveway or common entrance to such building and upon the gate, post, fence, street, gatepost or other appropriate place so as to be easily discernible from the sidewalk.

(d) Where only one number can be assigned to any house or building, the owner or his agent of such house or building, who shall desire distinctive numbers for the upper or lower portion of any such house or building, fronting any street, shall use the suffix "A," "B," "C," etc., as may be required.

(Code 1960, § 6.08(4))

Sec. 90-226. Plat book of numbers.

For the purpose of facilitating correct numbering under this article, an official plat book of all streets, avenues and public highways within the village showing the proper block numbering of all houses fronting upon all streets, avenues, or highways shall be kept on file in the office of the village clerk. This plat book shall be open to inspection of all persons during the office hours of the clerk. Duplicate copies of such plats shall be furnished to the engineer and building inspector by the village clerk. It shall be the duty of the village clerk to inform any party applying therefor of the number belonging or embraced within the limits of such lot or property as provided in this article. If there is doubt as to the proper number to be assigned to any lot or building, the clerk shall determine the number of such lot or dwelling.

(Code 1960, § 6.08(5))

Sec. 90-227. Newly erected houses or buildings.

Whenever any house, building or structure shall be erected or located in the village after the entire work of establishing a uniform system of house numbering has been completed, in order to preserve the continuity and uniformity of numbers of the houses, buildings and structures, it shall be the duty of the owner to procure the correct number as designated from the village clerk for the property and to immediately fasten the number so assigned upon the building as provided by this article. No building permit shall be issued for any house, building or structure until the owner has procured from the clerk the official number of the premises. (Code 1960, § 6.08(6))

Chapters 91 - 93
Reserved

Chapter 94 LAND DIVISIONS*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 94-1.	Title.		
Sec. 94-2.	Purpose.		
Sec. 94-3.	Applicability and compliance.	2018-10	06/11/2018
Sec. 94-4.	Conservation subdivisions.	2018-10	06/11/2018
Sec. 94-5.	Condominium plats.	2018-10	06/11/2018
Sec. 94-6.	Minor subdivisions.		
Sec. 94-7.	Land suitability.		
Sec. 94-8.	Remedies; exceptions.		
Sec. 94-9.	Definitions.	2018-10	06/11/2018
Sec. 94-10.	Adoption of state statutes.		
Sec. 94-11.	Fees.		
Sec. 94-12.	Penalty.		
Secs. 94-13--94-40.	Reserved.		
Article II. Required Improvements			
Sec. 94-41.	Water.		
Sec. 94-42.	Sewer.		
Sec. 94-43.	Streets.		
Sec. 94-44.	Lighting.		
Sec. 94-45.	Drainage.		
Sec. 94-46.	Street signs.		
Sec. 94-47.	Other utilities.		
Sec. 94-48.	Development agreement.	2018-10	06/11/2018
Sec. 94-49.	Building permits.	2018-10	06/11/2018
Sec. 94-50.	Monuments.		
Sec. 94-51.	Engineering, planning, legal and administrative costs; land division fee.	2021-09	10/25/2021
Secs. 94-52--94-80.	Reserved.		

***Editor's note:** Ord. No. 2009-05, § 1, adopted August 24, 2009, repealed and reenacted chapter 94 in its entirety to read as herein set out. Formerly, chapter 94, articles I--IV pertained to subdivisions, and derived from the Code of 1960, §§ 6.10(1), (1)(3), (2)(1), (2)(2), (2)(4), (2)(5), (3)(1)--(3)(3), (4)(1), (4)(1)(b), (n), (4)(2), (5)(1)--(5)(3); an ordinance of December 14, 19987, § 1; an ordinance of June 22, 1999, § 1; an amendment of December 12, 2000(2), § 1; an amendment of October 28, 2002, § 1; an amendment of June 9, 2003(2), § 1, and an ordinance of May 22, 2006, § 1.

Cross references: Any ordinance dedicating or accepting any plat or subdivision in the village saved from repeal, § 1-10(12); buildings and building regulations, ch. 18; environment, ch. 42; manufactured homes and trailers, ch. 66; planning, ch. 82; streets, sidewalks and other public places, ch. 90; utilities, ch. 106; vegetation, ch. 110; zoning, ch. 118.

Article III. Design Standards

Sec. 94-81.	Design standards.		
Sec. 94-82.	Easements.		
Sec. 94-83.	Blocks.		
Sec. 94-84.	General park and public land dedication requirements		
Sec. 94-85.	Lots.	2018-10	06/11/2018
Sec. 94-86.	Sites.		
Sec. 94-87.	Open space and conservation.	2018-10	06/11/2018
Sec. 94-88.	Drainage.		
Sec. 94-89.	Landscape plan.		
Secs. 94-90--94-120.	Reserved.		

Article IV. Conservation Subdivisions

Sec. 94-121.	Conservation subdivision development.	2018-10	06/11/2018
Sec. 94-122.	Concept plan required.	2021-09	10/25/2021
Secs. 94-123--94-150.	Reserved.		
Sec. 94-151.	Preliminary plat.		
Sec. 94-152.	Final plat.		
Sec. 94-153.	Conservation design and improvements.		

Article V. Preliminary Plat

Sec. 94-154.	Filing application with village.		
Sec. 94-155.	Review and approval procedures.	2018-10	06/11/2018
		2021-09	10/25/2021
Sec. 94-156.	Requirements.		
Secs. 94-157--94-180.	Reserved.		

Article VI. Final Plat

Sec. 94-181.	Compliance with article.		
Sec. 94-182.	Filing of plat, letter of application; evidence of ownership.	2018-10	06/11/2018
		2021-09	10/25/2021
Sec. 94-183.	Objecting agencies.		
Sec. 94-184.	Final construction plans.		
Sec. 94-185.	Installation, protection and management plans.	2018-10	06/11/2018
Sec. 94-186.	Referral.	2021-09	10/25/2021
Sec. 94-187.	Village plan commission review.		
Sec. 94-188.	Village board review and approval.	2018-10	06/11/2018
		2021-09	10/25/2021
Sec. 94-189.	Requirements.		
Secs. 94-190--94-220.	Reserved.		

Article VII. Certified Survey Maps

Sec. 94-221.	Compliance.		
Sec. 94-222.	Preapplication conference.		
Sec. 94-223.	Initial application; preliminary certified survey maps.		
Sec. 94-224.	Proof of ownership.		
Sec. 94-225.	General requirements for final certified survey map.		
Sec. 94-226.	Detailed requirements.		
Sec. 94-227.	Final map review and approval procedures.		

Sec. 94-228.	Plan commission review and informational meeting.	2021-09	10/25/2021
Sec. 94-229.	Plan commission recommendation.		
Sec. 94-230.	Board action.	2018-10	06/11/2018
		2021-09	10/25/2021
Sec. 94-231.	Public improvements.		
Secs. 94-232--94-260.	Reserved.		

Article VIII. Modifications or Waivers

Sec. 94-261.	Authority; application.	2021-09	10/25/2021
Sec. 94-262.	Considerations.		
Sec. 94-263.	Granting by village board.	2021-09	10/25/2021
Sec. 94-264.	Past noncompliance not waived.		

Article I. In General

Sec. 94-1. Title.

This chapter shall be known and cited as the "Land Division Control Ordinance of the Village of Union Grove," and is enacted pursuant to Wis. Stats. § 236.45.
(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-2. Purpose.

This chapter is adopted for the following purposes to:

- (1) Regulate and control the division of land within the village.
- (2) Promote the public health, safety and general welfare of the community.
- (3) Promote the conservation and wise use of the natural resource base and the sound physical, social, and economic development within the village to provide a pleasant and habitable environment.
- (4) Guide the future growth and development of the community in accordance with the village's adopted land use plan.
- (5) Preserve the semi-rural character of the village through the permanent preservation of meaningful open space and sensitive natural resources.
- (6) Protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and manage primary and secondary environmental corridors.
- (7) Ensure that appropriate conservation lands will be identified, protected and restored during the development design process to meet future community needs for storm water management, floodwater storage, and groundwater recharge.
- (8) Use ecological planning principles in the design, construction and long term management of conservation developments.
- (9) Allow housing to be concentrated on portions of a parcel in order to protect, preserve and restore environmentally sensitive areas or agriculture-productive areas on other portions of the parcel.
- (10) Preserve scenic views by minimizing visibility of new development from existing roads.
- (11) Provide buffering between residential development and nonresidential uses.

- (12) Provide commonly owned open space areas for passive and/or active recreational use by residents of the development and, where specified, the larger community.
- (13) Preserve significant archaeological sites, historic buildings and their settings.
- (14) Protect and preserve an interconnected network of open space throughout the village, and help to establish effective buffers around working farms, and along boundaries of existing protected lands (such as parks).

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-3. Applicability and compliance.

(a) It is the goal of the village in adopting this chapter to regulate and control all land divisions within the corporate limits of the Village of Union Grove in order to promote and protect the public health, safety, aesthetics, and general welfare of the community.

(b) No person shall divide any land that results in a subdivision or a minor subdivision under the provisions of this chapter without compliance with all requirements of this chapter and the following:

- (1) The village's land use plan entitled "A Land Use Plan for the Village of Union Grove and the Town of Yorkville: 2020," dated December 2003.
- (2) SEWRPC Community Assistance Planning Report No. 301, A Multi-Jurisdictional Comprehensive Plan for Racine County: 2035.
- (3) The provisions of Wis. Stats. ch. 236 and ch. 703.
- (4) The rules of the division of transportation infrastructure development, state department of transportation, contained in Wis. Admin. Code ch. Trans 233, for subdivisions that abut a state trunk highway or connecting street.
- (5) The rules of the state department of natural resources, contained in Wis. Admin. Code chs. NR 115, 116 and 117, for shoreland, shoreland-wetland and floodplain management.
- (6) The neighborhood plans where applicable and not inconsistent with the land use plan and comprehensive plan adopted by the village.
- (7) All applicable local, county, and state regulations including zoning, subdivision, sanitary, utility, building, highway access, water quality and official mapping ordinances.
- (8) All other applicable rules contained in the Wisconsin Administrative Code.

- (9) Unless otherwise excepted in this chapter, where any provision of these regulations imposes restrictions different from those imposed by any other provision of law, the provision which is more restrictive or imposes higher standards shall control.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-4. Conservation subdivisions.

Conservation subdivisions are allowed, but are not required for land divisions resulting in the creation of a subdivision.

Sec. 94-5. Condominium plats.

A condominium plat, prepared under Wis. Stats. ch. 703, shall be submitted to the village for review and approval in the same manner as a subdivision plat as set forth in this chapter and shall comply with this chapter, including applicable design standards and required improvements.

Sec. 94-6. Minor subdivisions.

No person shall divide any land located within the limits of the village which shall result in a minor subdivision without complying with the provisions of this chapter with respect to minor subdivisions, including, but not limited to required improvements under article II, design standards under article III, and certified survey map procedures under article VII.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-7. Land suitability.

No land shall be subdivided which is held to be unsuitable for any proposed use if identified as environmentally sensitive. Areas identified as environmentally sensitive include, but are not limited to:

- (1) All areas mapped as floodplain by the Federal Emergency Management Agency (FEMA), state department of natural resources, or other public or private entity.
- (2) All wetlands as defined in Wis. Admin. Code § NR 103.02(5), including buffers as required under Wis. Admin. Code ch. NR 151.
- (3) All areas within 75 feet of the ordinary high-water mark of navigable streams and lakes, as identified by state department of natural resources.
- (4) All areas having slopes greater than 20 percent.
- (5) Areas that are known to provide habitat for rare, threatened or endangered species.
- (6) Burial sites and Indian mounds.

- (7) Drainageways that contain running water during spring runoff, during storm events or when it rains. A 25-foot buffer from the edge of the drainageway shall be included.
- (8) Areas otherwise held by the village board to be unsuitable for such use by reason of bad drainage, adverse earth or rock formation or topography, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the community.
- (9) Areas not designated for land divisions by the village's land use plan or comprehensive plan.

Areas determined to be environmentally sensitive may be included as common open space in a conservation subdivision but shall not be included in the development yield analysis in section 94-122 or in the net density calculation as defined in section 94-9 unless otherwise included or excluded in those sections. These lands shall be identified as an out lot or other designation that indicates the land is not available for land division.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-8. Remedies; exceptions.

(a) *Remedies.* Failure to comply with the requirements of this chapter shall invalidate purported transfers of titles at the option of the purchaser in accordance with the provisions of Wis. Stats. § 236.31(3). The village may also take any action authorized under Wis. Stats. ch. 236. Building permits shall not be issued by the building inspector for construction on sites created in violation of these requirements.

(b) *Exceptions.* The provisions of this chapter shall not apply to:

- (1) Transfers of interest in land by will or pursuant to court order.
- (2) Cemetery plats under Wis. Stats. § 157.07.
- (3) Assessors' plats made under Wis. Stats. § 70.27, but such plats shall comply with Wis. Stats. § 236.15(1)(a)--(g) and Wis. Stats. § 236.20(1), (2)(a)--(e).
- (4) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this chapter or other applicable laws or ordinances.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-9. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section. All other pertinent terms shall be as defined in Wis. Stats. ch. 236. Words used in the present tense shall include the future tense. Words used in the singular form shall include the plural form. Words used in the plural form shall include the singular form. The word "shall" is mandatory and the word "may" is permissive.

Certified survey map means a map showing a division of land, conforming to Wis. Stats. § 236.34 and this Code, and prepared by a land surveyor registered in the state.

Common facilities means those facilities which are designated, dedicated, reserved, restricted or otherwise set aside for the use and enjoyment by residents of the development.

Common open space means undeveloped land within a subdivision, minor subdivision, or conservation subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development and possibly for the preservation, restoration and management of historical, agricultural or environmentally sensitive features. Common open space shall not be part of individual residential lots. It shall be substantially free of structures, but may contain historical structures and archaeological sites including Indian mounds and/or such recreational facilities for residents as indicated on the approved development plan. With respect to a conservation subdivision, it shall be restored and managed in accordance with a stewardship plan that shall be prepared for the open space.

Condominium means a community association combining individual unit ownership with shared use or ownership of common property or facilities, established in accordance with the requirements of the Condominium Ownership Act, Wis. Stats. ch. 703. A condominium is a legal form of ownership of real estate and not a specific building type or style. All sections of this chapter that apply to subdivisions shall apply to a condominium.

Conservation easement means a nonpossessory interest in real property designed to protect natural, scenic and open space values in perpetuity as defined in the Uniform Conservation Easement Act, Wis. Stats. § 700.40, and section 170(h) of the Internal Revenue Code.

Conservation subdivision means a subdivision in which dwelling units are concentrated and/or clustered in specific areas in order to allow other portions of the subdivision to be preserved for common open space, including restoration and management of historical, agricultural or environmentally sensitive features. All sections of this chapter that apply to subdivisions shall apply to a conservation subdivision.

Density factor means the number of dwelling units permitted per acre according to the village's land use plan, comprehensive plan, applicable neighborhood plans, the village's ordinances, and applicable zoning regulations.

Development envelopes mean areas within which pavement and buildings will be located.

Dwelling means a detached building designed or used exclusively as a residence or sleeping place, but does not include boardinghouses or lodgishouses, motels, hotels, tenements, or cabins.

Ecological restoration means to protect, enhance, recreate or remediate functional and healthy plant and animal communities. Ecological restoration is accomplished by implementing a stewardship plan for uplands, wetland areas, and aquatic resource areas, which include specific remedial and management activities for sustainable maintenance of each of these areas and the planting of those varieties of plants that are indigenous to the area.

Flag lots means a lot with access to the public street only by a narrow strip of land, easement, or private right-of-way and with otherwise insufficient frontage to be considered a buildable lot. Flag lots generally are not considered to conform to sound planning principles.

Homeowners' association means a community association, incorporated or not incorporated, combining individual home ownership with shared use or ownership of common property or common facilities.

Minor subdivision means any division of land, whether by one or successive owners, which does not constitute a subdivision and which creates one or more parcels or building sites, any one of which is 35 acres or less in size. The remnant parcel, if any, shall count as one of the parcels or building sites created by said division.

Net density means the number of dwelling units permitted in the subdivision. This number is obtained by performing the following calculation:

- (1) Derive the net acreage for the parent parcel by subtracting from the gross acreage of the parent parcel the acreage consisting of the following: any land defined to be unsuitable under section 94-7, existing, dedicated or reserved street rights-of-way, restrictive utilities rights-of-way, and navigable streams, ponds or lakes;
- (2) Determine the density factor as permitted for the parent parcel, taking into account the village preference, if any is indicated on the land use plan, or comprehensive plan as well as adjustments made by the village board to ensure a density factor that is consistent with the surrounding neighborhood; and
- (3) Multiply the net acreage result under subsection (1) of this definition times the applicable density factor under subsection (2) of this definition to obtain the net density for the parent parcel.

Nonprofit conservation organization means any charitable corporation, charitable association or charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

Owner includes the plural as well as the singular and may mean either a natural person, division, firm, association, syndicate, partnership, limited liability company, private corporation, public or quasi-public corporation or similar organization or any combination of these having legal title or sufficient proprietary interest to seek development of land. For purposes of successive division of a parcel of land by certified survey map, by one owner or successive owners, "owner" shall be taken to include any person, division, firm, association, syndicate, partnership, limited liability company, private corporation, public or quasi-public corporation or similar organization to whom conveyance has been made within five years of application for approval of a certified survey map.

Parent parcel means the existing parcel of record, as of the effective date of the ordinance from which this chapter is derived or the entire proposed development if combining any existing parcels.

Plan commission means the plan commission of the village.

Primary environmental corridor means a concentration of significant natural resources as defined, delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.

Professional ecological services means an individual or firm with professional qualifications to prepare and implement an ecological stewardship plan for upland, wetland areas, and aquatic resource areas, including specific remedial and management activities for sustainable management of each of these areas and the planting of those variety of plants that are indigenous to the area.

Secondary environmental corridor means a concentration of significant natural resources as defined, delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.

Single-family dwelling means a building designed and/or used exclusively for residential purposes for one family only and containing not more than one dwelling unit.

Stewardship plan means a comprehensive management plan for the longterm enhancement and sustainability of natural ecosystems (uplands - including farmlands, woodlands, prairies, meadows, wetlands, shorelands, lakes, river systems and similar ecosystems). Such plans shall include but not be limited to management goals, implementation and monitoring schedules, identification and description of measures to be taken should degradation of the system(s) be noted, and programs for the removal and control of invasive vegetation species.

Storm water treatment train means a combination of physical and biological features that are constructed or planted to convey, cleanse, and enhance storm water quality before the remaining water is released to receiving waters.

Street means a public way for pedestrian and vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

Subdivide means the act of dividing land which constitutes a subdivision or minor subdivision under this chapter.

Subdivider means any person, corporation, partnership, association, individual, firm, trust or agent dividing or proposing to divide land resulting in a subdivision or minor subdivision.

Subdivision means the division of a lot, parcel or tract of land by the owners thereof or their agents, where:

- (1) The act of division of a parent parcel creates five or more parcels or building sites; or

- (2) The act of division creates five or more parcels or building sites by successive divisions within a period of five years. The term includes resubdivision, and when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, whether by one owner or successive owners.

In determining the number of parcels or building sites created by the division of land, the remnant parcel, if any, shall count as one of the parcels or building sites created by said division.

Two-family dwelling means a building used for residential occupancy by two families living independently of each other.

(Ord. No. 2009-05, § 1, 8-24-09)

Cross references: Definitions generally, § 1-2.

Sec. 94-10. Adoption of state statutes.

Except as otherwise properly provided in this chapter, and subject to subsection 94-3(b)(9), the provisions of Wis. Stats. ch. 236 are hereby adopted by reference and made a part of this chapter.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-11. Fees.

The village board may, by resolution, establish reasonable fees for the administration of this chapter.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-12. Penalty.

Any person who shall violate any provision of this chapter or any order, rule or regulation made under this chapter shall be subject to a penalty as provided in section 1-11 as well as any other penalties as provided under Wis. Stats. ch. 236.

(Ord. No. 2009-05, § 1, 8-24-09)

Secs. 94-13--94-40. Reserved.

Article II. Required Improvements*

Sec. 94-41. Water.

The subdivider shall install water facilities for connection with the village's public water facilities, including mains and laterals to the street water main lines. Such facilities shall be installed in accord with and subject to the specifications and inspection of the village.

(Ord. No. 2009-05, § 1, 8-24-09)

***Note:** All land divisions must comply with the improvements contained herein.

Sec. 94-42. Sewer.

The subdivider shall install adequate public sanitary sewer facilities, including mains and appurtenances thereto and laterals to the street sewer lines. Such facilities shall be installed in accord with and subject to the specifications and inspections of the village.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-43. Streets.

The subdivider shall construct and install all streets dedicated or provided for in such subdivision in accord with the standards for such streets as specified in the village ordinances. The obligation of the subdivider shall include the responsibility for construction of portions of streets dedicated by such plat as well as making improvements to existing streets where additional street right-of-way dedications are made to existing streets by the plat. All such street construction shall be completed only after installation of sewer and water mains, laterals and appurtenances, if the same are required to be installed per the terms of the development agreement.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-44. Lighting.

As a condition of approval of a subdivision, the subdivider shall be liable for all costs of procurement and installation of streetlights to service the subdivision. The number, placement and type of streetlights shall be at the discretion of the village board. Lighting design shall take into account surrounding properties and shall minimize the visual impact of the lighting on those properties to the extent possible.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-45. Drainage.

(a) In addition to all storm sewer, curb and gutter improvements required by the village, the subdivider shall make such improvements for the drainage of surface waters from, through and within such subdivision as the village board may require to properly provide for such drainage. In determining what kinds of improvements shall be made by the subdivider, the village board shall consider the drainage problems, both within and without the boundaries of such plat, resulting from the development of such subdivision. If deemed necessary for the resolution of such drainage problems, the village board may require that the subdivider obtain necessary easements outside the boundaries of the plat and require that the subdivider construct such required improvements even though the same may be outside the boundaries of the plat. A registered engineer shall prepare drainage plans.

(b) The subdivider shall be liable and responsible for the proper maintenance of the drainage easements described on the approved plat or certified survey map, including any detention or retention basins. Such maintenance shall be carried out in conformity with the village's "Land Development Standards," and applicable village ordinances. In the event of any default in the obligations to properly repair damage caused during construction or to maintain the drainage easements, including any retention or detention basins, the village may cause said maintenance to be provided and may charge the subdivider or subsequent owner. In addition, the village, at its option, may cause any such costs including any engineering, legal and administrative costs with respect to the same, to be assessed against the affected

lot(s) within the subdivision, all as provided in Wis. Stats. §§ 66.0627 and 66.0703.
(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-46. Street signs.

The subdivider shall install at the intersection of all streets proposed to be dedicated a street sign of a design specified by the village board. The village may require additional signs to be installed within the subdivision as it deems necessary. The subdivider shall be liable for all costs associated with the procurement and installation of street signs within or adjacent to the subdivision; however, the village shall procure and install the street signs.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-47. Other utilities.

(a) The subdivider shall cause gas, electrical power, cable, telephone and other communication facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision.

(b) Plans indicating the proposed location of all gas, electrical power, cable, telephone, and other communication, distribution and transmission lines required to serve the subdivision shall be submitted to the village engineer.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-48. Development agreement.

(a) As a condition of final approval of any plat, the subdivider shall enter into an agreement with the village, whereby the subdivider shall agree to install all such improvements required to be installed under the terms of this chapter. The development agreement shall include, but is not limited to, the following terms and conditions:

- (1) Such agreement shall be secured by such security, in such amount, and for such duration as is allowed by state statute and as the village board determines to be adequate to ensure performance by the subdivider in accord with the development agreement within a reasonable period of time. Such security shall contain, as reasonably determined by the village engineer, a contingency amount which shall be held for the period allowed by statute and shall be in a form reasonably acceptable to the village attorney.
- (2) The roads and highways and appurtenances thereto shall be constructed at the expense of subdivider in accordance with the provisions of the Code which are in effect at the time of such construction.
- (3) In such cases where the subdivider shall own the land adjoining the roads and highways, the subdivider shall agree to prohibit the planting of shrubs or trees or the installation of fences of such construction as would obstruct vision on curves and intersections within such distances from the edge of the highway as is prescribed by the village board.

- (4) Sanitary and water mains and laterals, and storm water drainage facilities shall be installed by the subdivider prior to submission of the roads to the village for acceptance. The subdivider shall be responsible for satisfying applicable prevailing wage rate requirements.
- (5) The subdivider shall agree to indemnify and hold the village and its agents, consultants, officers and employees harmless from and against claims related to the performance of work at or for the construction site, violation of applicable federal, state and local laws, regulations and ordinances, and for environmental contamination.
- (6) The subdivider shall be responsible for payment of the village's costs, disbursements and attorney's fees in the event the village brings legal action to enforce compliance with the agreement and a final determination is made in favor of the village.
- (7) The subdivider shall convey all necessary easements, including a conservation easement as required under this Code.
- (8) The subdivider shall warrant and guaranty all public improvements against defects in workmanship and materials, and shall be liable for the cost of maintenance, repair or reconstruction of the improvements for a period of two years after the village's approval of the binder course of asphalt or for a period of one year after acceptance of the surface course of asphalt, whichever is later.
- (9) The subdivider shall be responsible for the cost and installation of other improvements as required by the village including, without limitation, sidewalks, trails, street trees, lighting, mailboxes, street signs, and address signs.
- (10) The subdivider shall require its contractors to obtain insurance reasonably acceptable to the village that names the village and its agents, consultants, officers and employees as additional insureds.
- (11) The village may require the inclusion of a "sunset clause" requiring all or a portion of the improvements including the surface course of asphalt, to be completed by a date certain.
- (12) Other terms that the village shall reasonably deem appropriate.

(b) The terms and conditions of the agreement of subsection (a) shall extend to the heirs, administrators, successors in title and assigns of the subdivider, including personal liability. However, the subdivider may not assign its rights, duties and responsibilities under this agreement to any other third party without first obtaining the prior written consent of the village.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-49. Building permits.

Except as otherwise required by state statute, until all improvements are installed as required by this article and the development agreement in section 94-48, including the binder course of asphalt, the building inspector shall issue no building permits for construction in such subdivision. However, upon written consent of the village board, the subdivider may develop the subdivision in such stages as approved by the village board, in which case the village board may provide that building permits may issue as to such portions of the subdivision wherein all such improvements have been installed. The prevailing permit fee, at the time of issuance of any building permit, shall be paid to the village by the subdivider or other appropriate person.

Sec. 94-50. Monuments.

All monuments shall be placed in accordance with Wis. Stats. § 236.15(1), and shall be oriented to Wisconsin State Plane Coordinates in accordance with Wis. Stats. § 236.18. The legal description of the subdivision shall commence with a monument at a section or quarter section corner of a quarter section, or as permitted in Wis. Stats. §236.21. To the maximum extent practical, all U.S. public land survey monuments shall be preserved.
(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-51. Engineering, planning, legal and administrative costs; land division fee.

(a) The subdivider and village shall enter into a predevelopment agreement requiring the subdivider to pay to the village all reasonable costs for engineering, planning, legal and administrative expenses incurred by the village in:

- (1) Processing, reviewing, revising, and approving conceptual, preliminary or final development plans, including certified survey maps, preliminary and final plats; and
- (2) Processing, reviewing, revising, drafting and approving any agreements, easements, deed restrictions or other documents associated with the proposed subdivision or development.
- (3) Inspection and approval of all improvements provided for in the development including, but not limited to, consultation reasonably required to address problems during the course of the design and construction of the development.

(b) Such costs shall include the costs of the village's own engineers, attorneys, inspectors, agents, subcontractors and employees. The cost for village employees' time shall be based upon the classification of the employee and the rates established by the village board, from time to time, for each such classification.

(c) At the time of the submission or review of a conceptual plan, certified survey map, or preliminary plat, the subdivider shall execute a predevelopment agreement and deposit with the clerk the sum of \$5,000.00 in the form of cash for a subdivision plat, and

\$1,000.00 for a certified survey map. The village shall apply such funds toward payment of the above costs. If at any time such deposit becomes insufficient to pay expenses incurred by the village for the above costs, the subdivider shall deposit required additional amounts within 15 days of written demand by the village engineer. Until the required funds are received, the village as to the development plan under consideration will perform no additional work or review. The village may also reject any pending certified survey map, preliminary or final plat for nonpayment of the costs under this section. Within 60 days after final approval of the plat or certified survey map, and execution of any documents by all parties, or upon abandonment of the conceptual plan, certified survey map or plat and prior to final approval, including abandonment due to rejection by any reviewing agency, the village shall furnish the subdivider with a statement of all such costs incurred by it with respect to such conceptual plan, certified survey map or plat. Any excess funds shall be remitted to the subdivider, and any costs in excess of such deposit shall be paid by the subdivider. Any interest earned on such deposit shall remain the property of the village to partially offset administrative expenses associated with planning and development. In the event the subdivider fails to reimburse the village as required, the village may utilize funds from any cash deposit or letter of credit posted to secure performance under the development agreement required above.

(d) In addition to reimbursement of the above costs, the subdivider shall be responsible for payment to the village of a land division fee in the amount of \$100.00 per parcel created. Such fee shall be submitted at the time of execution by the subdivider of the development agreement required in section 94-48.

(e) In addition to any discretionary deposit required by the village board to cover expected costs associated with the submission of a certified survey map, any person submitting a CSM shall pay, at the time of submission, a nonrefundable land division fee in the amount of \$100.00 per parcel created by the proposed certified survey map.

(Ord. No. 2009-05, § 1, 8-24-09)

Secs. 94-52--94-80. Reserved.

Article III. Design Standards

Sec. 94-81. Design standards.

All subdividers shall comply with the "Land Development Standards" manual, as approved, published and revised by the village from time-to-time. This manual shall be available from the village clerk. Among the topics addressed in the manual are the specifications for sanitary sewer, water, fire suppression, storm water and road facilities.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-82. Easements.

(a) The village board may require easements of widths deemed adequate by the board for the intended purpose on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, or other utility lines. Wherever possible, the storm water drainage shall be maintained by either landscaped open channels or enclosed conduits of adequate size and grade to hydraulically accommodate maximum potential volumes of flow.

(b) Where a subdivision or minor subdivision is traversed by a watercourse, drainageway, channel or stream, an adequate drainageway or easement shall be provided as required by the village board. The location, width, alignment and improvement of such drainageway or easement shall be subject to the approval of the village board. Where a subdivision or minor subdivision is traversed by a public or private drainage tile line, the village board may require that provision be made for the reconstruction, relocation or replacement of any such tile line which may be disturbed by the development of such subdivision or minor subdivision so as to provide for the continued operation of such tile line as before development of such subdivision or minor subdivision.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-83. Blocks.

(a) The lengths, widths and shapes of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access, control and safety of street traffic and the limitations and opportunities of topography.

(b) To provide adequate access and circulation to community facilities, sidewalks shall be provided.

(c) The village board may require that certain species of trees be planted on both sides of all streets.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-84. General park and public land dedication requirements.

(a) Dedication requirement. In order that adequate open spaces and sites for public uses may be properly located and reserved; and in order that the cost of providing public areas, such as, but not limited to, parks and recreation areas, may be equitably apportioned on the basis of additional need created by the subdivision development, each subdivider shall be required to reserve and dedicate land connected to the development, with adequate room for parking and access, or dedicate fees in lieu of land for park or other public uses. The village board shall, at the time of reviewing the preliminary plat or certified survey map, select the land dedication option or the fees in lieu of land option and record such a selection in the minutes of the meeting at which the preliminary plat is presented for approval. Whenever a proposed park or recreation area is designated, within a tract of land to be subdivided, the public land shall be made a part of the plat and shall be dedicated to the village by the subdivider at the rate of one acre for each 30 proposed or potential dwelling units. Drainage ways, wetlands or areas reserved for streets shall not be considered as satisfying land dedication requirement.

(b) When parklands are dedicated the subdivider is required to:

- (1) Properly grade and contour for proper drainage;
- (2) Provide surface contour suitable for anticipated use of area;
- (3) Cover acres to be seeded with a minimum of four inches of quality topsoil, seed as specified by the village public works, fertilize with 16-

6-6 at a rate of seven pounds per 1,000 square feet, and mulch. The topsoil furnished for the park site shall consist of natural loam, sandy loam, silt loam, silty clay loam or clay loam humus-bearing soils adapted to the sustenance of plant life, and such topsoil shall not be excessively alkaline;

- (4) Grading and seeding of parklands is to be completed as soon as ten percent of the planned lots in the subdivision are sold, as determined by the village board.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-85. Lots.

(a) In addition to complying with applicable provisions of this section, a lot created in a conservation subdivision whether by subdivision or condominium plat shall comply with the additional lot requirements set forth in section 94-153.

(b) The size, shape and orientation of the lots shall be appropriate for the location of the subdivision or minor subdivision and for the type of development and use contemplated. The lots shall be designed to provide an aesthetically pleasing building site, and a proper architectural setting for the buildings contemplated.

- (1) *Shape.* Lots shall be approximately rectangular, with the exception of lots located on a curved street or on a cul-de-sac turnabout.
- (2) *Flag lots.* Flag lots shall not be approved.

(c) Every lot shall front or abut on a public street, or other officially approved means of access.

(d) Except as otherwise provided in this section, lot dimensions shall conform to the minimum requirements of the village zoning ordinance, as amended from time to time and any applicable statutes and regulations subject to the following:

- (1) The ratio of the length of the side of a residential lot to the frontage on the public street shall not be greater than 2.5:1.
- (2) A lot on a cul-de-sac must satisfy the front footage requirements on the right-of-way or at the setback line.

(e) Side lot lines shall be at right angles to straight street lines or radial to curved street lines on which the lots face.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-86. Sites.

(a) *Public reservation.* In the design of the plat, due consideration shall be given to the reservation of suitable sites of adequate area for future schools, parks, playgrounds, drainage ways and other public purposes.

(b) *Scenic and historic preservation.* In the design of the subdivision or minor subdivision, consideration shall be given to the preservation of scenic, historic and archaeological sites, including historic buildings and their settings.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-87. Open space and conservation.

(a) *Consideration.* Every subdivider shall consider the creation, preservation, and restoration of open and natural spaces within a subdivision and a minor subdivision, including farmland and agricultural soils, natural habitats for rare, threatened and endangered species, wildlife habitat areas, parklands, prairies, stands of trees and woodlands, marshes, lakes, streams, ponds, watercourses, watersheds and other wetland areas, ravines, and outdoor recreation areas.

(b) *Required.* Subdividers proposing to create a conservation subdivision shall and comply with article IV in addition to all other applicable provisions of this chapter.

Sec. 94-88. Drainage.

All developments shall be subject to and in compliance with the following base level standards for discharge rates:

- (1) The 100-year post-development peak runoff discharge shall not exceed the most restrictive of the following standards:
 - a. 0.30 cubic feet per seconds (cfs) per developed acre, or
 - b. Maximum hydraulic capacity of existing downstream conveyance facilities as determined by the village.
- (2) The post-development runoff discharges for storms up to and including the two-year storms shall not exceed 0.04 cfs per developed acre.
- (3) The hydrologic and hydraulic analyses for evaluating pre- and post-development runoff characteristics shall utilize the regional rainfall duration-frequency and temporal storm distribution information set forth in SEWRPC Technical Report No. 40.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-89. Landscape plan.

(a) A landscape plan shall be required for all subdivisions and minor subdivisions, except those preparing a stewardship plan under section 94-153. Eighteen full-size copies of a landscape plan shall be submitted with the final certified survey map or the final plat. The landscape plan shall be prepared on paper of good quality at a map scale of not more than 100 feet to one inch and shall show correctly the following information:

- (1) The proposed name of the certified survey map or subdivision.

- (2) The location of the proposed certified survey map or subdivision.
- (3) The names, addresses, and telephone numbers of the owners and/or subdividers and of the designer of the plan.
- (4) The boundary line of the site with dimensions, indicated by a solid line, and the total land area encompassed by the site.
- (5) The boundary lines of all proposed lot lines and open space areas.
- (6) The location, extent, type (common name and scientific name in the case of plant materials), and sizes of all existing trees and natural resource features in all areas of subdivision or minor subdivision to be maintained and credited toward the landscaping requirements of this chapter. If any existing vegetation or other natural resource features are to be demolished or mitigated, the extent of such demolition or area to be mitigated shall also be clearly delineated and so noted on the plan.
- (7) The location, extent, type (common name and scientific name in the case of plant materials), and sizes of proposed landscaping and landscape planting in all areas, including any landscaped entrances or other special landscaped features of the subdivision or minor subdivision.

(b) All new landscape plant material shall be grown in a nursery located in plant hardiness zone 4 or less and shall conform to the applicable requirements as specified in the current edition of American Standard for Nursery Stock as approved by the American National Standards Institute, Inc., and sponsored by the American Association of Nurserymen, Inc. The American Joint Committee on Horticultural Nomenclature shall in accordance with the current edition of Standardized Plant Names prepare botanical plant names.

(c) Areas of a subdivision or minor subdivision designated as landscape easement areas shall be maintained and kept free of all debris, rubbish, and noxious weeds by the property owner.
(Ord. No. 2009-05, § 1, 8-24-09)

Secs. 94-90--94-120. Reserved.

Article IV. Conservation Subdivisions

Sec. 94-121. Conservation subdivision development.

All proposed conservation subdivisions, whether by condominium or subdivision plat, are required comply with the requirements of this article in addition to all other applicable sections of this chapter.

Sec. 94-122. Concept plan required.

(a) *Pre-submission conference.* Prior to submitting a concept plan, the subdivider is encouraged to contact the village clerk for the purpose of scheduling a meeting with village staff to discuss the proposed development, in general, and review the procedural requirements of the land division ordinance. The subdivider shall not be responsible for reimbursement of costs itemized in section 94-51 related to staff attendance at this meeting.

(b) *Submission.* The subdivider shall submit a series of maps and descriptive information, development yield analysis, and concept plan according to the criteria set forth in this section, along with a completed checklist. Mapping can be done in any combination of features as long as individual map components can be distinguished and the relationship between map components can be determined.

- (1) *Inventory and mapping of existing resources.* The subdivider shall include the following mapped at a scale of no less than one inch equals 50 feet:
 - a. Topographic contours at two-foot intervals.
 - b. United States Department of Agriculture, Natural Resource Conservation Service soil type locations and identification of soil type characteristics such as agricultural capability, and depth to bedrock and water table. Identification of hydric soils (wetland soils).
 - c. Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas (using existing data from local, state and federal sources; i.e., no new field work is required), wetlands, natural swales, drainageways, and slopes of 20 percent or greater.
 - d. Land cover on the site, according to general cover type (pasture, woodland, etc.), and stand-alone trees with a caliper of more than 24 inches measured four feet off the ground. The inventory shall include comments on the health and condition of the vegetation. Woodlands shall be classified as deciduous, coniferous, or mixed. Use state land or comparable cover type classifications and do on-site cover type analysis.
 - e. Known critical habitat areas for rare, threatened or endangered species.
 - f. Views of the site, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating the location where the photographs were taken.
 - g. Mapping of offsite adjacent ecological, hydrological, recreational and cultural resources.

- h. Unique geological resources, such as rock outcrops and glacial features.
- (2) *Development yield analysis.* The subdivider shall submit a development yield analysis as calculated under section 94-9 showing the net density calculation.
- (3) *Site analysis and concept plan.* The subdivider shall submit a concept plan including at least the information set forth below at a scale of no less than one inch equals 50 feet. The concept plan shall be submitted as an overlay to the inventory map.
 - a. Open space areas indicating which areas are to remain undeveloped, areas for interior open space, and trail location.
 - b. Boundaries of areas to be developed and proposed general street and lot layout.
 - c. Number and type (i.e., single-family, multifamily) of housing units proposed.
 - d. Proposed methods for and location of storm water management (e.g., best management practices).
 - e. Inventory of preserved and disturbed natural features and prominent views.
 - f. Preliminary development envelopes showing areas for lawns, pavement, buildings, and grading.
 - g. Proposed methods for ownership and management of open space.
 - h. Formal open spaces indicating parks, easements, trail routing and drainage easements.
 - i. Integration of ecological restoration, buffers, and storm water treatment train.
- (4) *General location map.* The subdivider shall submit a map showing the general outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of no less than 1 inch: 400 feet.
- (5) *Evidence of ownership and survey required.* The subdivider shall submit a report of title from a title company acceptable to the village showing current ownership of the property proposed to be developed and all encumbrances, together with copies of all easements, covenants, liens and any other encumbrances, defects or clouds on the title appearing in the public record or known to the subdivider or owner of record and shall provide a land survey by a registered land surveyor

showing encumbrances of record including the requirements as specified in this section. A copy of the report of title and survey shall be delivered to the village attorney and the proposed conservation easement holder at the same time it is delivered to the village engineer.

- (6) *Phase I environmental site assessment.* The subdivider shall have a phase I environmental site assessment in compliance with ASTM Standard E1527-00 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process" and shall provide a copy of the assessment to the village attorney and to the proposed conservation easement holder. All costs incurred for this assessment shall be the responsibility of the subdivider.
- (c) *Review of concept plan.*
- (1) The village engineer shall make the determination of whether the entire submittal is complete within 30 days following the filing of a submittal. Written notice of the engineer's determination that there is a complete submittal shall be delivered to the subdivider and village clerk. If it is incomplete, the village engineer will contact the subdivider regarding the additional information required. No action will be taken by the village on incomplete submittals.
 - (2) Within 30 days of the determination of a complete submittal, the clerk shall place the submittal on the agenda of the next regularly scheduled plan commission meeting.
 - (3) Prior to the plan commission meeting, the village engineer and any other municipal officers may schedule a site visit with the subdivider to review the existing features of the site and the concept plan. As a condition of further review of the concept plan, the subdivider shall and hereby does grant permission for village officers, employees and agents to enter upon the subject property in furtherance of their official duties. The subdivider is encouraged to invite a representative from the proposed conservation easement holder to the site visit. The village engineer shall provide a written report informing the subdivider and the plan commission of his/her evaluation of the submittal and any additions, changes, or corrections to the concept plan.
 - (4) The subdivider is required to provide written notice of the plan commission meeting to all adjacent (i.e., bordering, including across a highway) landowners to the parent parcel at least seven days in advance of the meeting to permit members of the public an opportunity to speak as to the proposed concept plan. Such notice must be by certified mail, return receipt requested. The subdivider shall provide copies of the mailings and return receipts to the clerk prior to the plan commission meeting. Information as to the names and addresses of the landowners to be notified may be obtained at the Racine County Real Estate Description Office. Failure of the subdivider to provide such notice may, at the option of the plan commission, result in all

discussions concerning the submittal being deferred to the next regularly scheduled plan commission meeting.

- (5) The plan commission shall review the concept plan and other documents submitted and request adjustments, if deemed necessary, based upon the village engineer's report, consideration of the natural features of the site, the village's land use plan, comprehensive plan, available neighborhood plans, available or anticipated infrastructure, and the density of the surrounding areas. The village board is not bound by the plan commission review and any requested adjustments.

(Ord. No. 2009-05, § 1, 8-24-09)

Secs. 94-123--94-150. Reserved.

Sec. 94-151. Preliminary plat.

The preliminary plat shall be submitted and reviewed pursuant to article V.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-152. Final plat.

The final plat shall be submitted and reviewed pursuant to article VI.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-153. Conservation design and improvements.

(a) *Development yield.* The number of residential units for a parent parcel shall equal the net density of the parent parcel.

(b) *Standards.*

- (1) Conservation subdivisions shall identify a conservation theme or themes. Their themes shall be identified at the time of the concept plan. Conservation themes may include, but are not limited to, forest stewardship, water quality preservation and enhancement, farmland preservation, natural habitat restoration, viewshed preservation, archaeological and historic properties preservation, integration of ecological resources, or passive recreational uses. The village board, upon recommendation of the plan commission, shall have the authority to specify which areas shall be preserved.
- (2) Conservation subdivisions shall preserve, restore, if needed, and/or create environmentally sensitive areas such as wetlands, natural habitats for rare, threatened and endangered species, woodlands, shorelands, rain gardens, prairies, meadows, primary or secondary environmental corridors, parklands and viewsheds and establish plans and the means to restore, if needed, manage and maintain such areas.

- (3) Common open space shall, to the extent practicable, include open space areas in addition to water bodies, ponds, or mapped wetlands that have been identified.
- (c) *Residential lot requirements.*
 - (1) All areas shall comply with the following:
 - a. Most lots shall have access from interior local streets. However, any existing farmstead that is to be preserved that has a driveway, as part of the historic landscape and that does not access a local street, should also be preserved; and a farmstead that requires a driveway that does not access a local street should be allowed.
 - b. Lots shall be configured to minimize the amount of impervious surface.
 - c. Development envelopes shall be configured to minimize loss of woodlands. However, when the objective is to preserve prime farmland soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than 20 percent of a single lot is cleared for the construction of a dwelling, driveway, garage and accessory structures.
 - d. If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the usable area remaining for such agricultural uses with appropriate buffers between agricultural uses and residential structures.
 - e. At least 50 percent of the lots within a neighborhood shall abut common open space on at least one side. A local street may separate lots from the common open space.
 - f. Lots shall be adjacent to or around one or more of the following:
 - 1. A central green or square; and/or
 - 2. A physical amenity such as a meadow, a stand of trees, a stream or other water body, or some other natural or restored feature.
 - g. To the greatest extent possible, development envelopes should be screened from peripheral public streets or other visually prominent areas and should not be located on ridges or hilltops.
 - h. A 30-foot area of native vegetation shall be maintained around open water areas, unless a specific common beach or grassed area is identified.
 - i. Storm water management.

1. Roof down spouts should drain to porous surfaces, to the extent possible.
2. Peak discharges shall comply with the base level standards for discharge rates set forth in section 94-88.
3. The development shall have storm water management practices and facilities designed to capture at least 80 percent of the post development sediment load on an annual basis.
4. Landscape plantings shall be used to increase infiltration and decrease runoff where soil conditions are suitable and building foundation problems or sanitary sewer infiltration problems will not be created.
5. Natural open drainage systems shall be preserved and incorporated into the storm water management system of the subdivision where permitted by the department of natural resources guidelines.

If the density, area or front-footage requirements of this subsection (c) conflict with the village's land use plan or comprehensive plan, the provision which is more restrictive or imposes higher standards shall control.

(d) *Residential dwellings siting standards.* The siting standards for residential dwellings shall be as follows:

- (1) Residential dwellings shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses.
- (2) Residential dwellings shall avoid encroaching on rare plant communities, high quality sites, or endangered species identified by the department of natural resources.
- (3) House design should minimize the visible obtrusiveness of the garage from the street view, including, but not limited, to the use of setback or side-entry design garages, where possible.
- (4) Whenever possible, common open space shall connect internally and with existing or potential common open space lands on adjoining parcels and local or regional recreational trails, public parks or public open spaces.
- (5) Residential dwellings should be sited to achieve the following goals, to the extent practicable:
 - a. Minimize impacts to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.

- b. Minimize disturbance to woodlands, wetlands, grasslands, primary or secondary environmental corridors, mature trees or other significant native vegetation.
 - c. Prevent downstream impacts due to runoff through adequate on-site storm water management practices.
 - d. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.
 - e. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.
- (6) Landscaping around the proposed residential dwellings may be necessary to reduce off site views of residences.
- (e) *Open space design.*
 - (1) Common open space shall be designated as part of the subdivision. The minimum required common open space is 40 percent of the gross acreage.
 - (2) The minimum common open space required shall be owned and managed under one of the alternatives listed in subsection (f), as approved by the village. The uses within the common open space shall be accessible to the residents of the subdivision. These uses may also be available to the general public providing the proper approvals are received. The required common open space shall be undivided and restricted from further development, as specified in subsection (f).
 - (3) Common open space conservation ranking (in order of significance). The areas to be preserved shall be identified on a case-by-case basis in an effort to conserve and provide the best opportunities to restore and enlarge the best quality natural features of each particular site.
 - a. First priority will be given to intact natural communities, rare, threatened and endangered species, primary or secondary environmental corridors, natural and restored prairies, significant historic and archaeological properties, and slopes of 20 percent or greater.
 - b. Second priority will be given to areas providing some plant and wildlife habitat and common open space values.
 - c. Third priority will be given to areas providing little habitat but providing viewshed, recreation, or a sense of common open space.
 - (4) The following areas or structures may be located within the common open space area and shall be counted toward the overall common open space percentage required:

- a. Parking areas for access to and use of the common open space developed at a scale limited to the potential users of the common open space.
 - b. Privately held buildings or structures provided they are accessory to the use of the common open space.
- (5) Road rights-of-way shall not be counted towards the required minimum common open space, except that common open space within landscaped cul-de-sac islands and medians of boulevards may be counted upon recommendation by the plan commission and approval of the village board.
- (6) That portion of common open space designed to provide plant and animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.
- (7) Accessible common open space in upland areas shall be available for recreational uses such as trails, play fields, or community gardens but should be designed in a manner that avoids adversely impacting archaeological sites.
- (8) A pathway system connecting common open space areas accessible to neighborhood residents and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall, if applicable, be identified in the plan.
- (9) The design shall provide for the connection of internal open spaces, whenever possible and connection with existing or potential open space lands or adjoining parcels outside of the development.
- (10) Common open space in condominium plats. In condominium plats where the subdivider proposes a condominium in which the unit will encompass only the building pod and the remaining areas will be limited common areas and/or facilities or common areas and/or facilities, the side, back and front yards shall not be counted toward the required minimum common open space.
 - a. *Purpose.* The purpose of this section is to exclude side, back and front yards as common open space because inclusion of these areas does not fulfill the definitional requirement of common open space or meet the purposes of this chapter.
 - b. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection:
 - 1. *Building pod.* The area of a lot including the house, garage, patio, deck, air conditioning unit and other similar improvements attached or abutting the house.

2. *Building envelope.* The area of a lot including a building pod in addition to setbacks of seven and one-half feet for each side of the building pod and 25 feet each for the front and back yards.
3. *Calculation.* If the subdivider is proposing a condominium in which the lot will encompass only the building pod and the remaining areas will be limited common areas and/or facilities or common areas and/or facilities, then one of the following shall not be counted toward the minimum common open space requirements:
 - i. If the actual square footage of the building pod and building envelope are not known, subtract 4,000 square feet for each proposed unit, the calculation being: # of units multiplied by 4,000 square feet for the total amount of square feet not to be included in common open space.
 - ii. If the actual square footage of the building pod is known, then perform the following: (1) Calculate the total area of setbacks around the building pod of seven and one-half feet for each side yard and 25 feet each for the front and back yards for each proposed unit; and (2) Add together the total area encompassing the setbacks for each unit for the total amount of square feet to be excluded from the common open space.

(f) *Common open space and common facilities, ownership and maintenance.*

- (1) *Alternatives.* The designated common open space and/or common facilities may be owned and managed by one or a combination of the following:
 - a. A homeowners' association.
 - b. A condominium association established in accordance with the Condominium Ownership Act, Wis. Stats. ch. 703.
 - c. A 501(c)(3) nonprofit conservation organization.
 - d. The village or another governmental body empowered to hold an interest in real property.
 - e. An individual who will use the land for common open space purposes as provided by a conservation easement.
- (2) *Conservation easement.* Common open space and/or common facilities shall be subject to a conservation easement conveyed to a qualified holder.

- (3) *Homeowners' association.* A homeowners' association shall be established if the common open space and/or common facilities are proposed to be owned by a homeowners' association. Membership in the association is mandatory for all purchasers of homes in the development and their successors. The homeowners' association bylaws, guaranteeing continuing management of the common open space and/or other common facilities, and the declaration of covenants, conditions and restrictions of the homeowners' association shall be submitted for approval to the village as part of the information required for the preliminary plat. The homeowners' association bylaws or the declaration of covenants, conditions and restrictions of the homeowners' association shall contain the following information:
- a. The legal description of the proposed common open space;
 - b. A description of common facilities;
 - c. The restrictions placed upon the use and enjoyment of the common open space and/or common facilities;
 - d. Persons or entities entitled to enforce the restrictions;
 - e. A mechanism to assess and enforce the common expenses for the common open space and/or common facilities including upkeep and management expenses, real estate taxes and insurance premiums;
 - f. A mechanism to implement restoration, maintenance and management of the common open space and/or common facilities;
 - g. A mechanism for resolving disputes among the owners or association members;
 - h. The conditions and timing of the transfer of ownership and control of common open space and/or common facilities to the association;
 - i. Any other matter the subdivider or village deems appropriate.
- (4) *Condominium association.* If the common open space and/or common facilities are to be held under the Condominium Ownership Act, Wis. Stats. ch. 703, the condominium instruments shall identify the restrictions placed upon the use and enjoyment of the common open space and/or common facilities. The condominium instruments shall be submitted for approval to the village as part of the information required for the preliminary plat and shall comply with subsection (3). All common open space and common facilities shall be held as a "common element" as defined in Wis. Stats. § 703.02(2).

- (5) *Nonprofit conservation organization.* If the common open space and/or common facilities are to be held by a nonprofit conservation organization, the organization must be acceptable to the village. At a minimum, the organization must be a land trust and a member in good standing with Gathering Waters Conservancy, or a similar state organization if the land trust is located outside the state. The conveyance to the nonprofit conservation organization must contain appropriate provisions for reversion or succession to a subsequent nonprofit conservation organization or other acceptable entity in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.
- (6) *Public dedication of common open space.* The village, in its sole discretion, may accept the dedication of a conservation easement or fee title to the common open space and/or common facilities; provided:
- a. The common open space and/or common facilities are as accessible to the residents of the village as they are to members of the general public.
 - b. The village agrees to and has access to maintain and manage the common open space and/or common facilities.
- (7) *Separate ownership.* An individual may hold fee title to the land while a nonprofit conservation organization or other qualified organization holds a conservation easement prescribing the acceptable uses and obligations for the common open space and/or common facilities.
- (8) *Stewardship plan.* Every conservation subdivision must include a plan that provides a means to properly manage the common open space in perpetuity, and the longterm means to properly manage and maintain all common facilities. The village shall approve the plan in conjunction with the development agreement prior to or as a condition of final plat approval.
- a. The plan shall do the following:
 - i. Designate the ownership of the common open space and/or common facilities in accordance with subsection (f)(1).
 - ii. Establish necessary regular and periodic operation and management responsibilities.
 - iii. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
 - iv. Include a land stewardship plan specifically focusing on the longterm management of common open space lands. The land stewardship plan shall include a

narrative, based on the site analysis required in section 94-156 describing:

- a) Existing conditions including all natural, cultural, historic, and scenic elements in the landscape. This baseline documentation of existing site conditions shall be agreed upon at the time of execution of the conservation easement.
 - b) The proposed end state for each common open space area; and the measures proposed for achieving the end state.
 - c) Proposed restoration measures, including: measures for correcting increasingly destructive conditions, such as erosion; and measures for restoring historic features and habitats or ecosystems.
 - d) The operations needed for managing the stability of the resources for five years, including but not limited to: mowing schedules; weed control; planting schedules; assessment schedule; and clearing and cleanup. At the village's discretion, the applicant may be required to place in escrow sufficient funds for the management and operation costs of the common open space and/or common facilities for a maximum of five years.
 - e) Education component for educating the homeowners on the stewardship plan and status of the common open space. The holder of the conservation easement shall determine the content of the educational component; however, the holder shall hold an educational meeting with the homeowners at least annually after the annual assessment is conducted.
 - f) Any stewardship plan of an abutting subdivision that has a stewardship plan in place and addressing any impact that stewardship plan may have on the proposed subdivision.
- v. If ownership is vested in a homeowners' association or a condominium association, then the association must contract with a competent contractor, such as a professional ecological service, as approved by the village to oversee and sustain the plan. The village's approval shall not be unreasonably withheld.

- b. In the event that the organization established to own and manage the common open space and/or common facilities, or any successor organization, fails to manage all or any portion of the common open space and/or common facilities in reasonable order and condition in accordance with the stewardship 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 common open space and/or common facilities, setting forth the manner in which the organization has failed to manage the common open space and/or 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 chapter, in which case the bond, if any, may be forfeited, 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 open space and/or common facilities and shall become a lien on said properties. The village, at the time of entering upon such common open space and/or common facilities for the purpose of management, shall file a notice of such lien in the office of the county register of deeds upon the properties affected by such lien.
- d. Stewardship plans may be amended with the approval of the village board.
- e. The village may require the common open space to be inspected and assessed annually by the holder of the conservation easement or an independent professional ecologist, or may contract with an independent individual, organization, or business, for a periodic assessment of the common open spaces and/or common facilities of the development to ensure compliance with the stewardship plans. The cost for this periodic assessment of the common open spaces and/or common facilities shall be specially assessed, equally against the properties that have the right of enjoyment of the common open spaces and/or common facilities and shall become a lien on such properties if not paid.

(Ord. No. 2009-05, § 1, 8-24-09)

Article V. Preliminary Plat

Sec. 94-154. Filing application with village.

The subdivider shall file with the village engineer an application for review and approval of a preliminary plat prepared in accordance with this chapter along with a completed checklist, 18 copies of the preliminary plat for review by the village, and one copy of the preliminary plat in a digital format as specified by the village. Additional copies of the preliminary plat shall be provided to the village attorney and to the proposed conservation easement holder. The village engineer may require in his/her discretion, the submittal of complete road, grading and/or drainage plans at the time of submission of the preliminary plat. No preliminary plat shall be accepted for review unless the subdivider has completed the concept plan requirements set forth in section 94-122. The village engineer shall make the determination of whether the entire submittal is complete within 30 days following the filing of the above materials. Written notice of the engineer's determination that there is a complete submittal shall be delivered to the subdivider and village clerk. If the preliminary plat is not complete or is not submitted in accordance with applicable statutes or ordinances, it shall not be considered filed, and the village engineer shall contact the subdivider regarding the additional information needed.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-155. Review and approval procedures.

(a) *Referral; administrative staff and utility commission reviews.* The clerk shall provide copies of the preliminary plat to the village department heads, and to the appropriate utilities for their review and comment. The subdivider shall forward copies of the preliminary plat to the appropriate objecting agencies under Wis. Stats. § 236.12. The village staff and utility comments will be forwarded to the village plan commission and village board for consideration during the review process.

(b) *Village plan commission review; informational meeting.* The clerk shall give notice of the plan commission's review of the preliminary plat by listing it as an agenda item in the plan commission's meeting notice. The notice shall include the name of the subdivider, the address of the parent parcel, and the requested action. The clerk may schedule an informational meeting on the preliminary plat prior to plan commission review. The subdivider shall provide written notice of the plan commission review and/or the informational meeting to all property owners within 300 feet of the parent parcel at least seven days in advance of such meeting. The cost for such written notice shall be borne by the subdivider. Such notice must be by certified mail, return receipt requested. The subdivider shall provide copies of the mailings and return receipts to the clerk prior to the plan commission meeting. Information as to the names and addresses of the landowners to be ratified may be obtained at the Racine County Real Estate Description Office. Failure of the subdivider to provide such notice may, at the option of the plan commission, result in all discussions concerning the submittal being deferred to the next regularly scheduled plan commission meeting.

(c) *Plan commission recommendation.* After review of the preliminary plat and discussions with the subdivider on changes and the kind and extent of public improvements that will be required, the plan commission shall recommend to the village board disapproval, approval, or conditional approval of the preliminary plat within 60 days of the engineer's written notice of a complete submittal. Any preliminary plat recommended for approval shall be

deemed to include conditions, to the extent applicable, of a development agreement, conservation easement, and stewardship plan in forms acceptable to the village board and in compliance with the village ordinances.

(d) **Board action.** After receipt of the village plan commission's recommendation, the village board shall, within 90 days of the engineer's written notice of a complete submittal, approve, approve conditionally, or reject such preliminary plat and shall state, in writing, conditions of approval or reasons for rejection. Unless the time is extended by agreement with the subdivider, failure of the village board to act within 90 days or extension thereof shall constitute an approval of the preliminary plat, unless other authorized agencies object to the plat. The clerk shall communicate to the subdivider the action of the village board. If the preliminary plat is approved, the village president shall endorse it for the village board. Any preliminary plat recommended for approval shall be deemed to include conditions, to the extent applicable, of a development agreement, conservation easement, and stewardship plan in forms acceptable to the village board and in compliance with the village ordinances.

(e) **Effect of approval.** Approval of a preliminary plat shall be valid for 36 months from the date of approval or conditional approval. Subject to Wis. Stats. § 236.11(1)(b), approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat, which will be subject to further consideration by the plan commission and village board at the time of its submission.

(f) **Amendment.** If the subdivider desires to amend the preliminary plat as approved, the subdivider may resubmit the amended plat, unless the amendment is, in the opinion of the village board, of such scope as to constitute a new plat, in which case it shall be refiled. The village reserves the right to require an additional fee where, in the opinion of the village board, such amendment requires significant additional village resources.
(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-156. Requirements.

A licensed land surveyor or engineer shall prepare the preliminary plat at a convenient scale not less than one inch equals 100 feet. A preliminary plat shall be prepared in accordance with applicable state statutes and this chapter. More than one sheet may be used to present the following required information:

- (1) **Name of the proposed subdivision.** The proposed name of the subdivision shall not duplicate or be alike in pronunciation of the name of any plat previously recorded in the county.
- (2) **Project ownership and development information.**
 - a. Name, address, and telephone number of the legal owner of the parent parcel and, if applicable, agent of the property.
 - b. Name, address, and telephone number of the professional persons responsible for subdivision design, for the design of public improvements, and for surveys.

- c. Date of preparation.
- (3) *Existing site conditions.* Provide this information on a property survey map. It is the responsibility of the subdivider to verify the accuracy of information and resources relied upon to compile the following information:
- a. Boundary line of the proposed site and all property to be subdivided. Include all contiguous land owned or controlled by the subdivider.
 - b. Location, width, and names of all existing platted streets and rights-of-way to a distance of 300 feet beyond the site.
 - c. Show the type, width and condition of street improvements; railroad or major utility rights-of-way, parks and other public open spaces, location and widths of existing snowmobile or other recreation trails; and permanent buildings and structures to a distance of 300 feet beyond the site, if any.
 - d. Location, widths, and names of all existing public and private easements to a distance of 300 feet beyond the site.
 - e. Identify by name and ownership boundary lines of all adjoining lands within 100 feet of the proposed plat.
 - f. Topographic data including contours at vertical intervals of not more than two feet. Elevation values shall be based on the National Geodetic Vertical Datum of 1929 (NGVD 29) or the North American Vertical Datum of 1988 (NAVD 88) or future adjustments to NAVD 88 as defined by the National Geodetic Survey, if applicable for that parcel, and should also be so noted on the plat.
 - g. Significant natural resource features on the site, including: jurisdictional wetlands, floodplains, watercourses, existing wooded areas, slopes of 20 percent or greater, drainageways, rare, threatened and endangered species, all environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission and official mapping on file with the county, and other natural resource features, views and other prominent visual features. Where steep slopes may be present, the village may require a survey by a registered land surveyor of the areas containing slopes. This survey shall be referenced to the proposed cross section of the adjacent road.
 - h. Burial sites categorized under Wis. Stats. § 157.70, Indian mounds, national and state register listed properties, and locally designated historic properties.
 - i. Existing soil classifications including identification of poor, hydric soils.
 - j. Legal description of the property.
 - k. Existing zoning classifications for land in and abutting the subdivision.

- l. Total acreage of the proposed site.
 - m. Provide graphic scale, north arrow, and date.
 - n. Conservation easements.
 - o. Restoration zones, including association land included in native landscaping, buffers, and drainage easements.
- (4) *Subdivision design features.* Provide the following information on the preliminary plat:
- a. Layout of proposed streets, showing right-of-way widths, pedestrian walkways, types of improvements, street surface widths, and proposed street names.
 - b. Locations and type of proposed public easements (i.e., drainage, utility, pedestrian, public access to waterways, etc.); and all conservation easements.
 - c. Layout of proposed blocks and lots within the plat.
 - d. Basic data regarding proposed and existing (if applicable) lots and blocks, including numbers, dimensions, area.
 - e. Minimum front, side and rear yard building setback lines for all lots.
 - f. Indication of the use of any lot.
 - g. Location and size of all proposed and existing sanitary sewer lines and water mains.
 - h. Location and size of all proposed and existing storms sewers (lines, drain inlets, manholes), culverts, retention ponds, swales, infiltration practices and areas, and other storm water facilities within the plat and to a distance of 100 feet beyond the site.
 - i. Common open space areas, other than pedestrian ways and utility easements, intended to be dedicated or reserved for use by the residents of the development, including the size of such area or areas in acres. Provide information on the conditions, if any, of the dedication or reservation.
 - j. Proposed preservation, if any, of historical buildings and structures.
 - k. Development envelopes showing areas for grading, lawns, pavement and buildings.
 - l. Stewardship plan for restoration and longterm management of the open space areas.

- (5) *Preliminary construction plans.* Provide the following information on one or more sheets:
- a. *Plan and profile.* Proposed street centerline profile grades, showing the existing and proposed profile grade lines shall be provided at the discretion of the village engineer.
 - b. *Grading and erosion control plan.* A plan showing existing and proposed grades, drainage patterns, and storm water facilities. The plan shall show the location and extent of grading activities in and adjacent to the plat, overall area of the site in acres, total impervious surface area of project, total pervious area, stockpile locations, erosion and sediment control facilities, and a schedule for erosion and sediment control practices, including site specific requirements to prevent erosion at the source. Major trees to be preserved, with a diameter of four inches or more measured 12 inches above ground level, shall be shown on the preliminary grading and erosion control plan. Adequate measures for protecting major trees shall be shown on the plan.
 - c. *Disposal, management and flood control.* Provisions for sewage disposal, water supply, storm water management, and flood control.

Secs. 94-157--94-180. Reserved.

Article VI. Final Plat

Sec. 94-181. Compliance with article.

A final subdivision plat shall be filed in accordance with the requirements of this article.
(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-182. Filing of plat, letter of application; evidence of ownership.

The subdivider shall file with the village engineer an application for review and approval of a final plat, a completed checklist, 18 copies of the plat, and one copy of the final plat in a digital format as specified by the village, at least 60 days prior to the meeting of the plan commission at which action is desired. Copies of the final plat shall also be filed with the village clerk, village attorney, and the proposed conservation easement holder. The owner or subdivider shall file the final plat not later than 36 months after the date of approval of the preliminary plat; otherwise, the preliminary plat and final plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the village. The subdivider shall also submit at this time a current certified abstract of title or such other evidence as the village may require showing ownership or control in the applicant. Preparation of the final plat shall be in accordance with applicable state statute and this chapter. If the final plat is not complete or is not submitted in accordance with applicable statutes or ordinances, it shall not be considered filed. The village engineer shall make the determination of whether the entire submittal is complete within 30 days following the filing of the above materials. Written notice of the engineer's determination that there is a complete submittal shall be delivered to the subdivider and village clerk.

Sec. 94-183. Objecting agencies.

The subdivider shall submit the original plat to the plat review section, state department of administration, which shall forward two copies to each of the agencies authorized to object under Wis. Stats. § 236.12(2). The department shall have the required number of copies made at the subdivider's expense.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-184. Final construction plans.

Simultaneously with the filing of the final plat, the subdivider shall file with the village four copies of the final plans and specifications of public improvements required by the village.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-185. Installation, protection and management plans.

With respect to conservation subdivisions, the subdivider shall also submit stewardship plans prepared by a professional ecological service for areas to be protected and/or into which native vegetation will be introduced or in the alternative a landscape plan pursuant to section 94-89. The village may provide information to guide the subdivider and the village will set minimum standards which may be amended from time to time by resolution of the village board. Village approval shall be required of the professional ecological service to be used; the village's approval shall not be unreasonably withheld. The stewardship plan shall be reviewed by the proposed easement holder if it has a qualified ecologist on staff and acceptable to the village. If the proposed easement holder does not have a qualified staff person, then a qualified professional ecologist acceptable to the village and unaffiliated shall review the plan with the drafter of the stewardship plan. The reviewer shall provide a written report and any recommended revisions to the village engineer at the time the final plat is submitted for approval. The plan shall be revised, if deemed necessary by the village board prior to consideration of the final plat. Any costs incurred for the review of the stewardship plan by the easement holder or a qualified professional ecologist shall be the responsibility of the subdivider. The final stewardship plan shall be submitted to the plan commission, along with the written report, for its information and reference, when it reviews the final plat.

Sec. 94-186. Referral.

The clerk shall provide copies of the final plat to village department heads and to the appropriate utilities for their review and comment. The village staff and utility comments will be forwarded to the village plan commission and village board for their consideration during the review process. Prior to the referral of the final plat by the clerk, the final drainage plans must have received their necessary approvals.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-187. Village plan commission review.

(a) *Examination of conformance; condition of approval.* The plan commission shall examine the final plat as to its conformance with the preliminary plat, any conditions of approval of the preliminary plat, this chapter, and all applicable ordinances, rules, regulations, the stewardship plan, and the village's land use plan elements that may affect it and shall recommend approval or rejection of the plat to the village board.

(b) *Recommendation of approval or rejection; review period extension request.* The plan commission shall, within 30 days of the date of the engineer's notice of a complete final plat submittal, recommend approval or rejection of the plat and shall transmit the final plat and application along with its recommendations to the village board. Any condition of approval of the preliminary plat that has not been complied with shall remain a condition if the village board approves the final plat. Plats with incomplete or inadequate information shall be rejected unless an extension of the review period is requested by the subdivider and agreed to in writing by the plan commission.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-188. Village board review and approval.

The clerk shall provide a copy of the final plat, the recommendation of the plan commission, a draft of the proposed conservation easement and the stewardship plan to the village board for its review, consideration and possible approval. The village board shall, within 60 days of the date of the engineer's notice of a complete final plat submittal, approve or reject such plat unless the time is extended by agreement with the subdivider. If the plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The village board may not inscribe its approval on the final plat unless the clerk certifies on the face of the plat that the copies were forwarded to objecting agencies as required in section 94-183, the date thereof, and that no objections have been filed within 20 days or, if filed, have been met.

- (1) The village board shall, when it determines to approve a final plat, give at least ten days prior written notice of its intention to the municipal clerk of any municipality within 1,000 feet of the final plat.
- (2) If the village board fails to act within 60 days, without a time extension and no unsatisfied objections having been filed, the plat shall be deemed approved.
- (3) After the final plat has been approved by the village board and required improvements either installed or a contract and sureties ensuring their installation is filed, the clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording with the county register of deeds, along with all conservation easements and deed restrictions. The final plat can be recorded when it has received all required approvals pursuant to applicable state statutes, the county Code and this chapter. The register of deeds cannot record the plat unless it is offered within twelve months from the date of the village board's final approval and within 36 months after the first approval.
- (4) The subdivider shall file eight copies of the final plat with the clerk for distribution to the approving agencies, affected utility districts, and other affected agencies for their files. The subdivider shall also provide a copy of the recorded final plat to the conservation easement holder and village attorney.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-189. Requirements.

- (a) A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply with the requirements of Wis. Stats. § 236.20 and this chapter.
- (b) In addition to the information required by Wis. Stats. § 236.20, the final plat shall show correctly on its face, have attached to it, or submitted with it, the following:
 - (1) Exact length and bearing of the centerline of all streets.
 - (2) Exact street width along the line of any obliquely intersecting street.
 - (3) Exact location and description of utility and drainage easements.
 - (4) Railroad rights-of-way within and abutting the plat.
 - (5) All lands reserved for future public acquisition or reserved for the common use of property owners within the plat, including public access to waterways.
 - (6) Restrictions relating to access control along public ways.
 - (7) Setback or building lines.
 - (8) Any restrictive covenants, deed restrictions, or conservation easements for the proposed subdivision.
 - (9) The legal instruments detailing the ownership of the common open space, as required in section 94-153.
 - (10) All the surveying and monumenting requirements of Wis. Stats. § 236.15.
 - (11) State plane coordinate system. Where the plat is located within a quarter section, the corners of which have been relocated, monumented, and coordinated by the village, the plat shall be tied directly to two of the section or quarter corners so relocated, monumented, and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat.
 - (12) Certificates. All final plats shall provide all the certificates required by Wis. Stats. § 236.21. In addition, the surveyor shall certify that the surveyor has fully complied with all sections of this chapter.

The final plat shall be recorded as required by Wis. Stats. § 236.25.

(Ord. No. 2009-05, § 1, 8-24-09)

Secs. 94-190--94-220. Reserved.

Article VII. Certified Survey Maps

Sec. 94-221. Compliance.

A certified survey map is required for all minor subdivisions. Certified survey maps shall incorporate conservation values, themes, and goals into their design to meet the purposes of the chapter as indicated under sections 94-2 and 94-87.
(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-222. Preapplication conference.

Prior to the filing of an application for the approval of a certified survey map, the subdivider is encouraged to contact the village clerk for the purpose of scheduling a meeting with the village staff to discuss the proposed development, in general, and review the procedural requirements of the land division ordinance. The subdivider shall not be responsible for reimbursement of costs itemized in section 94-51 related to staff attendance at this meeting.
(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-223. Initial application; preliminary certified survey maps.

(a) After the preapplication conference, the subdivider shall submit an executed predevelopment agreement, the fees required above, the checklist for certified survey maps and the preliminary certified survey map to the village engineer for review. As a condition of further review of the preliminary certified survey map, the subdivider shall and hereby does grant permission for village officers, employees and agents to enter upon the subject property in furtherance of their official duties. The village engineer may require the subdivider to submit at the time of the initial application a complete inventory of items listed under section 94-122 as an attachment to the preliminary certified survey map or delineated directing on the map if within 100 feet of the proposed building envelopes.

(b) The village engineer shall make the determination of whether the initial application is complete within 30 days following the filing of the above materials. Written notice of the engineer's determination that there is a complete submittal shall be delivered to the subdivider and village clerk. Within 15 days following the filing of a complete initial application, the village engineer shall schedule a meeting with the subdivider to review the initial application.

(c) Staff from appropriate state agencies may also be requested by the village to review the application and the subdivider shall be liable for costs for any reviews.

(d) The village engineer may also schedule a visit to the site with the subdivider to review the existing features of the site and the preliminary certified survey map. The visit shall occur prior to or as part of the meeting.

(e) Within 15 days following the meeting, the village engineer shall provide a written report informing the subdivider of any additions, changes, or corrections to the preliminary certified survey map submitted as part of the initial application.

(f) Before submission of the final certified survey map, the plan commission shall review and discuss the preliminary certified survey map along with the written report from the village engineer. The public shall have an opportunity to speak as to the preliminary map. Notice of the meeting shall be sent in accordance with the procedure set forth in section 94-155.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-224. Proof of ownership.

The subdivider shall submit a report of title from a title company acceptable to the village showing current ownership of the property proposed to be divided and all encumbrances shall be detailed on the certified survey map when submitted.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-225. General requirements for final certified survey map.

(a) The final certified survey map shall comply with the provisions of Wis. Stats. § 236.34, and shall describe the entire lands involved in the process of division, as well as all lands owned or controlled by the subdivider that are contiguous to the land to be divided.

(b) Where the subdivider owns or controls land that is contiguous to the land being divided, a conceptual development plan shall be submitted along with the proposed final certified survey map. The plan shall be drawn to scale, and shall identify proposed future development of the parcels, including approximate street, driveway and building locations.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-226. Detailed requirements.

A certified survey map shall comply with the provisions of Wis. Stats. § 236.34, applicable sections of this chapter, and shall set forth the following:

- (1) Date of map.
- (2) Graphic scale, location map and north point.
- (3) Name and address of the owner, subdivider, and surveyor.
- (4) All existing buildings, watercourses, drainage ditches, existing and required easements, and other features pertinent to proper division.
- (5) Names of adjoining streets, highways, parks, cemeteries, subdivisions, ponds, streams, lakes, flowages and wetlands.
- (6) All lands reserved for future public acquisition or dedication.
- (7) Floodland and shoreland boundaries and the contour line lying at a vertical distance of two feet above the elevation of the 100-year recurrence interval flood.

- (8) Significant natural resource features on the site, including wetlands, floodplains, watercourses, shoreland boundaries, existing wooded areas, slopes of 20 percent or greater, drainageways, rare, threatened and endangered species, all environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission ("SEWRPC") and the county, and other natural resource features, views and other prominent visual features.
 - (9) Where the map is located within a quarter section, the corners of which have been relocated, monumented and placed on the Wisconsin State Plan Coordinate System by the state department of transportation, Southeastern Wisconsin Regional Planning Commission, the county or any city, village or village, the map shall be tied directly to one of the section or quarter corners so coordinated. The exact grid bearings and distance of such tie shall be determined by field measurements, and the material and Wisconsin State Plan Coordinate System, south zone, and adjusted to the county control survey.
 - (10) The surveyor shall certify on the face of the map that it fully complies with all the provisions of this chapter.
 - (11) Any additional information required by the village board.
- (Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-227. Final map review and approval procedures.

(a) *Subdivider to file with village engineer.* Following review and comment of the village engineer, an application for review and approval of the final certified survey map, a complete checklist, 18 copies of the CSM , and one copy of the final CSM in a digital format as specified by the village shall be filed with the village engineer. One additional copy of the certified survey map shall be provided to the village attorney. The village engineer shall make the determination of whether the entire submittal is complete within 15 days following the filing of the above materials. Written notice of the engineer's determination that there is a complete submittal shall be delivered to the subdivider and village clerk.

(b) *Referral; administrative staff and utility commission reviews.* The village engineer shall provide copies of the certified survey map to village department heads and to the appropriate utilities for their review and comment. The village staff and utility comments will be forwarded to the village plan commission and village board for consideration during the review process.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-228. Plan commission review and informational meeting.

The clerk shall give notice of the plan commission's review of the certified survey map by listing it as an agenda item in the plan commission's meeting notice. The notice shall include the name of the applicant, the address of the property in question, and the requested action.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-229. Plan commission recommendation.

After review of the certified survey map and discussions with the subdivider on changes and the type and extent of public improvements that will be required, if any, the plan commission shall recommend to the village board disapproval, approval, or conditional approval of the certified survey map within 45 days of the engineer's notice of a complete final certified survey map submittal.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-230. Board action.

After receipt of the village plan commission's recommendation, the village board shall, within 90 days of the date of the engineer's notice of a complete final certified survey map submittal, approve, approve conditionally, or reject such certified survey map and shall state, in writing, conditions of approval or reasons for rejection. Unless the time is extended by agreement with the subdivider, failure of the village board to act within 90 days or extension thereof shall constitute an approval of the proposed final certified survey map. The clerk shall communicate to the subdivider the action of the village board. If the certified survey map is approved, the village clerk shall endorse it for the village board. The certified survey map shall be recorded with the register of deeds office for the county within twelve months after final village board approval and within 36 months after the first approval of the map.

Sec. 94-231. Public improvements.

In the event public improvements are required plans, computations and specifications, which conform to the provisions, required for subdivision improvements shall be submitted to the village engineer at the time of submission of the proposed certified survey map. Such plans must be approved by the village engineer before village board approval of the certified survey map. Prior to, or as a condition of, village board approval of the certified survey map, the subdivider shall enter into a development agreement pursuant to section 94-48 and deposit required fees (the "development agreement"). In cases where public lands or rights-of-way are reserved or dedicated for future construction of public improvements, the subdivider shall enter into an agreement with the village concerning future costs and liability prior to, or as a condition of, certified survey map approval.

(Ord. No. 2009-05, § 1, 8-24-09)

Secs. 94-232--94-260. Reserved.

Article VIII. Modifications Or Waivers

Sec. 94-261. Authority; application.

(a) Where, in the judgment of the village board, it would be inappropriate to apply literally the provisions of this chapter because an exceptional circumstance exists, the village board may waive or modify any requirements to the extent deemed just and proper.

(b) Application for any such modification or waiver shall be made in writing by the subdivider at the time when the concept plan, preliminary plat or preliminary certified survey map is filed for consideration whichever occurs first, stating fully all facts relied upon by the

subdivider, and shall be supplemented with maps, plans, or other additional data that may aid the village board in the analysis of the proposed project.

(c) Before the village board may act on a request for modification or waiver, the application and all supporting material must first be presented to the plan commission for its review and recommendation based upon the factors set forth in section 94-262. The clerk shall, within 45 days of the village engineer's notice of a complete submittal, including the application for a modification or waiver, place the matter on a village plan commission agenda for review and action.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-262. Considerations.

The village board shall consider the following factors, in addition to any other factors deemed relevant by it:

- (1) Whether the request for a waiver or modification, if granted, would be consistent with the general intent of the chapter.
- (2) Whether the request for a waiver or modification, if granted, would adversely affect property owners in the surrounding area.
- (3) Whether the request for waiver or modification, if granted, would benefit the subdivider's project in a way that is not consistent with the village's interests.
- (4) Whether the subdivider is in full compliance with other applicable ordinances and agreements with the village.
- (5) Whether, instead of granting the request for a waiver or modification, the chapter itself should be changed to accommodate the kind of situation presented by the subdivider.
- (6) Whether the conditions upon which the request for a modification or waiver is based are unique to the situation or property for which the modification or waiver is sought and are not applicable generally to other situations or property.
- (7) Whether the request for modification or waiver, if granted, would be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-263. Granting by village board.

(a) The village board, if it approves of the modification or waiver of the application of this chapter or any portion of it, shall do so by motion or resolution and shall instruct the clerk to notify the subdivider.

(b) A majority vote of the village board shall be required to grant any modification or waiver to this chapter. The reasons why such modification or waiver was granted shall be entered in the minutes.

(Ord. No. 2009-05, § 1, 8-24-09)

Sec. 94-264. Past noncompliance not waived.

A waiver or modification that is granted pursuant to a written request as described in this article shall not waive any fines, forfeitures or other penalties that may have accrued due to violations of this chapter that took place prior to the date of the request being granted, unless specifically stated otherwise in the decision of the village board.

(Ord. No. 2009-05, § 1, 8-24-09)

Chapter 95
POST-CONSTRUCTION STORM WATER MANAGEMENT

Section Number	Title	Ordinance Number	Date of Ordinance
Sec. 95-1.	Authority.		
Sec. 95-2.	Findings of fact.		
Sec. 95-3.	Purpose and intent.		
Sec. 95-4.	Applicability and jurisdiction.		
Sec. 95-5.	Definitions.		
Sec. 95-6.	Technical standards.		
Sec. 95-7.	Performance standards.		
Sec. 95-8.	Permitting requirements, procedures and fees.		
Sec. 95-9.	Storm water management plan.		
Sec. 95-10.	Maintenance agreement.	2021-09	10/25/2021
Sec. 95-11.	Financial guarantee.		
Sec. 95-12.	Fee schedule.	2021-09	10/25/2021
Sec. 95-13.	Enforcement.		
Sec. 95-14.	Appeals.		

Sec. 95-1. Authority.

(a) This chapter is adopted by the village board under the authority granted by Wis. Stats. § 61.354. This chapter supersedes all provisions of any ordinance previously enacted under Wis. Stats. § 61.35, that relate to storm water management regulations. Except as otherwise specified in Wis. Stats. § 61.354, Wis. Stats. § 61.35 applies to this chapter and to any amendments to this chapter.

(b) The provisions of this chapter are deemed not to limit any other lawful regulatory powers of the same governing body.

(c) The village board hereby designates the village engineer to administer and enforce the provisions of this chapter.

(d) The requirements of this chapter do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:

- (1) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under Wis. Stats. §§ 281.16 and 283.33.
- (2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under § NR 151.004, Wis. Adm. Code.

(Ord. No. 2009-07, 8-24-09)

Sec. 95-2. Findings of fact.

The village board finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (4) Reduce the quality of groundwater by increasing pollutant loading.
- (5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.

- (6) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
- (7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

(Ord. No. 2009-07, 8-24-09)

Sec. 95-3 Purpose and intent.

(a) *Purpose.* The general purpose of this chapter is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:

- (1) Further the maintenance of safe and healthful conditions.
- (2) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
- (3) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

(b) *Intent.* It is the intent of the village board that this chapter regulates post-construction storm water discharges to waters of the state. This chapter may be applied on a site-by-site basis. The village board recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this chapter is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under Wis. Stats. § 281.16, for regional storm water management measures and have been approved by the village board, it is the intent of this chapter that the approved plan be used to identify post-construction management measures acceptable for the community.

(Ord. No. 2009-07, 8-24-09)

Sec. 95-4. Applicability and jurisdiction.

(a) *Applicability.*

- (1) Where not otherwise limited by law, this chapter applies after final stabilization to a site of land disturbing construction activity that involves one or more acres of land disturbing construction activity after March 10, 2003.

- (2) A site that meets any of the criteria in this paragraph is exempt from the requirements of this chapter.
- a. A redevelopment post-construction site with no increase in exposed parking lots or roads.
 - b. A post-construction site with less than ten percent connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.
 - c. Nonpoint discharges from agricultural facilities and practices.
 - d. Nonpoint discharges from silviculture activities.
 - e. Routine maintenance for project sites under one acre of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
 - f. Underground utility construction such as water, sewer and fiberoptic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.
- (3) Notwithstanding the applicability requirements in subsection (1), this chapter applies to post-construction sites of any size that, in the opinion of the village engineer, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(b) *Jurisdiction.* This chapter applies to post construction sites within the boundaries and jurisdiction of the village as well as all lands located within the extraterritorial plat approval jurisdiction of the village, even if plat approval is not involved.

(c) *Exclusions.* This chapter is not applicable to activities conducted by a state agency, as defined under Wis. Stats. § 227.01(1), but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Wis. Stats. § 281.33(2).

(Ord. No. 2009-07, 8-24-09)

Note: The Wisconsin Department of Transportation (WisDOT) has entered into a memorandum of understanding with the Wisconsin Department of Natural Resources that satisfies Wis. Stats. § 281.33(2), such that activities directed and supervised by WisDOT are exempt from this model ordinance.

Sec. 95-5. Definitions.

Administering authority means a governmental employee empowered under Wis.

Stats. § 61.354, that is designated by the village board to administer this chapter.

Agricultural facilities and practices has the meaning given in Wis. Stats. § 281.16.

Average annual rainfall means a calendar year of precipitation, excluding snow, which is considered typical.

Best management practice or *BMP* means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

Business day means a day the office of the village clerk is routinely and customarily open for business.

Cease and desist order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

Combined sewer system means a system for conveying both sanitary sewage and storm water runoff.

Connected imperviousness means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

Design storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.

Development means residential, commercial, industrial or institutional land uses and associated roads.

Division of land means a "minor subdivision" or "subdivision" as defined in section 94-9.

Effective infiltration area means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

Erosion means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

Exceptional resource waters means waters listed in § NR 102.11, Wis. Adm. Code.

Extraterritorial means the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within one and one-half miles of a fourth class city or village.

Final stabilization means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.

Financial guarantee means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the village by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.

Governing body means the village board of trustees.

Impervious surface means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious.

In-fill area means an undeveloped area of land located within existing development.

Infiltration means the entry of precipitation or runoff into or through the soil.

Infiltration system means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

Karst feature means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

Land disturbing construction activity means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

Maintenance agreement means a legal document that provides for long-term maintenance of storm water management practices.

MEP or maximum extent practicable means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

New development means development resulting from the conversion of previously undeveloped land or agricultural land uses.

Off-site means located outside the property boundary described in the permit application.

On-site means located within the property boundary described in the permit application.

Ordinary high-water mark has the meaning given in § NR 115.03(6), Wis. Adm. Code.

Outstanding resource waters means waters listed in § NR 102.10, Wis. Adm. Code.

Percent fines means the percentage of a given sample of soil, which passes through a #200 sieve.

Note: Percent fines can be determined using the "American Society for Testing and Materials", volume 04.02, "Test Method C117-95 Standard Test Method for Materials Finer than 75-µm (No. 200) Sieve in Material Aggregates by Washing". Copies can be obtained by contacting the American society for testing and materials, 100 Barr Harbor Drive, Conshohocken, PA 19428-2959, or phone 610-832-9585, or on line at: "<http://www.astm.org/>".

Performance standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

Permit means a written authorization made by the village engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Permit administration fee means a sum of money paid to the village by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

Pervious surface means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

Pollutant has the meaning given in Wis. Stats. § 283.01(13).

Pollution has the meaning given in Wis. Stats. § 281.01(10).

Post-construction site means a construction site following the completion of land disturbing construction activity and final site stabilization.

Pre-development condition means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

Preventive action limit has the meaning given in § NR 140.05(17), Wis. Adm. Code.

Redevelopment means areas where development is replacing older development.

Responsible party means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction storm water BMPs.

Runoff means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Separate storm sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or

storm drains, which meets all of the following criteria:

- (1) Is designed or used for collecting water or conveying runoff.
- (2) Is not part of a combined sewer system.
- (3) Is not draining to a storm water treatment device or system.
- (4) Discharges directly or indirectly to waters of the state.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

Stop work order means an order issued by the village engineer which requires that all construction activity on the site be stopped.

Storm water management plan means a comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has undergone final stabilization following completion of the construction activity.

Storm water management system plan is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

Top of the channel means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12 percent continually for at least 50 feet. If the slope of the land is 12 percent or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

TR-55 means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

Type II distribution means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973." The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

Waters of the state has the meaning given in Wis. Stats. § 281.01(18).

(Ord. No. 2009-07, 8-24-09)

Sec. 95-6. Technical standards.

The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of storm water practices needed to meet the water quality standards of this chapter:

- (1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- (2) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the village engineer.
- (3) The design of storm water detention facilities shall be based on runoff hydrographs from the two-year, ten-year and 100-year frequency, 24-hour duration rainstorms.
- (4) All design rainfall events shall be based on the latest edition of the Point Rainfall Intensity-Duration-Frequency Relationships for Milwaukee, Wisconsin, as prepared by Southeastern Wisconsin Regional Planning Commission.
- (5) Storm water detention facilities shall be designed using hydrograph-producing runoff models such as the Soil Conservation Service Technical Release 55 (TR-55) or an equivalent methodology as determined by the village engineer. The modified rational formula shall not be used for development of hydrographs.

(Ord. No. 2009-07, 8-24-09)

Sec. 95-7. Performance standards.

(a) *Responsible party.* The responsible party shall implement a post-construction storm water management plan that incorporates the requirements of this section.

(b) *Plan.* A written storm water management plan in accordance with section 95-9 shall be developed and implemented for each post-construction site.

(c) *Requirements.* The plan required under subsection (b) shall include the following:

- (1) *Total suspended solids.* BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:
 - a. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80 percent, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80 percent total suspended solids reduction to meet the requirements of this subdivision.
 - b. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40 percent, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a

40 percent total suspended solids reduction to meet the requirements of this subdivision.

- c. For in-fill development under five acres that occurs within ten years after the effective date of this rule (August 24, 2009), by design, reduce to the maximum extent practicable, the total suspended solids load by 40 percent, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40 percent total suspended solids reduction to meet the requirements of this subdivision.
- d. For in-fill development that occurs ten or more years after October 1, 2002, by design, reduce to the maximum extent practicable, the total suspended solids load by 80 percent, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80 percent total suspended solids reduction to meet the requirements of this subdivision.
- e. Notwithstanding subsections a. to d., if the design cannot achieve the applicable total suspended solids reduction specified, the storm water management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

(2) *Peak discharge.*

- a. By design, BMPs shall be employed to maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development conditions. Pre-development conditions shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in Table 1 shall be used.

Table 1--Maximum Pre-Development Runoff Curve Numbers for Cropland Areas

Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	56	70	79	83

- b. All developments shall be subject to and in compliance with the following base level standards for discharge rates:
 - 1. The 100-year post-development peak runoff discharge shall not exceed the most restrictive of the following standards:

- A. 0.30 cubic feet per second (cfs) per developed acre, or
 - B. Maximum hydraulic capacity of existing downstream conveyance facilities as determined by the village.
 - 2. The post-development runoff discharges for storms up to and including the two-year storms shall not exceed 0.04 cfs per developed acres.
 - 3. The hydrologic and hydraulic analyses for evaluating pre- and post-development runoff characteristics shall utilize the regional rainfall duration-frequency and temporal storm distribution information set forth in SEWRPC Technical Report No 40.
 - 4. Storm water runoff from areas tributary to the site shall be considered in the equations for the design of the project site's drainage system.
- c. This subsection does not apply to any of the following:
 - 1. A post-construction site where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving water by more than 0.01 of a foot for the two-year, 24-hour storm event.
 - 2. A redevelopment post-construction site.
 - 3. An in-fill development area less than one acre.
- (3) *Infiltration.* BMPs shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in subsections e. through h.
 - a. For residential developments one of the following shall be met:
 - 1. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the project site is required as an effective infiltration area.
 - 2. Infiltrate 25 percent of the post-development runoff from the two-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff

volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the project site is required as an effective infiltration area.

- b. For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:
 - 1. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent of the project site is required as an effective infiltration area.
 - 2. Infiltrate ten percent of the runoff from the two-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent of the project site is required as an effective infiltration area.
- c. Pre-development condition shall be the same as in subsection (2).
- d. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subsection h. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
- e. Exclusions. The runoff from the following areas are prohibited from meeting the requirements of this paragraph:
 - 1. Areas associated with tier 1 industrial facilities identified in § NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
 - 2. Storage and loading areas of tier 2 industrial facilities identified in § NR 216.21(2)(b), Wis. Adm. Code.
 - 3. Fueling and vehicle maintenance areas.

4. Areas within 1,000 feet upgradient or within 100 feet downgradient of karst features.
 5. Areas with less than three feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subsection e.5. does not prohibit infiltration of roof runoff.
 6. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
 7. Areas within 400 feet of a community water system well as specified in § NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in § NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
 8. Areas where contaminants of concern, as defined in § NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.
 9. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a three-foot soil layer with 20 percent fines or greater; or at least a five-foot soil layer with ten percent fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subsection e.9. does not prohibit infiltration of roof runoff.
- f. Exemptions. The following are not required to meet the requirements of this paragraph:
1. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
 2. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
 3. Redevelopment post-construction sites.
 4. In-fill development areas less than one acre.
 5. Infiltration areas during periods when the soil on the site is frozen.

6. Roads in commercial, industrial and institutional land uses, and arterial residential roads.
- g. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph.
- h.
 1. Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
 2. Notwithstanding subsection h.1., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(4) *Protective areas.*

- a. "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.
 1. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in § NR 103.04, 75 feet.
 2. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
 3. For lakes, 50 feet.
 4. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps,

shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with § NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

5. For less susceptible wetlands, ten percent of the average wetland width, but no less than ten feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
 6. In subsections a.1., 4. and 5., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in § NR 103.03.
 7. For concentrated flow channels with drainage areas greater than 130 acres, ten feet.
- b. This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to subsection d.
- c. The following requirements shall be met:
1. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
 - 2.
 2. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

3. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.
 4. Other regulations, such as Wis. Stats. ch. 30, and chs. NR 103, 115, 116 and 117, Wis. Adm. Code, and their associated review and approval process may apply in the protective area.
- d. This paragraph does not apply to:
1. Redevelopment post-construction sites.
 2. In-fill development areas less than one acre.
 3. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 4. Structures constructed in accordance with Wis. Stats. § 59.692(1v).
 5. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.
- (5) *Fueling and vehicle maintenance areas.* Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen. A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.
- (6) *Site drainage.* Measures shall be implemented to ensure proper site drainage, prevent property damage and protect public health and safety, and include the following minimum requirements:
- a. *Drainage easement.* Perpetual drainage easements or other deed restrictions shall be recorded on the property to preserve major storm water flow paths and permanent storm water BMP locations. Covenants in these areas shall not allow buildings or other structures and shall prevent any grading, filling or other activities that interrupt or obstruct flows in any way. Covenants shall also specify maintenance responsibilities and authorities in accordance with section 95-10.
 - b. *Site grading.* Site grading shall ensure positive flows away from all buildings, be coordinated with the general storm water

drainage patterns for the area, and minimize adverse impacts on adjacent properties.

- c. *Street drainage.* All street drainage shall be designed to prevent concentrated flows from crossing the traffic lanes to the maximum extent practicable. Design flow depths at the road centerline for on-street drainage, shall not exceed six inches during the peak flows generated by the 100-year, 24-hour design storm, using planned land use conditions for the entire contributing watershed area.
- d. *Bridges and cross-culverts.* All new or modified bridges and cross-culverts shall comply with applicable design standards and regulations, facilitate fish passage and prevent increased flooding or channel erosion upstream or downstream from the structure. Design flow depths at the road centerline for all crossings shall not exceed six inches during the peak flows generated by the 100-year, 24-hour design storm, using planned land use conditions for the entire contributing watershed area. All predevelopment runoff storage areas within the flow path upstream of bridges and cross-culverts shall be preserved and designated as drainage easements, unless compensatory storage is provided and accounted for in modeling.
- e. *Subsurface drainage requirements.*
 - 1. Basement floor surfaces shall be built one foot above the seasonal high water table elevation, as documented in the submitted soil evaluations, and shall avoid hydric soils as much as possible.
 - 2. A subsurface drainage investigation shall be required if the village engineer that agricultural subsurface drainage systems may be present on a proposed development site subject to this chapter. The subsurface drainage investigation shall be conducted as specified in the village land development standards.
- f. *Open channels.* All open channel drainage systems shall at a minimum be designed to carry the peak flows from a ten-year, 24-hour design storm using planned land use for the entire contributing watershed area. Side slopes shall be no steeper than 4h:1v unless otherwise approved by the village engineer for unique site conditions. Open channels that carry runoff from more than 130 acres shall at a minimum be designed to carry the peak flows from a 25-year, 24-hour design storm.
- g. *Storm sewers.* All storm sewers shall be designed as follows and in accordance with the village land development standards.

1. Storm sewers shall be designed in accordance with the Wisconsin DOT Facilities design manual. Storm sewers shall be designed to flow full, using Manning's Formula with an appropriate roughness coefficient based on pipe material. If a storm sewer is designed with a constantly submerged outfall, the sewer shall be designed using the "hydraulic gradient" with the maximum allowable water level an elevation one foot below centerline of pavement.
2. The rational method shall be employed when computing storm runoff. The storm system shall be designed with "positive street and swale drainage" such that storm water runoff will be directed overland to the storm water detention area in a manner to minimize property damage due to flooding.
3. Storm sewers shall be designed for a minimum ten-year storm event flowing full. The pipes shall be sloped to achieve the minimum three feet per section (fps) self-cleaning velocity and have a maximum velocity not exceeding 12 fps.
4. In areas where curb and gutter and storm sewers are required, inlets shall be installed so that the drainage reach for each inlet shall not exceed 400 feet. Where the inlet is located at a low point, additional inlets may be required by the village engineer. No more than two inlets shall be interconnected. Inlets shall be so located that storm water runoff will not "pond" greater than the top of the street curbs. Depressed street crowns to facilitate drainage will not be permitted.
5. Rear lot drainage should not drain along the side yard, over the sidewalk and curb. Rear yard inlets shall be placed where approved or as required by the village engineer.
6. The minimum size storm sewer or inlet connection shall be 12 inches in diameter.
7. Connections to sanitary sewers or existing agricultural drainage systems (tiles) will not be permitted for any new developments. All developments will utilize separate drainage systems to avoid disruption or overloading of the existing agricultural tile drainage system. Any field tile systems cut during the process of land development must be reconnected. Connection of existing agricultural drain tiles to new storm water management systems may be approved if proper

allowance for flows from said tiles is incorporated in the new design system.

- h. *Structure protection and safety.* Flows generated by the 100-year, 24-hour design storm under planned land use conditions may exceed the design capacity of conveyance systems, but shall not come in contact with any buildings. For buildings designed for human occupation on a regular basis, the following additional requirements shall apply:
 - 1. The lowest elevation of the structure that is exposed to the ground surface shall be a minimum of one foot above the maximum water elevation produced by the 100-year, 24-hour design storm, including flows through any storm water BMP that may temporarily or permanently store water at a depth of greater than one foot; and
 - 2. The structure shall be setback at least 50 feet from any storm water BMP that may temporarily or permanently store water at a depth of greater than one foot. Setback distance shall be measured from the closest edge of water at the elevation produced by the 100-year, 24-hour design storm.

(d) *General considerations for on-site and off-site storm water management measures.* The following considerations shall be observed in managing runoff:

- (1) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
- (2) Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety. The emergency overflow structures shall be capable of passing the 100-year, 24-hour storm flow without damage to the storm water facility or downstream structures or property.

(e) *Location and regional treatment option.*

- (1) The BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.
- (2) Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this chapter. Post-construction BMPs may be located in non-navigable surface waters.

- (3) Except as allowed under subsection (4), post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.
- (4) Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this chapter if:
 - a. The BMP was constructed prior to the effective date of this chapter and the BMP either received a permit issued under Wis. Stats. ch. 30, or the BMP did not require a Wis. Stats. ch. 30 permit; and
 - b. The BMP is designed to provide runoff treatment from future upland development.
- (5) Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this paragraph.
 - a. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.
 - b. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as ch. NR 103, Wis. Adm. Code and Wis. Stats. ch. 30.
- (6) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.
- (7) The village engineer may approve off-site management measures provided that all of the following conditions are met:
 - a. The village engineer determines that the post-construction runoff is covered by a storm water management system plan that is approved by the village and that contains management requirements consistent with the purpose and intent of this chapter.
 - b. The off-site facility meets all of the following conditions:
 - 1. The facility is in place.
 - 2. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this chapter.
 - 3. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

- (8) Where a regional treatment option exists such that the village engineer exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the village engineer. In determining the fee for post-construction runoff, the village engineer shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(f) *Alternate requirements.* The village engineer may establish storm water management requirements more stringent than those set forth in this section if the village engineer determines that an added level of protection is needed to protect sensitive resources.

(Ord. No. 2009-07, 8-24-09)

Sec. 95-8. Permitting requirements, procedures and fees.

(a) *Permit required.* No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the village engineer prior to commencing the proposed activity.

(b) *Permit application and fees.* Unless specifically excluded by this chapter, any responsible party desiring a permit shall submit to the village engineer a permit application made on a form provided by the village engineer for that purpose.

- (1) Unless otherwise excepted by this chapter, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee in an amount to be determined from time to time by resolution of the village board.
- (2) The storm water management plan shall be prepared to meet the requirements of sections 95-7 and 95-9, the maintenance agreement shall be prepared to meet the requirements of section 95-10, the financial guarantee shall meet the requirements of section 95-11, and fees shall be those established by the village board as set forth in section 95-12.
- (3) By submitting an application, the applicant is authorizing the village engineer and other necessary village representatives and officials to enter the site to obtain information required for the review of the storm water management plan. The applicant and/or landowner shall be jointly and severally obligated to reimburse the village for all engineering-related and legal costs, including costs of inspection not covered by the application fee. The applicant and landowner shall be billed for such additional costs and shall reimburse the village for such costs within 30 days of receiving the bill. If the applicant and/or landowner fail to reimburse the village for such costs, the village may revoke the permit immediately, without advance notice to the applicant or landowner, and/or proceed under the enforcement provisions below. In addition, unpaid costs incurred by the village, shall be entered on the

tax rolls and collected as a special charge against the property pursuant to Wis. Stats. § 66.0627.

(c) *Review and approval of permit application.* The village engineer shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

- (1) Within 20 business days of the receipt of a complete permit application, including all items as required by subsection (b), the village engineer shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this chapter.
- (2) If the storm water permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the village engineer shall issue the permit.
- (3) If the storm water permit application, plan or maintenance agreement is disapproved, the village engineer shall detail in writing the reasons for disapproval.
- (4) The village engineer may request additional information from the applicant. If additional information is submitted, the village engineer shall have 20 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
- (5) Failure by the village engineer to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(d) *Permit requirements.* All permits issued under this chapter shall be subject to the following conditions, and holders of permits issued under this chapter shall be deemed to have accepted these conditions. The village engineer and/or village board may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the village engineer and/or village board, to suspend or revoke this permit may be appealed in accordance with section 95-14.

- (1) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
- (2) The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.
- (3) The responsible party shall notify the village engineer at least two business days before commencing any work in conjunction with the

storm water management plan, and within ten business days upon completion of the storm water management practices. If required as a special condition under subsection (e), the responsible party shall make additional notification according to a schedule set forth by the village engineer so that practice installations can be inspected during construction.

- (4) Practice installations required as part of this chapter shall be certified "as built" by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the village engineer or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The village engineer or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
- (5) The responsible party shall notify the village engineer of any significant modifications it intends to make to an approved storm water management plan. The village engineer may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.
- (6) The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the village board, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- (7) The responsible party authorizes the village to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under Wis. Stats. ch. 66, subch. VII, or to charging such costs against the financial guarantee posted under section 95-11.
- (8) If so directed by the village engineer, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
- (9) The responsible party shall permit property access to the village engineer or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
- (10) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the village engineer may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.

- (11) The responsible party is subject to the enforcement actions and penalties detailed in section 95-13, if the responsible party fails to comply with the terms of this permit.
- (e) *Permit conditions.* Permits issued under this subsection may include conditions established by village engineer in addition to the requirements needed to meet the performance standards in section 95-7 or a financial guarantee as provided for in section 95-11.
- (f) *Permit duration.* Permits issued under this section shall be valid from the date of issuance through the date the village engineer notifies the responsible party that all storm water management practices have passed the final inspection required under subsection (d)(4).

(Ord. No. 2009-07, 8-24-09)

Sec. 95-9. Storm water management plan.

(a) *Plan requirements.* The storm water management plan required under subsection 95-8(b) shall contain at a minimum the following information:

- (1) Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.
- (2) A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
- (3) Pre-development site conditions, including:
 - a. One or more site maps at a scale of not less than one inch equals 100 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed 100 feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to § NR 811.16, Wis. Adm. Code.

- b. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
- (4) Post-development site conditions, including:
 - a. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
 - b. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
 - c. One or more site maps at a scale of not less than one inch equals 50 feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed two feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
 - d. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
 - e. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.

- (5) A description and installation schedule for the storm water management practices needed to meet the performance standards in section 95-7.
- (6) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
- (7) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
- (8) Other information requested in writing by the village engineer to determine compliance of the proposed storm water management measures with the provisions of this chapter.
- (9) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and requirements of this chapter.

(b) *Alternate requirements.* The village engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under subsection 95-7(e).
(Ord. No. 2009-07, 8-24-09)

Sec. 95-10. Maintenance agreement.

(a) *Maintenance agreement required.* The maintenance agreement required under subsection 95-8(b) for storm water management practices shall be an agreement between the village and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the county register of deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.

(b) *Agreement provisions.* The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by subsection 95-9(a)(6):

- (1) Identification of the storm water facilities and designation of the drainage area served by the facilities.
- (2) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under subsection 95-8(b).
- (3) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under subsection 95-8(b).

- (4) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in subsection (2).
- (5) Authorization for the village engineer to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
- (6) A requirement on the village engineer to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.
- (7) Agreement that the party designated under subsection (3), as responsible for long term maintenance of the storm water management practices, shall be notified by the village engineer of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the village engineer.
- (8) Authorization of the village engineer to perform the corrected actions identified in the inspection report if the responsible party designated under subsection (3) does not make the required corrections in the specified time period. The village treasurer shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Wis. Stats. ch. 66, subch. VII.

(Ord. No. 2009-07, 8-24-09)

Sec. 95-11. Financial guarantee.

(a) *Establishment of the guarantee.* The village engineer may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the village. The financial guarantee shall be in an amount determined by the village engineer to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the village the authorization to use the funds to complete the storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the village that the requirements of this chapter have not been met.

(b) *Conditions for release.* Conditions for the release of the financial guarantee are as follows:

- (1) The village shall release the portion of the financial guarantee established under this section, less any costs incurred by the village to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The village may make provisions

for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

- (2) The village shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the village, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

(Ord. No. 2009-07, 8-24-09)

Sec. 95-12. Fee schedule.

The fees referred to in other sections of this chapter shall be established by the village board and may from time to time be modified by resolution. A schedule of the fees established by the village board shall be available for review in the office of the clerk.

(Ord. No. 2009-07, 8-24-09)

Sec. 95-13. Enforcement.

(a) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this chapter by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this chapter.

(b) The village engineer shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.

(c) Upon receipt of written notification from the village engineer under subsection (b), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the village engineer in the notice.

(d) If the violations to a permit issued pursuant to this chapter are likely to result in damage to properties, public facilities, or waters of the state, the village may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the village plus interest and legal costs shall be billed to the responsible party.

(e) The village engineer and/or village officials are authorized to post a stop work order on all land disturbing construction activity that is in violation of this chapter, or to request the village attorney to obtain a cease and desist order in any court with jurisdiction.

(f) The village board may revoke a permit issued under this chapter for non-compliance with ordinance provisions.

(g) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the village board, village engineer or board of appeals or by a court with jurisdiction.

(h) The village board is authorized to refer any violation of this chapter, or of a stop work order or cease and desist order issued pursuant to this chapter, to the village attorney for the commencement of further legal proceedings in any court with jurisdiction.

(i) Any person, firm, association, or corporation who does not comply with the provisions of this chapter shall be subject to a forfeiture of not less than \$100.00 or more than \$500.00 per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

(j) Compliance with the provisions of this chapter may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

(k) When the village engineer determines that the holder of a permit issued pursuant to this chapter has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the village board or a party designated by the village board may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The village engineer shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to section 95-11. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

(Ord. No. 2009-07, 8-24-09)

Sec. 95-14. Appeals.

(a) *Board of appeals.* The board of appeals pursuant to Wis. Stats. § 61.354(4)(b), shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the village engineer in administering this chapter. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this chapter that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.

(b) *Who may appeal.* Appeals to the board of appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the village affected by any decision of the village engineer.

(Ord. No. 2009-07, 8-24-09)

Chapter 96
CONSTRUCTION SITE EROSION

Section Number	Title	Ordinance Number	Date of Ordinance
Sec. 96-1.	Authority.		
Sec. 96-2.	Findings of fact.		
Sec. 96-3.	Purpose.		
Sec. 96-4.	Applicability and jurisdiction.		
Sec. 96-5.	Definitions.		
Sec. 96-6.	Technical standards.		
Sec. 96-7.	Performance standards.		
Sec. 96-8.	Permitting requirements, procedures and fees.		
Sec. 96-9.	Erosion and sediment control plan, statement, and amendments.		
Sec. 96-10.	Fee schedule.		
Sec. 96-11.	Inspection.		
Sec. 96-12.	Enforcement.		
Sec. 96-13.	Appeals.		

Sec. 96-1. Authority.

(a) This chapter is adopted under the authority granted by Wis. Stats. § 61.354. This chapter supersedes all provisions of an ordinance previously enacted under Wis. Stats. § 61.35 that relate to construction site erosion control. Except as otherwise specified in Wis. Stats. § 61.354, Wis. Stats. § 61.35, applies to this chapter and to any amendments to this chapter.

(b) The provisions of this chapter are deemed not to limit any other lawful regulatory powers of the village board.

(c) The village board hereby designates the village engineer to administer and enforce the provisions of this chapter.

(d) The requirements of this chapter do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:

- (1) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under Wis. Stats. §§ 281.16 and 283.33.
- (2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under § NR 151.004, Wis. Adm. Code.

(Ord. No. 2009-06, 8-24-09)

Sec. 96-2. Findings of fact.

The village board finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in the village.

(Ord. No. 2009-06, 8-24-09)

Sec. 96-3. Purpose.

It is the purpose of this chapter to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the village.

(Ord. No. 2009-06, 8-24-09)

Sec. 96-4. Applicability and jurisdiction.

(a) This chapter applies to the following:

- (1) Land disturbing construction activities on lands within the boundaries and jurisdiction of the village, except as provided under subsection (b);

- (2) Where a subdivision plat, requiring review and approval by the village, is required under chapter 94;
 - (3) Where a certified survey map, requiring review and approval by the village, is required under chapter 94;
 - (4) Where a land disturbing construction activity affects a surface area of 4,000 square feet or greater;
 - (5) If excavation, fill or any combination thereof will exceed 400 cubic yards;
 - (6) If public (federal, state or local) street, road or highway is to be constructed, enlarged, relocated or substantially reconstructed;
 - (7) If any watercourse is to be changed, enlarged, or materials are removed from a stream or lake bed; or
 - (8) Any utility work in which underground conduits, piping, wiring, water lines, sanitary sewers, storm sewers, or similar structures will be laid, repaired, replaced or enlarged, if such work involves more than 300 linear feet of earth disturbance.
- (b) This chapter does not apply to the following:
- (1) Land disturbing construction activity that includes the construction of a building and is otherwise regulated by the Wisconsin Department of Commerce under § COMM 21.125 or COMM 50.115, Wis. Adm. Code.
 - (2) A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
 - (3) Nonpoint discharges from agricultural facilities and practices.
 - (4) Nonpoint discharges from silviculture activities.
 - (5) Routine maintenance for project sites under five acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
 - (6) Cleaning and restoring existing drainage ditches, agricultural practices, growing and tending gardens, or silviculture activities.

- (7) A land disturbing construction activity for which a permit was obtained from both the Wisconsin Department of Natural Resources and from the Wisconsin State Farm Service Agency Office for programs of the United States Department of Agriculture except that the property owner shall file with the village clerk a copy of any such permit and approved plan; and
- (8) Activities conducted by a state agency, as defined under Wis. Stats. § 227.01(1), but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Wis. Stats. § 281.33(2).

(c) Notwithstanding the applicability requirements in subsection (a), this chapter applies to construction sites of any size that, in the opinion of the village engineer are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(Ord. No. 2009-06, 8-24-09)

Sec. 96-5. Definitions.

Administering authority means a governmental employee, or a regional planning commission empowered under Wis. Stats. § 61.354, that is designated by the village board to administer this chapter.

Agricultural facilities and practices has the meaning in Wis. Stats. § 281.16(1).

Average annual rainfall means a calendar year of precipitation, excluding snow, which is considered typical.

Best management practice or *BMP* means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

Business day means a day the office of the village clerk is routinely and customarily open for business.

Cease and desist order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

Construction site means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

Division of land means a "minor subdivision" or "subdivision" as defined in section 94-9.

Erosion means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

Erosion and sediment control plan means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

Extraterritorial means the unincorporated area within one and one-half miles of the village boundaries.

Final stabilization means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

Governing body means the village board of trustees.

Land disturbing construction activity means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

MEP or *maximum extent practicable* means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

Performance standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

Permit means a written authorization made by the village engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Pollutant has the meaning given in Wis. Stats. § 283.01(13).

Pollution has the meaning given in Wis. Stats. § 281.01(10).

Responsible party means any entity holding fee title to the property or performing services to meet the performance standards of this chapter through a contract or other agreement.

Runoff means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Sediment means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

Separate storm sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- (1) Is designed or used for collecting water or conveying runoff.
- (2) Is not part of a combined sewer system.
- (3) Is not draining to a storm water treatment device or system.
- (4) Discharges directly or indirectly to waters of the state.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

Stop work order means an order issued by the village engineer which requires that all construction activity on the site be stopped.

Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

Waters of the state has the meaning given in Wis. Stats. § 281.01(18).

(Ord. No. 2009-06, 8-24-09)

Sec. 96-6. Technical standards.

(a) *Design criteria, standards and specifications.* All BMPs required to comply with this chapter shall meet the design criteria, standards and specifications based on any of the following:

- (1) Applicable design criteria, standards and specifications identified, developed or disseminated by the Wisconsin Department of Natural Resources ("DNR") under subchapter V of chapter NR 151, Wis. Adm. Code.
- (2) For this chapter, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

(b) *Other standards.* Other technical standards not identified or developed in subsection (a) may be used provided that the methods have been approved by the village engineer.

(Ord. No. 2009-06, 8-24-09)

Sec. 96-7. Performance standards.

(a) *Responsible party.* The responsible party shall implement an erosion and sediment control plan, developed in accordance with section 96-9, that incorporates the requirements of this section.

(b) *Plan.* A written plan shall be developed in accordance with section 96-9 and implemented for each construction site.

(c) *Erosion and other pollutant control requirements.* The plan required under subsection (b) shall include the following:

- (1) BMPs that, by design, achieve to the maximum extent practicable, a reduction of 80 percent of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80 percent sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.
- (2) Notwithstanding subsection (1), if BMPs cannot be designed and implemented to reduce the sediment load by 80 percent, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80 percent reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.
- (3) Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:
 - a. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
 - b. Prevent the discharge of sediment as part of site de-watering.
 - c. Protect the separate storm drain inlet structure from receiving sediment.
- (4) The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

(d) *Location.* The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

(e) *Alternate requirements.* The village engineer may establish storm water management requirements more stringent than those set forth in this section if the village engineer determines that an added level of protection is needed for sensitive resources.

(Ord. No. 2009-06, 8-24-09)

Sec. 96-8. Permitting requirements, procedures and fees.

(a) *Permit required.* No responsible party may commence a land disturbing construction activity subject to this chapter without receiving prior approval of an erosion and sediment control plan for the site and a permit from the village engineer.

(b) *Permit application and fees.* At least one responsible party desiring to undertake a land disturbing construction activity subject to this chapter shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of section 96-9 and shall pay an application fee in an amount to be determined from time to time by resolution of the village board. By submitting an application, the applicant is authorizing the village engineer and other necessary village representatives and officials to enter the site to obtain information required for the review of the erosion and sediment control plan. The applicant and/or landowner shall be jointly and severally obligated to reimburse the village for all engineering-related and legal costs, including costs of inspection not covered by the application fee. The applicant and landowner shall be billed for such additional costs and shall reimburse the village for such costs within 30 days of receiving the bill. If the applicant and/or landowner fail to reimburse the village for such costs, the village may revoke the permit immediately, without advance notice to the applicant or landowner, and/or proceed under the enforcement provisions below. In addition, unpaid costs incurred by the village, shall be entered on the tax rolls and collected as a special charge against the property pursuant to Wis. Stats. § 66.0627.

(c) *Review and approval of permit application.* The village engineer shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

- (1) Within ten business days of the receipt of a complete permit application, as required by subsection (b), the village engineer shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this chapter.
- (2) If the permit application and plan are approved, the village engineer shall issue the permit.
- (3) If the permit application or plan is disapproved, the village engineer shall state in writing the reasons for disapproval.
- (4) The village engineer may request additional information from the applicant. If additional information is submitted, the administering authority shall have [number] business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
- (5) Failure by the village engineer to inform the permit applicant of a

decision within ten business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(d) *Financial guaranty.* As a condition of approval and issuance of the permit, the village board may require the applicant and/or landowner to deposit a cash bond or to provide an irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan, any permit conditions and any damage occurring to the public road, roads, or other public property or facility, upon which hauling will occur or cross over related to the land disturbing construction activity. Such bond or letter of credit shall be in an amount and form acceptable to the village. The village may consult with the village engineer to review the proposed land disturbing construction activity and plans required under this section and to make a recommendation to the village board on the amount of the bond or letter of credit necessary. Any costs incurred by the village for a review under this subsection shall be paid for by the applicant and/or landowner prior to permit issuance. Any bond or letter of credit required under this subsection shall be a condition of the permit and shall be deposited or provided to the village prior to permit issuance. If the applicant and/or landowner fails to execute the approved erosion control plan and comply with the permit conditions or damages the road or other public property, the village may cause such work to be completed in accord with the approved plan and/or repair the road and shall charge the bond or draw on the letter of credit for any costs incurred. After completion and acceptance of any work by the village, any balance of a posted bond shall be refunded to the applicant or the letter of credit shall be released. If the bond or letter of credit is inadequate to pay for such costs, the applicant and/or landowner shall pay such amounts to the village on demand. If the applicant and/or landowner fails to pay such amounts, the village may impose a special charge for the unpaid amounts against the property pursuant to Wis. Stats. § 66.0703 and/or proceed under the enforcement provisions set forth below.

(e) *Permit requirements.* All permits shall require the responsible party to:

- (1) Notify the village engineer within 48 hours of commencing any land disturbing construction activity.
- (2) Notify the village engineer of completion of any BMPs within 14 days after their installation.
- (3) Obtain permission in writing from the village engineer prior to any modification pursuant to subsection 96-9(c) of the erosion and sediment control plan.
- (4) Install all BMPs as identified in the approved erosion and sediment control plan.
- (5) Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
- (6) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.

- (7) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week, make needed repairs and document the findings of the inspections in a site erosion control log with the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.
- (8) Allow the village engineer to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan. Keep a copy of the erosion and sediment control plan at the construction site.

(f) *Permit conditions.* Permits issued under this section may include conditions established by the village engineer in addition to the requirements set forth in subsection (e), where needed to assure compliance with the performance standards in section 96-7.

(g) *Permit duration.* Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The village engineer may extend the period one or more times for up to an additional 180 days. The village engineer may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this chapter.

(h) *Maintenance.* The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this chapter until the site has undergone final stabilization.

(Ord. No. 2009-06, 8-24-09)

Sec. 96-9. Erosion and sediment control plan, statement, and amendments.

(a) *Erosion and sediment control plan.*

- (1) An erosion and sediment control plan shall be prepared and submitted to the village engineer.
- (2) The erosion and sediment control plan shall be designed to meet the performance standards in section 96-7 and other requirements of this chapter.
- (3) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:
 - a. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.

- b. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
 - c. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
 - d. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
 - e. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.
 - f. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.
 - g. Existing data describing the surface soil as well as subsoils.
 - h. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
 - i. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.
- (4) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed five feet.
- a. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
 - b. Boundaries of the construction site.
 - c. Drainage patterns and approximate slopes anticipated after major grading activities.

- d. Areas of soil disturbance.
 - e. Location of major structural and non-structural controls identified in the plan.
 - f. Location of areas where stabilization practices will be employed.
 - g. Areas which will be vegetated following construction.
 - h. Areal extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.
 - i. Locations of all surface waters and wetlands within one mile of the construction site.
 - j. An alphanumeric or equivalent grid overlying the entire construction site map.
- (5) Each erosion and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:
- a. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
 - b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the village engineer structural measures shall be installed on upland soils.
 - c. Management of overland flow at all sites, unless otherwise controlled by outfall controls.
 - d. Trapping of sediment in channelized flow.
 - e. Staging construction to limit bare areas subject to erosion.
 - f. Protection of downslope drainage inlets where they occur.
 - g. Minimization of tracking at all sites.
 - h. Clean up of off-site sediment deposits.
 - i. Proper disposal of building and waste materials at all sites.

- j. Stabilization of drainage ways.
 - k. Control of soil erosion from dirt stockpiles.
 - l. Installation of permanent stabilization practices as soon as possible after final grading.
 - m. Minimization of dust to the maximum extent practicable.
- (6) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

(b) *Erosion and sediment control plan statement.* For each construction site identified under subsection 96-4(a)(3), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the village engineer. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.

(c) *Amendments.* The applicant shall amend the plan if any of the following occur:

- (1) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
- (2) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.
- (3) The village engineer notifies the applicant of changes needed in the plan.

(Ord. No. 2009-06, 8-24-09)

Sec. 96-10. Fee schedule.

The fees referred to in other sections of this chapter shall be established by the village board and may from time to time be modified by resolution. A schedule of the fees established by the village board shall be available for review in the office of the village clerk.
(Ord. No. 2009-06, 8-24-09)

Sec. 96-11. Inspection.

If land disturbing construction activities are being carried out without a permit required by this chapter, the village engineer and/or village officials may enter the land pursuant to the provisions of Wis. Stats. §§ 66.0119(1), (2), and (3).
(Ord. No. 2009-06, 8-24-09)

Sec. 96-12. Enforcement.

(a) The village engineer and/or village officials may post a stop-work order if any of the following occurs:

- (1) Any land disturbing construction activity regulated under this chapter is being undertaken without a permit.
- (2) The erosion and sediment control plan is not being implemented in a good faith manner.
- (3) The conditions of the permit are not being met.
- (4) The applicant or landowner failed to reimburse the village for costs incurred as required by this chapter.

Note: The village engineer should inspect any construction site that holds a permit under this chapter at least once a month during the period starting March 1 and ending October 31 and at least two times during the period starting November 1 and ending February 28 to ensure compliance with the approved sediment and erosion control plan.

(b) If the responsible party does not cease activity as required in a stop-work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the village board may revoke the permit.

(c) If the responsible party, where no permit has been issued, does not cease the activity after being notified by the village engineer, or if a responsible party violates a stop-work order posted under subsection (a), the village board may request the village attorney to obtain a cease and desist order in any court with jurisdiction.

(d) The board of appeals may retract the stop-work order issued under subsection (a) or the permit revocation under subsection (b).

(e) After posting a stop-work order under subsection (a), the village board may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this chapter. The village, through its employees or by contracted third party, may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the village plus interest at the rate authorized by village shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to Wis. Stats. ch. 66, subch. VII. Nothing herein shall be construed to prohibit the village from taking immediate action to abate a public nuisance in accordance with this Code.

(f) Any person violating any of the provisions of this chapter shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

(g) Compliance with the provisions of this chapter may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

(Ord. No. 2009-06, 8-24-09)

Sec. 96-13. Appeals.

(a) *Board of appeals.* The board of appeals pursuant to Wis. Stats. § 61.354(4)(b):

- (1) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the village engineer in administering this chapter except for cease and desist orders obtained under subsection 96-12(c).
- (2) Upon appeal, may authorize variances from the provisions of this chapter which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
- (3) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

(b) *Who may appeal.* Appeals to the board of appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the village affected by any decision of the village engineer.

(Ord. No. 2009-06, 8-24-09)

Chapter 97
Reserved

Chapter 98 TAXATION*

Section Number	Title	Ordinance Number	Date of Ordinance
Sec. 98-1.	Board of review.	2021-09	10/25/2021
Sec. 98-2.	Preparation of tax roll.	2021-09	10/25/2021
Sec. 98-3.	Special assessments.	2021-09	10/25/2021

***Cross references:** Any ordinance levying or imposing taxes or levying special assessments or taxes saved from repeal, § 1-10(7); any ordinance providing for local improvements and assessing taxes therefor saved from repeal, § 1-10(11); administration, ch. 2; finance, § 2-326 et seq.; businesses, ch. 22.

Sec. 98-1. Board of review.

(a) The board of review shall be composed of nine members, including the village president, the village clerk, village treasurer and all members of the village board of trustees. The board of review shall have the duties and powers prescribed by Wis. Stats. § 70.47.

(b) The board of review shall meet for at least two hours on the second Monday of May each year, and the board may be adjourned from time to time as the board so designates.

(c) Whenever the assessor, in the performance of the assessor's duties, requests or obtains income and expense information pursuant to Section 70.47(7)(af), Wis. Stats., or any successor statute thereto, then, such income and expense information that is provided to the assessor shall be held by the assessor on a confidential basis, except, however, that the information may be revealed to and used by persons: in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the assessor in the performance of official duties of the assessor's office and by use of the board of review in performance of its official duties); or pursuant to order of a court. Income and expense information provided to the assessor under Section 70.47(7)(af), unless a court determines that it is inaccurate, is, per Section 70.47(7)(af), not subject to the right of inspection and copying under Section 19.35(1), Wis. Stats.

(d) The several sections of this section are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of this section. The remainder of this section shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this section are hereby repealed as to those terms in conflict.

(Code 1960, § 2.06; Amdmt. of 11-8-99, § 1)

Cross references: Administration, ch. 2.

Sec. 98-2. Preparation of tax roll.

Pursuant to Wis. Stats. § 70.65(2), the village treasurer shall, in computing the tax roll, insert only the aggregate amount of state, county, school and local taxes in a single column in the roll opposite the parcel or tract of land against which such tax applies along with any personal property taxed, in a single column opposite the name of the person against whom the tax is levied.

(Code 1960, § 14.01(1))

Sec. 98-3. Special assessments.

(a) *Installment payments.* On existing streets and subdivisions not subject to chapter 94, all special assessments levied to defray the cost of storm sewers, sidewalk and curb and gutter public improvements may be paid in no more than five equal installments, as follows:

- (1) No installment payment shall be less than \$100.00 plus interest. Interest shall accrue from the date of assessment notice. The first

installment payment shall be due and payable on or before the last day for payment of real estate taxes in the year following the installment assessment notice. The remaining unpaid installments are to be placed on the tax rolls and are to be paid in equal installments of not less than \$100.00 each, plus interest, on or before the last day each year for the payment of real estate taxes. The remaining payment period shall not exceed four successive years, and each installment shall include the interest on the unpaid portion of the entire assessment.

- (2) If an assessed parcel is a corner lot and the storm sewer, sidewalk or curb and gutter is constructed on both the front and side of the lot, the owner thereof shall pay the assessment as follows: six equal installment payments with no payment being less than \$100.00 shall be due and payable on or before the last day for payment of real estate taxes in the year following the installment assessment notice; the remaining unpaid installments shall be placed on the tax rolls and shall be paid in equal installments of no less than \$100.00 each on or before the last day each year for the payment of real estate taxes, not to exceed five successive years; and each installment shall include the appropriate installment of the total assessment plus interest on the unpaid portion of the entire assessment.
- (3) Interest shall be determined by resolution of the village board based on the lowest rate charged by the local lending institutions for like amounts of borrowing.
- (4) Each property owner assessed shall have the option of paying the entire assessment in full without interest, providing the assessment is paid within 30 days from the date of the installment assessment notice.

(b) *Single payment.* Every property assessed shall also have the option of making payment of the entire assessment in full on or before the next succeeding December 1 after the installment notice assessment is published. However, if the property owner so desires to pay the special assessment in this manner, he must give the village treasurer a written notice within 30 days from the date of publication of the installment assessment notice that he so elects to pay the special assessment in this manner, and the written notice shall contain a description of the property so assessed. If he fails to pay the special assessment at the time indicated in his notice, the entire assessment shall be due and placed on the next succeeding tax roll. The interest specified by the village board by resolution for the particular assessment shall be charged from the date of publication of the installment assessment notice if the assessment is not paid in accord with this subsection.

(Code 1960, § 6.09)

Chapters 99 - 101
Reserved

Chapter 102 TRAFFIC AND VEHICLES*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 102-1.	State laws adopted.	2021-09	10/25/2021
Sec. 102-2.	Enforcement.		
Sec. 102-3.	Penalties.		
Sec. 102-4.	Official traffic signs and signals.		
Sec. 102-5.	Heavy traffic route.		
Sec. 102-6.	Horses on public property.		
Sec. 102-7.	Accumulation of used motor vehicles.		
Sec. 102-8.	Speed limits.		
Sec. 102-9.	Traffic regulations.		
Sec. 102-10.	Neighborhood electric vehicles permitted.		
Secs. 102-11--102-35.	Reserved.		
Article II. Stopping, Standing and Parking			
Division 1. Generally			
Secs. 102-36--102-60.	Reserved.		
Division 2. Parking			
Sec. 102-61.	Odd or even side overnight parking permitted.		
Sec. 102-62.	Twenty-four-hour limitation.		
Sec. 102-63.	Loading and unloading.		
Sec. 102-64	Towing of Vehicles During Winter Storm Emergencies.		
Secs.102-64--102-90.	Reserved.		
Article III. Abandoned Vehicles			
Sec. 102-91.	Vehicle abandonment prohibited.		
Sec. 102-92.	Removal and impoundment.		
Sec. 102-93.	Disposal.		
Sec. 102-94.	Owner's responsibility for costs.		
Sec. 102-95.	Notice of sale or disposal.		
Secs.102-96-102-120.	Reserved.		

*Cross References – Any ordinance prescribing through streets, parking and traffic regulations, speed limits, one-way traffic, limitations on loads of vehicles or loading zones saved from repeal, § 1-10(8); courts, ch. 34; law enforcement, ch. 58; manufactured homes and trailers, ch 66; offenses and miscellaneous provisions, ch. 70; motor vehicle noise, § 70-69; operation of vehicles in parks, § 74-41; speed limits in parks, § 74-42; streets, sidewalks and other public places, ch. 90; vehicles for hire, ch. 114; vision triangles in yards, § 118-996; zoning regulation of traffic and parking, § 118-1026 et. seq.

Article IV. Bicycles and Other Play Toys

Division 1. Generally

Sec. 102-121. Definitions.
Secs. 102-122-102-181. Reserved.

Division 2. Operation

Sec. 102-182. Rules of operation.
Sec. 102-183. Powers of police officers.

Division 3. Other Play Toys and Inline Skates

Sec. 102-184. Coasters, skateboards, roller skates, roller skis,
sleds, unicycles, toboggans,
in-line skates, scooters, etc.
Sec. 102-185. Yield to pedestrians.
Sec. 102-186. General regulations--Operation.
Secs. 102-187-102-210. Reserved.

Article V. Snowmobiles

Sec. 102-211. State laws adopted.
Sec. 102-212. Penalty for violation.
Sec. 102-213. Enforcement.
Sec. 102-214. Routes and trails designated.
Sec. 102-215. Operation near dwelling; speed.
Sec. 102-216. Leaving unattended.
Sec. 102-217. Operation on sidewalks.

Article I. In General

Sec. 102-1. State laws adopted.

(a) *Traffic laws.* Except as otherwise specifically provided in this Code, the statutory provisions in Wis. Stats. chs. 340--349, describing and defining regulations with respect to vehicles and traffic, exclusive of any provisions therein relating to penalties to be imposed and exclusive of any regulations for which the statutory penalty is a fine or term of imprisonment, are adopted and by reference made a part of this Code as if fully set forth in this section. Any act required to be performed or prohibited by any statute incorporated in this section by reference is required or prohibited by this Code. Any future amendments, revisions or modifications of the statutes incorporated in this section are intended to be made part of this Code in order to secure uniform statewide regulation of traffic on the highways, streets and alleys of the state.

(b) *Other laws.*

(1) The following section of the statutes are also adopted by reference, but the prosecution of such offenses under this chapter shall be as provided in Wis. Stats. chs. 340--348, and the penalty for violation thereof shall be limited to a forfeiture as provided in section 102-3:
941.01(1) Negligent operation of vehicle off highway.

(2) The following regulations are also adopted by reference, and the prosecution of violations under such regulations shall be as provided in this chapter:

- a. Department of transportation, Trans. 305, Wis. Admin. Code.
- b. Wis. Stats. § 23.33(2), (3)(a), (c)--(h), all-terrain vehicles.

(c) *Effect of amendments.* Any amendments, revisions or modifications of statutes incorporated in this section are intended to be made part of this chapter in order to secure uniform statewide regulation of traffic on the highways, street, and alleys of the state.

(d) *Forfeitures.* The forfeiture for violations under this section shall be as prescribed by section 102-3.
(Code 1960, § 4.01)

Sec. 102-2. Enforcement.

(a) *Authority.* This chapter shall be enforced in accordance with Wis. Stats. §§ 345.20--345.55, 345.60, 345.61, 66.12, and Wis. Stats. ch. 800.

(b) *Uniform traffic citations.* The uniform traffic citation promulgated under Wis. Stats. § 345.11 shall be used for all moving traffic violations under this chapter.

(c) *Parking citations.* Citations for all nonmoving traffic violations under this chapter shall conform to Wis. Stats. § 345.28 and shall permit direct mail payment of the

applicable minimum forfeiture to the village municipal court by the court date indicated on the citation in lieu of a court appearance. The issuing officer shall specify thereon the amount of the applicable forfeiture, fees and costs of prosecution as set by the municipal court.

(d) *Notice of demerit points and receipt.* Every officer accepting a forfeited penalty or money deposit under this chapter shall receipt therefor in triplicate as provided in Wis. Stats. § 345.26(3)(b). Every officer accepting a stipulation under this chapter shall comply with Wis. Stats. §§ 343.28, 345.26(1)(a) and 345.27(2), and shall require the alleged violator to sign a statement of notice in substantially the form contained on the uniform traffic citation and complaint promulgated under Wis. Stats. § 345.11.

(e) *Deposit of forfeitures in treasury; officer to post bond, qualify.* Any officer accepting deposits or forfeited penalties under this chapter shall deliver them to the village treasurer within 20 days after receipt. Any officer authorized to accept deposits under Wis. Stats. § 345.26 or this chapter shall qualify by taking the oath prescribed by Wis. Stats. § 19.01 and by filing an official bond in the sum of \$100.00 as described by Wis. Stats. § 19.01. (Code 1960, § 4.13)

Sec. 102-3. Penalties.

(a) *Generally.* The penalty for violation of any section of this chapter shall be a forfeiture as provided in this section, together with the cost of prosecution imposed as provided in Wis. Stats. §§ 345.20--345.55, 345.60 and 345.61.

(b) *State forfeiture statutes.* Any forfeiture for violation of the state statutes adopted by reference in sections 102-1, 102-8, 102-9 and division 2 of article II of this chapter shall conform to the forfeiture permitted to be imposed for violation of such statutes as set forth in the Uniform Deposit and Misdemeanor Bail Schedule of the Wisconsin Judicial Conference, including any variations or increases for subsequent offenses, which schedule is adopted by reference.

(c) *Municipal bond schedule.* Any forfeiture for violation of this chapter shall conform to the forfeiture permitted to be imposed for violation of this chapter as set forth in the municipal bond schedule, including any variations or increases for subsequent offenses. (Code 1960, § 4.12)

Sec. 102-4. Official traffic signs and signals.

(a) *Authority to procure and erect.* The director of public works is authorized and directed to procure, erect and maintain appropriate standard traffic signs, signals and markings conforming to the rules of the state highway division, giving such notice of the provisions of this section as required by state law. Signs shall be erected in such locations and manner as the director of public works shall determine will best effect the purposes of this chapter and give adequate warning to users of the street or highway.

(b) *Removal of unofficial signs and signals.* The director of public works shall have the authority granted by Wis. Stats. § 349.09 and is directed to order the removal of a sign, signal, marking or device placed, maintained or displayed in violation of this chapter or Wis. Stats. § 346.41. Any charge imposed on a premises for removal of such an illegal sign, signal or device shall be reported to the village board at its next meeting for review and certification.

(c) Stop signs are required at the exits/entrances of the parking lots of any eight-family or greater apartment complex.
(Code 1960, § 4.10; Amd. of 4-28-03(2), § 1)

Sec. 102-5. Heavy traffic route.

(a) As used in this section, the term "heavy traffic" means every vehicle not operating completely on pneumatic tires and every vehicle or combination of vehicle, other than a motorbus, designed or used for transporting property of any nature and having a gross weight of more than 12,000 pounds.

(b) There shall be recognized in the village a heavy traffic route for the operation of all heavy traffic, as such term is defined in Wis. Stats. § 349.17(2), which heavy traffic route shall consist of the following streets and highways within the village:

- (1) Main Street from the south village limits to the north village limits.
- (2) Fifteenth Avenue from the east village limits to the west village limits.
- (3) York Street from the south village limits to the north village limits.
- (4) No semitrailer truck traffic on Tenth Avenue west of Center Street to York Street.

(c) No heavy traffic shall operate on any street, highway, or alleyway in the village not a part of such heavy traffic route. However, such operation shall be permitted for the following purposes:

- (1) Obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence that has an entrance on such street or highway.
- (2) The passage of emergency vehicles.
- (3) The passage of vehicles operated for purposes of performing maintenance to village streets or installations, snow removal, street cleaning, refuse removal or curb pickup and for passage of vehicles involved in maintenance or repair of public utility installations within the village.

(d) Notice of the existence of the heavy traffic route shall be posted at all entrances to the corporate limits of the village. This subsection is adopted in conformity with Wis. Stats. § 349.17.
(Code 1960, § 4.15)

Sec. 102-6. Horses on public property.

(a) Horseback riders shall obey all traffic laws regulating motor vehicles and bicycles.

(b) No horse shall be ridden or led on any sidewalk, parkway or public property within the village, and at no time shall horses be on public streets after the streetlights are on.

(c) Horses shall not be galloped, cantered, or trotted on the village streets. Horseback riders will at all times yield the right-of-way to motor vehicles.

(d) At no time shall horses be ridden or led on Main Street from Seventh Avenue to 15th Avenue. When horses cross Main Street at any intersection, the rider shall dismount and lead the horse through the intersection.

(e) Any person found violating this section shall be fined not less than \$50.00 or more than \$200.00 for any single violation. A person found violating this section a second time shall be fined not less than \$100.00 or more than \$200.00. In default of any fine or forfeiture, the defendant shall be committed to the county jail.
(Code 1960, § 4.19)

Cross references: Animals and fowl, ch. 14.

Sec. 102-7. Accumulation of used motor vehicles.

(a) No person, except a licensee of a motor vehicle dealer's license issued pursuant to state statutes, shall accumulate or store or allow to remain, outside of any building, on real estate located within the village, for a period of more than 48 hours, or dump, deposit, or otherwise abandon upon any property or upon any highway, street, road, alley, or way within the village any used motor vehicle, as motor vehicle is defined by state statutes, or any detached part thereof, for which no current registration fee has been paid pursuant to state statutes, or which, if paid, does not have properly attached thereto a current license plate if so required or that is in a condition which would mechanically prevent its immediate operation upon any public highway or its operation thereon would be in violation of the law. Each day that any used motor vehicle or any detached part thereof shall be accumulated or stored or allowed to remain contrary to this subsection shall constitute a separate and distinct offense.

(b) Any person who shall violate this section shall, upon adjudication to that effect, forfeit to the village not less than \$25.00 or more than \$200.00, as determined by the court in the action for the collection thereof, together with the costs of such action, and in default of payment thereof, for an individual, shall be imprisoned in the county jail for such time, not exceeding 30 days, as the court shall determine, unless the judgment is sooner paid.

(c) Any vehicle in violation of this article shall be impounded until lawfully claimed or disposed of under section 102-93. However, if the sheriff determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked by the village prior to expiration of the impoundment period, upon determination by the sheriff that the vehicle is not wanted for evidence or other reason.
(Code 1960, § 4.14(6); Amdmt. of 4-12-04, § 1)

Sec. 102-8. Speed limits.

The village board determines that the statutory speed limits on certain streets or portions thereof are unreasonable, unsafe or imprudent and modifies such speed limits under authority granted by Wis. Stats. § 349.11. (Code 1960, § 4.02)

Sec. 102-9. Traffic regulations.

Notwithstanding the speed limits established by Wis. Stats. § 396.57(4)(e), (f), (g) and (i), speeds on through highways, parking limitations, weight limitations and other traffic regulations shall be set from time to time by resolution of the village board.

(Code 1960, § 4.02)

Sec. 102-10. Neighborhood electric vehicles permitted.

Pursuant to the authority granted in Wis. Stats. § 349.26, the operation of neighborhood electric vehicles shall be permitted.

- (1) *Operation.* A neighborhood electric vehicle may be operated only on a roadway under the jurisdiction of the village for which the speed limit is 35 miles per hour or less. A "neighborhood electric vehicle" is defined as a motor vehicle that is propelled by electric power and conforms to the definition and requirement for low-speed vehicles as adopted in the federal motor vehicle standards for low-speed vehicles under 49 CFR 571.3(b) and 571.500. A "neighborhood electric vehicle" does not include a golf cart.
- (2) *Registration and licensing.* Every owner or operator of any neighborhood electric vehicle within the village shall, prior to operation, register the vehicle with the state department of transportation. A neighborhood electric vehicle may be operated only by licensed drivers and in accordance with the Rules of the Road as set forth in Wis. Stats. ch. 346, and in compliance with any applicable provisions of this Code.

(Amd. of 5-27-08, § I)

Secs. 102-11--102-35. Reserved.

Article II. Stopping, Standing and Parking*

Division 1. Generally

Secs. 102-36--102-60. Reserved.

Division 2. Parking

Sec. 102-61. Odd or even side overnight parking permitted.

(a) For the purposes of this section, the term "street" shall mean the paved portion of the roadway.

(b) From November 15 through March 15, overnight parking shall be permitted only on the even-numbered side of the street on the nights bearing an even calendar date during the hours from 2:00 a.m. to 6:00 a.m. and on the odd-numbered side of the street on those nights bearing an odd calendar date during the hours from 2:00 a.m. to 6:00 a.m. on any street in the village, except Main Street. (Code 1960, § 4.04(3))

Sec. 102-62. Twenty-four-hour limitation.

(a) No person shall permit any motor vehicle owned by him or under his control to remain standing or parked in any village street or a village-owned or -operated parking lot in excess of 24 consecutive hours.

(b) In addition to any other penalty provided for violation of this section, any vehicle standing or parked in excess of the time limitation may be towed away and stored by the village, and the person violating this section shall be required to reimburse the village for towing and storage charges so incurred, prior to being restored to possession of the vehicle. (Code 1960, § 4.04(5))

Sec. 102-63. Loading and unloading.

No motor vehicle over 20 feet in length shall be parked where angle parking is allowed. The director of public works shall provide adequate parallel parking for loading and unloading purposes on the west side of Main Street. (Code 1960, § 4.09(4))

***Cross references:** Parking of mobile homes, § 66-28; sitting on parked vehicles, § 70-35; drinking intoxicants in public or within parked motor vehicle, § 70-36; parking and stopping in parks, § 74-43; parking of vehicles accessory to residential use, § 118-852; parking in yards, § 118-990; zoning regulation of traffic and parking, § 118-1026 et seq.

Sec. 102-64. Towing of Vehicles During Winter Snow Emergencies.

(a) Whenever snow falls during any 24 hour period to a depth of three (3) inches or more, or freezing rain or snow conditions result in an accumulation of 1/8 inch of ice or more on Village rights-of-way, such winter storm is deemed to constitute a serious public hazard impairing public transportation and public safety and a winter storm emergency declaration may be issued by the Village President, Village Administrator, or the Village's Director of Public Works.

(b) A winter storm emergency will remain in effect for forty-eight (48) hours from the time it is declared, or until such time as snowplowing or salting operations have been declared completed by the Village President, Village Administrator, or the Village's Director of Public Works.

(c) Whenever a winter storm emergency is declared, the Village shall issue an announcement of such fact to not less than two (2) radio or television broadcast stations whose normal operating range includes the Village. The Village may also cause the winter storm emergency to be announced and described on the Village's website.

(d) When a winter storm emergency has been declared, no person may park, stop, or leave standing any vehicle upon any public street, highway, or alley within the Village for the duration of the snow emergency, except for vehicles loading or unloading passengers or property for a period not to exceed 15 minutes and provided that no other parking restriction is violated thereby. This paragraph shall not apply to physicians on emergency calls.

(e) Any vehicle parked on any public right-of-way during a winter storm emergency may be towed by or at the direction of any law enforcement officer, or by or at the direction of any snow plow operator who has been directed by a law enforcement officer to tow any vehicles that impede plowing or deicing. A towed vehicle's owner shall be responsible for the costs of towing and storing such vehicle. Additionally or in lieu of towing, the vehicle's owner may be cited under this section, with all towing and storage costs, if any, added to the forfeiture otherwise applicable under 102-2. Nothing herein shall be construed as limiting any authority a law enforcement officer otherwise has to tow illegally parked vehicles during times other than winter snow emergencies.

Secs. 102-65--102-90. Reserved.

Article III. Abandoned Vehicles*

Sec. 102-91. Vehicle abandonment prohibited.

No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or public or private property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. When any such vehicle has been left unattended on any village street or highway or on any public or private property within the village for more than 48 hours the vehicle is deemed abandoned and constitutes a public nuisance.

(Code 1960, § 4.14(1); Amdmt. of 4-12-04, § 1)

Sec. 102-92. Removal and impoundment.

Any vehicle in violation of this article shall be impounded until lawfully claimed or disposed of under section 102-93. However, if the sheriff determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked by the village prior to expiration of the impoundment period, upon determination by the sheriff that the vehicle is not wanted for evidence or other reason.

(Code 1960, § 4.14(2))

Sec. 102-93. Disposal.

(a) If the sheriff determines that the value of the abandoned vehicle exceeds \$100.00, he shall notify the owner and lienholders of record by certified mail that the vehicle has been deemed abandoned and impounded by the village, the vehicle may be reclaimed within 15 days upon payment of accrued towing, storage and notice charges, and if the vehicle is not so reclaimed it shall be sold.

(b) If an abandoned vehicle determined to exceed \$100.00 in value is not reclaimed within the period and under the conditions as provided in subsection (a) of this section, it may be sold by sealed or auction bid as provided by Wis. Stats. § 342.40(3)(c).

(c) Any vehicle which is deemed abandoned by the sheriff and not disposed of under subsection (d) of this section shall be retained in storage for a minimum period of ten days after certified mail notice has been sent to the owner and lienholders of record to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model, and serial number of the abandoned motor vehicle; the place where the

vehicle is being held; and shall inform the owner and any lienholders of their right to reclaim the vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the vehicle under this section shall be deemed a waiver of all

***Cross references:** Environment, ch. 42; solid waste, ch. 86.

State law references: Abandoned vehicles prohibited, Wis. Stats. § 342.40.

right, title, and interest in the vehicle and a consent to the sale of the vehicle. Each retained vehicle not reclaimed by its owner or lienholder may be sold. The sheriff may dispose of the vehicle by sealed bid or auction sale. At such sale the highest bid for any such motor vehicle shall be accepted, unless the bid is deemed inadequate by the sheriff, in which event all bids may be rejected. If all bids are rejected or no bid is received, the sheriff may either readvertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale or junk the vehicle. Any interested person may offer bids on each abandoned vehicle to be sold. A public notice shall also be posted at the office of the sheriff. The posting of the notice at the sheriff's department shall be in the same form as the certified mail notice sent to the owner or lienholders of record. Upon sale of an abandoned vehicle, the sheriff shall supply the purchaser with a completed form designed by the department of transportation enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have ten days to remove the vehicle from the storage area, but shall pay a reasonable storage fee established by the sheriff for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten days after the sale, the purchaser shall forfeit all interest in the vehicle, and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by the sheriff shall be made available to any interested person who or organization which makes a written request for such list. The sheriff may charge a fee for the list.

(d) Any abandoned vehicle which is determined by the police chief to have a value of less than \$100.00 may be disposed of by direct sale to a licensed salvage dealer upon determination that the vehicle is not reported stolen.

(Code 1960, § 4.14(3))

Sec. 102-94. Owner's responsibility for costs.

The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not recovered from the sale of the vehicle may be recovered in a civil action by the village against the owner.

(Code 1960, § 4.14(4))

Sec. 102-95. Notice of sale or disposal.

Within five days after the sale or disposal of a vehicle as provided in this section or subsection 102-93(d), the sheriff shall advise the department of transportation of the sale or disposition on a form supplied by the department of transportation.

(Code 1960, § 4.14(5))

Secs. 102-96--102-120. Reserved.

***Editor's note:** An amendment adopted October 10, 2005, amended article IV in its entirety to read as herein set out. Formerly, article IV pertained to similar subject matter, and derived

from the Code of 1960, §§ 11.07(1--7), 4.16--4.18, and an amendment adopted July 14, 2003, § 1.

Article IV. Bicycles and Other Play Toys*

Division 1. Generally

Sec. 102-121. Definitions.

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

Bicycle means any device propelled by human power having two tandem wheels, either of which is 20 inches or over in diameter.

Downtown business section means both sides of Main Street extending between Ninth Avenue on the north and 12th Avenue on the south.

Other play toys means those items including but not limited to coasters, skateboards, roller skates, roller skis, sleds, unicycles, toboggans or toy vehicles, and non-motorized scooters or similar equipment. This article also applies to in-line skates.
(Amd. of 10-10-05, § 1)

Secs. 102-122--102-181. Reserved.

Division 2. Operation

Sec. 102-182. Rules of operation.

(a) Every person who may legally operate a bicycle upon a sidewalk must ride such bicycle in single file and at low rates of speed, and all persons riding upon any public highways when traveling in groups shall ride in single file and not abreast unless unavoidable.

(b) No bicycle shall be propelled or ridden on the sidewalk on either side of Main Street from Ninth Avenue to 12th Avenue in the village.

(c) At no time shall a bicycle be on a public street, sidewalk or parkway in the village without an approved headlight operating after the streetlights are lighted.

(d) Every person propelling or riding a bicycle upon a public highway shall be subject to the village ordinances and state laws applicable to the operator of any vehicle, except those provisions which by their nature have no application.

(e) Every bicycle operated upon the sidewalks, streets, alleys or public highways of the village during any time between one-half hour before sunset and one-half hour before sunrise and at all other times when there is not sufficient natural light to render clearly visible any person, vehicle or other substantial object for a distance of 50 feet shall have the lights on. Lanterns and make-shift lights on bicycles are strictly forbidden.

(f) Every bicycle, when operated upon any street or public highway in the village, shall be operated as near to the right curb as possible.

(g) Every bicycle operator shall use an audible signal, when overtaking or passing any person on any sidewalk or any vehicle on any street, alley or public highway, in such a manner as to sufficiently warn the person or vehicle being overtaken or passed of the approach of the bicycle.

(h) It shall be unlawful for any bicycle operator to cling or attach himself or his bicycle to any other moving vehicle upon a sidewalk, street or public highway in the village.

(i) It shall be unlawful for any bicycle operator to carry another person on his bicycle or to draw, pull or tow any object or carry any object in his hands while operating the bicycle. Objects may be carried on a bicycle in a basket or carrier specifically provided for that purpose.

(j) It shall be unlawful for any bicycle operator to propel his bicycle at a speed that is not reasonable and prudent under conditions existing at the time.

(k) It shall be unlawful for a bicycle operator to participate in any race or speed contest with any person or vehicle.

(l) It shall be unlawful for any bicycle operator to engage in acrobatic or trick riding or any other skylarking on a moving bicycle.

(m) Every bicycle operator when emerging from any alley shall stop and yield the right-of-way to any other person or vehicle.

(n) Every bicycle operator shall stop for all arterial signs and observe all other traffic signals in the village.

(Amd. of 10-10-05, § 1)

Sec. 102-183. Powers of police officers.

Any police officer shall have authority and power to impound any bicycle operated contrary to any state law or this article, such to continue for a period of not to exceed ten days.

(Amd. of 10-10-05, § 1)

Division 3. Other Play Toys and Inline Skates

Sec. 102-184. Coasters, skateboards, roller skates, roller skis, sleds, unicycles, toboggans, in-line skates, scooters, etc.

It shall be unlawful for any person to operate or ride a such equipment in any of the following places:

- (1) On any sidewalk in the downtown business section. All such equipment shall be carried, walked, or as otherwise used in such a manner as to be inoperable.

- (2) On any public step, railing, wall, or any appurtenance to a public way.
- (3) In any public parking ramp or parking lot, except where posted as allowable.
- (4) On private property, unless permission has been received from the owner, lessee or responsible person in charge of that property.
- (5) Union Grove Water/Wastewater Treatment Plant property.
- (6) All other village property except where posted as allowable.

(Amd. of 10-10-05, § 1)

Sec. 102-185. Yield to pedestrians.

Where the riding or use of such equipment on public sidewalks and crosswalks is permitted, every person operating such equipment upon the public sidewalk and crosswalk shall yield the right-of-way to any pedestrian and shall exercise due care while passing a pedestrian on the public sidewalk and crosswalk.

(Amd. of 10-10-05, § 1)

Sec. 102-186. General regulations--Operation.

(a) *State law applicable.* Every person using such equipment shall be subject to the provisions of all ordinances and state laws applicable to the operator of any vehicle, except those provisions, which, by their nature, would have no application.

(b) *Sidewalks or walkways.* Where sidewalks are available and where such use is allowed, the operators of such equipment shall use the sidewalk and avoid using the public streets except as previously prohibited.

(c) *Right side of the road.* Every person using such equipment on a public roadway (in the absence of sidewalks) shall keep as close to the right hand curb as possible, unless the public roadway is a one-way street and on one-way streets, shall keep as close to either the right hand curb or the left hand curb as possible.

(d) *Clinging to moving vehicles prohibited.* It shall be unlawful for any person using such equipment or person riding upon any play vehicle to attach the same or himself or herself to any vehicle upon a roadway or go upon any roadway unless at a crosswalk or in the absence of sidewalks.

(e) *One-way streets.* Every person using such equipment upon a one-way street shall proceed in the direction of the one-way traffic.

(f) *Operating two abreast prohibited.* Every person when using such equipment shall proceed in single file only.

(g) *Yielding to traffic.* The operator of a vehicle shall yield the right-of-way to a user of such equipment in the same manner as for bicycles and pedestrians under Wis. Stats. §§

346.23, 346.24, 346.37, and 346.38. Every person when using such equipment shall, upon entering a public roadway, yield the right-of-way to motor vehicles, except that a person using such equipment shall be subject to the regulations as stated above.

(h) *Lights.* No person may operate such equipment upon a roadway, sidewalk, or walkway during hours of darkness unless such operator is wearing a lamp emitting a white light visible from a distance of at least 500 feet in front of said operator and wearing a lamp, exhibiting a red light visible from a distance of at least 500 feet to the rear.

(Amd. of 10-10-05, § 1)

Secs. 102-187--102-210. Reserved.

Article V. Snowmobiles

Sec. 102-211. State laws adopted.

(a) Except as otherwise specifically provided in this article, the statutory provisions describing and defining regulations with respect to snowmobiles in the statutes enumerated in this subsection are adopted by reference and made part of this article as if fully set forth in this section. Acts required to be performed or prohibited by each statute are required or prohibited by this article. Wis. Stats. adopted by reference are as follows:

§ 346.02(10)	Applicability of rules of road to snowmobiles
§ 350.01	Definitions
§ 350.02	Operation of snowmobiles on or in the vicinity of a highway
§ 350.03	Right-of-way
§ 350.04	Snowmobile races, derbies and routes
§ 350.045	Public utility exemptions
§ 350.05	Operation by youthful operators restricted
§ 350.055	Safety certification program established
§ 350.07	Driving animals
§ 350.08	Owner permitting operation
§ 350.09,	Headlamps, taillamps and brakes
§ 350.10	Miscellaneous provisions for snowmobile operation
§ 350.101	Intoxicated snowmobiling
§ 350.102	Preliminary breath screening test
§ 350.1025	Application of intoxicated snowmobiling law
§ 350.103	Implied consent
§ 350.104	Chemical tests
§ 350.106	Report arrest to department
§ 350.107	Officer's action after arrest for operating a snowmobile while under influence of intoxicant
§ 350.12	Registration of snowmobiles
§ 350.13	Uniform trail signs and standards
§ 350.15	Accidents and accident reports
§ 350.17	Enforcements
§ 350.19	Liability of landowners

(b) The adoption of Wis. Stats. § 346.02(10) by reference is intended to include the rules of the road therein enumerated which are as follows: Wis. Stats. §§ 346.04, 346.06, 346.11, 346.14(1), 346.18--346.21, 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46--346.48, 346.50(1)(b), 346.51--346.55, 346.87--346.91, 346.92(1) and 346.94(1), (6), (6m) and (9).
(Code 1960, § 4.20(1))

Sec. 102-212. Penalty for violation.

Any person who shall violate any section of this article shall be subject to Wis. Stats. § 350.11.
(Code 1960, § 4.20(4))

Sec. 102-213. Enforcement.

(a) *Uniform citation for highway violations.* The uniform traffic citation promulgated under Wis. Stats. § 345.11, shall be used for violations of this article relating to highway use, except as provided in this article.

(b) *Parking violations.* The special traffic citation described and defined in this chapter shall be used for enforcement of violations of rules of the road relating to parking of vehicles adopted by reference in section 102-1.

(c) *Other violations.* All violations of this article not described in subsection (a) or (b) of this section shall be enforced in accordance with Wis. Stats. §§ 66.12, 66.114 and ch. 800. Stipulations of guilt or no contest may be made as provided in Wis. Stats. § 66.12(1)(b), in substantially the form provided in the uniform traffic citation within five days of the date of the citation for such violation. Bail deposits may also be made under Wis. Stats. § 66.12. Such deposits shall include a clerk's fee and costs of prosecution as set by the municipal court.

(d) *Authority of law enforcement officers.* Stipulations, forfeited penalties and deposits for obtaining release from arrest authorized under this section may be accepted at the municipal clerk's office by the court clerk. The officer authorized to accept penalties and deposits shall forthwith remit the penalties and deposits to the clerk of municipal court.

(e) *Forfeited penalties and deposits.* Forfeited penalties and deposits shall be as provided in Wis. Stats. § 345.26, and the deposit schedule adopted by the Uniform Deposit and Misdemeanor Bail Schedule of the Wisconsin Judicial Conference, thereunder, required forfeited penalties and deposits or bail not including costs or fees for violations of this article.

(Code 1960, § 4.20(5))

Sec. 102-214. Routes and trails designated.

(a) Except as provided in Wis. Stats. §§ 350.02 and 350.045 or for snowmobile events authorized in accordance with Wis. Stats. § 350.04, no person shall operate a snowmobile upon any public right-of-way, in any public park, on any golf course or on any other public municipal property in the village except upon the following designated snowmobile routes and trails:

(1) *Routes.* The following streets or portions thereof are designated as snowmobile routes:

- a. Ingress and egress on all village streets, except Main Street, 15th Avenue, and as otherwise designated.
- b. A snowmobile may cross Main Street and 15th Avenue on a marked snowmobile trail only.

(2) *Trails.* Operation of snowmobiles on marked trails is authorized in the following public parks, and recreational areas subject to approval of the village park and recreation committee: Legion Park.

(b) The superintendent of public works is directed and authorized to procure, erect and maintain appropriate snowmobile routes, trails and limit signs and markers as approved by the state department of natural resources under Wis. Stats. § 350.13.

(c) No person shall fail to obey any route or trail sign, marker or limit erected in accordance with this section.

(Code 1960, § 4.20(2))

Sec. 102-215. Operation near dwelling; speed.

No person shall operate a snowmobile within the village when within 150 feet of a dwelling at a rate of speed exceeding ten miles per hour.

(Code 1960, § 4.20(3)(a))

Sec. 102-216. Leaving unattended.

No person shall leave or allow a snowmobile to remain unattended on any public highway or public property while the motor is running or with the starting key in the ignition.

(Code 1960, § 4.20(3)(b))

Sec. 102-217. Operation on sidewalks.

No person shall operate a snowmobile on any sidewalk or pedestrian way within the village.

(Code 1960, § 4.20(3)(c))

**Chapters 103 - 105
Reserved**

Chapter 106 UTILITIES*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 106-1.	Severability; amendment.		
Secs. 106-2--106-25.	Reserved.		
Article II. Water Service			
Sec. 106-26.	Water utility created.		
Secs. 106-27-106-55.	Reserved.		
Division 1. Generally			
Division 2. Water Utility Committee			
Sec. 106-56.	Created; composition; appointment; compensation; officers; quorum.		
Sec. 106-57.	Term of office; vacancies.		
Sec. 106-58.	Management duties and control.		
Sec. 106-59.	Supervisor.		
Sec. 106-60.	Duties for operation of water utility.		
Sec. 106-61.	Contract of functions.		
Sec. 106-62.	Accounts audited.	2021-09	10/25/2021
Sec. 106-63.	Special fund.	2021-09	10/25/2021
Sec. 106-64.	Annual audit.	2021-09	10/25/2021
Secs. 106-65-106-90.	Reserved.		
Division 3. Private Wells			
Sec. 106-91.	Definitions.		
Sec. 106-92.	Well abandonment.		
Sec. 106-93.	Purpose.		
Sec. 106-94.	Applicability.		
Sec. 106-95.	Penalties for violations.		
Sec. 106-96.	Well operation permit.		
Sec. 106-97.	Abandonment required.		
Sec. 106-98.	Abandonment procedures.		
Secs. 106-99-106-125.	Reserved.		

***Cross references:** Any ordinance regarding water, sewer, solid waste and electric rates and fees, rules and regulations and sewer and water main construction saved from repeal, § 1-10(25); administration, ch. 2; removal of animal fecal material, § 14-2; buildings and building regulations, ch. 18; electrical code, § 18-226 et seq.; plumbing code, § 18-261 et seq.; businesses, ch. 22; cable communication, ch. 26; environment, ch. 42; health and sanitation, ch. 50; manufactured homes and trailers, ch. 66; planning, ch. 82; solid waste, ch. 86; streets, sidewalks and other public places, ch. 90; land divisions, ch. 94; zoning, ch. 118; public utilities and zoning regulations, § 118-12; utilities in yards, § 118-991.

Division 4. Cross Connection Control

Sec. 106-126.	Definitions.		
Sec. 106-127.	Purpose.		
Sec. 106-128.	Division supplemental to plumbing code.		
Sec. 106-129.	Cross connections prohibited.		
Sec. 106-130.	Inspections.		
Sec. 106-131.	Right of entry.		
Sec. 106-132.	Disconnection for violation.		
Sec. 106-133.	Emergency disconnection.		
Sec. 106-134.	Unlawful tampering and use.		
Sec. 106-135.	Mandatory connection to water main	2014-03	01/27/2014
Secs. 106-136 – 106-160	Reserved.	2014-03	01/27/2014

Article III. Sewer Service

Division 1. Generally

Sec. 106-161.	Definitions.		
Sec. 106-162.	Wastewater utility created.		
Sec. 106-163.	Right of entry; safety.		
Sec. 106-164.	Violations and penalties.		
Sec. 106-165.	Appeals.	2021-09	10/25/2021
Sec. 106-166.	Use of public sewers.		
Sec. 106-167.	Disposal of septic tank sludge and holding tank sewage.		
Sec. 106-168.	Damage to or tampering with facilities.		
Secs. 106-169-106-195.	Reserved.		

Division 2. Wastewater Utility Committee

Sec. 106-196.	Created; appointment; officers; operation with water utility committee.		
Sec. 106-197.	Management duties and control.		
Sec. 106-198.	Supervisor.		
Sec. 106-199.	Duties for operation of wastewater utility.		
Sec. 106-200.	Contract of functions.		
Sec. 106-201.	Special fund.	2021-09	10/25/2021
Sec. 106-202.	Financial audits.	2021-09	10/25/2021
Sec. 106-203.	Review of wastewater contributions, expenses and charges.		
Secs. 106-204-106-230.	Reserved.		

Division 3. Sewer Construction and Connection

Sec. 106-231.	Work authorized.	2023-03	03/27/23
Sec. 106-232.	Limitation on connections; prohibited practices.	2023-03	03/27/23
Sec. 106-233.	Use of old building sewers.	2023-03	03/27/23
Sec. 106-234.	Materials and methods of construction.	2023-03	03/27/23
Sec. 106-235.	Building sewer grade.	2023-03	03/27/23
Sec. 106-236.	Stormwater and groundwater drains.	2023-03	03/27/23
Sec. 106-237.	Conformance to codes.	2023-03	03/27/23
Sec. 106-238.	Inspection of connection.	2023-03	03/27/23

Sec. 106-239.	Barricades; restoration.	2023-03	03/27/23
Sec. 106-240.	Mandatory connection to sewer main	2023-03	03/27/23
Secs. 106-241 - 106-265	Reserved.		

Division 4. Industrial Wastes

Sec. 106-266.	Submission of basic data.		
Sec. 106-267.	Submission of information.		
Sec. 106-268.	Industrial discharge.		
Sec. 106-269.	Control manholes.		
Sec. 106-270.	Measurement of flow.		
Sec. 106-271.	Deductions for water not reaching sewer.		
Sec. 106-272.	Metering of wastewater.		
Sec. 106-273.	Wastewater sampling.		
Sec. 106-274.	Analysis.		
Sec. 106-275.	Pretreatment.		
Sec. 106-276.	Grease or sand interceptors.		
Sec. 106-277.	Accidental discharges.		
Sec. 106-278.	Destruction or damage to system.		
Sec. 106-279	Regulation of Mercury.	2011-09	08/22/11
Secs. 106-280-106-305.	Reserved.		

Division 5. Charges

Subdivision I. In General

Sec. 106-306.	Sewer service charges.	2021-09	10/25/2021
Sec. 106-307.	Cost of building sewer connection.		
Sec. 106-308.	Connection charges.	2021-09	10/25/2021
Secs. 106-309-106-335.	Reserved.		

Subdivision II. User Charges

Sec. 106-336.	Basis.		
Sec. 106-337.	User charge system.		
Sec. 106-338.	Category B users.		
Sec. 106-339.	Sewer users served by private wells.		
Sec. 106-340.	Sprinkling allowances.	2021-09	10/25/2021
Sec. 106-341.	Nonresidents.		
Sec. 106-342.	Amount of sewer service charges.	2021-09	10/25/2021
Sec. 106-343.	Reassignment of sewer users.		
Sec. 106-344.	Operation, maintenance and replacement fund accounts.		
Sec. 106-345.	Charge for toxic pollutants.		
Sec. 106-346.	Billing practice.		
Sec. 106-347.	Penalties.		
Sec. 106-348.	Lien.		

Article IV. Storm Water Management Utility

Division 1. Generally

Secs. 106-349-106-400.	Reserved.
------------------------	-----------

Division 2. Storm Water Management Utility

Sec. 106-401.	Purpose and necessity.		
Sec. 106-402.	Authority.		
Sec. 106-403.	Establishment of storm water management utility.		
Sec. 106-404.	Powers and duties of utility.		
Sec. 106-405.	Definitions.		
Sec. 106-406.	Utility rates and charges.		
Sec. 106-407.	Customer classifications.	2021-09	10/25/2021
Sec. 106-408.	Billing.	2021-09	10/25/2021
Sec. 106-409.	Penalties; lien.		
Sec. 106-410.	Credits and adjustments.	2021-09	10/25/2021
Sec. 106-411.	Exemptions.		
Sec. 106-412.	New construction.		
Sec. 106-413.	Method of appeal.		
Sec. 106-414.	Budget excess revenues/reserves.		

Article I. In General

Sec. 106-1. Severability; amendment.

(a) The invalidity of any section, clause, sentence, or provision in this chapter shall not affect the validity of any other section, clause, sentence, or provision of this chapter which can be given effect without such invalid part or parts.

(b) The village, through its duly authorized officers reserves the right to amend this chapter in part, or in whole, whenever it may deem necessary.

Secs. 106-2--106-25. Reserved.

Article II. Water Service*

Division 1. Generally

Sec. 106-26. Water utility created.

The water utility shall replace the waterworks and shall assume all of the waterworks' duties and responsibilities. The waterworks does convey to the water utility all waterworks assets and liabilities and existing service contracts, including the plant and water system, so as to reflect a net liability due to the waterworks. The water utility shall have jurisdiction over the water plant, wells, mains tower and water pumping stations of the system. The water utility shall consist of all the municipally owned water wells, water towers and water pumping stations, and the water mains and equipment, real and personal properties wherever located as have been used or may be acquired and added thereto as part of the municipal water system, used and useful therefor.

(Code 1960, § 7.01(A))

Secs. 106-27--106-55. Reserved.

Division 2. Water Utility Committee*

Sec. 106-56. Created; composition; appointment; compensation; officers; quorum.

(a) There is created a water utility committee, consisting of three village board members to be appointed by the village president and to be confirmed by the village board.

(b) Two members shall constitute a quorum.

(Amd. of 5-8-06, § 1)

***Cross references:** Water supply for mobile home parks, § 66-32; water quality protection in zoning regulations, § 118-920.

Sec. 106-57. Term of office; vacancies.

The term of office of the members of the water utility committee shall commence on the day after appointment and approval by the village board. They shall hold office for such term as appointed and until their successors have qualified. Vacancies on the committee shall be filled by appointment of the village president and confirmation of the village board for the unexpired term.

(Amd. of 5-8-06, § 1)

Sec. 106-58. Management duties and control.

It shall be the duty of the water utility committee to take and have general supervision of the water utility plant and to:

- (1) Prescribe rules of order for the regulation of its meetings and deliberations, and alter, amend or repeal the rules from time to time as it shall deem proper.
- (2) Enact rules and regulations for the government, operation and maintenance of such plant or works and its employees.
- (3) Contract for and purchase all fuel, supplies and repairs necessary for or incident to the proper operation or maintenance of such plant or works.
- (4) Enact rules and regulations under which the patrons of such plant or works shall be served, subject to approval and control of the public service commission, as provided by law.
- (5) Contract, purchase, construct and install all extensions, additions and alterations of such plant or works.

***Editor's note:** An amendment adopted May 8, 2006, amended division 2 in its entirety to read as herein set out. Formerly, division 2 pertained to the water utility commission, and derived from the Code of 1960, §§ 7.02(1)(A)--(J), and an amendment adopted July 24, 2000, § 1.

Cross references: Administration, ch. 2.

- (6) The water utility committee shall appoint the director of public works to serve as the director of utilities to manage the operation of the water utility.
- (7) Expenditures in excess of \$2,000.00 for capital items other than items for operation and maintenance of the water utility shall be recommended to the village board or approval.

(Amd. of 5-8-06, § 1)

Sec. 106-59. Supervisor.

(a) *Appointment.* The water utility committee shall appoint a supervisor who shall operate the water utility.

(b) *Duties.* So far as practical and subject to the determination of the water utility committee and the wastewater committee, there shall be a single administration of the water utility and the wastewater utility, operating under the direction of the director of utilities. The supervisor shall report to and be responsible, as directed by the director of utilities, for the following:

- (1) Supervising the operation of the utility.
- (2) Making the purchases of the operation of the utility.
- (3) Bookkeeping for the utility.
- (4) Assigning of personnel within the utility.
- (5) Hiring of new personnel. However, such hiring shall be accomplished with the advice of the village personnel committee, and the committee shall have authority to negotiate working agreements for its personnel. Such agreements shall be subject to approval by the village board.

(Amd. of 5-8-06, § 1)

Sec. 106-60. Duties for operation of water utility.

(a) The water utility committee shall direct the policy for operation of the water utility.

(b) The supervisor shall execute the policy determinations of the water utility committee.

(c) The supervisor shall have charge and supervision of the water utility.

(d) The supervisor shall be responsible for allocating costs accurately to the plant's operation.

(e) The supervisor shall be given and provided sufficient flexibility which will permit him, so far as practical, to interchange personnel and equipment with the wastewater utility, but to maintain separate accounting records.

(Amd. of 5-8-06, § 1)

Sec. 106-61. Contract of functions.

To provide legal, accounting, engineering, billing and collection functions for the operation of the water utility, such shall be performed on a contractual basis through the various

departments and offices of the village, except when otherwise directed by the water utility committee. Laboratory services to be performed by the village on a contractual basis shall be included.

(Amd. of 5-8-06, § 1)

Sec. 106-62. Accounts audited.

All accounts against the water utility shall be audited by the water utility committee and, if approved, shall be paid by order upon the village treasurer.

(Amd. of 5-8-06, § 1)

Sec. 106-63. Special fund.

The village treasurer shall keep, as a separate fund, all income and revenue derived from the water utility and any funds specially provided therefor by the village board and shall pay therefrom all orders legally drawn upon such fund approved by the water utility committee.

(Amd. of 5-8-06, § 1)

Sec. 106-64. Annual audit.

The water utility committee shall cause an audit of all the books of the water utility plant to be made each year by a certified public accountant, together with a statement by such accountant of the income and expense, assets and liabilities, cost of extensions and improvements, and shall file such audit in the office of the village treasurer on or before July 1 each year. It shall be the duty of the village treasurer to present audit to the village board at its first meeting in July of each year.

(Amd. of 5-8-06, § 1)

Secs. 106-65--106-90. Reserved.

Division 3. Private Wells

Sec. 106-91. Definitions.

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

Municipal water system means a system for the provision to the public of piped water for human consumption when such system has at least 15 service connections or regularly serves at least 25 year-round residents, which system is owned or operated by a city, village, county, town, sanitary district, utility district, or a federal, state, county, on municipal-owned institution for congregate care or correction or a privately owned water utility serving any of such.

Noncomplying means a well or pump installation that does not comply with the provisions of ch. NR 812, Wis. Admin. Code, in effect at the time the well was constructed, a contamination source was installed, the pump was installed or work was done on either the well or pump installation.

Pump installation means the pump and related equipment used for withdrawing water from a well, including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets, and well seals or caps.

Unsafe means a well or pump installation that produces water which is bacteriologically contaminated or contaminated with substances in excess of the standards of ch. NR 812 or 123, Wis. Admin. Code, for which a health advisory has been issued by the department of natural resources.

Unused means a well or pump installation that is not in use or does not have a functional pumping system.

Well means an excavation or opening into the ground made by digging, boring, drilling, driving, or other methods for the purpose of obtaining groundwater for consumption or other use.

Well abandonment means the filling and sealing of a well according to the provisions of ch. NR 812, Wis. Admin. Code.

(Code 1960, § 6.12(1-3))

Cross references: Definitions generally, § 1-2.

Sec. 106-92. Well abandonment.

Ch. NR 812, Wis. Admin. Code, directs suppliers of water for municipal water systems to require the abandonment of all unused, unsafe, or noncomplying wells located on the premises served by their system, by local ordinance or water utility rule, to prevent such wells as acting as channels for contamination or vertical movement of water and to eliminate all existing cross connections and prevent all future cross connections.

(Code 1960, § 6.12(1))

Sec. 106-93. Purpose.

The purpose of this division is to prevent contamination of groundwater and to protect public health, safety, and welfare by ensuring the unused, unsafe and noncomplying wells that may serve as conduits for contamination or wells that may be illegally cross connected to the municipal water system are properly abandoned.

(Code 1960, § 6.12(1-1))

Sec. 106-94. Applicability.

This division applies to all wells located on premises served by the village water utility.

(Code 1960, § 6.12(1-2))

Sec. 106-95. Penalties for violations.

Any well owner violation any section of this division shall, upon conviction, be punished by forfeiture of not less than \$200.00 or more than \$500.00 and the cost of prosecution. Each

day of violation is a separate offense. If any person fails to comply with this division for more than ten days after receiving written notice of the violation, the village may impose a penalty and cause the well abandonment to be performed and the expense to be assessed as a special tax against the property.

(Code 1960, § 6.12(1-7))

Sec. 106-96. Well operation permit.

The village water utility may grant a permit to a private well owner to operate a well for a period not to exceed five years, provided the conditions of this section are met. An owner may request renewal of a well operation permit by submitting information verifying that the conditions of this section are met. The water utility may conduct inspections or have water quality tests conducted at the applicant's expense to obtain or verify information necessary for consideration of a permit application or renewal. Permit applications and renewals shall be made on forms provided by the water utility clerk. The following conditions must be met for issuance or renewal of a well operation permit:

- (1) The well and pump installation meet or are upgraded to meet the requirements of ch. NR 812, Wis. Admin. Code.
- (2) The well construction and pump installation have a history of producing bacteriologically safe water as evidenced by at least two samplings taken a minimum of two weeks apart. No exception to this condition may be made for unsafe wells, unless the department of natural resources approves, in writing, the continued use of the well.
- (3) There are no cross connections between the well and pump installation and the municipal water system.
- (4) The proposed use of the well and pump installation can be justified as being necessary in addition to water provided by the municipal water system.

(Code 1960, § 6.12(1-5))

Sec. 106-97. Abandonment required.

All water wells located on premises served by the municipal water system shall be abandoned in accordance with the terms of this division and ch. NR 812, Wis. Admin. Code by September 18, 1991 or no later than one year from the date of connection to the municipal water system, whichever occurs last, unless a well operation permit has been obtained by the well owner from the village water utility.

(Code 1960, § 6.12(1-4))

Sec. 106-98. Abandonment procedures.

(a) All wells abandoned under the jurisdiction of this division shall be abandoned according to the procedures and methods of ch. NR 812, Wis. Admin. Code. All debris, pumps,

pipings, unsealed liners and any other obstructions that may interfere with sealing operations shall be removed prior to abandonment.

(b) The owner of the well or the owner's agent shall notify the water utility clerk at least 48 hours prior to commencement of any well abandonment activities. The abandonment of the well shall be observed by the director of the village water utility.

(c) An abandonment report form, supplied by the department of natural resources, shall be submitted by the well owner to the water utility clerk and to the department of natural resources within ten days of completion of the well abandonment.

(Code 1960, § 6.12(1-6))

Secs. 106-99--106-125. Reserved.

Division 4. Cross Connection Control

Sec. 106-126. Definitions.

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

Cross connection means any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the village water utility system and the other of which contains water from a private source, water of unknown or questionable safety, or steam, gases, or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

(Code 1960, § 6.12(2-1))

Cross references: Definitions generally, § 1-2.

Sec. 106-127. Purpose.

The purpose of this division is to provide a program for protecting the public water system from contamination due to backflow of contaminants through the water service connection into the public water system.

(Code 1960, § 6.12(2))

Sec. 106-128. Division supplemental to plumbing code.

This division does not supersede the state plumbing code and village plumbing code, as provided in article V of chapter 18, but is supplementary to them.

(Code 1960, § 6.12(2-8))

Sec. 106-129. Cross connections prohibited.

No person shall establish or permit to be established or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary, or emergency water supply other than the regular public water supply of the village may enter the supply or distribution system of the village, unless such private, auxiliary, or emergency water supply and the method of connection and use of such supply shall have been approved by the village water utility and by the state department of natural resources in accordance with § NR 812.09, Wis. Admin. Code.
(Code 1960, § 6.12(2-2))

Sec. 106-130. Inspections.

It shall be the duty of the village water utility to cause inspections to be made of all properties served by the public water system where cross connection with the public water system is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the village and as approved by the state department of natural resources.
(Code 1960, § 6.12(2-3))

Sec. 106-131. Right of entry.

Upon presentation of credentials, the representative of the village water utility shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system for cross connections. If entry is refused, such representative shall obtain a special inspection warrant under Wis. Stats. § 66.122. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property.
(Code 1960, § 6.12(2-4))

Sec. 106-132. Disconnection for violation.

The village water utility is authorized and directed to discontinue water service to any property wherein any connection in violation of this division exists and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be disconnected only after reasonable notice and opportunity for hearing under Wis. Stats. ch. 68, except as provided in section 106-133. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with this division.
(Code 1960, § 6.12(2-5))

Sec. 106-133. Emergency disconnection.

If it is determined by the water utility that a cross connection or an emergency endangers public health, safety, or welfare and requires immediate action and a written finding to that effect is filed with the water utility clerk and delivered to the customer's premises, service may be immediately disconnected. The customer shall have an opportunity for hearing under Wis. Stats. ch. 68 within ten days of such emergency discontinuance.
(Code 1960, § 6.12(2-6))

Sec. 106-134. Unlawful tampering and use.

It shall be unlawful for any person to tamper with any water main, change any water meter, or make any connection to the waterworks without written permission from the village, or to reconnect service, when it has been disconnected for nonpayment of a bill for service, until such bill has been paid in full, including the reconnection fee. Upon conviction a person shall be subject to punishment as provided in section 1-11 of this Code.

(Amd. of 3-8-06, § 1)

Sec. 106-135. Mandatory connection to water main.

(a) **Required Connection.** Whenever a water main becomes available to any building used for human habitation or use, regardless of the underlying zoning designation, the Public Works Director shall notify the owner of the available service by certified mail, return receipt requested, addressed to the last known address of the owner, of the requirement to connect to the water main within six (6) months of annexation or notification of availability of service. For the purpose of this section, the service shall be deemed "available" if any part of the parcel upon which the building is located is within 300 feet of a water main, and the parcel abuts the right-of-way or property containing the main. Any appeal related to a mandatory connection notice shall follow the procedure set forth in Section 106-165.

(b) **Failure to Comply with Notice.** If the owner fails to comply with the notice of the Public Works Director within six (6) months of service or mailing thereof, the Public Works Director may cause the connection to be made, and the expense thereof shall be billed and collected as a special charge pursuant to Wis. Stat. § 66.0627 or a municipal public utility charge pursuant to Wis. Stat. § 66.0809. At the written request of the Owner, the Village may levy the cost of connection in ten equal annual installments, with interest at the rate of six percent per annum, from the completion of the work.

(c) **Repair and Maintenance.** The property owner shall be responsible for all repair, replacement, and maintenance costs associated with the lateral from the curb stop to the building being served. All water-related work and materials used must comply with Village specifications, copies of which may be obtained from the Public Works Director.

Secs. 106-136. – 106-160. Reserved.

Article III. Sewer Service*

Division 1. Generally

Sec. 106-161. Definitions.

The following words, terms and phrases, when used in sections 106-163, 106-166, 106-167, and 106-336--106-348, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approving authority means the superintendent of the wastewater treatment plant or other designated official of the village or his duly authorized deputy, agent, or representative.

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter in five days at 20 degrees Celsius, expressed as milligrams per liter. Quantitative determination of BOD shall be made in accordance with procedures set forth in Standard Methods.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal; also called house connection.

***Cross references:** Waste and garbage disposal in mobile home parks, § 66-33.

Category A means those sanitary sewer users who discharge normal domestic strength wastewater with concentration of BOD no greater than 215 mg/l, suspended solids no greater than 235 mg/l, phosphorus no greater than ten mg/l, and ammonia nitrogen no greater than 30 mg/l.

Category B means those sanitary sewer users who discharge wastewater with concentrations in excess of 215 mg/l of BOD, 235 mg/l suspended solids, ten mg/l phosphorus, and 30 mg/l ammonia nitrogen. Users whose wastewater exceeds the concentration from any one of these parameters shall be in category B.

Combined sewer means a sewer intended to receive both wastewater and stormwater or surface water.

Compatible pollutants means biochemical oxygen demand, suspended solids, phosphorus, pH, or fecal coliform bacteria, plus additional pollutants identified in the WPDES permit for the village wastewater treatment works, provided that such works are designed to treat such pollutants and in fact does remove such pollutants to a substantial degree.

Contract customer means a sanitary sewer user who is located outside of the village limits and has entered into an agreement with the village for wastewater treatment services.

Control manhole means a manhole located on the private sanitary sewer line coming from any dwelling that is serviced by the wastewater treatment plant. The manhole will be used for sampling and flow determinations. The design and location of the control manhole shall be approved by the approving authority.

Domestic wastewater means wastewater discharged from sanitary conveniences that contains no incompatible pollutants.

Floatable oil means oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and does not interfere with the collection system.

Garbage means the residue from the preparation, cooking, and dispensing of food and from the handling, storage, and sale of food products and produce.

Ground garbage means the residue from the preparation, cooking and dispensing of food that has been shredded to such degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch in any dimension.

Holding tank waste means any untreated wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, and vacuum pump tank trucks.

Incompatible pollutants means wastewater with pollutants that will adversely affect or disrupt the quality of wastewater treatment if discharged to a wastewater treatment facility.

Industrial waste means the wastewater from industrial processes, trades or businesses, as distinct from domestic or sanitary wastes.

Major contributing industry means an industry that has a discharge flow which:

- (1) Is 50,000 gallons or more per average workday;
- (2) Is greater than five percent of the total flow rate or design compatible pollutant loading received at the municipal wastewater treatment plant;
- (3) Contains a material in its discharge included on a list of toxic amounts as defined in standards issued under section 307(a) of the Federal Water Pollution Control Act amendments of 1972; or
- (4) Contains a waste which has significant impact, either singularly or in combination with other contributing industries, on the treatment works or the quality of its effluent.

May is permissive.

Natural outlet means any outlet, including storm sewer and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Normal domestic strength wastewater means wastewater with average daily concentrations of BOD no greater than 215 mg/l, average daily total suspended solids concentration no greater than 235 mg/l, average daily phosphorus no greater than ten mg/l, and average daily ammonia nitrogen no greater than 30 mg/l.

Operation and maintenance costs means the total costs of labor and materials required to operate and maintain the wastewater treatment works, including expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

Parts per million is a weight-to-weight ratio; the parts per million value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Person means any and all persons, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

pH means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10⁻⁷.

Public sewer means any sewer provided by or subject to the jurisdiction of the village. It shall also include sewers within or outside the village boundaries that serve one or more persons and ultimately discharge into the village sanitary or combined sewer system, even though those sewers may not have been constructed with village funds.

Replacement costs means any expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

Receiving waters means any public water into which the effluent from any wastewater treatment plant or any public or private sewer is discharged.

Sanitary sewage means a combination of water-carried wastes from residences, business buildings, institutions and industrial plants, other than industrial wastes from such plants, together with such groundwaters, surface waters and stormwaters as may be present.

Sanitary sewer means a sewer that carries sanitary and industrial water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of groundwaters, stormwaters and surface waters that are not admitted intentionally.

Septic tank wastewater means wastewater, including sludge from septic tanks.

Sewage means the spent water of a community. The preferred term is "wastewater."

Sewer means a pipe or conduit that carries wastewater or drainage water.

Sewer service charge means a charge levied on users of the wastewater treatment facilities for payment of operation and maintenance expenses, debt service costs and other expenses or obligations of such facilities.

Shall is mandatory.

Shredded garbage means garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Slug means any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation and shall adversely affect the system or performance of the wastewater treatment works.

Standard Methods means the examination and analytical procedures set forth in the most recent edition of Standard Methods for the Examination of Water, Sewage, and Industrial Water, published jointly by the American Public Health Association and the Federation of Sewage and Industrial Wastes Association.

Storm drain or storm sewer means a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

Stormwater runoff means that portion of the rainfall that is drained into the sewers.

Suspended solids means solids that either float on the surface of or are in suspension in water, wastewater or other liquids and that are removable by laboratory filtering as prescribed in Standard Methods for Examination of Water and Wastewater and are referred to a nonfilterable residue.

Unpolluted water means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

User charge system means a system by which charges are levied on users of treatment works for cost of operation and maintenance of such works. The village has established classes for users having similar flows and wastewater characteristics; i.e., levels of biochemical oxygen demand, suspended solids, etc. Each class is then assigned its share of the waste treatment works operation and maintenance costs based on the proportional contribution of the class to the total treatment works loading.

User, industrial means any nongovernmental user of the wastewater system and the treatment plant identified in the Standard Industrial Classification Manual 1972, Office of Management and Budget, as amended and supplemented, under the following divisions:

- (1) Division A, Agricultural, Forestry, and Fishing.
- (2) Division B, Mining.
- (3) Division D, Manufacturing
- (4) Division E, Transportation, Communications, Electric, Gas, and Sanitary Services.
- (5) Division I, Services.

Wastewater means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and stormwater that may be present.

Wastewater collection facilities or wastewater collection system means the structures and equipment required to collect and carry wastewater.

Wastewater treatment facility means an arrangement of devices and structures for treating wastewater and sludge; also referred to as wastewater treatment plant.

Wastewater works means all facilities for collecting, pumping, transporting, treating and drying of sewage.

Watercourse means a natural or artificial channel for passage of water either continuously or intermittently.

Wisconsin Pollutant Discharge Elimination System (WPDES) permit means a permit issued to the village for the discharge of wastewater to the Root River. This permit, which is on file in the office of the village wastewater utility, specifies effluent limitations for compatible pollutants and specifies certain conditions that have to be met by the village. This permit is issued in compliance with the Environmental Protection Agency as part of the National Pollutant Discharge Elimination System (NPDES) permit program.

(Code 1960, § 7.03)

Cross references: Definitions generally, § 1-2.

Sec. 106-162. Wastewater utility created.

A wastewater utility is created and, with the adoption of the ordinance from which this section derives, the village does convey to such wastewater utility all wastewater liabilities and assets and existing service contracts, including the plant and sanitary sewer system, so as to reflect a net liability due to the village. The wastewater utility shall have jurisdiction over the sanitary sewer system. This utility shall consist of all the municipally owned mains and intercepting sewers, lift stations, disposal plant, equipment, real and personal properties wherever located, as have been used or may be acquired and added thereto as part of the municipal sewer system, used and useful therefor.

(Code 1960, § 7.01(B))

Sec. 106-163. Right of entry; safety.

(a) *Right of entry.* The director of public works, superintendent of the wastewater treatment plant, plumbing inspector, or other duly authorized employee of the village bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, and testing, all in accordance with this article and Wis. Stats. § 196.171.

(b) *Safety.* While performing the necessary work referred to in subsection (a) of this section on private premises, the duly authorized village employees shall observe all safety rules applicable to the premises established by the person, and the village shall indemnify the person against loss or damage to his property by village employees, except as such may be caused by negligence or failure of the person to maintain safe conditions.

(Code 1960, § 7.06(I)(1), (2))

Sec. 106-164. Violations and penalties.

(a) *Written notice of violation.* Any person found to be violating any section of this article shall be served by the village with a written notice stating the nature of the violation and providing a reasonable time for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violation.

(b) *Abatement of nuisance without notice.* If the approving authority determines that a public nuisance exists within the village and that there is great and immediate danger to the wastewater collection and treatment facilities or the public health, safety or peace, the approving authority may cause the nuisance to be abated and charge the cost thereof to the owner, occupant, or person causing, permitting, or maintaining the nuisance, as the case may be.

(c) *Accidental discharge.* Any person found to be responsible for accidentally allowing a deleterious discharge into the sewer system which causes damage to the treatment facility or receiving body of water shall, in addition to a fine, pay the amount to cover damage, both values to be established by the approving authority.

(d) *Continued violations.* Any person or any officer, agent, or employee thereof who shall continue any violation beyond the notice time limit provided in this section shall, upon conviction, forfeit not less than \$200.00 or more than \$1,000.00, together with the costs of prosecution. In default of payment of such forfeiture and costs, the violator shall be imprisoned in the county jail for a period not to exceed 30 days per violation. Each day in which any violation is continued beyond the notice time limit shall be deemed a separate offense.

(e) *Liability to village for losses.* Any person violating any section of this article shall become liable to the village for any expense, loss, or damage occasioned because of such violation which the village may suffer as a result thereof.

(f) *Differences of opinion.* The sewer and water commission shall arbitrate differences between the approving authority and sewer users on matters concerning interpretation and execution of this article by the approving authority.

(g) *Liability to municipality for losses.* Any person violating any section of this article shall become liable to the municipality for any expenses, loss, or damage occasioned because of such violation which the municipality may suffer as a result thereof.

(Code 1960, § 7.08)

Sec. 106-165. Appeals.

(a) Any user, permit applicant, or permit holder affected by any decision, action or determination, including cease and desist orders, made by the approving authority interpreting or implementing this article or in any permit issued under this article may file with the approving authority a written request for reconsideration within ten days of the date of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration. The approving authority shall render a decision on the request for reconsideration to the user, permit applicant, or permit holder in writing within 15 days of

receipt of the request. If the ruling on the request for reconsideration made by the approving authority is unsatisfactory, the person requesting reconsideration may, within ten days after notification of the action, file a written appeal with the sewer and water utility.

(b) A fee, as stated in the public works fee schedule on file in the village clerk's office, shall accompany any appeal to the sewer and water utility within 45 days from the date of filing. The sewer and water utility shall make a final ruling on the appeal within 60 days from the date of filing.

(Code 1960, § 7.09)

Sec. 106-166. Use of public sewers.

(a) *Sanitary sewers.* No person shall discharge or cause to be discharged any unpolluted water such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water to any sanitary sewer. However, stormwater runoff from a limited area, which stormwater may be polluted at times, may be discharged to the sanitary sewer by permission of the approving authority.

(b) *Storm sewers.* Stormwater, other than that exempted under subsection (a) of this section, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the approving authority and other regulatory agencies. Unpolluted industrial cooling water or process water may be discharged, on approval of the approving authority, to a storm sewer, combined sewer, or natural outlet.

(c) *Prohibitions and limitations.* Except as provided in this section, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- (1) Any gasoline, benzine, naphtha, fuel oil, other flammable or explosive liquid, solid, or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gasses in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, to constitute a hazard to humans or animals or to create a public nuisance in the receiving waters of the wastewater treatment plant.
- (3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.
- (4) Any waters or wastes having a pH in excess of 9.
- (5) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities, such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure,

hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

- (6) The following described substances, materials, waters, or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment; will not have an adverse effect on the receiving stream; or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The approving authority may set limitations lower than the limitation established in this subsection if in his opinion such more severe limitations are necessary to meet the objectives of this subsection. In forming his opinion as to the acceptability, the approving authority will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. No person shall exceed the limitations or violate the restrictions on materials or characteristics of wastewaters discharged into the sanitary sewer in the manner set forth without previous approval of the approving authority. The limitations shall be as follows:
- a. Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
 - b. Wastewater containing more than 50 mg/l of petroleum oil, nonbiodegradable cutting oils or product of mineral oil origin.
 - c. Wastewater containing more than 300 mg/l of oil or grease of animal or vegetable origin.
 - d. Wax, grease, oil, plastic or any substance that solidifies or becomes discernibly viscous.
 - e. Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
 - f. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for such materials.
 - g. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the approving authority.

- h. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the approving authority in compliance with applicable state or federal regulations.
 - i. Quantities of flow, concentrations, or both which constitute a slug.
 - j. Incompatible pollutants containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over the discharge to the receiving waters.
 - k. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids that interfere with the collection system, or create a condition deleterious to structures and treatment processes.
 - l. Materials that exert or cause:
 - 1. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment plant.
 - 2. Unusual volume of flow of concentration of wastes constituting slugs.
 - 3. Unusual concentrations of inert suspended solids, such as but not limited to fuller's earth, lime slurries and lime residues, or of dissolved solids, such as but not limited to sodium sulfate.
 - 4. Excessive discoloration, such as but not limited to dye wastes and vegetable tanning solutions.
- (7) No person discharging into the wastewater collection facilities shall increase the use of potable or process water or mix separate wastewaters for the purpose of diluting prohibited wastewater as a partial or complete substitute for pretreatment or to otherwise avoid compliance with or circumvent this section.
- (8) The village shall comply with all of the requirements of WPDES permit no. WI-0028291-2 and all modifications thereof. No discharge shall be allowed into the sanitary sewer system that will cause a violation of the requirements of the WPDES permit and the modifications thereof.

(d) *New connections.* New connections to the village's sanitary sewer system will be allowed only if there is available capacity in all of the downstream wastewater collection and treatment facilities.

(e) *Special arrangements.* No statement contained in this article shall be construed as prohibiting any special agreement between the approving authority and any person whereby an industrial waste of unusual strength or character may be admitted to the sewage disposal works, either before or after pretreatment, provided that there is no impairment of the functioning of the sewage disposal works because of the admission of such wastes and no extra costs are incurred by the village without recompense by the person, provided that all rates and sections set forth in this article are recognized and adhered to.

Sec. 106-167. Disposal of septic tank sludge and holding tank sewage.

No person in the business of gathering and disposing of septic tank sludge or holding tank sewage shall transfer such material into any disposal area or public sewer unless a permit for disposal has been first obtained from the approving authority. Written application for this permit shall be made to the approving authority and shall state the name and address of the applicant; the number of its disposal units; and the make, model, and license number of each unit. Permits shall be nontransferable except in the case of replacement of the disposal unit for which a permit shall have been originally issued. The permit may be obtained upon payment of a fee of \$50.00 per calendar year. The time and place of disposal will be designated by the Approving Authority. The Approving Authority may impose such conditions as it deems necessary on a permit granted and reserves the right to deny waste if the treatment plant is unable to safely process it. Any person or party disposing of septic tank sludge or holding tank sewage agrees to carry public liability insurance in an amount not less than \$100,000.00 to protect any and all persons or property from injury and/or damage caused in any way or manner by an act, or the failure to act, by any of the person's employees. The person(s) shall furnish a certificate certifying such insurance to be in full force and effect. All materials disposed of into the treatment system shall be of domestic origin, or compatible pollutants only, and the person(s) agrees that he will comply with the provisions of any and all applicable ordinances of the municipality and shall not deposit or drain any gasoline, oil, acid alkali, grease, rags, waste, volatile or flammable liquids, or other deleterious substances into the public sewers, not allow any earth, sand, or other solid material to pass into any part of the wastewater treatment facilities. Persons with a permit for disposing of septic tank sludge and/or holding tank sewage into the wastewater treatment facilities shall be charged as found on file in the village clerk's office.

The person(s) disposing of wastes agrees to indemnify and hold harmless the municipality from any and all liability and claims for damages arising out of or resulting from work and labor performed.

(Code 1960, § 7.06(G)(7); Ord. of 12-3-97, § 1)

Sec. 106-168. Damage to or tampering with facilities.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is a part of

the sewer facilities. Any person violating this section shall be subject to immediate arrest under a charge of disorderly conduct.

(Code 1960, § 7.07(L))

Cross references: Offenses against public and private property, § 70-131 et seq.

Secs. 106-169--106-195. Reserved.

Division 2. Wastewater Utility Committee*

Cross references: Administration, ch. 2.

Sec. 106-196. Created; appointment; officers; operation with water utility committee.

- (a) There is created a wastewater utility committee of three members, which members shall be identical to those on the water utility committee, and the members' terms shall be identical and concurrent with those appointed and confirmed to the water utility committee, as provided in division 2 of article II of this chapter.
- (b) The water utility committee and the wastewater utility committee shall operate as one committee, consistent with the terms of this chapter and with state public service commission laws, rules and regulations.

(Amd. of 5-8-06, § 1)

Sec. 106-197. Management duties and control.

It shall be the duty of the wastewater utility committee to take and have general supervision of the wastewater utility, and to:

- (1) Prescribe rules of order for the regulation of its meetings and deliberations, and alter, amend or repeal the rules from time to time as it shall deem proper.
- (2) Enact rules and regulations for the government, operation and maintenance of its wastewater plant or works and its employees.
- (3) Contract for and purchase all fuel, supplies and repairs necessary for or incident to the proper operation or maintenance of such plant or works.
- (4) Enact rules and regulations under which the patrons of such plant or works shall be served, subject to approval of the village board.
- (5) Contract, purchase, construct and install all extensions, additions and alterations of such plant or works.

- (6) The wastewater utility committee shall appoint the director of public works to serve as the director of utilities to manage the operation of the wastewater utility.

***Editor's note:** An amendment adopted May 8, 2006, § 1, amended division 2 in its entirety to read as herein set out. Formerly, division 2 pertained to the wastewater utility commission, and derived from the Code of 1960, §§ 7.02(2)(A--C, E--H), 7.10, and an amendment adopted July 24, 2000, § 1.

- (7) Expenditures in excess of \$2,000.00 for capital items other than items for operation and maintenance of the water utility shall be recommended to the village board for approval.

(Amd. of 5-8-06, § 1)

Sec. 106-198. Supervisor.

(a) *Appointment.* The wastewater utility committee shall appoint a supervisor who shall operate the wastewater utility.

(b) *Duties.* So far as practical and subject to the determination of the water utility committee and the wastewater committee, there shall be a single administration of the water utility and the wastewater utility, operating under the direction of the director of utilities. The supervisor shall report to and be responsible, as directed by the director of utilities, for the following:

- (1) Supervising the operation of the utility.
- (2) Making the purchases for the operation of the utility.
- (3) Bookkeeping for the utility.
- (4) Assigning of personnel within the utility.
- (5) Hiring of new personnel. However, such hiring shall be accomplished with the advice of the village personnel committee, and the wastewater utility committee shall have authority to negotiate working agreements for its personnel. Such agreements shall be subject to approval by the village board.

(Amd. of 5-8-06, § 1)

Sec. 106-199. Duties for operation of wastewater utility.

(a) The wastewater utility committee of the wastewater utility shall direct the policy for its operation.

(b) The supervisor shall execute the policy determinations of the wastewater utility committee.

- (c) The supervisor shall have charge and supervision of the wastewater utility.
- (d) The supervisor shall be responsible for allocating costs accurately to the plant's operation.
- (e) The supervisor shall be given and provided sufficient flexibility which will permit him, so far as practical, to interchange personnel and equipment with the water utility, but to maintain separate accounting records.

(Amd. of 5-8-06, § 1)

Sec. 106-200. Contract of functions.

To provide legal, accounting, engineering, billing and collection functions for the operation of the wastewater utility, the functions shall be performed on a contractual basis through the various departments and offices of the village, except when otherwise directed by the wastewater utility committee. Laboratory services to be performed by the village on a contractual basis shall be included.

(Amd. of 5-8-06, § 1)

Sec. 106-201. Special fund.

The village treasurer shall keep, as a separate fund, all income and revenue derived from the wastewater utility and any funds specially provided therefor by the village board and shall pay therefrom all orders legally drawn upon such fund that are approved by the wastewater utility committee.

(Amd. of 5-8-06, § 1)

Sec. 106-202. Financial audits.

(a) All accounts against the wastewater utility shall be audited by the wastewater utility committee, and if approved shall be paid by order upon the village treasurer.

(b) The wastewater utility committee shall cause an audit of all the books of the wastewater utility plant to be made each year by a certified public accountant, together with a statement by the accountant of the income and expense, assets and liabilities, cost of extensions and improvements, and shall file such audit in the office of the village treasurer on or before July 1 each year. It shall be the duty of the village treasurer to present the audit to the village board at its first meeting in July of each year.

(Amd. of 5-8-06, § 1)

Sec. 106-203. Review of wastewater contributions, expenses and charges.

(a) *Biennial audit.* The wastewater utility committee shall review at least every two years the wastewater contribution of its sewer users, the operation and maintenance expenses of the wastewater collection and treatment facilities and the sewer service charge system, if necessary, to accomplish the following:

- (1) Maintain a proportionate distribution of operation and maintenance expenses among sewer users based on the wastewater volume and pollutant loadings discharged by the users.
- (2) Generate sufficient revenues to pay the operation and maintenance expenses of the wastewater collection and treatment facilities.
- (3) Apply excess revenues collected from a class of users to the operation and maintenance expenses attributable to the class of users for the next year and adjust the sewer service charge rates accordingly.

(b) *Annual notifications.* The committee shall notify its sewer users annually as to the sewer service charge rates. The notification shall show what portion of the rates are attributable to the operation and maintenance expenses, any debt service costs of the wastewater collection system and wastewater treatment. The notification shall occur in conjunction with the adoption of a budget for the ensuing year in accordance with Wis. Stats. § 65.90.

(c) *Records.* The committee shall maintain records regarding wastewater flows, cost of the wastewater collection and treatment facilities, sampling programs, and other information which is necessary to document compliance with 40 CFR 35, subpart E of the Clean Water Act.

(Amd. of 5-8-06, § 1)

Secs. 106-204--106-230. Reserved.

Division 3. Sewer Construction And Connection

Sec. 106-231. Work authorized.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the approving authority and paying all the required fees. The approving authority shall have the authority to deny a permit for connection into the sewerage system if such connection would violate this Division or any applicable statutes, rules, and regulations. Any person who shall be denied any such permit may appeal the decision to the Building Board in the manner provided in Chapter 18, Article 11, Division 2 of the Code.

(Code 1960, § 7.07(A))

Sec. 106-232. Limitation on connections; prohibited practices.

(a) The village board expressly prohibits any person from making any connection to any sanitary sewer or drain which is located within the corporate limits and which connection would result in the person using the sanitary sewer, drains, and sewage disposal plant of the village. If any person violates the prohibitions of this section, the wastewater utility commission shall immediately discontinue sanitary sewer service to the person.

(b) No permit shall be issued to connect with the public sewer for any lot, excavation or open basement. No permit shall be issued to connect any building with the public sewer until such building is completely enclosed by roof, the outside walls back-filled

to finish grade, all sanitary sewer lines within buildings that will be covered by basement floors have been cleaned, inspected, and approved by the Building Inspector, the permanent floor has been constructed in the basement, and a functional sump pit and sump pump have been installed in the basement. In buildings without basements the permit shall be issued after the footing and the sub-floor have been constructed. The lateral shall be cleaned in such a manner as to prevent debris entering the sewer main.

(c) No permit shall be issued for the connection with the public sewer of any basement floor drain in any building located within the 100 year floodplain as established and determined under the Racine County floodplain ordinance. Buildings within the 100 year floodplain shall not have public sewer service for any floor located below the exterior finish grade.

Sec. 106-233. Use of old building sewers.

Old building sewers may be used in connections with new buildings only when they are found on examination and test by the approving authority to meet all requirements of this article. (Code 1960, § 7.07(E))

Sec. 106-234. Materials and methods of construction.

The size, slope, alignment, material or construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the village. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and Wisconsin Administration Code rules of the department of natural resources environmental protection shall be used.

(Code 1960, § 7.07(F))

Sec. 106-235. Building sewer grade.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(Code 1960, § 7.07(G))

Sec. 106-236. Stormwater and groundwater drains.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.

(Code 1960, § 7.07(H))

Sec. 106-237. Conformance to codes.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the village or the procedures set forth in appropriate specifications of the ASTM and the Wisconsin Administrative Code rules of the department of natural resources environmental protection. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the approving authority before installation.
(Code 1960, § 7.07(I))

Sec. 106-238. Inspection of connection.

The applicant for the building sewer permit shall notify the approving authority when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the approving authority.
(Code 1960, § 7.07(J))

Sec. 106-239. Barricades; restoration.

All excavations for the building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the village.
(Code 1960, § 7.07(K))

Sec. 106-240. Mandatory connection to sewer main.

(a) Required Connection. Whenever a sewer main becomes available to any building used for human habitation or use, regardless of the underlying zoning designation, the Public Works Director shall notify the owner of the available service by certified mail, return receipt requested, addressed to the last known address of the owner, of the requirement to connect to the sewer main within six (6) months of annexation or notification of availability of service. For the purpose of this section, the service shall be deemed "available" if any part of the parcel upon which the building is located is within 300 feet of a sewer main, and the parcel abuts the right-of-way or property containing the main.

(b) Failure to Comply with Notice. If the owner fails to comply with the notice of the Public Works Director within six (6) months of service or mailing thereof, the Public Works Director may cause the connection to be made, and the expense thereof shall be billed and collected as a special charge pursuant to Wis. Stat. § 66.0627 or a municipal public utility charge pursuant to Wis. Stat. § 66.0809. At the written request of the Owner, the Village may levy the cost of connection in ten equal annual installments, with interest at the rate of six percent per annum, from the completion of the work.

(c) Repair and Maintenance. The property owner shall be responsible for all repair, replacement, and maintenance costs associated with the lateral from the building being served to the main. All sewer-related work and materials used must comply with Village specifications, copies of which may be obtained from the Public Works Director.

106-241 - 106-265. Reserved.

Division 4. Industrial Wastes*

Sec. 106-266. Submission of basic data.

Each person desiring to make a new connection to the public sewer for the purpose of discharging industrial wastes shall prepare and file with the approving authority a report that shall include actual or predicted data relating to the quantity and characteristics of the waste to be discharged.

(Code 1960, § 7.05(A))

Sec. 106-267. Submission of information.

Plans, specifications and other pertinent information relating to proposed flow equalization, pretreatment, or processing facilities shall be submitted for review of the approving authority prior to the start of construction if the effluent from such facilities is to be discharged into the public sewers. No construction of such facilities shall commence until approval has been granted.

(Code 1960, § 7.05(M))

Sec. 106-268. Industrial discharge.

If any waters or wastes are discharged or proposed to be discharged to the public sewers, which waters or wastes contain substances or possess the characteristics enumerated in section 106-166 and which, in the judgment of the approving authority, may have deleterious effects upon the sewer works, processes, equipment, or receiving waters or which otherwise create a hazard to life, health, or constitute a public nuisance, the approving authority may:

- (1) Reject the wastes.
- (2) Require pretreatment to normal domestic strength wastewater for discharge to the public sewers.
- (3) Require control over the quantities and rates of discharge.
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing sewer use charges under subdivision II of division 5 of this article.

(Code 1960, § 7.05(C))

***Cross references:** Industrial solid waste, § 86-71 et seq.

Sec. 106-269. Control manholes.

(a) Each person discharging industrial wastewater into a public sewer shall construct and maintain one or more control manholes or access points to facilitate observation, measurement, and sampling of the industrial wastewater, including domestic sewage.

(b) Control manholes or access facilities shall be located and built in a manner acceptable to the approving authority. If measuring devices are to be permanently installed, they shall be of a type acceptable to the approving authority.

(c) Control manholes, access facilities, and related equipment shall be installed by the person discharging the waste, at his expense, and shall be maintained by him so as to be in safe condition, accessible, and in proper operation condition at all times. Plans for installation of the control manholes or access facilities and related equipment shall be approved by the approving authority prior to the beginning of construction.

(Code 1960, § 7.05(D))

Sec. 106-270. Measurement of flow.

The volume of flow used for computing the sewer use charges shall be the metered water consumption of the person as shown in the records of meter readings maintained by the village water department, except as noted in sections 106-271 and 106-272.

(Code 1960, § 7.05(E))

Sec. 106-271. Deductions for water not reaching sewer.

If a person discharging industrial wastewater into the public sewers produces evidence satisfactory to the approving authority that some of the total annual volume of water used for all purposes does not reach the public sewer, the determination of the water consumption to be used in computing the wastewater volume of wastewater shall be installed, owned, and maintained by the person.

(Code 1960, § 7.05(F))

Sec. 106-272. Metering of wastewater.

Devices for measuring the volume of wastewater discharged may be required by the approving authority if this volume cannot otherwise be determined from the metered water consumption records. Metering devices for determining the volume of wastewater shall be installed, owned, and maintained by the person. Following approval and installation, such meters may not be removed without the consent of the approving authority.

(Code 1960, § 7.05(G))

Sec. 106-273. Wastewater sampling.

(a) Industrial wastewater discharged into the public sewers shall be subject to periodic inspection and a determination of the character and concentration of the waste. The determinations shall be made by the industry as often as may be deemed necessary by the approving authority. The approving authority shall also maintain the prerogative to sample the industrial wastewater discharge.

(b) Samples shall be collected in such a manner as to be representative of the composition of the wastewater. The sampling may be accomplished either manually or by the use of mechanical equipment acceptable to the approving authority.

(c) Installation, operation, and maintenance of the sampling facilities shall be the responsibility of the person discharging the wastewater and shall be subject to the approval of the approving authority. Access to sampling locations shall be granted to the approving authority or its duly authorized representatives at all times. Every care shall be exercised in the collection of samples to ensure their preservation in a state comparable to that at the time the sample was taken.

(Code 1960, § 7.05(H))

Sec. 106-274. Analysis.

(a) All measurements, tests, and analyses of the characteristics of water and wastes to which reference is made in this article shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association and with the federal regulations 40 CFR 136, "EPA Regulations on Test Procedures for the Analysis of Pollutants." Sampling methods, location times, durations, and frequencies are to be determined on an individual basis subject to approval by the approving authority.

(b) Determination of the character and concentration of the industrial wastes shall be made by the person discharging them or his agent, as designated and required by the approving authority. The village may also make its own analysis on the wastes.

(Code 1960, § 7.05(I))

Sec. 106-275. Pretreatment.

Where required, in the opinion of the approving authority, to modify or eliminate incompatible wastes that are harmful to the structures, processes, or operation of the wastewater treatment works, the person shall provide at his expense such preliminary treatment or processing facilities as may be determined required to render his wastes acceptable for admission to the public sewers.

(Code 1960, § 7.05(J))

Sec. 106-276. Grease or sand interceptors.

(a) *Installation and maintenance.* Grease, oil, and sand interceptors shall be provided when, in the opinion of the approving authority, they are necessary for the proper handling of liquid wastes containing floatable grease or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the approving authority and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the collected material and shall maintain records of the dates and means of disposal and provide copies of those records to the approving authority. The frequency of the removal of the collected material shall be determined on a case-by-case basis. Any removal and hauling of the collected material

performed by the owner's personnel or by licensed waste disposal firms must be in accordance with acceptable requirements of the department of natural resources rules and regulations.

(b) *Discharge to public sewers.* All new, altered, or remodeled plumbing systems which discharge to public sewers shall be provided with interior or exterior grease interceptors. Only kitchen wastes shall be discharged to grease interceptors.

(c) *Existing installations.* The village shall require the installation of either interior or exterior grease interceptors for existing plumbing installations where the waterway of a drain system or the sewer system is reduced or filled by congealed grease.

(d) *Prohibited treatment.* The introduction of grease or fat emulsifiers into a grease interceptor shall be prohibited.

(e) *Penalties.* The village shall impose penalties and costs as described in section 106-164 for violations of this section.
(Code 1960, § 7.05(K))

Sec. 106-277. Accidental discharges.

(a) Each industrial discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this article. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the approving authority for review and shall be approved by the approving authority before construction of the facility. Review and approval of such plans and operating procedures by the approving authority shall not relieve the discharger from the responsibility to modify his facility as necessary to meet the requirements of this article.

(b) Dischargers shall notify the approving authority immediately upon the occurrence of a slug load or accidental discharge of substances prohibited by this article. The notification shall include location of the discharge, the date and time thereof, the type of waste, the concentration and volume and the corrective actions. Any discharger who discharges a slug load of prohibited materials shall be liable for any expense, loss or damage to the wastewater facilities or wastewater treatment works, in addition to the amount of any fines imposed on the authority on account thereof under state or federal law.

(c) Signs shall be permanently posted in conspicuous places on a discharger's premises, advising employees when to call if a slug or accidental discharge occurs. Employers shall instruct all employees who may cause or discover such a discharge with respect to the emergency notification procedure.

(Code 1960, § 7.05(L))

Sec. 106-278. Destruction or damage to system.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of any sewage works. Any person violating this provision shall be subject to immediate arrest under a charge of disorderly conduct.

(Amd. of 3-8-06, § 1)

Secs. 106-279. Regulation of Mercury.

(a) Except as provided elsewhere in this section, any facility whose wastewater is discharged to the public sanitary sewers or wastewater works and has the potential to include mercury or mercury-containing material shall be considered an industrial user and shall be subject to all procedures and requirements set forth in division 4 of this article.

(b) *Dental offices.*

- (1) This section applies to any dental office that places or removes amalgam. If the work in a dental office does not involve any placing or removing of amalgam, such as orthodontics, periodontics, oral and maxillo-facial surgery, endodontics or prosthodontics, this section does not apply.
- (2) Within the shortest reasonable time, and in any event no later than six months after the effective date of this section, all dental offices shall implement best management practices for amalgam as established by the Wisconsin Dental Association ("WDA").
- (3) Within the shortest reasonable time, and in any event no later than six months after the effective date of this section, every vacuum system where amalgam is placed or removed shall include an amalgam separator that meets the criteria of the International Standards Organization (ISO 11143). Dental offices shall install, operate and maintain the amalgam separator according to instructions provided by the manufacturer. The amalgam separator shall have a design and capacity appropriate for the size and type of vacuum system.
- (4) Starting six months after the effective date of this section, and annually thereafter, dental offices shall submit reports to the approving authority, using forms provided by the approving authority, including at least the following information:
 - a. The date the amalgam separator was installed;
 - b. The manufacturer name and model number of the amalgam separator;
 - c. Certification that the amalgam separator was installed and is being operated and maintained in accordance with instructions provided by the manufacturer;

- d. Certification that WDA best management practices for amalgam have been implemented and are being followed;
 - e. The name of the person responsible for assuring compliance with WDA best management practices for amalgam;
 - f. With respect to each amalgam waste shipment during the preceding year, copies of records showing the volume or mass of each amalgam waste shipment, the name and address of the shipment destination, and the name and address of the shipping contractor. Dental offices shall maintain amalgam waste shipment records for a minimum of three years from shipment; and,
 - g. An itemization detailing all maintenance performed on the amalgam separator during the preceding year, including all inspections, cleaning, repairs and other maintenance.
- (5) Dental offices shall permit the approving authority to inspect the dental office's vacuum system, amalgam separator and amalgam waste storage areas upon request. Inspections shall occur during the normal operating schedule of the dental office according to appointments made in advance, as long as this advance notice does not impede enforcement.
- (6) As long as a dental office remains in compliance with this subsection, the dental office shall not be subject to the procedures and requirements set forth in division 4 of this article, unless the dental office is otherwise subject to such procedures and requirements irrespective of mercury.
- (c) *Other facilities.*
- (1) This section applies to all other facilities having the potential to discharge mercury or mercury-containing material to the Village's sanitary sewer system including, without limitation due to enumeration: medical facilities that have laboratories, including all hospitals, clinics and veterinary facilities; school facilities, including all public and private schools, with science laboratories, including middle schools, high schools, technical schools, colleges and universities, but not including elementary schools; industrial facilities and plants of such industries that historically or consistently discharge mercury into their wastewater.
 - (2) The approving authority shall identify and notify all known facilities to be regulated under this section within 30 days after the effective date of this section. Thereafter, all new or newly identified facilities shall be immediately notified by the approving authority that they are subject to regulation under this section.
 - (3) Within the shortest reasonable time, all facilities regulated under this section shall implement best management practices for mercury as

established by the Wisconsin Department of Natural Resources ("DNR"). Within 30 days after a facility is notified by the approving authority that it is subject to regulation under this section, the facility shall submit a report to the Village that identifies the DNR best management practices for mercury already implemented and also the anticipated dates for implementing the remaining DNR best management practices. No later than six months after a facility is notified by the approving authority that it is subject to regulation under this section, and annually thereafter, the facility shall submit a statement to the approving authority certifying that the facility has implemented and continues to utilize all best management practices for mercury established by DNR.

- (4) The approving authority shall provide forms for reporting the information required by subsection.
- (5) Facilities regulated under this section shall permit the approving authority to inspect the facility's mercury-related systems upon request. Inspections shall occur during the facility's normal operating schedule according to appointments made in advance, as long as this advance notice does not impede enforcement.
- (6) As long as a facility remain in compliance with this subsection, the facility shall not be subject to the procedures and requirements set forth in division 4 of this article, unless the facility is otherwise subject to such procedures and requirements irrespective of mercury.

Secs. 106-280--106-305. Reserved.

Division 5. Charges

Subdivision I. In General

Sec. 106-306. Sewer service charges.

(a) A sewer service charge is imposed upon each lot, parcel of land, building or premises served by the sewer system for which there are discharges of sewage, including industrial waste, into the system. The sewer service charge shall be in such an amount and shall be payable at such time as shall be fixed by the wastewater utility commission. The amount of sewer service charges are on file in the office of the village clerk.

(b) Sewer service charges shall be payable to the village clerk at the village hall as determined by the wastewater utility commission. A penalty as determined by commission action shall be added to all bills not paid within the time allowed for discount. All charges and rates established by the wastewater utility commission shall be a lien upon the property served. All moneys received from the collection of sewer service charges authorized by this article shall be credited to the wastewater utility account, which shall show all the receipts and expenditures of the utility. These receipts shall be used to pay for the operation, maintenance, depreciation, interest and sinking fund requirements, tax equivalents, additions and improvements and other necessary disbursements and indebtedness of the system.

(c) Proceeds received from the sales of bonds or notes of this utility shall be devoted to the purposes specified in the instruments authorizing such indebtedness. The effective date of the sewer service charges shall be determined by the commission of the wastewater utility.

(Code 1960, § 7.02(2)(J), (K); Ord. of 12-3-97, § 1)

Sec. 106-307. Cost of building sewer connection.

All costs incident to the installation and connection of a building sewer shall be borne by the owner. The owner shall indemnify the village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Code 1960, § 7.07(C))

Sec. 106-308. Connection charges.

(a) A connection charge will be levied by the village upon all residential and nonresidential customers prior to connection to the sewer system. The charges are as stated in the schedule of public works fees on file in the village clerk's office. Charges shall be made for the following:

(1) Residential.

a. Single family.

b. Multifamily.

1. Two units (duplex), per dwelling unit.

2. Three or more units, per dwelling unit.

(2) Nonresidential. For commercial and industrial, the charge shall be based on the charge per meter equivalent. Meter equivalents are determined according AWWA C-700 schedule of meter operating capacity as follows:

<i>Water Meter Size (in inches)</i>	<i>Capacity</i>	<i>Equivalent</i>
5/8	20	1
5/8 x 3/4	20	1
1	50	2.5
1 1/2	100	5
2	160	8
3	300	15
4	500	25
6	1,000	50

(b) The initial connection charge as set forth in this section for a new building shall be paid at the time that a building or plumbing permit is applied for. The initial connection charge for an existing structure shall be paid before the actual connection is made to the system.

(Code 1960, § 7.07(D))

Secs. 106-309--106-335. Reserved.

Subdivision II. User Charges

Sec. 106-336. Basis.

(a) It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare, and convenience of the village to levy and collect charges, rentals, or rates of service upon all the lands, lots, and premises served by and having connections with the sewer system of the village.

(b) Where there is more than one customer on a meter, the user charge will be made to the property owner, as in the case of water bills.

(c) If a customer moves from a location within a billing period, the meter will be read, the charges for sewage prorated, and a notice rendered for the amount of the bills.

(d) If a portion of the water furnished to any premises does not discharge into a sanitary sewer system, the amount of such water will be deducted when computing the sewage upon application to and confirmation by the approving authority.

(Code 1960, § 7.06(A), (I)(2))

Sec. 106-337. User charge system.

Under this subdivision, a flow based charge shall be used for all customers. The minimum quarterly billing shall be sufficient to pay the billing and customer-related administrative expenses of the village. The unit price per volume shall be sufficient to pay the remaining annual cost of operation and maintenance, including any replacement fund, of the sewer facilities. The methodology for determining the user charges is given in the sewer user charge system of the village, dated December 1993, and as amended from time to time.

(Code 1960, § 7.06(B))

Sec. 106-338. Category B users.

Under this subdivision, category B users shall be charged a surcharge, in addition to the volume charge, based on the prevailing category B service charges for BOD, suspended solids, phosphorus and ammonia nitrogen.

(Code 1960, § 7.06(C))

Sec. 106-339. Sewer users served by private wells.

(a) If any person discharging wastewater into the public sanitary sewer system procures any part or all of his water sources from other than the water department, all or part of which is discharged into the public sanitary sewer system, the person shall be required to

have water meters obtained for these other sources. Where sewage meters are already installed, the water meters will not be required. The water meters shall be furnished by the water department and installed under its supervision. All costs shall be at the expenses of the person requiring the meter.

(b) The water department will charge for each meter a rental charge set by the water department to compensate for the cost of furnishing and servicing the meter. The rental charge shall be billed at the time the sewer user charge is billed.
(Code 1960, § 7.06(D))

Sec. 106-340. Sprinkling allowances.

(a) An allowance for metered water used for watering of lawns and outdoor greenery shall be made for the second and third quarters. The allowance pertains to residential, metered customers only, and sewer charges shall be computed on the following basis:

- (1) First and fourth quarters will be billed at actual usage.
- (2) Second and third quarters will be billed at the first quarter usage plus 75 percent of the excess over the first quarter.

(b) Residential and commercial customers may elect to have a sewer deduct meter installed as a means of offsetting the cost of water not being processed by the sewer utility because its express purpose is for watering lawns and outdoor greenery. If a deduct meter is installed, the customer will not receive the benefit of the second and third quarter allowance outlined in subsection (a) of this section. Any sewer deduct meter will be subject to the following:

- (1) The meter will be permanently installed into the system until removed by the utility.
- (2) The meter and all associated plumbing will be free of cross connections and in compliance with division 4 of article II of this chapter.
- (3) Sewer deduct meters will be owned by the sewer utility, which is responsible for their maintenance and repair.
- (4) A permit fee will be charged depending on the size of the meter at the time of installation to help defray the cost of the meter. A meter charge will be assessed each quarter, whether any water is used during that period or not. These charges will be based on prevailing rates on file with the village clerk.
- (5) The sewer utility will remove deduct meters when they are no longer required by the customer. When a meter is removed, the opening will be sealed with a jumper and the plumbing inspected at the rate on file with the village clerk.

(Code 1960, § 7.06(E); Ord. of 3-6-96)

Sec. 106-341. Nonresidents.

Persons not residents of the village or other political entities served by the village wastewater treatment works will be assessed for this service in accordance with the appropriate rate schedule, depending upon wastewater strength, plus a surcharge of 25 percent. Contract customers having service agreements with the village shall be assessed in accordance with the terms of such agreement.

(Code 1960, § 7.06(F))

Sec. 106-342. Amount of sewer service charges.

(a) *Unit costs, ERU charges, category A and B charges.* Sewer service charge unit costs, equivalent residential unit(s) (ERU) charges, category A sewer service charges, and category B sewer service charges are as provided in the public works fee schedule on file in the village clerk's office.

(b) *Contract customers.* The sewer service charges for the Southern Wisconsin Center (SWC) are as follows:

$$T = 5FQ + (V \times C) + 0.00834 V (B \times C + S \times C + P \times C + N \times C)$$

Where:

- T = Total sewer service
- FQ = Fixed quarterly charge
- B = Concentration of BOD in mg/1
- S = Concentration of suspended solids in mg/1
- P = Concentration of phosphorus in mg/1
- N = Concentration of ammonia nitrogen in mg/1
- V = Wastewater volume in 1,000 gallons
- C = Cost for SWC per 1,000 gallons
- C = Cost per pound of BOD
- C = Cost per pound of suspended solids
- C = Cost per pound of phosphorus
- C = Cost per pound of ammonia nitrogen

Additional charges may be assessed to SWC by the utility for exceeding certain flow and loading parameters in accordance with service agreements made between the village and the state department of administration.

(Code 1960, § 7.06(G)(1)--(4); Ord. of 12-3-97, § 1; Ord. of 6-14-99, § 1)

Sec. 106-343. Reassignment of sewer users.

The approving authority will reassign sewer users into appropriate sewer service charge categories if wastewater sampling programs or other related information indicate a change of categories is necessary.

(Code 1960, § 7.06(G)(5); Ord. of 12-3-97, § 1)

Sec. 106-344. Operation, maintenance and replacement fund accounts.

(a) All sewer service charge revenues collected for replacement costs shall be deposited in a separate and distinct fund to be used solely for replacement costs as defined in division 2. All sewer service charge revenues collected for other operation and maintenance expenses shall also be deposited in a separate and distinct fund.

(b) All revenues for the replacement fund and for operation and maintenance of the wastewater treatment facilities shall be used solely for the replacement fund and operation and maintenance of the wastewater treatment facilities.

(Code 1960, § 7.06(G)(6); Ord. of 12-3-97, § 1)

Sec. 106-345. Charge for toxic pollutants.

Any person discharging toxic pollutants which cause an increase in the cost of managing the effluent or sludge from the village wastewater treatment facility shall pay for such increased costs, as may be determined by the approving authority. (Code 1960, § 7.06(G)(8); Ord. of 12-3-97, § 1)

Sec. 106-346. Billing practice.

(a) *Billing period.* User charges assessed under this subdivision shall be billed with the water bill on a quarterly basis and collected by the sewer and water utility commission.

(b) *Payment.* User charges shall be payable by the first of the month, following each collection period. Bills not paid by the next month will be increased 1 1/2 percent.

(c) Where there is more than one customer on a meter, the user charge will be made to the property owner, as in the case of water bills.

(d) When a customer moves from a location within a billing period, the meter will be read, the charges for sewage prorated, and a notice rendered for the amount of the bills.

(e) If a portion of the water furnished to any premises does not discharge into a sanitary sewer system, the amount of such water may be deducted when computing the sewage upon application to and confirmation by the approving authority.

(Code 1960, § 7.06(H)(1), (2))

Sec. 106-347. Penalties.

(a) Such charges levied in accordance with this subdivision shall be a debt to the village and shall be a lien upon the property. If this debt is not paid within 30 days after it shall

be due and payable, it shall be deemed delinquent and may be recovered by civil action in the name of the village against the property owner, the person, or both.

(b) Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.

(Code 1960, § 7.06(H)(3))

Sec. 106-348. Lien.

Such charges levied in accordance with this subdivision shall be a debt to the village and shall be a lien upon the property serviced, pursuant to Wis. Stats. § 66.069(13). If this debt is not paid within 30 days after it shall be due and payable, it shall be deemed delinquent and may be recovered by civil action in the name of the village against the property owner, the person, or both.

Article IV. Storm Water Management Utility

Division 1. Generally

Secs. 106-349--106-400. Reserved.

Division 2. Storm Water Management Utility*

Sec. 106-401. Purpose and necessity.

Whereas, the village board does hereby find that the management of storm water and other surface water discharges to bodies of water within the village and adjacent to the municipality is a matter that affects the public health, safety and welfare of the village, its citizens and businesses and others in the surrounding area.

Whereas, failure to effectively manage storm water affects the operations of the village sanitary sewer utility by, among other things, increasing the likelihood of infiltration and inflow into the sanitary sewer system.

Whereas, surface water runoff may cause erosion of lands, threaten residences and businesses with water damage, and create environmental damage to the rivers, streams and other bodies of water within and adjacent to the municipality.

Whereas, a system for the collection and disposal of storm water provides services to all properties within the village and surrounding areas, including those properties not currently served by the systems.

Whereas, the cost of operating and maintaining the village's storm water management system and financing necessary repairs, replacements, improvements, and extensions thereof should, to the extent practicable, be allocated in relationship to the services received from the system.

***Note:** This division shall take full effect for all purposes on January 1, 2011.

Whereas, the village board finds that the provisions herein are required by and consistent with the Federal Clean Water Act (33 U.S.C.S. 1251 et seq.) and Wisconsin Statutes, both as amended from time to time and the regulations set out thereunder.

Whereas, in order to protect the health, safety and welfare of the public, the village board hereby exercises its authority to establish a storm water management utility and establish the rates for storm water management services.

Whereas, by adopting and publishing as required by law the regulations contained in this chapter, the village board is acting pursuant to authority granted by Wis. Stats. chs. 61 and 66.

(Ord. No. 2010-05, § 1, 8-23-10)

Sec. 106-402. Authority.

The village board, acting through the storm water management utility, may acquire, construct, lease, own, operate, maintain, improve, modify, extend, expand, replace, clean, dredge, repair, conduct and manage programs, finance, borrow monies, assess and/or levy fees for such facilities, operations, and activities, as are deemed by the village board to be proper and reasonably necessary for a system of storm and surface water management and to obtain compliance with applicable local, state and federal storm water management requirements with which the village must comply. Facilities may include, without limitation due to enumeration, surface and underground drainage facilities, inlets, manholes, catch basins, sewers, channels, watercourses, retaining walls, ponds, detention and retention basins, infiltration facilities, streets, roads, ditches and such other facilities as will support a storm water management system.

(Ord. No. 2010-05, § 1, 8-23-10)

Sec. 106-403. Establishment of storm water management utility.

In order to protect the health, safety, and welfare of the public, the village board is exercising its authority to establish the village storm water management utility and set the rates for storm water management services.

The public works director shall be in charge of the day-to-day operation of the storm water management utility, subject to the supervision of the village board.

The village board is acting under the authority of Wis. Stats. chs. 61 and 66.

(Ord. No. 2010-05, § 1, 8-23-10)

Sec. 106-404. Powers and duties of utility.

(a) *Facilities.* The village through the storm water management utility may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage, and finance such facilities as are deemed by the village to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, without limitation by enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls, and ponds and such other facilities as will support a storm water management system.

(b) *Rates and charges.* The village through the storm water management utility may establish such rates and charges as are necessary to finance planning, design, construction, maintenance, and operation of the facilities and to conduct necessary storm water programs and activities in accordance with the procedures set forth in this article.

(c) *Budgeting process.* The village through the storm water management utility shall prepare an annual budget, which is to include all operation and maintenance costs, debt service, and other costs related to the operation of the storm water management utility. The costs shall be spread over the rate classifications as determined by the village board.

(d) *Excess revenues.* The village will retain any excess of revenues over expenditures in a year in a segregated storm water enterprise fund which shall be used exclusively for purposes consistent with this article.

(Ord. No. 2010-05, § 1, 8-23-10)

Sec. 106-405. Definitions.

Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary. The word "shall" is mandatory and the word "may" is permissive.

Condominium means property subject to a condominium declaration established under Wis. Stats. ch. 703.

Duplex means a residential space containing two dwelling units.

Dwelling unit means one or more rooms that are arranged, designed, or used as living quarters for occupancy by a single-family unit or as classified by the village's zoning codes. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each dwelling unit.

Equivalent runoff unit or *ERU* means the basic unit by which the storm water management utility charge is calculated; it is based upon the average amount of impervious area on a single-family residential parcel as determined from a representative sample of fully developed single-family parcels within the municipality. An ERU is established as 4,000 square feet.

Farmstead home site means that portion of any agricultural property which contains one or more dwelling units, regardless of whether the dwelling units are on a separate lot or parcel.

Impervious area or *impervious surface* means a horizontal surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater or the runoff from snow melt. It includes, but is not limited to, semi-impervious surfaces such as compacted clay or gravel, as well as streets, roofs, roof extensions, patios, decks, porches, sidewalks, loading docks, parking lots, driveways and other similar surfaces.

Lot means a parcel of land having a width and depth sufficient for one principal building and its accessory building together with open spaces required by the village's zoning ordinance and abutting a public street or access easement.

Multi-family residential means a residential space consisting of three or more dwelling units.

Non-residential property means any developed lot or parcel not exclusively residential property as defined herein, including, but not limited to, transient rentals (such as hotels and motels), mobile home parks, commercial, industrial, institutional, governmental property, and parking lots.

Person means each and every property owner, including, but not limited to, natural persons, partnerships, corporations, limited liability companies, limited liability partnerships, joint ventures, and all other legal entities of any kind or nature.

Public works director means the duly appointed public works director or designee.

Residential property means any lot, parcel, or farmstead home site developed exclusively for residential purposes including, but not limited to, single family homes, manufactured homes, duplex units, multifamily apartment and condominium units, but not including transient rentals (such as hotels and motels).

Single family home means any residential property consisting of a single dwelling unit.

Storm water management program means activities required to control storm water runoff to protect the health, safety, and welfare of the public, and to comply with state and federal regulations. It includes construction and maintenance of physical infrastructure as well development, implementation and management of policies, procedures and programs necessary for regulatory compliance. It includes but is not limited to street sweeping, erosion control, storm water basin improvements and maintenance, culvert and storm sewer maintenance, storm water testing, storm water management planning and related public education.

Storm water system means the system of streets, curbs, gutters, berms, swales, detention and retention ponds or basins, infiltration basins, pipes, outfalls, inlets, and other components of infrastructure owned and/or maintained by the municipality for the purpose of managing, gathering, transmitting, treating or conveying storm water. This term includes tributaries, creeks, rivers, and streams.

Storm water management utility means the utility established under this article for the purpose of managing storm water and imposing charges for the recovery of costs connected with such storm water management.

Storm water management utility charge means the fee imposed under this article for the rendering of services by the storm water management utility.

Undeveloped property means property that has not been altered from its natural state by the addition of any improvements such as a building, structure, impervious surface, change of grade or landscaping; agricultural use of property; or property that has been graded for residential or commercial development but does not contain buildings, structures, or other

improvements. For new construction, a property shall be considered developed upon issuance of a building occupancy permit.

Village means the Village of Union Grove, Racine County, Wisconsin.

Village board means the village board of the Village of Union Grove, Racine County, Wisconsin or designee.
(Ord. No. 2010-05, § 1, 8-23-10)

Sec. 106-406. Utility rates and charges.

(a) By this article, the village is establishing the basis for the rates that will be used to calculate and impose a charge upon each developed lot or parcel within the village for services and facilities provided by the village board consistent with this article.

(b) The actual rate of charges to be imposed and any future changes in those rates for each customer classification shall be made by resolution. All rates established pursuant to this article shall be fair and reasonable. A schedule of current charges shall be maintained and on file in the office of the village clerk.

(c) Charges shall be imposed to recover all or a portion of the costs incurred by the village for storm water management. Such charges may include the following components:

- (1) *Equivalent runoff unit (ERU) charge.* The ERU charge shall be assessed for each developed property in the village based upon the amount of impervious area as reasonably determined by the village engineer. The village engineer shall be responsible for determining the impervious area based on the best available information, including, but not limited to, data supplied by the municipal assessor, aerial photography, satellite imagery, the property owner, tenant, or developer. The formula for the ERU charge shall reflect that of a typical single-family unit.
 - a. The charge imposed for a single-family structure shall be the rate for one ERU.
 - b. The charge imposed for duplex residential properties shall be the rate of one-half ERU for each individual dwelling unit existing on the property.
 - c. Multifamily residential property will be charged multiples of the ERU based on the impervious area. The factor shall be rounded to the nearest 0.1. The minimum charges for any nonresidential parcel shall be equal to the rate for one ERU.
 - d. Other units of property (non-residential, commercial, industrial and tax exempt) will be charged multiples of the ERU based on the impervious area. The factor shall be rounded to the nearest 0.1. The minimum charges for any nonresidential parcel shall be equal to the rate for one ERU.

- e. Owners of multi-unit, non-residential properties wishing to have the utility fee billed to the individual units within the property shall provide the village with documentation demonstrating the equitable distribution of the fee to the individual units.
 - f. Farmstead home sites shall be classified as single-family residential parcels, and charged one ERU.
- (2) *Special charge (SC).* A special charge or assessment may be imposed on property that is in a specific area benefited by a particular storm water management facility pursuant to Wis. Stats. § 66.0627. The special charge will be developed to reflect the benefits/services in a particular area that may not be appropriate to spread to property throughout the village.

(Ord. No. 2010-05, § 1, 8-23-10)

Sec. 106-407. Customer classifications.

(a) For purposes of imposing the storm water management utility charges, all lots and parcels within the village are classified into the following customer classes:

- (1) Residential--Single-family.
- (2) Residential--Duplex.
- (3) Residential--Multifamily.
- (4) Nonresidential.
- (5) Agricultural/park/undeveloped.

(b) The village engineer shall prepare a list of lots and parcels within the village and assign such appropriate classification to each lot or parcel. The billing amount shall be updated by the treasurer based on any additions to the impervious area as approved through the building permit process.

(c) The village board may make such other classifications in accordance with this article as will be likely to provide reasonable and fair distribution of the costs of the storm water management utility.

(Ord. No. 2010-05, § 1, 8-23-10)

Sec. 106-408. Billing.

(a) The village treasurer shall take all steps necessary to invoice all charges and collect all storm water management utility payments for the storm water management utility. The treasurer may contract for the billing and collection of storm water fees. The treasurer shall allocate the actual cost incurred of billing and collecting to the expense of system-wide management and administration of the storm water management utility.

(b) Storm water management utility charges shall be allocated to the property served and included on the quarterly utility bill for each property. Billings for storm water

management utility charges shall be mailed to the designated utility bill recipient, but this mailing shall not relieve the owner of the property from liability for rental property in the event payment is not made as required in this article. The owner of any property served which is occupied by tenants shall have the right to examine collection records of the village for the purpose of determining whether such charges have been paid by such tenants, provided that such examination shall be made at the office at which the records are kept and during the hours that such office is open for business. Billings for storm water management utility charges shall be mailed to owners of record for tax-exempt property.
(Ord. No. 2010-05, § 1, 8-23-10)

Sec. 106-409. Penalties; lien.

Storm water management utility charges shall not be payable in installments. If storm water management utility charges remain unpaid after a period of 30 days from the date the utility bill was mailed, such bill shall be determined delinquent. The village may collect delinquent charges under Wis. Stats. §§ 66.0821(4) and 66.0809(3). All delinquent charges shall be subject to a one and one-half percent penalty per quarter in addition to all other charges, including prior penalties or interest that exist when the delinquent charge is extended upon the tax roll as a delinquent tax against the real property. An additional ten percent penalty shall be added to any delinquent charges added to the tax bill.
(Ord. No. 2010-05, § 1, 8-23-10)

Sec. 106-410. Credits and adjustments.

Credits and adjustments may be available to individual nonresidential property owners. It shall be the burden of the nonresidential property owner to request such a credit and/or adjustment and to demonstrate to a reasonable degree of certainty with evidence that a fee credit and/or adjustment is warranted. All applications for credits and adjustments shall be reviewed by the public works director.

(1) Credits.

- a. *Eligibility.* A property owner may be eligible for a credit, in the form of a reduced ERU multiplier, for a property where all of the following conditions apply subject to the discretion, authority and approval of the village board.
 1. The village's cost of providing service or making service available to the property has been lessened.
 2. The property conforms to all applicable codes and standards of the village in effect at the time of parcel development.
 3. The property has been assigned a nonresidential or multi-family residential user classification by the treasurer. Single- and two-family residential properties are not eligible for credits.

- b. *Maximum credit.* The maximum aggregate credit for any individual property is 50 percent of its ERU charge, regardless of how many credits the property may otherwise be qualified to receive.
 - c. *Credit types.* The following credits may be available for a property that meets all eligibility requirements:
 - 1. *Zero discharge credit.* Credits shall be considered for properties that discharge storm water directly into a water body not maintained in any way by the village, or directly into a water body downstream of where it is maintained by the village, or is otherwise contained entirely upon the property.
 - 2. *Peak discharge credit.* Credits shall be considered for owners who maintain private storm water management facilities such as retention or detention basins that exceed state and local discharge rate requirements applicable to the site.
 - 3. *Water quality credit.* Credits shall be considered for owners who maintain private storm water management facilities that improve the quality of runoff from the property to a degree that exceeds state and local water quality requirements applicable to the site.
- (2) *Adjustments.* An owner may be eligible to have the number of ERUs assigned to the owner's property adjusted under the following conditions:
- a. *Nonresidential property.* The owner of a nonresidential property who believes the number of ERUs allocated to such property to be incorrect may submit an adjustment request to the village treasurer. The allocated ERUs may be adjusted if the owner can provide information showing that the impervious area measurement is incorrect.
 - b. *Undeveloped property.* The owner of any property that can show the property to be in an undeveloped natural state with no built impervious area may request that the property status be changed to exempt.
 - c. *No adjustment shall be considered for any natural features, such as but not limited to, wetlands, lakes and floodplains, or water impoundments of any kind in existence prior to passage of this article.*

(Ord. No. 2010-05, § 1, 8-23-10)

Sec. 106-411. Exemptions.

Public rights-of-way and railroad rights-of-way are considered part of the village's storm water conveyance system and are therefore exempt from the storm water management utility management fee. However, municipal and railroad facilities, including buildings, parking lot, storage yards, or other developed land are not exempt from the storm water management utility management fee.

(Ord. No. 2010-05, § 1, 8-23-10)

Sec. 106-412. New construction.

(a) Except for single-family structures, a property owner shall be responsible for submitting a storm water management utility service application at the time a building permit application is submitted or a site plan review is conducted, whichever occurs sooner. The application shall be made on a form prescribed by the village and provided with each application for a building permit or application for site plan review. No building permit shall be issued until such application is submitted and approved by the public works director or his designee.

(b) The property owner shall be responsible for submitting record drawings and/or site inspections to prove improvements have been constructed per approved plan. Any deficiencies may result in site improvements and/or revocation of storm water management utility credits.

(c) The property owner shall be liable for all storm water charges attributable to such property from the date of commencement of construction.

(Ord. No. 2010-05, § 1, 8-23-10)

Sec. 106-413. Method of appeal.

The village elects not to be subject to the administrative review provisions contained in Wis. Stats. ch. 68, except as set forth below, and establishes the following as a complete and final review procedure. Appeals shall be limited to the customer classification determination, a determination of ERU's, or ERU credits made for the calculation of total impervious area for nonresidential properties. There shall be no right of appeal as to the underlying findings and necessity of this article or the single-family unit charge as applied to any single-family, duplex, residential - multifamily, or residential condominium properties.

- (1) The storm water management utility charge may be appealed as follows:
 - a. A written appeal shall be filed with the village clerk prior to the storm water management utility charge due date; or
 - b. Within 30 days of payment, a written challenge to the storm water management utility charge must be filed with the village clerk on behalf of the customer, specifying all bases for the challenge and the amount of the storm water management utility charge the customer asserts is inappropriate. Failure to

file a challenge within 30 days of payment waives all right to later challenge the charge.

- c. The disputed charge shall be held in abeyance until the water, wastewater, and storm water/streets committee has made a determination pursuant to this section.
- (2) The water, wastewater, and storm water/streets committee will determine whether the storm water management utility charge is fair and reasonable, or whether a refund is due the customer. The water, wastewater, and storm water/streets committee may act with or without a hearing and will inform the customer in writing of its decision. The water, wastewater, and storm water/streets committee or their designee may, at its discretion, require access to the property to assist in its determination.
- (3) The customer has 30 days from the decision of the water, wastewater, and storm water/streets committee to file a written appeal to the village board.
- (4) In the event of an appeal, the village board shall hold a hearing as provided in Wis. Stats. §§ 68.11(2) and 68.11(3). The village board shall hold such hearing within 30 days of the appeal request, and shall notify the appellant of the hearing date no less than ten days notice in advance of the hearing. Within 20 days of the hearing and the filing of briefs, if any, the village board shall mail or deliver to the appellant its written final determination, setting forth, in detail, the reasons for its decision.
- (5) If the village board or water, wastewater, and storm water/streets committee determines that a refund is due the customer, the refund will be applied as a credit on the customer's next monthly storm water management billing, if the refund will not exceed the customer's next quarterly storm water management billing, or will be refunded at the discretion of the village clerk.
- (6) Public service commission complaint. Notwithstanding the above procedures, any user may file a complaint to the public service commission claiming that rates, rules and practices herein are unreasonable or unjustly discriminatory, pursuant to Wis. Stats. § 66.0821(5).

(Ord. No. 2010-05, § 1, 8-23-10)

Sec. 106-414. Budget excess revenues/reserves.

The storm water management utility revenues shall be accounted for in a separate storm water special revenue fund and upon the completion of a detailed accounting of all assets in a separate storm water enterprises fund maintained by the village. The utility shall prepare an annual budget, which is to include all administration, management, operation, maintenance,

debt service, capital improvement, and other costs related to the operation of the storm water management utility. The budget is subject to approval by the village board. The costs shall be spread over the rate classifications as determined by the village board. Any excess of revenues over expenditures in a year will be retained in a segregated storm water enterprise fund which shall be used exclusively for purposes consistent with this article for subsequent years' needs.

(Ord. No. 2010-05, § 1, 8-23-10)

**Chapters 107 - 109
Reserved**

Chapter 110 VEGETATION*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Secs. 110-1--110-25.	Reserved.		
Article II. Trees			
Sec. 110-26.	Penalty.		
Sec. 110-27.	Trimming.		
Sec. 110-28.	Hazardous and infected trees.	2021-09	10/25/2021
Sec. 110-29.	Planting of trees.		
Article III. Control of Weeds and Grasses		2012-05	08/27/12
Sec. 110-30.	Control of Weeds and Grasses	2012-05 2018-11	08/27/12 05/14/18

Article I. In General

Secs. 110-1--110-25. Reserved.

Article II. Trees

Sec. 110-26. Penalty.

The penalty for violation of this article shall be as provided in section 1-11.
(Code 1960, § 6.07(4))

Sec. 110-27. Trimming.

Trees standing in and upon any public street or place or upon any lot or land adjacent thereto shall be pruned and trimmed by the owner or occupant of the property on or in front of which such trees are growing, so that the lowest branches projecting over the public street or alley will provide a clearance of not less than 14 feet and a clearance of not less than ten feet over any public place and so that no dead, broken or otherwise hazardous branches shall be likely to fall and do injury to the public. Any tree not trimmed as provided in this section shall be deemed hazardous.
(Code 1960, § 6.07(1))

Sec. 110-28. Hazardous and infected trees.

Any tree or part thereof, which the director of public works shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants, or shrubs growing within the village or to be injurious to sewers, sidewalks or other public improvements whether growing upon public or private premises, shall be removed, trimmed or treated by the owner or abutting property owner upon or adjacent to which such tree or part thereof is located. The director of public works shall give written notice to the owner to remedy the situation, which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than 24 hours or more than 14 days, as determined by the director of public works on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim the tree within the time limit, the director of public works shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the village clerk, who shall thereupon enter such cost as a special charge against the property. Any owner or abutting property owner given a notice as provided in this section may by a written notice to the director, postpone the treatment or removal of the tree or part thereof by the village, and he shall have the right to appeal the order in the notice he received at the next regular session of the village board. The determination of the village board upon appeal of the order in the notice to the owner or abutting property owner shall be final. No damage shall be awarded to any owner or abutting property owner for the destruction of a tree or part thereof pursuant to this section.
(Code 1960, § 6.07(2))

***Cross references:** Buildings and building regulations, ch. 18; environment, ch. 42; manufactured homes and trailers, ch. 66; parks and recreation, ch. 74; planning, ch. 82;

streets, sidewalks and other public places, ch. 90; land divisions, ch. 94; zoning, ch. 118; landscaping in yards, § 118-992.

Sec. 110-29. Planting of trees.

(a) No trees, except the types named in subsection (b), shall be planted in or upon any public street or place. They shall be planted only after written permission has been received from the director of public works, which permit shall state the name of the applicant, his address, the property on which the trees are to be planted and the type to be planted. The director is expressly prohibited from issuing a permit for the planting of any tree where the distance between the outer line of the sidewalks and the curblin does not contain a width of five feet. The permit shall also state therein that the tree shall be planted equidistant between the curblin and the outer line of the sidewalk. The distance between trees shall be no closer than 25 feet and/or as determined by the plan commission and recommended for approval to the village board, and no tree shall be planted at the intersection of two or more streets or within 12 1/2 feet of each intersection of the lot lines on any corner lot.

(b) The following named trees and no other shall be planted in the streets of the village: Schwedler maple (*Acer platanoides* Schwedler), Norway maple (*Acer platanoides*), red or scarlet maple (*Acer vubrum*), sugar maple (*Acer saccharum*), American elm (*Ulmus Americana*), moline elm (*Ulmus Americana* var. Moline), scarlet oak (*Quercus palustria*), pin oak (*Quercus occiner*), red oak (*Quercus vubra*) and white ash (*Fraximus Americana*). The director shall have the right to allow planting of hybridized species of the hardwood trees named in this subsection. All of the trees named in this subsection shall have a diameter of not less than 1 1/4 inches at ground level.

(Code 1960, § 6.07(3); Amdmt. of 8-23-04)

Article III. Control of Weeds and Grasses

Sec. 110-30. Control of weeds and grasses.

(a) *Control required.* No person owning, occupying or controlling property within the village, whether developed or undeveloped, shall permit to grow or pollinate upon the premises, or upon any sidewalk or parkway abutting such premises, any noxious weeds or grasses. It shall be the duty of such person to destroy or cause to be destroyed all noxious weeds and grasses before they exceed nine (9) inches in height. This section does not apply to noxious weeds and grasses on property that the Village owns, occupies or controls.

(b) *Weed commissioner.* It shall be the duty of the weed commissioner to enforce this section. If any person shall fail to comply with this section, the commissioner shall, pursuant to Wis. Stat. § 66.0517, after five days' written notice to the owner of the property if notice is left on the front door or attached to a stake in the case of a vacant parcel, or 10 days if written notice is mailed by first class mail, destroy or cause to be destroyed the noxious weeds and grasses. The expense thereof, as well as the cost of sufficiently clearing the property so that it can be safely attended to, shall be charged against such property, with such charge being placed upon the tax roll as a special tax to be collected in the same manner as other taxes.

(c) *Definitions.*

“*Destroy*,” means the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, pasturing livestock, or any or all of these in effective combination, at a time and in a manner as will effectually prevent the weed plants from maturing to the bloom or flower stage. Destruction of noxious weeds and grasses by means of cutting shall be accomplished before the weeds or grasses exceed nine (9) inches in height.

“*Noxious weeds and grasses*” means and includes the following as well as those weeds defined in Wis. Stat. § 66.0407:

- Canada Thistle (*Cirsium Arvese*)
- Common Ragweed (*Ambrosia artemisiifolia*)
- Great Ragweed (*Ambrosia trifida*)
- Leafy Spurge (*Euphorbia esula*)
- Creeping Jenny (*Lysimachia nummularia*)
- Field Bindweed (*Convolvulus arvensis*)
- Goat’s Beard (*Aruncus dioicus*)
- Poison Ivy (*Rhus radicans*)
- Bull Thistle (*Cirsium vulgaries*)
- Wild Parsnip (*Pastinaca sativa*)
- Burdock (*Arctium minus*)
- Cocklebur (*Xanthium strumarium*)
- Pigweed (*Amaranthus retroflexus*)
- Common Lambsquarter (*Chenopodium album*)
- Curled Dock (*Rumex Crispus*)
- Hemp (*Cannabis sativa*)
- English Plantain (*Plantago lanceolata*)
- Smartweed (*Polygonum amphibium*)
- Dandelions (*Taraxacum*)
- Garlic Mustard (*Alliaria petiolate*)

Grasses exceeding nine (9) inches in height except where such grasses are incorporated into decorative landscaping and do not, in the opinion of the weed commissioner, pose a health or safety hazard.

(d) *Notice.* The Village President may annually on or before May 15 have the Village Clerk publish a class 2 notice, under ch. 985, that every person is required by law to destroy all noxious weeds and grasses exceeding nine (9) inches in height.

(e) *Statutory provisions adopted.* The provisions of Wis. Stat. §§66.0407 and 66.0517, so far as applicable, are hereby adopted by reference and made a part of this Code as fully as if set forth in this article.

(f) *Issuance of citation.* In all cases where the owner, occupant or person in control of any premises in the village has failed, neglected or refused to destroy and/or remove the noxious weeds and grasses on such premises and/or abutting sidewalk or parkway, the weed commissioner or designee may issue a citation to the person notified under subsection(b). The citation may be served simultaneously with the weed order.

(g) *Payment of forfeiture in lieu of court appearance.* Any person charged with a violation of the offenses listed under subsection (a) of this section may pay the amount enumerated therein at the Village Court Clerk's office in lieu of a court appearance. Persons wishing to contest charges contained in subsection (a) of this section may contact the Village Court Clerk to arrange a court appearance date.

(h) *Penalty.* In addition to any other charges assessed under this section, any person found violating subsection (a) of this section shall forfeit not less than \$50 together with the costs of prosecution.

**Chapters 111 - 113
Reserved**

Chapter 114 VEHICLES FOR HIRE*

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Secs. 114-1--114-25.	Reserved.		
Article II. Taxicabs			
Division 1. Generally			
Sec. 114-26.	Definitions.		
Sec. 114-27.	Penalties.		
Sec. 114-28.	Markings.		
Sec. 114-29.	Rates of fare.		
Secs. 114-30-114-55.	Reserved.		
Division 2. Business License			
Sec. 114-56.	Required.		
Sec. 114-57.	Application.	2021-09	10/25/2021
Sec. 114-58.	Fee.	2021-09	10/25/2021
Sec. 114-59.	Insurance.	2021-09	10/25/2021
Sec. 114-60.	Age of vehicle.		
Sec. 114-61.	Approval and term.	2021-09	10/25/2021
Sec. 114-62.	Inspection of vehicle and statement of mechanical condition.		
Sec. 114-63.	Transferability.		
Sec. 114-64.	Revocation.	2021-09	10/25/2021
Secs. 114-65-114-90.	Reserved.		
Division 3. Taxicab Driver's License			
Sec. 114-91.	Required; application.	2021-09	10/25/2021
Sec. 114-92.	Issuance and renewal.	2021-09	10/25/2021
Sec. 114-93.	Renewal application.		
Sec. 114-94.	Revocation.		

***Cross references:** Businesses, ch. 22; streets, sidewalks and other public places, ch. 90; traffic and vehicles, ch. 102.

Article I. In General

Secs. 114-1--114-25. Reserved.

Article II. Taxicabs

Division 1. Generally

Sec. 114-26. Definitions.

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

Taxicab includes all vehicles transporting passengers for remuneration for which patronage is solicited publicly. This article shall not be applicable to vehicles:

- (1) Operating on established routes which are regulated by the state public service commission;
- (2) Rented, to be driven by the renter or his agent, commonly known as rent-a-cars; or
- (3) Operated solely as funeral cars or ambulances.

(Code 1960, § 11.06(1))

Cross references: Definitions generally, § 1-2.

Sec. 114-27. Penalties.

Any person violating this article shall, upon conviction, forfeit not less than \$1.00 or more than \$200.00 for each offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until the forfeiture and costs are paid, but not to exceed 30 days for each violation. Each day that a violation continues to exist shall constitute a separate offense. (Code 1960, § 11.06(15))

Sec. 114-28. Markings.

- (a) Every taxicab shall be marked in one of the following ways:
 - (1) The front door of each side of the vehicle shall have the word "taxicab" conspicuously painted thereon in letters at least two inches in height, using a light color on a dark background and a dark color on a light background; or
 - (2) By a dome lighted from within placed on the roof of the vehicle above the windshield; such dome having the word "taxi" or "taxicab" thereon at least three inches in height and visible during any time of the day or night.

(b) In addition to subsection (a) of this section, each taxicab operator shall post a card containing the rates of fare in a conspicuous place in the interior of the vehicle so as to be visible to the passenger.

(Code 1960, § 11.06(13))

Sec. 114-29. Rates of fare.

Taxicab fare shall be charged according to the zone system.

(Code 1960, § 11.06(14))

Secs. 114-30--114-55. Reserved.

Division 2. Business License

Sec. 114-56. Required.

No person shall for remuneration transport passengers in a taxicab within the village without first having obtained a taxicab license.

(Code 1960, § 11.06(2))

State law references: Authority to license taxicabs generally, Wis. Stats. § 349.24.

Sec. 114-57. Application.

(a) Application shall be made in writing to the village clerk for the taxicab license. The application shall state the full name of the applicant; his address; the make, model and serial number of the vehicle the applicant proposes to operate; and the state license number of the vehicle. In addition, the application must also have attached thereto a statement that the vehicle covered in the application has been mechanically inspected and is in good, safe mechanical condition as required by Wis. Stats. ch. 347. The inspection must be made and the statement of mechanical condition signed by a competent and reputable mechanic or auto repair garage operator doing business within the village or approved by the village board as being qualified to make such inspection. The inspection must be made and the statement signed within seven days prior to the application of the taxicab license being made to the village clerk.

(b) Application for renewal of an existing license shall be made in the same manner, including complying with the mechanical inspection as for the original license.

(Code 1960, § 11.06(3))

Sec. 114-58. Fee.

The taxicab license fee shall be as provided in the fee schedule on file in the village clerk's office for each taxicab, to be paid at the time of filing the license application. The fee shall be refunded if the license application is denied.

(Code 1960, § 11.06(4))

Sec. 114-59. Insurance.

No taxicab license shall be issued until the applicant deposits with the village clerk a policy of liability insurance covering all vehicles to be included under the license. Such policy shall describe each vehicle by make, model and serial number; the number of passengers capable of being accommodated therein at one time; and the number of the state vehicle license. Such insurance policy shall be issued by a company licensed to do business in the state and shall insure the licensee against loss from liability for the injury or death of one person in any one accident, and for the injury or death of more than one person in any one accident, and for damage to the property or others for any one accident due to the negligent operation of such vehicle. The amounts of insurance required are as provided in the fee schedule on file in the village clerk's office. The policy of insurance shall be approved by the village attorney as to legal form before it is filed and shall contain a provision that the policy may not be cancelled before the expiration of its term, except upon ten days' written notice to the village clerk. The cancellation or other termination of any insurance policy issued in compliance with this section shall automatically revoke and terminate such license covered by such insurance policy, unless another policy shall have been filed and approved pursuant to this section and shall be in effect at the time of such cancellation or termination.

(Code 1960, § 11.06(6))

Sec. 114-60. Age of vehicle.

No taxicab license will be granted or renewed on any vehicle of a vintage of six years or over as of the date of issuance of the license.

(Code 1960, § 11.06(3)(d))

Sec. 114-61. Approval and term.

The village clerk shall present each taxicab license application, with the attached statement of mechanical condition, to the village board at its next regular meeting. The village board shall approve such application after the hearing at the meeting evidencing that public convenience and necessity would be served thereby, and also after determining that all sections of this article as to the application, statement of mechanical condition, license fee and insurance have been complied with and that the applicant and the vehicle to be licensed comply with the requirements of Wis. Stats. § 347.01 et seq., known as the Equipment of Vehicle Code, as to having proper equipment on the vehicle. Such license, when issued, shall expire one year from the date of issuance, and shall be issued by the village clerk at the direction of the village board.

(Code 1960, § 11.06(5))

Sec. 114-62. Inspection of vehicle and statement of mechanical condition.

After a taxicab license has been issued, either as the original license or as a renewal license, the licensee shall, at intervals of six months beginning with the date of issuance of the license, file a statement as to the mechanical condition of the vehicle licensed in the same manner as required for the original application. The village board may order subsequent inspections of less than six months if deemed necessary to protect the public safety. All statements of subsequent inspections must be filed within seven days after the inspection is had.

(Code 1960, § 11.06(3)(c))

Sec. 114-63. Transferability.

No taxicab license shall be transferable from the original licensee to another person. However, a license may be transferred by the licensee from the original vehicle licensed to an additional vehicle or to a replacement vehicle, provided that such additional or replacement vehicle is inspected and a statement of mechanical condition is filed in the same manner as required for an original license and that the village board approves such transfer.
(Code 1960, § 11.06(7))

Sec. 114-64. Revocation.

A taxicab license may be revoked at any time by the village board for violation of any of the sections of this article. If any vehicle licensed under this article fails to be certified as being of good, safe mechanical condition under section 114-62 at any time, the license shall be forthwith revoked as to further operation of the vehicle until certified as being in good, safe mechanical condition. The license may also be revoked for violation of Wis. Stats. § 347.01 et seq. or of local ordinances enacted in conformity with the statute. Such revocation may be for any or all vehicles included under a license. When the license is revoked, the village clerk shall forthwith notify the licensee in person or in writing to immediately cease operating the taxicab for which the license is revoked, and the licensee shall thereupon cease operation.
(Code 1960, § 11.06(8))

Secs. 114-65--114-90. Reserved.**Division 3. Taxicab Driver's License****Sec. 114-91. Required; application.**

(a) No person shall operate a taxicab unless he shall possess a valid taxicab driver's license.

(b) Each applicant shall submit to the village clerk a statement of the applicant's full name, present residence, residence for the past three years, age, weight, height, race, color of eyes and hair, citizenship, place of last employment, motor vehicle operator's license number from this state, a statement as to whether the applicant has ever been convicted of a felony or a misdemeanor with details as to such convictions if any, and the name of the prospective employer.

(c) No license shall be granted to anyone under 21 years of age; to anyone who does not possess a valid motor vehicle operator's license from this state; or to anyone who has been convicted of a felony or of driving a vehicle upon the public highway under the influence of an intoxicant, narcotic or barbiturate or of reckless driving, unless two years have elapsed since such conviction.

(d) The fee for such taxicab driver's license shall be as provided in the fee schedule on file in the village clerk's office, and the license shall expire one year from the date of issuance.

(e) At the time of filing the application with the village clerk, the applicant shall pay the fee and shall also present to the clerk a photograph not less than 1 1/2 inches square of

the applicant taken full face. The photograph shall be affixed by the clerk to the license, when issued, and the license with photograph will be displayed in a conspicuous place in the taxicab where it can be seen by the passenger when the licensee is operating the taxicab.

(f) The village clerk shall maintain a complete record of each license issued to a driver and of all renewals, suspensions and revocations, which record shall be filed with each application.

(Code 1960, § 11.06(9))

Sec. 114-92. Issuance and renewal.

All taxicab driver's licenses shall be issued and renewed by the village clerk. However, the clerk shall report the names of persons issued the licenses at the meeting of the village board next after the date of issuance or renewal.

(Code 1960, § 11.06(11))

Sec. 114-93. Renewal application.

A taxicab driver's license may be renewed upon filing a renewal application and payment of the annual fee.

(Code 1960, § 11.06(10))

Sec. 114-94. Revocation.

(a) The village board shall revoke a taxicab driver's license if the licensee has made a material misrepresentation or misstatement in the application for the license or renewal or has, since granting of or renewal of a license:

- (1) Been convicted of a felony;
- (2) Been convicted of driving while under the influence of an intoxicant, narcotic or barbiturate or of reckless driving; the conviction being under the laws of any state or local ordinances in conformity therewith;
- (3) Had his motor vehicle operator license or chauffeur's license issued by this state revoked or suspended; or

(b) When for the preservation of the public safety and welfare, the village board shall revoke the license if it finds the licensee unfit to operate a taxicab.

(c) Written notice of revocation shall be given the licensee, and the licensee shall forthwith cease operating a taxicab. However, any licensee may, within ten days after receiving such written notice of such revocation, appeal to the village board for a hearing thereon, and the village board shall hold a hearing and thereafter affirm or reverse the revocation.

(Code 1960, § 11.06(12))

Chapters 115 - 117
Reserved

Chapter 118 Zoning

(Recodified 02/27/17; Ordinance No. 2017-01)

Section Number	Title	Ordinance Number	Date of Ordinance
Article I. In General			
Sec. 118-1.	Definitions.		
Sec. 118-2.	Statutory authority.		
Sec. 118-3.	Purpose.		
Sec. 118-4.	Intent.		
Sec. 118-5.	Abrogation and greater restrictions.		
Sec. 118-6.	Interpretation.		
Sec. 118-7.	Jurisdiction.		
Sec. 118-8.	Compliance.		
Sec. 118-9.	Severability and nonliability.		
Sec. 118-10.	Violations and penalties.		
Sec. 118-11.	Public nuisances.		
Sec. 118-12.	Public utilities.		
Sec. 118-13.	Use regulation.		
Sec. 118-14.	Location of building on lot.		
Sec. 118-15.	Existing permits issued.		
Sec. 118-16.	Adult-oriented establishments.		
Secs. 118-17. – 118-40.	Reserved.		
Article II. Administration and Enforcement			
Division 1. Generally			
Secs. 118-41. – 118-65.	Reserved.		
Division 2. Zoning Administrator			
Sec. 118-66.	Designated; duties.		
Secs. 118-67.	Deputies.		
Secs. 118-68. – 118.95.	Reserved.		
Division 3. Board of Appeals			
Sec. 118-96.	Established; composition; appointments.		
Sec. 118-97.	Alternate members.		
Sec. 118-98.	Vacancies; removal.		
Sec. 118-99.	Rules of procedure.		
Sec. 118-100.	Minutes.		
Sec. 118-101.	Powers.		
Sec. 118-102.	Appeals to board.		
Sec. 118-103.	Application.	2021-09	10/25/2021
Sec. 118-104.	Hearings.		

Sec. 118-105.	Powers of the Board of Appeals in Floodplain Appeals.
Sec. 118-106.	Variances.
Sec. 118-107.	Decisions.
Sec. 118-108	Review of decisions by court.
Secs. 118-109 – 118-135.	Reserved.

Division 4. Permits and Certificate of Compliance

Sec. 118-136.	Zoning permit.		
Sec. 118-137.	Certificate of compliance.		
Sec. 118-138.	Conditional use permit.	2021-11	12/13/2021
Sec. 118-139.	Other permits.		
Sec. 118-140.	Public utilities exemption.		
Sec. 118-141.	Plat of survey.		
Sec. 118-142.	Fees.	2021-09	10/25/2021
Sec. 118-143.	Payment of village expenses.		
Secs. 118-144 – 118-170.	Reserved.		

Division 5. Amendments

Sec. 118-171.	Authority.		
Sec. 118-172.	Initiation.		
Sec. 118-173.	Petitions.	2021-09	10/25/2021
Sec. 118-174.	Recommendation of plan commission.		
Sec. 118-175.	Hearings.	2018-05	04/02/2018
Sec. 118-176.	Village board's action.		
Sec. 118-177.	Repealed.		
Sec. 118-178.	Protest.		
Secs. 118-179. – 118-205.	Reserved.		

Article III. Nonconforming Uses and Structures

Sec. 118-206.	Existing nonconforming uses. .
Sec. 118-207.	Changes and substitutions.
Sec. 118-208.	Conforming structures on nonconforming lots.
Sec. 118-209.	Nonconforming structures on a conforming or nonconforming lots.
Sec. 118-210.	Vacant nonconforming lots.
Secs. 118-211. - 118-240.	Reserved.

Article IV. Districts

Division 1. Generally

Sec. 118-241.	Established.		
Sec. 118-242.	Map.	2021-09	10/25/2021
Sec. 118-243.	District boundaries.		
Sec. 118-244.	Use of scale.		
Sec. 118-245.	Overlay zoning districts.		
Sec. 118-246.	Effect of annexation.		
Secs. 118-247. – 118-275.	Reserved.		

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

Sec. 118-276.	Uses.
Sec. 118-277.	Area, height, building size and yards in RS-90 district.
Sec. 118-278.	Area, height, building size and yards in RS-80 district.
Secs. 118-279. – 118-310.	Reserved.

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

Sec. 118-311.	Intent.
Sec. 118-312.	Uses.
Sec. 118-313.	Area, height, building size and yards in RD-90 district .
Sec. 118-314.	Area, height, building size and yards in RD-80 district
Secs. 118-315 – 118-345.	Reserved.

Division 4.
RM Multiple-Family Residence District

Sec. 118-346.	Intent.		
Sec. 118-347.	Uses.	2021-11	12/13/2021
Sec. 118-348.	Area, height, building size and yards.		
Secs. 118-349. – 118-380.	Reserved.		

Division 5.
C-1 General Commercial District

Sec. 118-381.	Intent.		
Sec. 118-382.	Uses.	2021-11	12/13/2021
Sec. 118-383.	Area, height and yards.		
Secs. 118-384. – 118-415.	Reserved.		

Division 6.
C-2 Highway Commercial District

Sec. 118-416.	Intent.
Sec. 118-417.	Uses.
Sec. 118-418.	Area, height and yards.
Secs. 118-419 – 118-450.	Reserved.

Division 7.
C-3 Office and Professional Business District

Sec. 118-451.	Intent.
Sec. 118-452.	Uses.
Sec. 118-453.	Area height and yards.
Sec. 118-454.	Submission of plans and specifications to plan commission.
Secs. 118-455. – 118-485.	Reserved.

Division 8. I-1 Light Industrial District

Sec. 118-486.	Intent.		
Sec. 118-487.	Uses.	2020-06	06/01/2021
Sec. 118-488.	Standards and Plan Commission review.	2021-11	12/13/2021
Sec. 118-489.	Area, height and yards.	2020-06	06/01/2021
Secs. 118-490 – 118-518.	Reserved.		

Division 9. I-2 Heavy Industrial District

Sec. 118-519.	Intent.		
Sec. 118-520.	Uses.	2020-06	06/01/2021
Sec. 118-521.	Standards and Plan Commission review.	2021-11	12/13/2021
Sec. 118-522.	Area, height and yards.	2020-06	06/01/2021
Secs. 118-523. – 118-555.	Reserved.		

Division 10. MH Mobile/Manufactured Home District

Sec. 118-556.	Intent.
Sec. 118-557.	Uses.
Secs. 118-558. – 118-590.	Reserved.

Division 11. PC Park and Conservancy District

Sec. 118-591.	Intent.
Sec. 118-592.	Uses.
Sec. 118-593.	Setbacks and dimensional requirements; approval of use.
Secs. 118-594. – 118-625.	Reserved.

Division 12. P-1 Institutional Park District

Sec. 118-626.	Uses.
Sec. 118-627.	Area requirements.
Sec. 118-628.	Yard setback requirements.
Secs. 118-629. – 118-660.	Reserved.

Division 13. A Agricultural District

Sec. 118-661.	Intent.
Sec. 118-662.	Uses.
Sec. 118-663.	Area, height and yards.
Secs. 118-664. – 118-695.	Reserved.

Division 14. PUD Planned Unit Development Overlay District

Sec. 118-696.	Intent.		
Sec. 118-697.	Uses.		
Sec. 118-698.	Minimum requirements.	2018-06	05/29/2018
Sec. 118-699.	Lot area, width and yard requirements.		
Sec. 118-700.	Road width.		
Sec. 118-701.	Waste collection.		

Sec. 118-702.	Building height and area.		
Sec. 118-703.	Procedural requirements.	2021-09	10/25/2021
Sec. 118-704.	Basis for approval of petition.		
Sec. 118-705.	Determination of disposition of application		
Sec. 118-706.	Approvals.		
Secs. 118-707.	The Granary Planned Unit Development	2018-09	05/29/18
Secs. 118-708. – 118.740.	Reserved.		

Division 15. Reserved for Future Use

Secs. 118-741. – 118.750.	Reserved.
---------------------------	-----------

Division 16. Design Guidelines Area Overlay District

Sec. 118-751.	Purpose and intent.		
Sec. 118-752.	Definitions.		
Sec. 118-753.	Mapped district.		
Sec. 118-754.	Land uses.		
Sec. 118-755.	Scope.		
Sec. 118-756.	Applicability.	2021-08	09/13/21
Sec. 118-757	Design review.	2021-08	09/13/21
Secs. 118-758 – 118.790.	Reserved.		

Article V. Supplementary District Regulations

Division 1. Generally

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

Division 2. Site Restrictions

Sec. 118-816.	Unsuitable site.		
Sec. 118-817.	Lot requirements.		
Sec. 118-818.	Floodland.		
Sec. 118-819.	Area regulations.		
Sec. 118-820.	Reduction or joint use.		
Sec. 118-821.	Site plan and architectural review.		
Sec. 118-822.	Plans of operation.	2021-11	12/13/21
Secs. 118-823. – 118-845.	Reserved.		

Division 3. Uses

Subdivision I. In General

Sec. 118-846.	Applicability.		
Sec. 118-847.	Principal uses.		
Sec. 118-848.	Accessory uses and structures.		
Sec. 118-849.	Conditional uses and their accessory uses.		
Sec. 118-850.	Unclassified or unspecified uses.		
Sec. 118-851.	Temporary uses.		
Sec. 118-852.	Parking of vehicles accessory to residential use.		
Sec. 118-853.	Home occupations.		
Sec. 118-854.	Solar energy systems.		
Sec. 118-855.	Tourist Rooming houses.	2022-02	05/09/2022

Sec. 118-856.	Wind energy collection, storage and electric production devices.
Sec. 118-857.	Regulation on rummage/garage sales.
Secs. 118-858. – 118-880.	Reserved.

Subdivision II. Conditional Uses

Sec. 118-881.	Right to conditional uses.		
Sec. 118-882.	Application.		
Sec. 118-883.	Referral to plan commission.		
Sec. 118-884.	Public hearing.		
Sec. 118-885.	Standards for review.		
Sec. 118-886.	Decisions.	2021-09	10/25/2021
Sec. 118-887.	Report to village board.		
Sec. 118-888.	Written decisions.		
Sec. 118-889.	Expiration.		
Secs. 118-900. – 118-915.	Reserved.		

Division 4. Performance Standards

Sec. 118-916.	Compliance.		
Sec. 118-917.	Air pollution.		
Sec. 118-918.	Fire and explosive hazards.		
Sec. 118-919.	Glare and heat.		
Sec. 118-920.	Water quality protection.		
Sec. 118-921.	Noise.	2020-03	03/09/20
Sec. 118-922.	Odors.		
Sec. 118-923.	Radioactivity and electrical disturbances.		
Sec. 118-924.	Vibration.		
Secs. 118-925. – 118-950.	Reserved.		

Division 5. Height and Structures

Sec. 118-951.	Applicability of division.
Sec. 118-952.	Architectural projections.
Sec. 118-953.	Special structures.
Sec. 118-954.	Agricultural structures.
Sec. 118-955.	Solar access.
Sec. 118-956.	Differing grades.
Sec. 118-957.	Through lots.
Sec. 118-958.	Basements.
Secs. 118-959. – 118-985.	Reserved.

Division 6. Yards

Sec. 118-986.	Use for only one building.
Sec. 118-987.	Abutment on district boundary
Sec. 118-988.	Fences, walls and hedges.
Sec. 118-989.	Accessory uses.
Sec. 118-990.	Parking.
Sec. 118-991.	Utilities.
Sec. 118-992.	Landscaping.
Sec. 118-993.	Street yard.
Sec. 118-994.	Obstructions.
Sec. 118-995.	Projections in yard.
Sec. 118-996.	Vision triangles.
Secs. 118-997. – 118.1025.	Reserved.

Division 7. Traffic and Parking

Sec. 118-1026.	Definitions.
Sec. 118-1027.	General requirements for off-street parking.
Sec. 118-1028.	Minimum number of off-street parking spaces.
Sec. 118-1029.	Driveways.
Sec. 118-1030.	Loading requirements.
Secs. 118-1031. – 118-1065.	Reserved.

Article VI. Reserved

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

Article VII. Signs and Graphics

Sec. 118-1110.	Intent and purpose.		
Sec. 118-1111.	General prohibition.		
Sec. 118-1112.	Signs – Definitions.		
Sec. 118-1113.	Signs permitted in all zoning districts without a permit.		
Sec. 118-1114.	Signs permitted in individual zoning districts with a permit.		
Sec. 118-1115.	Signs permitted in residential districts with a permit.		
Sec. 118-1116.	Signs permitted in business, industrial park and institutional districts with a permit.	2021-08	09/13/21
Sec. 118-1117.	Obsolete signs.		
Sec. 118-1118.	Signs permitted in conservancy and floodplain zoning districts with a permit.		
Sec. 118-1119.	Special restrictive provisions.		
Sec. 118-1120.	Searchlights/balloons.		
Sec. 118-1121.	Illumination, design and color.		
Sec. 118-1122.	Existing signs.		
Sec. 118-1123.	Administration.		
Sec. 118-1124.	Inspection and removal of signs.		
Sec. 118-1125.	Maintenance of signs.		
Sec. 118-1126.	Sign structure construction standards.		
Sec. 118-1127.	Permit fees.	2021-08	09/13/21
Secs. 118-1128. – 118-1150.	Reserved.		

Article VIII. Mobile Tower Siting

Sec. 118-1151.	Definitions.
Sec. 118-1152.	Purpose.
Sec. 118-1153.	Amateur and citizen band towers.
Sec. 118-1154.	Application submittal requirements – new mobile service support structures.
Sec. 118-1155.	Application process – new mobile service support structures.
Sec. 118-1156.	Technical review.
Sec. 118-1157.	Abandonment.
Sec. 118-1158.	Security for removal.
Sec. 118-1159.	Continued compliance.
Sec. 118-1160.	Use of existing structures.
Sec. 118-1161.	Application submittal requirements – Class 1 Collocations.

Sec. 118-1162.	Application process – Class 1 Collocation.
Sec. 118-1163.	Application submittal requirements – Class 2 Collocation.
Sec. 118-1164.	Application process – Class 2 Collocation.
Sec. 118-1165.	Application process – liability.
Sec. 118-1166.	Site specifics.
Sec. 118-1167.	Severability.
Sec. 118-1168.	Fees.
Sec. 118-1169.	Reserved.

Article IX. Floodplain Regulations

Sec. 118-1170.	Statutory authorization, finding of fact, statement of purpose, title and general provisions.	2019-03	01/14/2019
Sec. 118-1171.	General standards applicable to all floodplain districts.		
Sec. 118-1172.	Floodway District (FW).		
Sec. 118-1173.	Floodfringe District (FF).		
Sec. 118-1174.	General Floodplain District (GFP).		
Sec. 118-1175.	Nonconforming uses.		
Sec. 118-1176.	Administration.		
Sec. 118-1177.	Amendments.		
Sec. 118-1178.	Enforcement and penalties.		
Sec. 118-1179.	Definitions.		
Secs. 118-1180. – 118-1189.	Reserved.		

Article I. In General

Sec. 118-1. Definitions.

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

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

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

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

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

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

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

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

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

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

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

Bed and breakfast establishment means any place of lodging that provides rooms for rent to guests for overnight stay, is occupied by the owner or his employee at the time of rental, and in which guests are provided breakfast as a part of the room accommodation. "Breakfast" shall mean any meal provided or served between 6:00 a.m. and 11:00 a.m.

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

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

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

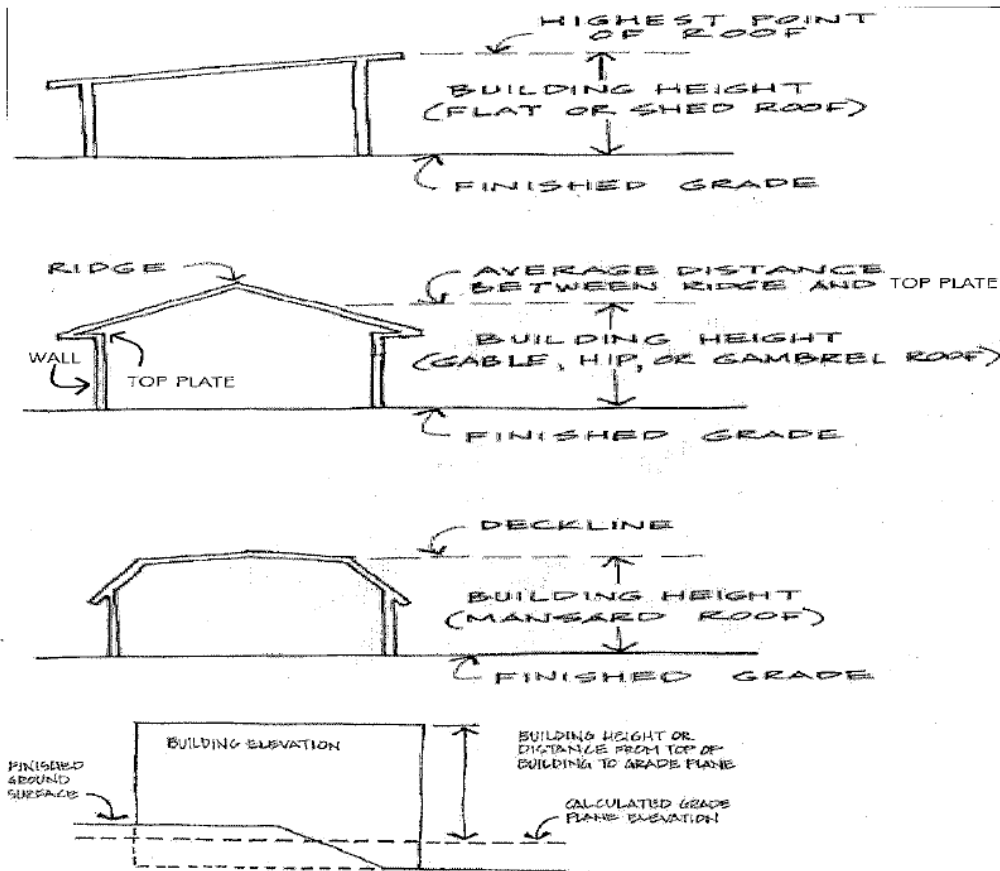
Buildable lot area means the portion of a lot remaining after required yards have been provided, and upon which structures may be constructed.

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

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

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

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



(Amended; Ordinance 2017-01)

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

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

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

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

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

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

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

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

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

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

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

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

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

Convenient-cash business, also referred to as a payday loan business, title for cash business, check cashing business or similar enterprise, is any person licensed pursuant to Wis. Stat. § 218.05, or a person licensed pursuant to Wis. Stat. § 138.09, who accepts a check or title, holds the check or title for a period of time before negotiating or presenting the check or title for payment, and pays to the issuer an agreed-upon amount of cash, or who refinances or consolidates such a transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Lot (or parcel) means a parcel of land on which a principal building and its accessory building are placed, together with the required open spaces; provided that no such parcel be bisected by a public street or other public or private right-of-way and shall not include any portion of a public right-of-way. No lands dedicated to the public or reserved for roadway purposes shall be included in the computation of lot size.

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

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

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

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

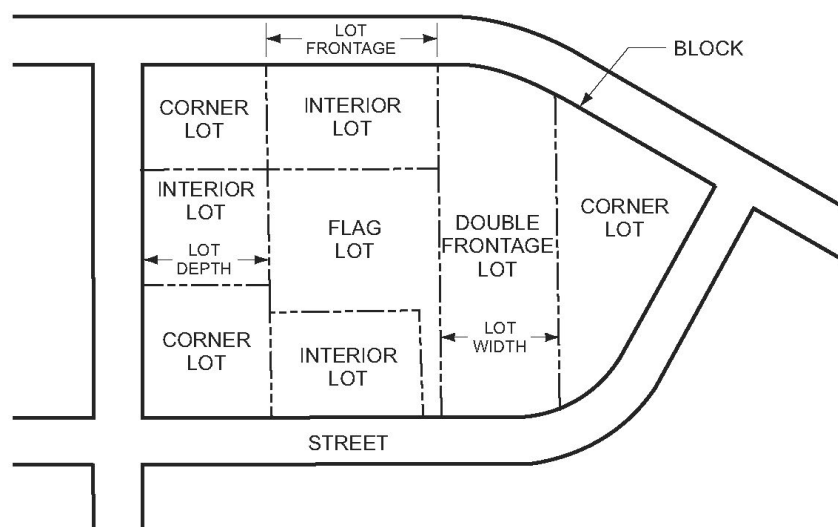
Lot lines and area mean the peripheral boundaries of a parcel of land and the total area lying within such boundaries.

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

Lot, through See *Lot, double frontage*.

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

TYPICAL CORNER, DOUBLE FRONTAGE,
FLAG AND INTERIOR LOTS



(Amended; Ordinance 2017-01)

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

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

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

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

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

Mobile/manufactured home park means a parcel of land which has been developed pursuant to this ordinance and other codes and ordinances of the Village for placement of a mobile/manufactured home and owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park may be rented or sold to individual mobile home owners. Also including the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed such as the installation of utilities, construction of streets, site grading and the pouring or placement of concrete pads.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Residential unit means a configuration of rooms or individual spaces normally consisting of bedroom(s), bathroom(s), kitchen, living room/area, dining room/area and access hallways and, perhaps, basement and automobile garage all enclosed within exterior walls as either a single unit or attached to other such enclosures as a multiple unit building and designed and built for the purpose of housing a person, family or group of persons as a dwelling place or place to reside.

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

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

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

Road is synonymous with street.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

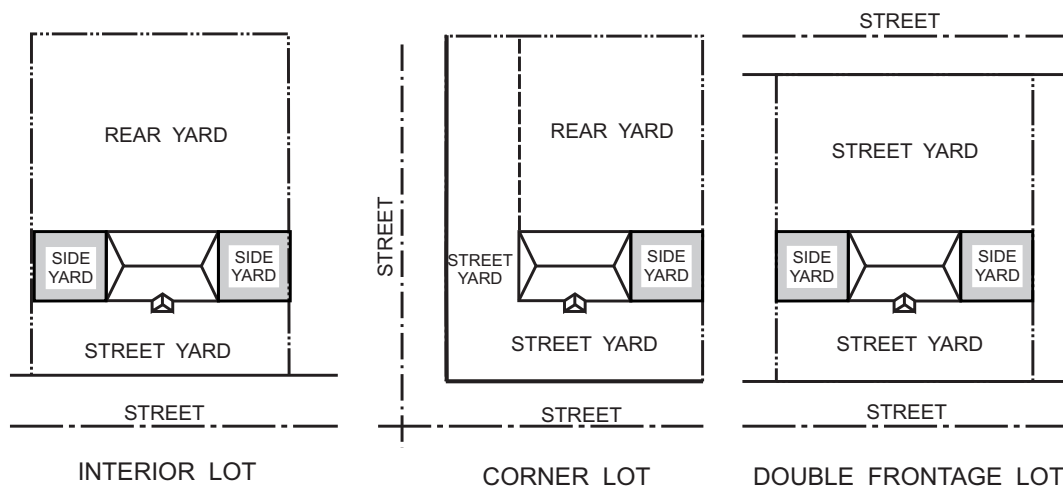
Yard, rear. See Rear yard.

Yard, side. See Side yard.

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

ILLUSTRATION

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



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

Sec. 118-2. Statutory authority.

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

Sec. 118-3. Purpose.

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

Sec. 118-4. Intent.

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

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

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

Sec. 118-5. Abrogation and greater restrictions.

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

However, wherever this chapter imposes greater restrictions than any applicable privately-created, non-zoning restriction, the provisions of this chapter shall govern.

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

Sec. 118-6. Interpretation.

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

(Ord. of 11-24-94, §§ 2.4, 27.2)

Sec. 118-7. Jurisdiction.

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

(Ord. of 11-24-94, § 2.1)

Sec. 118-8. Compliance.

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

(Ord. of 11-24-94, § 2.2)

Sec. 118-9. Severability and nonliability.

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

(Ord. of 11-24-94, §§ 2.5, 27.3)

Sec. 118-10. Violations and penalties.

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

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

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

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

Sec. 118-11. Public nuisances.

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

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

Sec. 118-12. Public utilities.

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

Cross references: Utilities generally, ch. 106.

Sec. 118-13. Use regulation.

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

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

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

Sec. 118-15. Existing permits issued.

Nothing contained in this chapter shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of the ordinance from which this chapter derives and the construction of which shall have been started within six months from the date of such permit, or within three months from the date of adoption of the ordinance from which this chapter derives, whichever shall be sooner.

(Ord. of 11-24-94, § 2.75)

Sec. 118-16. Adult-oriented establishments.

(a) Findings.

- (1) The board finds that adult oriented establishments as defined in this section require special zoning in order to protect and preserve the health, safety, and welfare of the village.
- (2) Based on its review of certain reports and studies, which are available for inspection at the clerk's office during normal business hours, the board finds that there is convincing evidence that the secondary effects of adult oriented establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing business and surrounding residential areas, including the risk of decreased property values.
- (3) The board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry, to protect the citizens from increased crime, to preserve the quality of life, and to preserve the property values and character of surrounding neighborhoods and areas.
- (4) To minimize and control the secondary effects of adult oriented establishments, it is the board's intent to prevent the location of adult oriented establishments within a certain distance from each other and also from other specified locations which are incompatible with and which would particularly suffer from the secondary effects of adult oriented establishments.
- (5) Based on their prominence as gateways to the village and their central importance to the continued economic well-being and growth of the village, the board finds that the State Trunk Highway 45 and State Trunk Highway 11 corridors are two areas of vital importance to the village which must be protected from the secondary effects of adult oriented establishments for the benefit of the health, safety and welfare of the community.
- (6) It is not the board's intent to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of adult oriented establishments while providing an outlet for First Amendment protected activities.

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

Adult bookstore. An establishment which has a facility or facilities, including but not limited to booths, cubicles, rooms, or stalls, for the presentation of “adult entertainment”, as defined below, including adult oriented films, computer video, movies or live performances for observation by patrons therein; or an establishment having as a substantial or significant portion of its stock in trade, for sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, DVDs, or magazines or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities as defined below.

Adult cabaret. A nightclub, bar, restaurant, or similar commercial establishment which features:

1. Live performances which are characterized or distinguished by the exposure of specified anatomical areas or the removal of articles of clothing; or,
2. Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing specified anatomical areas or specified sexual activities.

Adult entertainment. Any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as herein defined.

Adult mini-motion picture theater. An enclosed building with a capacity of less than 50 persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as herein defined for observation by patrons therein.

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

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

Adult motion picture theater. An enclosed building with a capacity of 50 or more persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below for observation by patrons therein.

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

Adult oriented establishment. Any premises including, but not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments, adult modeling studios, adult novelty shops, or adult cabarets. It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult entertainment, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. Adult oriented establishment further includes any establishment open to the public upon the premises of which is conducted an enterprise having as its dominant theme or which is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as herein defined.

Adult booths, cubicles, rooms, compartments or stalls. Enclosures as are specifically offered to the public or members of an adult oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business adult entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the adult entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, booth, cubicle, room, compartment or stall does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing adult entertainment for a fee, and are not open to any persons other than employees; nor shall this definition apply to hotels, motels or other similar establishments licensed by the State of Wisconsin pursuant to Chapter 50 of the Wisconsin Statutes.

Nudity. The appearance of the human bare anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or the nipple or areola of the female breast, with less than a fully opaque covering; or showing of the covered male genitals in a discernibly turgid state.

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

Specified anatomical areas.

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

Specified sexual activities. Simulated or actual:

1. Showing of human genitals in a state of sexual stimulation or arousal.
2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus.

3. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

(c) **Uses.** An adult oriented establishment shall be an allowed principal use in Commercial and Industrial Districts subject to the restrictions contained in this section, and shall be a prohibited use in any other zoning district. The adult oriented establishment may locate in the specified districts only if an adult oriented establishment license has been granted by the village, pursuant to subsections (5) through (9) of this section, and if all other objective requirements of this section and the applicable zoning district's regulations are met.

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

- (1) Hours of operation. No adult oriented establishment shall be open for business at any time between the hours of 2:00 a.m. and 12:00 noon.
- (2) Animals. No animals, except only for service animals, shall be permitted at any time at or in any adult oriented establishment or licensed premises.
- (3) Restricted access. No adult oriented establishment patron shall be permitted at any time to enter into any of the non-public portions of any adult oriented establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of adult oriented establishment employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the licensed premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.
- (4) Exterior display. No adult oriented establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to specified sexual activities or specified anatomical areas from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located. No portion of the exterior of an adult oriented establishment shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed by Article VII – Signs and Graphics with regard to signs.
- (5) Sign limitations. See Article VII for sign requirements.
- (6) Noise. No loudspeakers or sound equipment audible beyond the adult oriented establishment shall be used at any time.
- (7) Manager's stations. Each adult oriented establishment shall have one (1) or more manager's stations. The interior of each adult oriented establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one (1) manager's station to every part of each area, except restrooms, of the adult oriented establishment to which any patron is permitted access for any purpose.

The cashier's or manager's station shall be located so that someone working there can quickly move to physically halt any attempted or accidental entry by a minor. An employee shall occupy the station at all times when patrons are in and on the premises.

- (8) Adult booths prohibited. Adult booths shall be prohibited in all adult oriented establishments.
- (9) No loitering policy. The adult oriented establishment shall clearly post and strictly enforce a no loitering policy.
- (10) Age limit restrictions. The adult oriented establishment shall clearly post and strictly enforce age-limit restrictions. A one-square-foot sign shall be placed on each public entrance which shall state "Admittance to adults only."
- (11) Measuring disbursement distances. The distances in this section shall be measured by following a straight line, without regard to intervening structures, from the public entrance (existing or proposed) of an adult oriented establishment to the nearest point of the protected use as described below.
- (12) Adequate parking. One parking space per one hundred fifty square feet of total gross floor area shall be provided in a lighted area on the licensed premises of an adult oriented establishment.
- (13) Disbursement requirement. No more than one adult oriented establishment may be located on any parcel, and the location of any adult oriented establishment shall be at least one thousand feet from any other adult oriented establishment. This distance shall be measured from the public entrances of each adult oriented establishment.
- (14) Display windows prohibited. All points of access into structures containing adult oriented establishments and all windows or other openings shall be located, constructed, covered, or screened in a manner which will prevent a view into the interior.
- (15) Location restrictions. No adult oriented establishment may locate within one thousand (1,000) feet of a residential district, house of worship, school, day care center, playground, public park, recreation area, library, museum, or the right-of-way of State Trunk Highway 45 or State Trunk Highway 11. In the case of an area zoned residential, the distance shall be measured from the nearest point on the residential district zoning boundary line. From schools, houses of worship, day care centers, libraries, and museums, the distance shall be measured from the public entrance of the adult oriented establishment to the main public entrance of the protected use. From playgrounds, public parks, recreation areas, and schools, houses of worship and day care centers with playgrounds or recreation areas, the distance shall be measured from the public entrance of the adult oriented establishment to the nearest property line of the playground, public park, or recreation area. Along State Trunk Highway 45 or State Trunk Highway

11, this distance is measured from the outside highway right-of-way line, including frontage road(s).

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

(e) Adult oriented establishment licenses. Operators shall obtain an adult oriented establishment license from the village by providing the village with at least the following information regarding the proposed adult oriented establishment, on such forms as are provided by the Village (if any), and by paying the requisite fee (if any):

- (1) Applicant information.

- a. *Individuals.* Applicant's legal name; all of the applicant's aliases, if any; the applicant's age and business address.
- b. *Corporations or limited liability companies.* Applicant corporation's or LLC's complete name and official business address; legal names, all aliases, the ages, and business addresses of all of the directors, officers, managers and members of the corporation or LLC and of every person owning or controlling more than twenty-five (25) percent of the voting shares of the corporation or LLC; applicant corporation's or LLC's date and place of incorporation and the objective for which it was formed; proof that the corporation or LLC is in good standing and authorized to conduct business in the State of Wisconsin; name of the registered corporate or LLC agent; the address of the registered office for service of process.
- c. *Partnerships (general or limited), joint ventures, or any other type of organization where two (2) or more persons share in the profits or liabilities of the organization.* Applicant organization's complete name and official business address; legal name, all aliases, the ages, and business addresses of each partner (other than limited partners) or any other person entitled to share in the profits of the organization, whether or not any such person is also obligated to share in the liabilities of the organization.
- d. *Land trusts.* Applicant land trust's complete name; legal name, all aliases, and the business address of the trustee of the land trust; legal name, all aliases, the ages, and business addresses of each beneficiary of the land trust and the specific interest of each such beneficiary in the land trust; the interest, if any, that the land trust holds in the licensed premises.

- (2) If a corporation, LLC, or partnership is an interest holder that shall be disclosed pursuant to subsections (a)(2) and (3), then such interest holders shall disclose the information required in said subsections with respect to their interest holders.

- (3) The general character and nature of the applicant's business.

- (4) The length of time that the applicant has been in the business of the character specified in response to subsection (c) above.
- (5) The location (including street address and legal description) and telephone number of the premises for which the adult oriented establishment permit is sought.
- (6) The specific name of the business that is to be operated under the adult oriented establishment permit.
- (7) The identity of each fee simple owner of the licensed premises.
- (8) A diagram showing the internal and external configuration of the licensed premises, including all doors, windows, entrances, exits, the fixed structural internal features of the licensed premises, plus the interior rooms, walls, partitions, stages, performance areas, and restrooms. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required, provided, however, that each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions to an accuracy of plus or minus six (6) inches and sufficient to show clearly the various interior dimensions of all areas of the licensed premises and to demonstrate compliance with the provisions of this section. The approval or use of the diagram required pursuant to this subsection shall not be deemed to be, and may not be interpreted or construed to constitute, any other approval otherwise required.
- (9) The specific type(s) of adult oriented establishment(s) that the applicant proposes to operate on the licensed premises.
- (10) A copy of each adult oriented establishment permit, liquor license, and gaming license currently held by the applicant, or any of the individuals identified in the application pursuant to subsection (a) or (b) above.
- (11) The name of the individual(s) who shall be the day-to-day, on-site manager(s) of the proposed adult oriented establishment.
- (12) The application fee, site plan review fee, and zoning permit fee in the amount as set periodically by resolution of the Village board.
- (13) Any other information the village may reasonably require to apply the requirements of this section.
- (14) The village reserves the right to require a survey from a surveyor licensed by the State of Wisconsin to determine the spacing requirements under this section, with the cost of such survey being borne by the applicant.
- (15) A site plan, landscaping plan, zoning permit application, and letter of agent status, if necessary, as required by site plan review application requirements adopted by the village.

(f) Incomplete adult oriented establishment license applications returned. Any application for an adult oriented establishment license that does not include all of the information and documents required pursuant to this section, as well as the required fees, shall be deemed to be incomplete and shall not be acted on by the village, which shall give the applicant a written notification and explanation of such action pursuant to this section.

(g) Adult oriented establishment applicant cooperation required. An applicant for an adult oriented establishment license shall cooperate fully in the inspections and investigations conducted by Village. The applicant's failure or refusal to give any information reasonably relevant to the investigation of the application, to allow the licensed premises to be inspected, to appear at any reasonable time and place for review purposes, or to otherwise cooperate with the investigation and inspection required by this section shall constitute an admission by the applicant that the applicant is ineligible for an adult oriented establishment license and shall be grounds for denial of the permit by the village.

(h) Time for issuance or denial of adult oriented establishment licenses. The Village Board shall, within thirty days after submittal of a completed application, or within such other period of time as the village and the applicant shall otherwise agree, either issue or deny an adult oriented establishment license pursuant to the provisions of this section.

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

(1) Issuance. The village shall issue an adult oriented establishment license to an applicant if the Village Board finds and determines all of the following:

- a. All information and documents required by this section for issuance of an adult oriented establishment license has been properly provided.
- b. No person identified in the application has been denied an adult oriented establishment license within the twelve (12) months immediately preceding the date of the application, or has had an adult oriented establishment license revoked within the twelve (12) months immediately preceding the date of the application, or possesses an adult oriented establishment license that is under suspension at the time of application.
- c. The adult oriented establishment and the operator comply with all requirements of this section.
- d. The applicant has signed the permit he or she has received indicating his or her acceptance of the conditions of the permit.

(2) Denial. If the Zoning Administrator determines that the applicant has not met any one (1) or more of the conditions set forth in this section, then the Zoning Administrator shall deny issuance of the adult oriented establishment permit and shall give the applicant a written notification and explanation of such denial.

(3) License deemed to be issued. If the Zoning Administrator does not issue or deny the adult oriented establishment permit within thirty (30) days after

the properly completed application is submitted, then the adult oriented establishment permit applied for shall be deemed to have been issued.

(j) Enforcement. A violation of any restrictions imposed by this section or by an adult oriented establishment license is a violation of this section, and notwithstanding any other remedy, a violation of any conditions or an adult oriented establishment license shall be grounds for revocation of the adult oriented establishment license.

(k) Continued conforming status. Any adult oriented establishment lawfully operating as a conforming use as of the effective date of this ordinance is not rendered a nonconforming use hereby.

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

Article II. Administration and Enforcement*

Division 1. Generally

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

Division 2. Zoning Administrator*

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

Sec. 118-66. Designated; duties.

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

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

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

- (1) Maintain records of all permits issued, inspections made, work approved, and other official actions.
- (2) Record the lowest floor elevations of all structures erected, placed, moved, structurally altered, or improved in the floodland districts.
- (3) Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
- (4) Inspect all structures, lands, and waters as often as necessary to ensure compliance with this chapter.
- (5) With the aid of the local law enforcement authority, building inspector and/or the village attorney, investigate all complaints made relating to the

location, use of structures, lands, and waters; give notice of all violations of this chapter to the owner, resident, agent, or occupant of the premises; and report uncorrected violations to the village attorney.

- (6) Assist the village attorney in the prosecution of violations of this chapter.
- (7) Be permitted access to public or private premises, lands, structures or waters during reasonable hours to make those inspections as deemed necessary by him/her to ensure compliance with this chapter. If, however, he/she is refused entry after presentation of identification, the zoning administrator may procure a special inspection warrant in accordance with Wis. Stat. § 66.0119.
- (8) Prohibit the use or erection of any structure, land, or water until he has inspected and approved such use or erection.
- (9) Request assistance and cooperation from the municipal police authority, building inspector and village attorney as deemed necessary.

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

Sec. 118-67. Deputies.

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

(Ord. of 11-24-94, § 22.2)

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

Division 3. Board Of Appeals*

*Cross references: Administration, ch. 2.

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

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

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

Sec. 118-97. Alternate members.

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

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

Sec. 118-98. Vacancies; removal.

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

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

(Ord. of 11-24-94, §§ 20.12, 20.13)

Sec. 118-99. Rules of procedure.

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

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

Sec. 118-100. Minutes.

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

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

Sec. 118-101. Powers.

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

- (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator.
- (2) Hear and decide special exceptions to the terms of this chapter upon which the board of appeals is required to pass.
- (3) Authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.
- (4) To hear and grant applications for substitution of the same or more restrictive nonconforming uses for existing nonconforming uses.
- (5) To hear and decide application for interpretation of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.

- (6) Reverse, affirm wholly or partly, modify the order, decision, determination or requirement appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end, shall have all the powers of the offices from whom the appeal is taken, and may issue or direct the issue of a permit.
- (7) The board of appeals may request assistance from other village officers, departments, commissions and boards.
- (8) Have the powers provided by Wis. Stat. § 62.23(7)(e) or by any ordinance of the village.

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

Sec. 118-102. Appeals to board.

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

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

Sec. 118-103. Application.

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

(b) The zoning administrator shall forthwith transmit to the board of appeals all the papers constituting the record upon which the action appealed from was taken.

(Ord. of 11-24-94, § 20.3)

Sec. 118-104. Hearings.

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

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

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

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

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

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

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

Sec. 118-106. Variances.

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

- (1) Preservation of Intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated principal, conditional, or accessory use.
- (2) Unnecessary Hardship. Unnecessary hardship exists when enforcement of ordinance requirements would unreasonably prevent an owner from using property for a permitted purpose or would render conformity with such requirements unnecessarily burdensome. Consideration shall be given to the purpose and intent of the zoning ordinance, its effects on the property, and the short-term, long-term, and cumulative effects of granting the variance on the neighborhood, the Village, and on public interests. Self-imposed or self-created hardships shall not be considered as grounds for the granting of a variance. Economic or financial hardship does not justify a variance. The property owner bears the burden of proving unnecessary hardship exists. The Board shall consider the property as a whole rather than a portion of the parcel when determining unnecessary hardship.
- (3) Unique Property Limitations. There are unique physical limitations on the property, such as steep slopes or wetlands, which are not generally shared by other properties in the same zoning district and which prevent compliance with the ordinance. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide a basis for granting a variance.

- (4) No Harm to Public Interests. A variance may not be granted which results in harm to public interests. In applying this test, the Board shall consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the Village, and the general public. These interests include public health, safety, and welfare; water quality; natural scenic beauty; protection of property values; minimizing damage from hazards; provision of efficient public facilities and utilities; and other public interest issues.

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

Sec. 118-107. Decisions.

(a) *Time limits.*

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

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

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

(Ord. of 11-24-94, § 20.8) (Amended; Ordinance 2017-01)

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

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

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

Division 4. Permits and Certificate of Compliance

Sec. 118-136. Zoning permit.

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

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

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

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

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

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

Sec. 118-137. Certificate of compliance.

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

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

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

Sec. 118-138. Conditional use permit.

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

(b) *Application.* Application for a conditional use permit shall be made to the zoning administrator on forms furnished, in accordance with subdivision II of division 3 of article V of this chapter. A complete application for a conditional use permit includes:

- (1) The conditional use permit application form furnished in accordance with subdivision II of division 3 of article V of this chapter; and
- (2) A Plan of Operation pursuant to § 118-822 of this chapter.

Sec. 118-139. Other permits.

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

(Ord. of 11-24-94, § 23.4)

Sec. 118-140. Public utilities exemption.

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

(Ord. of 11-24-94, § 23.5)

Sec. 118-141. Plat of survey.

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

(Ord. of 11-24-94, § 23.6)

Sec. 118-142. Fees.

(a) Every person performing work which by this chapter requires the issuance of a permit shall pay a fee for such permit to the village clerk to help defray the cost of administration, investigation, advertising, and processing of permits and variances. Fees pertaining to petitions for zoning amendments, zoning permits, conditional use permits, certificates of compliance, variances, and for appeals to the board of zoning appeals, or to any other purpose under this chapter shall be established by action of the village board from time to time.

(b) Permit fees do not include and are in addition to permit fees established by the village building code.

(c) A double fee may be charged by the zoning administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this chapter nor from prosecution for violation of this chapter. All fees shall be paid to the village clerk, who shall give a receipt therefor, and shall be credited to the village treasury.

(Ord. of 11-24-94, §§ 23.7, 23.8)

Sec. 118-143. Payment of village expenses.

In addition to those fees established by the village board in accordance with section 118-142, each petitioner shall pay an additional fee equal to all expenses incurred by the village in the consideration of his petition. Such expenses shall include costs of notices and hearings, legal fees, engineering fees, and fees of other consultants and any other costs which the village may reasonably incur. The village board may require that a bond or deposit be made by the petitioner prior to consideration of the petition. No zoning amendment, variance, or conditional use approval shall become effective nor shall any use permits, certificates of compliance, building permits, or permits of any other kind be issued until all such additional fees are paid to the village.

(Ord. of 11-24-94, § 23.9)

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

Division 5. Amendments

Sec. 118-171. Authority.

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

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

Sec. 118-172. Initiation.

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

Sec. 118-173. Petitions.

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

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

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

Sec. 118-174. Recommendation of plan commission.

The plan commission shall review all proposed changes and amendments to this chapter within the corporate limits and shall recommend that the petition be granted as requested, modified, or denied.
(Ord. of 11-24-94, § 26.4) (Amended; Ordinance 2017-01)

Sec. 118-175. Hearings.

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

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

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

(Ord. of 11-24-94, § 26.6)

Sec. 118-177. Repealed.

Sec. 118-178. Protest.

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

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

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

Article III. Nonconforming Uses and Structures

Sec. 118-206. Existing nonconforming uses.

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

- (1) Only that portion of the land or water in actual use may be so continued and the use may not be extended, enlarged substituted or moved except when required to do so by law or order or so as to comply with the provisions of this chapter.
- (2) Discontinuance. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to the provisions of this chapter.

- (3) Abolishment or Destruction. When a nonconforming use or a structure with a nonconforming use is damaged by violent wind, fire, flood, or other calamity to the extent of more than 50 percent of its assessed value, it shall not be restored except so as to comply with the use provisions of this chapter.
- (4) Total lifetime structural repair or alterations to a structure containing a nonconforming use shall not exceed 50 percent of the current assessed value of the structure unless it is permanently changed to conform to the use provisions of this ordinance. Figure No. 1 reflects the method by which the zoning administrator shall determine when modifications to nonconforming uses and their structures are equal to 50 percent.
- (5) Substitution of new equipment may be permitted by the board of zoning appeals if such equipment will reduce the incompatibility of the nonconforming use with neighboring uses.

Figure No. 1

**IS IT 50 PERCENT
YET?**

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

Additions and modifications which are permitted are based upon a time period over the life of the structure as shown above. Therefore, if, in the example above, the property owner constructed a

\$30,000 addition, no further additions could be allowed because the 50 percent improvement limit had been reached. However, let's assume that the addition was valued at \$12,000 or 20 percent of the equalized assessed value of the structure (\$60,000). Five years later, the property owner again comes in wishing to add an attached greenhouse. In the meantime, the present equalized assessed value of the house has increased from \$60,000 to \$80,000. The value of the greenhouse is \$8,000. The property owner has now accumulated \$20,000 of modifications, only 25 percent of the current equalized assessed value.

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

This example is further clarified in the following table:

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

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

Sec. 118-207. Changes and substitutions.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 118-210. Vacant nonconforming lots.

(a) The zoning administrator may issue a building permit for development of a lot which does not contain sufficient area to conform to the dimensional requirements of this chapter to be used as a building site provided that the use is permitted in the zoning district in which it is located, provided that the lot is of record in the county register of deeds office prior to the effective date of this chapter; and provided that the lot is in separate ownership from abutting lands.

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

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

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

Article IV. Districts

Division 1. Generally

Sec. 118-241. Established.

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

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

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

Sec. 118-242. Map.

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

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

Sec. 118-243. District boundaries.

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

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

Sec. 118-244. Use of scale.

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

(Ord. of 11-24-94, § 3.14)

Sec. 118-245. Overlay zoning districts.

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

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

- (1) PUD Planned unit development overlay district.
- (2) Those districts governing floodplains set forth in Article IX of this Chapter and specifically Sections 118-1172, 118-1173 and 118-1174 of this Chapter as applicable.

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

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

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

Sec. 118-246. Effect of annexation.

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

(Ord. of 11-24-94, § 25.1)

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

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

Sec. 118-276. Uses.

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

- (1) *Permitted uses.* Permitted uses in the districts shall be as follows:
 - a. Single-family dwellings.
 - b. Accessory buildings.
 - c. Telephone, telegraph and power transmission poles, and lines and necessary mechanical appurtenances.
 - d. Community living arrangements which have a capacity for eight or fewer persons being served by the program.
 - e. Foster family homes.
 - f. Family child care homes.
 - g. Uses customarily incidental to any of the above uses; provided that no such use generates traffic or noise that would create a public or private nuisance and not involving the conduct of a business, except for home occupations allowed under Section 118-853.
- (2) *Conditional uses.* Conditional uses permitted in the districts shall be as follows:
 - a. Churches and affiliated uses, all grade schools, libraries, and hospitals, water storage facilities and related structures, cemeteries.
 - b. Municipal buildings, except the following: sewage plants, garbage incinerators, warehouses, garages, shops, storage yards, and penal or correctional institutions.
 - c. Public parks, playgrounds, recreational community center buildings and grounds.
 - d. Telephone buildings, exchanges and transformer stations, except service garages and storage yards, and except microwave radio relay structures unless their location is approved by the plan commission.
 - e. Sewerage lift stations.
 - f. Independent senior living, assisted living and skilled nursing facilities.

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

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

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

- (1) *Lots.*
 - a. The minimum width shall be 90 feet at the setback line.
 - b. The minimum area shall be 13,000 square feet.
- (2) *Buildings.*
 - a. The maximum height shall be 28 feet.
 - b. The minimum floor area per family shall be as provided in the building code.
- (3) *Yards.*
 - a. *Side yards.*
 - 1. For the principal building, the side yard shall be a minimum of ten feet.
 - 2. Reserved.
 - b. *Street yard.* The minimum street yard shall be 30 feet. The maximum street yard shall be 50 feet. Property owners requesting to deviate from the maximum may appeal to the village board.
 - c. *Rear yard.* The minimum rear yard shall be 30 feet.
 - d. *Corner lots.* For corner lots, the street yards shall be subject to Section 118-277(3)(b). Each side yard shall be a minimum of 10 feet.

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

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

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

- (1) *Lots.*
 - a. The minimum width shall be 80 feet at the setback line.
 - b. The minimum area shall be 8,000 square feet.
- (2) *Buildings.*
 - a. The maximum height shall be 28 feet.
 - b. The minimum floor area per family shall be as provided in the building code.
- (3) *Yards.*
 - a. *Side yards.*

1. For the principal building, the side yards shall be a minimum of 15 feet total, with a minimum of six feet on one side.
2. Reserved.
- b. *Street yard.* The street yard shall be a minimum of 25 feet.
- c. *Rear yard.* The rear yard shall be a minimum of 30 feet.
- d. Corner lots. For corner lots, the street yards shall be subject to Section 118-278(3)(b). Each side yard shall be a minimum of ten (10) feet.

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

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

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

Sec. 118-311. Intent.

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

(Ord. of 11-24-94, § 5.1)

Sec. 118-312. Uses.

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

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

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

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

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

- (1) *Lots.*
 - a. The minimum width shall be 90 feet at the setback line.
 - b. The minimum area shall be 13,000 square feet (6,500/family).

- (2) *Buildings.*
 - a. The maximum height shall be 30 feet.
 - b. The minimum floor area per family shall be as provided in the building code.
- (3) *Yards.*
 - a. *Side yards.*
 - 1. For the principal building, the side yard shall be a minimum of ten feet.
 - 2. Reserved.
 - b. *Street yard.* The minimum street yard shall be 30 feet. The maximum street yard shall be 50 feet. Property owners requesting to deviate from the maximum may appeal to the village board.
 - c. *Rear yard.* The rear yard shall be a minimum of 30 feet.
 - d. *Corner lot.* For corner lots, the street yards shall be subject to Section 118-313(3)(b). Each side yard shall be a minimum of ten (10) feet.

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

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

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

- (1) *Lots.*
 - a. The minimum width shall be 80 feet at the setback line.
 - b. The minimum area shall be 8,000 square feet (4,000/family).
- (2) *Buildings.*
 - a. The maximum height shall be 28 feet.
 - b. The minimum floor area per family shall be as provided in the building code.
- (3) *Yards.*
 - a. *Side yards.*
 - 1. For the principal building, the side yard shall be a minimum of 15 feet total, with a minimum of six feet on one side.
 - 2. Reserved.
 - b. *Street yard.* The street yard shall be a minimum of 25 feet.
 - c. *Rear yard.* The rear yard shall be a minimum of 30 feet.

- d. Corner lots. For corner lots, the street yards shall be subject to Section 118-314(3)(b). Each side yard shall be a minimum of ten (10) feet.

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

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

Division 4. RM Multiple-Family Residence District

Sec. 118-346. Intent.

The RM multiple-family residence district is intended to provide a living area which is pleasant, but not as spacious as the R-80 district.

(Ord. of 11-24-94, § 6.1)

Sec. 118-347. Uses.

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

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

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

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

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

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

(1) *Lots.*

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

(2) *Buildings.*

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

(3) *Yards.*

a. *Side yards.*

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

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

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

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

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

Division 5. C-1 General Commercial District

Sec. 118-381. Intent.

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

(Ord. of 11-24-94, § 7.1)

Sec. 118-382. Uses.

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

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

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

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

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

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

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

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

- (24) Lodges.
- (25) Convenient-cash businesses, provided that no other convenient cash business is located within 2,500 feet and the business is located at least 250 feet from a residential district.

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

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

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

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

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

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

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

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

Division 6. C-2 Highway Commercial District

Sec. 118-416. Intent.

The C-2 highway commercial district is intended to provide for specialized commercial activities along major highways.

(Ord. of 11-24-94, § 8.1)

Sec. 118-417. Uses.

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

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

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

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

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

- (1) *Lots.*
 - a. The minimum width shall be 150 feet.
 - b. The area shall be the minimum required to meet all setback and parking requirements.
- (2) *Buildings.* The maximum building height shall be 35 feet.
- (3) *Yards.*
 - a. *Side yards.* There shall be a nine-foot side yard on every business building property where the commercial district is adjacent to a residential district.

1. The minimum side yards for principal buildings shall be five feet.
 2. Reserved.
- b. *Street yard.*
1. The minimum street yard shall be 25 feet.
 2. If parking is permitted in the street yard, the minimum street yard shall be 50 feet.
- c. *Rear yard.* The minimum rear yard shall be 30 feet.

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

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

Division 7. C-3 Office and Professional Business District

Sec. 118-451. Intent.

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

(Ord. of 11-24-94, § 9.1)

Sec. 118-452. Uses.

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

- (1) *Permitted uses.* Permitted uses shall be as follows:
 - a. Administrative and public service offices.
 - b. Professional office of an architect, engineer, landscape architect, lawyer, accountant, doctor, Christian Science practitioner, dentist, optometrist, clergy, or other similarly recognized profession.
 - c. Studios for photography, painting, music, sculpture, dance, or other recognized fine art.
 - d. Banks, savings and loan, and other financial institutions.
 - e. Barbershops and beauty shops.
 - f. Interior decorators.
 - g. Medical clinics.
 - h. Parking lots and structures.
 - i. Real estate and insurance sales offices.
 - j. Single-family residences.
- (2) *Conditional uses.* Conditional uses permitted shall be as follows:

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

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

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

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

- (1) *Lots.*
 - a. The minimum width shall be 80 feet.
 - b. The minimum area shall be 8,000 square feet.
- (2) *Buildings.* The maximum building height shall be 35 feet.
- (3) *Yards.*
 - a. *Side yards.*
 - 1. For the principal building, the minimum side yards shall be 15 feet total, with a minimum of six feet on one side.
 - 2. Reserved.

- b. *Street yard.* The minimum street yard shall be 25 feet.
- c. *Rear yard.* The minimum rear yard shall be 30 feet.

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

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

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

(Ord. of 11-24-94, § 9.3)

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

Division 8. I-1 Light Industrial District

Sec. 118-486. Intent.

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

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

Sec. 118-487. Uses.

(a) Permitted uses. Permitted uses shall be any use permitted to the commercial districts.

(b) Conditional uses allowed in the I-1 light industrial district shall be as follows:

- (1) All uses involving the manufacture of goods within the confines of a permanent building and in which any smoke, noise, dust, flash, liquid, or odor produced in the manufacturing process is either not produced or is confined within the building.
- (2) All uses involving the fabrication of materials within the confines of a permanent building and in which any smoke, dust, flash, liquid, noise, or odor produced in the fabrication process is either not produced or is confined within the building.
- (3) All uses involving the provision of an office or service which is either manufacturing or fabrication-related and not permitted in business/commercial districts, confined within a permanent building, and in which any smoke, dust, flash, heat, noise, liquid or odor produced by such service uses is either not produced or is confined within the building.

- (4) Commercial Kennels.
- (5) Enclosed as well as screened areas for the storage of materials, other than explosive or flammable materials or substances, used in the manufacturing or fabrication process.
- (6) Offices normally auxiliary to the principal uses.
- (7) Garages for the storage of licensed vehicles used in conjunction with the operation of the industrial uses.
- (8) Auxiliary power generators.
- (9) Screened off-street parking and loading areas.
- (10) Non-flashing signs.
- (11) The storage of not more than 2,000 gallons of fuel and petroleum products for use incidental to the principal use, and upon specific approval of the Plan Commission.
- (12) Residential quarters for the owner or hired caretaker provided that such quarters are in the principal building, not more than 750 square feet in area, no more than two (2) bedrooms, and not for rent, lease or separate sale.
- (13) Multiple principal structures on one parcel.

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

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

- 1 No merchandise shall be handled for sale or service rendered on the premises except such as is incidental or accessory to the principal permissible use of the premises, except for sales or service to industrial, commercial, or manufacturing customers or sales primarily by Internet or telephone.
- (2) All operations and activities of all uses within this district shall be conducted wholly inside a building unless granted exception by the plan commission. Outdoor storage areas shall be screened from view.
- (3) No continuous or intermittent noise from operations greater than the volume and range of noise emanating from vehicular traffic or its equivalent in noise shall be detectable at the boundary line of any residential district.
- (4) No toxic matter, noxious matter, smoke or gas, and no odorous or particulate matter detectable beyond the lot lines shall be emitted.
- (5) No vibrations shall be detectable beyond the lot lines.

- (6) No glare or heat shall be detectable beyond the lot lines.
- (7) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any residence district or into public streets or parks.
- (8) The storage or use of chemicals, either solid, liquid or gas, shall be subject to the following conditions:
 - a. The storage, utilization, or manufacturing of materials or products ranging from incombustible to moderate burning is permitted.
 - b. The storage, utilization or manufacturing of materials or products ranging from free to active burning is permitted, provided the materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.
 - c. The manufacture of flammable materials which produce explosive vapors or gases is prohibited.

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

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

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

- (1) *Lots.*
 - a. The minimum width shall be 100 feet.
 - b. The area shall be the minimum required to meet all setbacks and parking and loading requirements.
- (2) *Buildings.* The maximum building height shall be 35 feet.
- (3) *Yards.*
 - a. Side yards. There shall be a 50-foot side yard on every industrial property where the industrial district is adjacent to a residential district.
 - 1. For a principal building, the minimum side yard shall be 15 feet.
 - 2. Reserved.
 - b. Street yard. The minimum street yard shall be 25 feet.
 - c. Rear yard. The minimum rear yard shall be 25 feet.
 - d. Any commercial or manufacturing entity located within the I-I zone will conform to all I-I dimensions as set out above.

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

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

Division 9. I-2 Heavy Industrial District

Sec. 118-519. Intent.

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

Sec. 118-520. Uses.

(a) *Permitted Uses.*

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

(b) *Conditional Uses.*

- (1) All other manufacturing, fabricating, and industrial uses not permitted in the I-1 District (except the manufacture or fabrication of explosives, flammable liquids, chemicals, and gaseous or vaporous substances) as long as such permitted uses are conducted within an enclosed permanent structure.
- (2) Enclosed as well as screened open storage of industrial materials other than explosive or flammable materials or substances used in the manufacturing or fabrication process.
- (3) Offices normally auxiliary to the principal use.
- (4) Garages for the storage of vehicles used in conjunction with the operation of the industrial use.
- (5) Auxiliary power generators.
- (6) Screened off-street parking and loading areas.
- (7) Non-flashing signs.
- (8) The storage of not more than 10,000 gallons of fuel and petroleum products for use incidental to the principal use, upon specific approval of the Plan Commission.
- (9) Residential quarters for the owner or hired caretaker provided that such quarters are in the principal building, not more than 750 square feet in area, no more than two (2) bedrooms, and not for rent, lease or separate sale.

- (10) Storage, manufacture, or fabrication of chemicals, explosives, flammable liquids, and gaseous or vaporous substances, other than permitted accessory uses, with volumes and quantities, and time of operation to be set by the Plan Commission and approved by the Fire Chief.
- (11) Landfills, solid and other waste disposal and recovery uses.
- (12) Animal reduction facilities, slaughter houses, stockyards, and tanneries.
- (13) Asphalt batch plants and concrete ready-mix plants.
- (14) Composting sites and related operations, such as wood shaving or brush collection.
- (15) Concrete product production, such as concrete blocks.
- (16) Forges and foundries.
- (17) Incinerators, salvage yards and sewage disposal plants, provided that such uses are located not less than 500 feet from any residential district boundary.
- (18) Lumber yards and building supply yards.
- (19) Manufacturing or processing of ammonia, asbestos, asphalt, cement, chlorine, coal tar, creosote, explosives, fertilizer, glue, gypsum, insecticide, lampblack, poison, pulp, pyroxylin, and radium.
- (20) Outdoor furnace or boiler.
- (21) Processing of cabbage, fish, meat, offal, or seafood, or production of fats, grease, oils, vinegar, or yeast.
- (22) Storage of animal feed, bulk fertilizer, explosives, gasoline in excess of 50,000 gallons, grain, and grease.
- (23) Multiple principal structures on one parcel.

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

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

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

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

- (1) *Lots.*
 - a. The minimum width shall be 150 feet.
 - b. The area shall be the minimum required to meet all setbacks and parking and loading requirements.
- (2) *Buildings.* The maximum building height shall be 45 feet.
- (3) *Yards.*
 - a. Side yards. There shall be a 50-foot side yard on every industrial property where the industrial district is adjacent to a residential district.
 1. For a principal building, the minimum side yard shall be 15 feet.
 2. Reserved.
 - b. Street yard. The minimum street yard shall be 25 feet.
 - c. Rear yard. The minimum rear yard shall be 25 feet.
 - d. Any commercial or manufacturing entity located within the 1-2 zone will conform to all 1-2 dimensions as set out above.

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

Secs. 118-523--118-555. Reserved.

(Amended; Ordinance 2017-01)

Division 10. MH Mobile/Manufactured Home District

Sec. 118-556. Intent.

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

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

Sec. 118-557. Uses.

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

- (1) *Permitted uses.* No permitted uses are allowed.
- (2) *Permitted accessory uses to approved conditional uses.* Permitted accessory uses to approved conditional uses shall be allowed as follows:

- a. Carports and garages (private).
- b. Gardening, tool, and storage sheds incidental to the residential use.
- c. Ground-mounted and building-mounted earth station dish and terrestrial antennas.
- d. Home occupations.
- e. Solar collectors attached to the principal structure.

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

- a. Mobile/manufactured home parks provided that:
 - 1. The minimum mobile/manufactured home park size shall be five acres.
 - 2. The minimum mobile/manufactured home park width shall be 300 feet at the street right-of-way line.
 - 3. The maximum number of mobile/manufactured home sites within a mobile home park shall be 7.2 per net acre.
 - 4. A minimum of ten percent of the mobile/manufactured home park development area, exclusive of streets, shall be devoted to common recreational uses.
 - 5. The minimum lot area for a mobile/manufactured home shall be 6,000 square feet. The minimum lot width shall be 50 feet with corner lots being not less than 60 feet.
 - 6. No mobile/manufactured home unit shall be located closer than 25 feet to a mobile home park exterior lot line.
 - 7. The minimum setback between a mobile/manufactured home unit and a service road shall be 15 feet.
 - 8. The minimum distance between mobile/manufactured home units shall be 12 feet.
 - 9. All drives and service roads shall be a minimum of 20 feet wide.
 - 10. All drives, service roads, parking areas, and walkways shall be surfaced with concrete or asphalt.
 - 11. There shall be a minimum of two parking spaces per mobile/manufactured home unit located on each lot. Each parking area on each lot shall be at least 400 square feet in area, shall be well drained, and shall be surfaced with concrete or asphalt.
 - 12. Visitor parking shall be provided in the mobile/manufactured home park at the rate of one space per mobile/manufactured home site. Supplemental parking areas shall be provided in each mobile/manufactured home park for boats, camping trailers, and utility trailers. No such

equipment shall be parked on any mobile/manufactured home site.

13. Each mobile/manufactured home shall either be placed on a foundation or on a concrete pad. If it is to be placed on a foundation, the foundation shall be of a type recommended by the unit manufacturer and approved by the building inspector. If it is to be placed on a pad, the pad shall be at least four inches thick over an approved gravel base, and shall be at least equal in width and length to the mobile home unit being placed on the pad.
14. The space between the unit and the pad shall be enclosed, but with the use of noncombustible materials such as aluminum or fiberglass. Such skirting materials shall be of a type compatible with the material and color scheme of the mobile/manufactured home unit. No person occupying or owning a mobile/manufactured home or a licensee of a mobile/manufactured home park shall build or cause to be erected any lean-to, shed, or addition to a mobile/manufactured home without the approval of the building inspector. Nothing contained in this subsection shall prohibit the use of stabilization measures, nor shall this subsection prohibit attachment to a mobile/manufactured home of a shelter roof, provided that such roof does not extend more than eight feet into a side yard or extend more than 20 feet in length, or extend beyond the length of the mobile/manufactured home. Such roof and its supporting members shall be constructed entirely of noncombustible materials, and the roof section together with its framing shall not be less than six feet above the grade immediately beneath any point of the roof section.
15. Each mobile/manufactured home site may contain a freestanding accessory building or garage not exceeding 280 square feet in area. However, a particular site would be allowed to have one of each, if its lot area is at least 8,000 square feet.
16. All mobile/manufactured homes shall be provided with village water, sanitary sewer, and storm sewer facilities.
17. Where portable fuel tanks are utilized, they shall be placed at the rear or side of the mobile home in as close proximity to the rear of the unit as possible.
18. All electric, telephone, and cable TV lines shall be installed underground, except where determined unfeasible or otherwise undesirable by the plan commission.
19. Every mobile/manufactured home park shall submit a solid waste disposal plan. Garbage and rubbish shall be collected

weekly and disposed of by the park owner in accordance with the approved plan.

20. No business or commercial use, except permitted home occupations, shall be located on the mobile/manufactured home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage, and a manager's office are permitted.
 21. Each mobile/manufactured home park shall be completely enclosed, except for permitted entrances and exits, by either:
 - i. A grassed earthen berm of at least six feet in height.
 - ii. A fence of uniform material that is at least six feet in height and provides an effective visual screen.
 - iii. A densely planted line of coniferous plants that will grow to a height of at least six feet within three years of planting.
 - iv. Any combination of those mentioned in subsections (3)a.21.i through (3)a.21.iii of this section that provides a visual screen and is at least six feet in height.
 22. The total minimum floor area of the mobile/manufactured home shall be 980 square feet.
 23. The sum total of the floor area of the mobile/manufactured home and all accessory buildings shall not exceed 30 percent of the lot area.
 24. All mobile/manufactured homes shall meet the construction standards of the Department of Housing and Urban Development (42 USC 5403).
- b. Licensed community living arrangements which have a capacity for eight or fewer persons, subject to the limitations set forth in Wis. Stats. § 62.23(7)(i).
 - c. Licensed family foster homes subject to the regulations set forth in Wis. Stats. § 48.62.
 - d. Licensed family day care homes subject to the regulations set forth in Wis. Stats. § 48.65.
 - e. Essential services.

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

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

Division 11. PC Park and Conservancy District*

Sec. 118-591. Intent.

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

(Ord. of 11-24-94, § 13.1)

Sec. 118-592. Uses.

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

- (1) *Permitted uses.* Permitted uses shall be as follows:
 - a. Management of forestry, wildlife and fish.
 - b. Harvesting of wild crops such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.
 - c. Fishing.
 - d. Flood overflow and floodwater storage.
 - e. Water retention ponds.
 - f. Pedestrian or nature trails.
 - g. Preservation of scenic, historic and scientific areas.
 - h. Uses similar and customarily incidental to any of the uses listed in this subsection.
- (2) *Conditional uses.* Conditional uses shall be permitted as follows:
 - a. Parks and general recreation areas.
 - b. Dams, power stations and transmission lines and water storage facilities.
 - c. Seasonal public camping grounds.
 - d. Private recreational uses.
 - e. Golf courses.
 - f. Sewage disposal plants.
 - g. Water storage and pumping facilities.

(Ord. of 11-24-94, § 13.1)

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

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

(Ord. of 11-24-94, § 13.2)

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

Division 12. P-1 Institutional Park District

Sec. 118-626. Uses.

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

- (1) *Permitted uses.*
 - a. Public or private schools, colleges, and universities.
 - b. Churches, synagogues, and other places of worship.
 - c. Funeral homes.
 - d. Hospitals, sanatoriums, nursing homes, and clinics.
 - e. Libraries, community centers, museums, and public art galleries.
 - f. Public administrative offices, public parks, and public service buildings, including post offices and fire and police stations.
 - g. Public utility offices.
 - h. Residential quarters for caretakers or clergy.
 - i. Garages for storage of vehicles.
 - j. Service buildings and facilities.
 - k. Dish antennas located in the side or rear yard or mounted on a roof.
- (2) *Conditional uses.* The location and site plans of all structures and improvements which serve the principal use.
 - a. Airports, airstrips, and landing fields provided that the site is not less than 20 acres in area.
 - b. Cemeteries and crematories.
 - c. Clubs, fraternities, lodges, and meeting places of a noncommercial nature.
 - d. Penal and correctional institutions provided that the site area is not less than five (5) acres in area and does not abut a residential district.
 - e. Public passenger transportation terminals, such as bus and rail depots, and heliports.

- f. Utility substations, municipal wells, pumping stations, and water towers provided that the use is not less than 50 feet from any lot line.
- g. Wind energy conversion systems.
- h. Commercial uses that complement uses permitted in P-1 Institutional Park District. The determination of whether a proposed commercial use is complementary shall be made by the Plan Commission.

Sec. 118-627. Area requirements.

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

- (1) The development area shall be a minimum of 2.5 acres unless otherwise approved by the Plan Commission.
- (2) The maximum structure height shall be 50 feet.
- (3) The above area requirements do not apply to publicly owned buildings, structures and utilities.

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

Sec. 118-628. Yard setback requirements.

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

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

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

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

Division 13. A Agricultural District

Sec. 118-661. Intent.

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

(Ord. of 11-24-94, § 15.1)

Sec. 118-662. Uses.

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

- (1) *Permitted uses.* Permitted uses shall be as follows:
 - a. Farming, provided that buildings in which farm animals are kept shall be at least 100 feet from the nearest residential or commercial district.
 - b. Forestry, horticulture, floriculture, apiculture, plant nurseries, orchards, and truck farming.
 - c. Livestock raising, grazing or pasturing on parcels or contiguous parcels under common ownership of 35 acres or larger.
 - d. In-season roadside stands for the sale of farm products produced on the premises, and up to two unlighted signs, each not larger than eight square feet, advertising such sale.
 - e. Farm dwellings for those resident owners and workers actually engaged in the principal permitted use.
 - f. Uses customarily incidental to any of the uses listed in this subsection, including residential use incidental to any of such uses.
- (2) *Conditional uses.* Conditional uses shall be permitted as follows:
 - a. Grazing, animal husbandry, paddocks, and private stables.
 - b. Commercial raising, propagation, or butchering of farm animals or fur-bearing animals.
 - c. Greenhouses, and other agricultural uses that might cause noxious odors or noise or create health or sanitation hazards.
 - d. Churches, schools, cemeteries, community parks and recreation areas, public buildings, water storage and sewage disposal facilities and power stations, provided that such power stations are enclosed by an eight-foot-high or more protective, screened fence.
 - e. Operation of motorized off-road vehicles.
 - f. Outdoor furnace or boiler.

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

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

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

- (1) *Area.*
 - a. A farm shall be a minimum of 35 acres.
 - b. The minimum lot shall be five acres.
- (2) *Width.* The width shall have a minimum of 100 feet of frontage on a public road.
- (3) *Building height.* Maximum building height shall be as follows:
 - a. For residential structures, 28 feet.
 - b. For accessory structures, 15 feet.
 - c. For agriculture structures, twice their distance from the nearest lot line.
 - d. For other buildings, 35 feet.
- (4) *Yards.*
 - a. *Side yards.*
 1. For the principal building, the minimum side yard shall be 20 feet.
 2. For any accessory building, the minimum side yard shall be five feet.
 - b. *Street yard.* The minimum front yard shall be 50 feet.
 - c. *Rear yard.* The minimum rear yard shall be 50 feet.

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

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

Division 14. PUD Planned Unit Development Overlay District

Sec. 118-696. Intent.

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

(b) The unified and planned development of a site in a single partnership or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Wis. Stats. ch. 703, pertaining to condominiums, may be permitted by the village upon specific petition under

this division and after public hearing, with such development encompassing one or more principal uses or structures and related accessory uses or structures when all regulations and standards and related accessory uses or structures as set forth in this division have been met.
(Ord. of 11-24-94, § 16.1)

Sec. 118-697. Uses.

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

(b) *Permitted accessory uses.* Permitted accessory uses shall be any accessory use permitted in the underlying basic use district.
(Ord. of 11-24-94, § 16.2)

Sec. 118-698. Minimum requirements.

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

<i>Principal Uses</i>	<i>Minimum Area PUD (in acres)</i>
Residential PUD	4
Commercial PUD	5
Industrial PUD	20
Mixed Compatible Use PUD	10
Residential, Commercial or Mixed Compatible Use PUD in the Union Grove Redevelopment Area	2

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

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

Sec. 118-700. Road width.

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

Sec. 118-701. Waste collection.

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

Sec. 118-702. Building height and area.

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

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

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

Sec. 118-703. Procedural requirements.

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

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

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

(2) A general development plan including the following:

- a. A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.
- b. The location of public and private roads, driveways, sidewalks, and parking facilities.
- c. The size, arrangement, and location of any individual building sites and proposed building groups on each individual site.
- d. The location of institutional, recreational, and open space areas and areas reserved or dedicated for public uses, including schools, parks, and drainageways.
- e. The type, size, and location of all structures.
- f. General landscape treatment.
- g. The existing and proposed location of public sanitary sewers, water supply facilities, and stormwater drainage facilities.
- h. The existing and proposed location of all private utilities or other easements.
- i. Characteristics of soils related to contemplated specific uses.
- j. Existing topography on the site with contours at no greater than two-foot intervals.
- k. Anticipated uses of adjoining lands in regard to surface water drainage, and compatibility with existing adjacent land uses.
- l. If the development is to be staged, a staging plan.
- m. Designation of central waste removal sites.

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

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

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

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

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

- (1) The petitioners for the proposed planned unit development overlay district have indicated that they intend to begin the physical development of the PUD within nine months following the approval of the petition and that the development will be carried out according to a reasonable construction schedule and staging plan satisfactory to the village board.
- (2) The proposed planned unit development overlay district is consistent in all respects to the purpose of this division and to the spirit and intent of this chapter; is in conformity with the adopted master plan, neighborhood plan, or any adopted component thereof; and that the development would not be contrary to the general welfare and economic prosperity of the community.
- (3) The proposed site shall be provided with adequate drainage facilities for surface waters and stormwaters.
- (4) The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
- (5) No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas by the proposed development.
- (6) The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances or administrative regulations of the village.
- (7) Centralized public water and sewer facilities shall be provided.
- (8) The entire tract or parcel of land to be included in a planned unit development overlay district shall be held under single ownership or, if there is more than one owner, the petition for such planned unit development overlay district shall be considered as one tract, lot or parcel, and the legal description must define the PUD as a single parcel, lot or tract and be so recorded with the register of deeds for the county.
- (9) For a proposed residential planned unit development overlay district:
 - a. Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space, and coordination with overall plans for the community.

- b. The total net residential density within the planned unit development overlay district will be compatible with the village master plan, neighborhood plan, or components thereof.
- c. Structure types shall be generally compatible with other structural types permitted in the underlying basic use district. To this end, structure type shall be limited as follows: Planned residential developments in the R-1 district shall be limited to cluster developments, townhouses, and condominiums not to exceed four dwelling units per structure.
- d. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
- e. Provision has been made for adequate, continuing fire and police protection.
- f. The population composition of the development will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
- g. An adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan, either by private reservation and maintenance or by dedication to the public.

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

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

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

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

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

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

(Ord. of 11-24-94, § 16.5)

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

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

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

(Ord. of 11-24-94, § 16.6)

Sec. 118-706. Approval.

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

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

(c) *Changes and additions.* Any subsequent change or addition to the plans or uses shall first be submitted for approval to the plan commission, and if, in the opinion of the plan commission, such change or addition constitutes a substantial alteration of the original plan, a public hearing before the plan commission shall be required and notice thereof be given pursuant to division 5 of article II of this chapter, and the proposed alterations shall be submitted to the village board for approval.

(d) *Subsequent land division.*

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

(Ord. of 11-24-94, § 16.7)

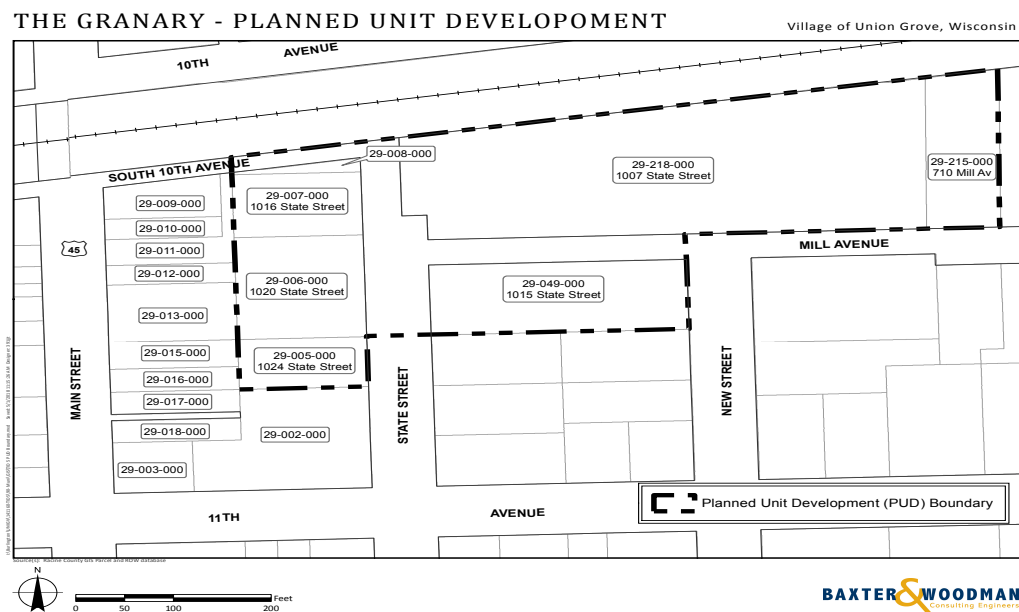
Secs. 118-707. The Granary Planned Unit Development.

The following parcels of land are rezoned from “RM Multiple-Family Residence District” to “PUD Planned Unit Development Overlay District – RM Multiple-Family Residence District” to allow for a multi-family development and as depicted below subject to the conditions set forth on Exhibit A which is incorporated herein by reference:

186-03-21-29-007-000	1016 State Street
186-03-21-29-006-000	1020 State Street
186-03-21-29-005-000	1024 State Street
186-03-21-29-218-000	1007 State
186-03-21-29-215-000	710 Mill Avenue
186-03-21-29-008-000	Sliver along State Street
186-03-21-29-049-000	1015 State Street

1016 State Street, 1020 State Street, 1015 State Street, 1007 State Street, 710 Mill Avenue, and the Sliver along State Street shall be combined via the approved certified survey map per Village Board Resolution No. 2018-15 which will be recorded with the Racine County Register of Deeds and then be legally described as follows:

Lots 1, 2 And 3 Of Certified Survey Map No. [3305] Part Of Block 1 Salisbury's Addition To Union Grove, Part Of Block 4 Salisbury's Second Addition To The Village Of Union Grove, Part Of The Northwest 1/4 And Part Of The Southwest 1/4 Of The Southwest 1/4 Of Section 29, Ownership 3 North, Range 21 East, All Being In The Northwest ¼ And The Southwest 1/4 Of The Southwest 1/4 Of Section 29, Township 3 North, Range 21 East Of The Fourth Principal Meridian And Being In The Village Of Union Grove, County Of Racine And State Of Wisconsin.



Secs. 118-708. – 118-740. Reserved.

Division 15. Reserved for Future Use.

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

Division 16. Design Guidelines Area Overlay District

Sec. 118-751. Purpose and intent.

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

- (1) Encourage urban design excellence.

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

(Amdmt. of 9-10-07, § 1)

Sec. 118-752. Definitions.

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

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

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

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

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

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

(Amdmt. of 9-10-07, § 1)

Sec. 118-753. Mapped district.

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

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

(Amdmt. of 9-10-07, § 1)

Sec. 118-754. Land uses.

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

Sec. 118-755. Scope.

This division shall apply to all buildings, structures, landscaping and exterior fixtures within the design guideline area, including, without limitation, all free-standing signs, all awnings and canopies, and all exterior lighting fixtures. (Amdmt. of 9-10-07, § 1)

Sec. 118-756. Applicability.

(a) All activities, excluding maintenance and repair activities which will change the exterior appearance of any building, structure, landscaping or exterior fixture shall comply with all required guidelines. All activities not subject to any required guidelines are nonetheless encouraged to incorporate the downtown design guidelines to the maximum extent possible. In the event of a conflict between the provisions of the Downtown Design Guidelines and the provisions of the Code of Ordinances for the Village of Union Grove ("Code"), the Code provisions shall govern.

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

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

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

Sec. 118-757. Design review.

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

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

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

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

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

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

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

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

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

(Amdmt. of 9-10-07, § 1)

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

Article V. Supplementary District Regulations

Division 1. Generally

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

Division 2. Site Restrictions

Sec. 118-816. Unsuitable site.

No land shall be used or structure erected where the land is held unsuitable for such use or structure by the plan commission because of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this village. Aesthetics may only constitute grounds for prohibiting the use if such use will substantially depreciate the value of property in the neighborhood or impose a visual effect upon neighbors or passersby which is clearly obnoxious to the prevailing taste of the community. The plan commission, in applying the provisions of this division, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter the plan commission may affirm, modify, or withdraw its determination of unsuitability. (Ord. of 11-24-94, § 2.131)

Sec. 118-817. Lot requirements.

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

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

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

(Ord. of 11-24-94, § 2.132)

Sec. 118-818. Floodland.

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

(Ord. of 11-24-94, § 2.133)

Sec. 118-819. Area regulations.

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

(Ord. of 11-24-94, § 2.8)

Sec. 118-820. Reduction or joint use.

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

(Ord. of 11-24-94, § 2.12)

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

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

(b) *Plan commission review.* The plan commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewerage and water systems, other utilities, utilization of landscaping and open space, and the proposed

operation. The plan commission may impose conditions relating to landscaping, architectural design, type of construction, flood-proofing, anchoring of structures, constructions commencement and completion dates, sureties, lighting, fencing, landscape screening, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements, as may be required by the plan commission upon its finding that such regulation or restrictions are necessary to fulfill the purpose and intent of this section.

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

- (1) Whether the design or exterior appearance of the structure is compatible with its surroundings or is of such unorthodox or abnormal character in relationship to its surroundings as to be unsightly or offensive with the surrounding area.
- (2) Whether the design or exterior appearance of the structure is identical with those adjoining as to create excessive monotony or drabness.
- (3) Whether any exposed facade of the structure is constructed or faced with a finished material which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
- (4) Whether the structure or use would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
- (5) Whether the structure and use would have a negative impact on the maintenance of safe and healthful conditions in the village.
- (6) Whether the structure and use will maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. The plan commission may require that drainage easements be executed. Property owners shall comply with existing subdivision or development grading plans.
- (7) Whether there are adequate provisions for safe traffic circulation and safe driveway locations.
- (8) Whether there are adequate provisions for parking and loading areas in accordance with any applicable ordinance.
- (9) Whether lighting must be installed in accordance with any applicable ordinance.
- (10) Whether there will be adequate provision for public services as approved by the department of public works and water utility.

- (11) Whether the structure and uses make appropriate use of open spaces and provide appropriate landscaping and planting screens.
- (12) Appropriate erosion control measures as required by ordinance, the Wisconsin Uniform Dwelling Code and any other applicable law or administrative rule.
- (13) The architectural guidelines and design standards recommended or required by the village community development authority or any other village redevelopment authority.
- (14) Whether there is compliance with all other provisions of the zoning code or applicable municipal ordinances.

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

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

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

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

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

Sec. 118-822. Plans of operation.

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

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

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

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

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

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

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

(e) *Hours of operation.* Based upon the impact on residential area in proximity to commercial uses and the cost of police protection and other public services necessary to adequately serve businesses, the plan commission may regulate the hours of operation of any business which requires a plan of operation permit.

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

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

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

Division 3. Uses

Subdivision I. In General

Sec. 118-846. Applicability.

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

Sec. 118-847. Principal uses.

Only those principal uses specified for a zoning district, their essential services, and the uses specified in this subdivision on the conditions specified in each section shall be permitted in that district.

(Ord. of 11-24-94, § 2.141)

Sec. 118-848. Accessory uses and structures.

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

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

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

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

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

(Ord. of 11-24-94, § 2.143)

Sec. 118-850. Unclassified or unspecified uses.

Under this chapter, unclassified or unspecified uses may be permitted after the plan commission has made a review and recommendation, provided that such uses are similar in character to the principal uses permitted in the district.

(Ord. of 11-24-94, § 2.144)

Sec. 118-851. Temporary uses.

Under this chapter, temporary uses, such as real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the plan commission.

(Ord. of 11-24-94, § 2.145)

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

(a) Under this chapter, parking of vehicles accessory to a residential use shall be limited to those actually used by the residents or for temporary parking for guests. Vans or pickup

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

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

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

Sec. 118-853. Home Occupations.

(a) Purpose and findings. This Section:

- (1) Establishes criteria for operation of home occupations in dwelling units within residential districts.
- (2) Permits and regulates the conduct of home occupations as an accessory use in a dwelling unit, whether owner- or renter-occupied.
- (3) Ensures that such home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses.
- (4) Ensures that public and private services, such as streets, sewers, or water or utility systems, are not burdened by the home occupation to the extent that usage exceeds that normally associated with residential use.
- (5) Allows residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards, conditions, and criteria.
- (6) Enables the fair and consistent enforcement of these home occupation regulations.
- (7) Promotes and protects the public health, safety, and general welfare.

(b) Applicability.

- (1) This section applies to any occupation, profession, or business activity customarily conducted entirely within a dwelling unit and carried on by a member of the family residing in the dwelling unit, and which occupation or

profession is clearly incidental and subordinate to the use of the dwelling unit for dwelling purposes and does not change the character of the dwelling unit. A home occupation is an accessory use to a dwelling unit.

- (2) No home occupation, except as otherwise provided in this section, may be initiated, established, or maintained in the unit except in conformance with the regulations and performance standards set forth in this section, as well as applicable state and federal certification or licensing provisions. A home occupation shall be incidental and secondary to the use of a dwelling unit for residential purposes.

(c) Exempt Home Occupations. The activities listed in subsections (1) through (4), below, are not subject to this section, provided that all persons engaged in such activities reside on the premises, and provided that there are no nonresident employees working on the premises.

- (1) Artists, sculptors, and composers not selling their artistic product to the public on the premises.
- (2) Craft work, such as jewelry-making and pottery, with no sales permitted on the premises.
- (3) Home offices with no client visits to the home permitted.
- (4) Telephone answering and message services.

(d) Permitted Home Occupations.

- (1) The home occupations permitted in subsection (d)(2), below, are allowed in a residential setting provided they do not compromise the residential character of an area, do not generate conspicuous traffic, do not visually call unusual attention to the home, and do not generate noise of a nonresidential level.
- (2) The following home occupations, without limitation due to enumeration, are permitted subject to the standards established in this section. Home occupation uses in addition to those listed below may be permitted pursuant to Section 118-276.
 - a. Accounting, tax preparation, bookkeeping, and payroll services.
 - b. Baking and cooking.
 - c. Catering.
 - d. Child care.
 - e. Computer systems design and related services, computer training, information and data processing services, computer processing and data preparation and processing services, and computer-related services.
 - f. Drafting services.

- g. Engineering, architecture, and landscape architecture.
- h. Financial planning and investment services.
- i. Fine arts studio.
- j. Hair salon, barbering, hairdressing, and other personal care services.
- k. Insurance sales.
- l. Interior decoration.
- m. Legal services.
- n. Mail order business.
- o. Musical instruction, voice, or instrument.
- p. Musical instrument tuning and repair.
- q. Offices for professional, scientific, or technical services or administrative services.
- r. Photographic services.
- s. Real estate services and appraisal.
- t. Tailoring (e.g., dressmaking and alterations) services.
- u. Teaching of crafts and incidental sale of supplies to students.
- v. Tutoring.
- w. Exempt home occupations listed above, but with no more than one nonresident employee.

(e) Prohibited Home Occupations. The following uses, without limitation due to enumeration, are not permitted as home occupations in residential zoning districts.

- (1) Medical/dental office.
- (2) Motor vehicle and engine repair.
- (3) Outdoor recreation activities.
- (4) Medical/cosmetic facilities for animals, including animal care or boarding facilities.
- (5) Machine shop/metal working.
- (6) Retail sales.

- (7) Contractors shops.
 - (8) Mortuaries.
 - (9) Medical procedures.
 - (10) Body piercing and/or painting tattoos, or any type of physical therapy or psychotherapy.
- (f) Performance Standards. Home occupations shall comply with the performance standards set forth below.
- (1) The use shall be clearly incidental and secondary to residential occupancy.
 - (2) The use shall be conducted entirely within the interior of the residence.
 - (3) No more than one nonresident employee shall be permitted.
 - (4) Not more than twelve client visits per day, allowed only between the hours of 8:00 a.m. and 8:00 p.m.
 - (5) Less than 50% of the gross floor area of the principal dwelling structure shall be utilized for the home occupation, not to exceed 400 square feet.
 - (6) Child care (maximum of three children who are unrelated to or not legal wards of the caregiver) is permitted.
 - (7) Public facilities and utilities shall be adequate to safely accommodate equipment used by home occupation.
 - (8) Storage of goods and materials shall be inside and shall not include flammable, combustible, explosive, or otherwise hazardous materials.
 - (9) Parking shall be provided only in the driveway.
 - (10) Outside storage of heavy equipment or material shall be prohibited.
 - (11) No truck or van utilized in conjunction with the home occupation with a payload rating of more than 1 ton shall be parked on the site or in front of the site on a regular basis without the permission of the Plan Commission.
 - (12) Mechanized equipment shall be used only in a completely enclosed building.
 - (13) Electronically amplified sounds shall not be audible from adjacent properties or public streets.
 - (14) No generation of dust, odors, noise, vibration, or electrical interference or fluctuation shall be perceptible beyond the property line.

- (15) Deliveries and pickups shall not block traffic circulation, and shall occur only between 8:00 a.m. and 8:00 p.m., Monday through Saturday.
- (16) Accessory buildings shall not be used for home occupation purposes, unless such use is approved by the Plan Commission.
- (g) **Unsafe Home Occupations.** If any home occupation has become dangerous or unsafe; presents a safety hazard to the public, pedestrians on public sidewalks, or motorists on a public right-of-way; or presents a safety hazard to adjacent or nearby properties, residents, or businesses, the Zoning Administrator shall issue an order to the dwelling owner and/or tenant on the property on which the home occupation is being undertaken, directing that the home occupation immediately be made safe or be terminated. The property owner and/or tenant shall take the necessary corrective steps or measures but, in the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Zoning Administrator may take any and all available enforcement actions to render the home occupation and dwelling safe. Costs incurred by the Zoning Administrator, if forced to take enforcement actions, shall be borne by the property owner and shall be treated as a zoning violation.

Sec. 118-854. Solar energy systems.

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

Sec. 118-855. Tourist Rooming Houses.

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

- (a) The operator shall obtain and maintain, as required by state law, a current tourist rooming house license issued by the state of Wisconsin Department of Agriculture, Trade, and Consumer Protection, and a current seller's permit issued by the

Wisconsin Department of Revenue, and must also pay all fees required by the Village and by state law.

- (b) Repealed. Reserved for future use.
- (c) Repealed. Reserved for future use.
- (d) A tourist rooming house, or any part thereof, may not be rented out for more than a total of 180 days per license year (July 1 to June 30).
- (e) The tourist rooming house operator must, at all times, keep the Village apprised of the operator's current address, phone number and/or email contact information, and must agree to respond within 24 hours of any contact by any representative of the Village.
- (f) The tourist rooming house operator must provide all renters with written information containing the operator's 24/7 contact information, local emergency and non-emergency numbers, and a listing of any special restrictions, limitation or considerations with respect to the property and/or the neighboring properties so as to minimize the likelihood of any conflict between renters and neighboring residents.
- (g) The maximum number of renters at time may not exceed twice the number of bedrooms being rented, plus 1. For example, a rental of one bedroom would allow a maximum of three renters and a rental of two bedrooms would allow a maximum of five renters.
- (h) A tourist rooming house must have adequate off-street parking sufficient to accommodate at least one car per bedroom being rented, provided, however, that for a tourist rooming house abutting a public road that is not designated as no-parking, the minimum number of required on-site parking spaces may be reduced as part of the conditional use permit.

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

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

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

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

- (1) Wind Energy. Any wind energy/electricity producing system proposed to be located within the Village of Union Grove requires a Village Conditional Use Permit and must also comply with the rules and regulations set forth in this ordinance, ss. 66.0401, 66.0403 and 196.378 of Wisconsin statutes

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

- a. Individual systems producing more than 100 kW of electricity shall only be constructed within an A-1, Agriculture zoning district and shall meet all the state regulations regarding the placement and operation of such systems; and,
- b. No individual system proposed to be located outside an A-1 zoned property shall produce more than 100 kW of electricity and such systems must meet the following Village requirements:
 1. There shall be no more than three such systems on an individual property, unless otherwise approved by the Plan Commission;
 2. No individual system shall be more than 125 feet in height from ground to blade tip;
 3. The setback from the system to a building on the host property, a property boundary, another wind system or overhead transmission cable/wires shall be no less than 1.1 times the ground to blade tip height of the system;
 4. The setback from the system to any occupied institutional building such as a religious institution, a community building, day care facility or school shall be no less than 3.1 times the ground to blade tip height of the system;
 5. No such system shall be visible from the first or second floor of a residence located within 1,500 feet;
 6. The system structure shall consist of a monopole (or other structure that requires no secondary support), blades and electric generator. There shall be no other sign or devices attached to or suspended from such system and the entire system shall be painted in a single tone that renders the system the most visually unobtrusive;

7. There shall be no steady or intermittent whine, whistle, screech, hum or other such noise emitted from a system and the decibel level of the system shall be no greater than 45 dBA measured at a distance of 125 feet from the system and the Village Plan Commission may require pre and post construction noise level studies conducted;
 8. There shall be no 'shadow flicker' on the windows of any building within a distance of 250 feet from a system;
 9. There shall be no interference with public or quasi-public communication facilities and such systems shall not be constructed in line-of-sight of an existing communication system; and
 10. The owner/operator of the system shall furnish a report to the Village by July 31 and January 31 each year setting forth the amount of electricity generated during the first and last halves of each calendar year the system is in service and if the system generates no electricity for a continuous period of 360 days the system must be decommissioned and removed pursuant to PSC regulation.
- c. The Village may require a cash bond or irrevocable letter of credit in the amount of 120 percent of the estimated cost of completing the proposed system decommissioning.

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

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

(a) Definitions.

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

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

(c) Restrictions.

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

(d) Exceptions.

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

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

Subdivision II. Conditional Uses

Sec. 118-881. Right to conditional uses.

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

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

(Ord. of 11-24-94, § 18.1)

Sec. 118-882. Application.

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

- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record.
- (2) A description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure;

proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.

- (3) A plat of the survey prepared by a registered land surveyor showing all of the information required under section 118-136 for a zoning permit and, in addition, the mean and historic high water lines on or within 40 feet of the subject premises, and existing and proposed landscaping.
- (4) Fee receipt from the zoning administrator.

(Ord. of 11-24-94, § 18.2)

Sec. 118-883. Referral to plan commission.

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

(Ord. of 11-24-94, § 18.3)

Sec. 118-884. Public hearing.

The plan commission shall fix a reasonable time and place for a public hearing on the application for a conditional use and shall give public notice thereof in the same manner as for an amendment to this chapter. A copy of all notices for public hearing on applications for conditional uses in the floodland districts, including a copy of the application, shall be transmitted to the state department of natural resources (DNR) for review and comment. Final action on floodland applications shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first.

(Ord. of 11-24-94, § 18.4)

Sec. 118-885. Standards for review.

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

- (1) All conditional uses must be in accordance with the purpose and intent of this chapter and shall not be hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the village.
- (2) A review of the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation, and improvement upon flood damage protection, water quality, shoreland cover, natural beauty, and wildlife habitat.
- (3) Conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, higher performance standards, street dedication, certified survey maps, floodproofing, ground cover, diversions, silting basins, terraces, stream bank protection, planting screens, operational

control, hours of operations, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or additional parking may be required by the plan commission upon its finding that these are necessary to fulfill the purpose and intent of this chapter and the State Water Resources Act of 1965 and to meet the provisions of state's floodplain, shoreland and wetland management programs.

- (4) Compliance with all other sections of this chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards, shall be required of all conditional uses.

(Ord. of 11-24-94, § 18.5)

Sec. 118-886. Decisions.

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

(Ord. of 11-24-94, § 18.6)

Sec. 118-887. Report to village board.

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

(Ord. of 11-24-94, § 18.7)

Sec. 118-888. Written decisions.

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

(Ord. of 11-24-94, § 18.8)

Sec. 118-889. Expiration.

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

(Ord. of 11-24-94, § 18.9)

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

Division 4. Performance Standards*

Sec. 118-916. Compliance.

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

(Ord. of 11-24-94, § 28.1)

Sec. 118-917. Air pollution.

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

(Ord. of 11-24-94, § 28.2)

Sec. 118-918. Fire and explosive hazards.

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

Sec. 118-919. Glare and heat.

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

(Ord. of 11-24-94, § 28.4)

Sec. 118-920. Water quality protection.

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

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

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

Sec. 118-921. Noise.

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

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

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

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

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

(d) This chapter may not apply to events in School Yard Park that are granted a written special event permit by the recreation and parks committee.

Sec. 118-922. Odors.

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

Sec. 118-923. Radioactivity and electrical disturbances.

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

Sec. 118-924. Vibration.

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

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

(Ord. of 11-24-94, § 28.9)

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

Division 5. Height of Structures

Sec. 118-951. Applicability of division.

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

(Ord. of 11-24-94, § 2.9)

Sec. 118-952. Architectural projections.

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

(Ord. of 11-24-94, § 2.91)

Sec. 118-953. Special structures.

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

(Ord. of 11-24-94, § 2.92)

Sec. 118-954. Agricultural structures.

Agricultural structures shall not exceed in height twice their distance from the nearest lot line.

(Ord. of 11-24-94, § 2.93)

Sec. 118-955. Solar access.

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

Sec. 118-956. Differing grades.

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

Sec. 118-957. Through lots.

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

Sec. 118-958. Basements.

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

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

Division 6. Yards

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

No part of a yard or other open space provided about any building for the purposes of complying with this chapter shall be included as a part of a yard or other open space required for another building.
(Ord. of 11-24-94, § 2.101)

Sec. 118-987. Abutment on district boundary.

Any side yard, rear yard or court abutting a zoning district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum width and depth for such yards and courts in the two districts which abut the district boundary line.
(Ord. of 11-24-94, § 2.102)

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

- (a) Definition.

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

(b) Permit.

- (1) No fence shall be constructed in the Village without first obtaining a permit from the Building Inspector. The application for such permit shall be on a form prescribed by the Village and shall be accompanied by a survey or site plan, in a form approved by the Building Inspector, showing the lot and the proposed location of the fence.
- (2) A permit fee in an amount as established by and as may be modified from time to time by resolution of the Village Board of the Village of Union Grove shall be paid at the time of the filing of the application for a permit hereunder.
- (3) A permit issued pursuant to this chapter shall be valid and permit construction of the fence for a period of one (1) year from date of issuance. If the fence is not completed within such period, a new permit shall be required.
- (4) The Village Building Inspector or his/her representative shall have a right to enter upon the premises to inspect the fence and its construction to ensure compliance with the permit and the provisions of this chapter.
- (5) As a condition of receiving a permit under this section, the owner agrees to defend, indemnify and hold the Village of Union Grove harmless from and against all claims, including boundary disputes, for injury or damage received or sustained by any person or entity in connection with the installation or construction of a permitted fence.

(c) Design.

(1) Height.

a. Residential and non-residential properties.

1. A fence within a street yard may not exceed three and one-half (3½) feet in height, must be located at least one (1) foot from the street yard lot line, and may not exceed any vision clearance requirements established by any applicable ordinance. Corner lot side yard fences may be increased in height to a maximum of six (6) feet, but must be set back a minimum of ten (10) feet from the lot line, unless otherwise approved by the plan commission.
2. A fence within a rear or side yard may not exceed six (6) feet in height and may not exceed any vision clearance requirements established by any applicable ordinance.

3. A supporting fence post that is set into the ground may exceed the heights specified above by six (6) inches.
4. Fences shall not exceed two and one-half (2½) feet in height when located within a vision clearance triangle unless approved by plan commission, and shall further comply with the location requirements set forth below in subsection (5).
5. In no event shall any provision of this chapter be construed to permit a spite fence in violation of Section 844.10, Wisconsin Statutes.

(2) Prohibited Materials.

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

(3) Maintenance. Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning, missing sections, broken supports, non-uniform heights, and non-removal of noxious weeds or similar vegetation.

(4) Aesthetics.

- a. The “good”, finished side of a fence shall face toward the adjoining property and toward the public road right-of-way. Fence posts shall be placed on the inner side of the fence. Metal fence posts shall be set in concrete bases. Fences may be located on the lot line.
- b. The Building Inspector shall determine which side of a fence is the “good”, finished side and shall provide property owners with his/her determination upon request. The Building Inspector may require the property owner to provide sufficient evidence to make said determination. The determination of the Building Inspector may be appealed to the Plan Commission, whose determination shall be final.

(5) Location.

- a. A fence may not be located within a public drainage easement or within a public right-of-way unless authorized elsewhere in this chapter.
- b. A fence may be located within the setbacks established by applicable zoning ordinances for street, side, rear, and shore yards, unless otherwise prohibited or restricted herein or unless prohibited or restricted by a Conditional Use Permit/Site Plan Review or variance.
- c. Fences abutting alleys shall be set back a minimum of two and one-half (2 1/2) feet from the lot line extending along the alley.
- d. Notwithstanding the foregoing provisions, to provide adequate vision clearance for persons using the public highways, no fence, screening, structure, bush, tree, branches or mound shall be erected, grown, placed or maintained in the Village which shall obstruct the vision between 2 and ½ (2 ½) feet above the curb level or, if none, the street grade at the location, within a triangle formed by the intersecting street lines and a line connecting such street lines from points 15' from the intersection of the street lines.
- e. Retaining Walls that exceed twelve (12) inches in height above grade shall be located a minimum of five (5) feet from all lot lines unless otherwise approved by the plan commission. Retaining wall submittals shall include drainage and landscaping plans.

(d) General Provisions.

- (1) Fences located within a public right-of-way shall not be permitted and shall be removed.
- (2) A fence currently located within a public drainage easement in the Village of Union Grove shall be permitted to remain unless in the opinion of the Building Inspector the fence is determined to obstruct the purpose for which the easement was obtained or the maintenance of the easement, including underground lines. The determination of the Building Inspector as to the existence of an obstruction may be appealed as set forth below.
- (3) The Building Inspector may order any fence located within the Village of Union Grove contrary to the provisions of this chapter to be removed, repaired or otherwise corrected, as the case may be. Such notice shall be in writing and delivered to the last known owner of the property where the fence is located, either delivered in person or by certified mail addressed to the last known address of the owner, directing the work or action which is required to be taken. The work or action shall be completed within thirty (30) days after receipt of the notice in the case of personal delivery or after the mailing of the notice in the case of mailing. Upon written request of the Owner, and for good cause shown, the Village Board may extend the time for compliance with the Order provided the Owner waives any appeal rights set forth below.

- (4) Any person shall have a right to request a review of the determination of the Building Inspector by filing a request for review in accordance with Chapter 68 of the Wisconsin Statutes. Failure to comply with the notice of required action shall permit the Village of Union Grove to enter upon the premises and complete such action. Any cost to the Village of Union Grove shall be charged as a special charge against the property as provided in Wis. Stat. Section 66.0627.
- (5) Fences existing in any residential district prior to the effective date of this chapter which do not meet the regulations of this chapter are permitted to be repaired for ordinary maintenance, including painting, staining, and cleaning. No permit shall be required for such work.
- (6) As an exception to any notice requirements set forth above, the Building Inspector and/or Director of Public Works may order the emergency removal of a fence, or a portion thereof, where there is an immediate danger to persons or property, or a significant maintenance concern.
- (7) Temporary fences such as construction security fences are permitted provided they are at least one (1) foot from the street, side and rear yard lot line unless a revised setback is otherwise approved by the Building Inspector and/or Director of Public Works and shall not exceed 180 days in any calendar year unless specifically approved by the Plan Commission.

Sec. 118-989. Accessory uses.

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

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

- (a) <1200 sq. ft. (footprint) shall require a minimum of 5 foot setback;
- (b) Between 1200 sq. ft. and <1500 sq. ft. (footprint) shall require a minimum of 10 foot setback;
- (c) Between 1500 sq. ft. and ≤3000 sq. ft. (footprint) shall require a site plan review by the plan commission to determine whether a minimum of 10 foot setback or greater should apply depending on site conditions, such as screening, landscaping and topography.

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

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

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

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

Sec. 118-990. Parking.

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

(Ord. of 11-24-94, § 2.105)

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

Sec. 118-991. Utilities.

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

(Ord. of 11-24-94, § 2.106)

Cross references: Utilities generally, ch. 106.

Sec. 118-992. Landscaping.

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

(Ord. of 11-24-94, § 2.107)

Cross references: Vegetation, ch. 110.

Sec. 118-993. Street yards.

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

(Ord. of 11-24-94, § 2.108)

Sec. 118-994. Obstructions.

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

(Ord. of 11-24-94, § 2.109)

Sec. 118-995. Projections into yard.

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

(Ord. of 11-24-94, § 2.1010)

Sec. 118-996. Vision triangles.

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

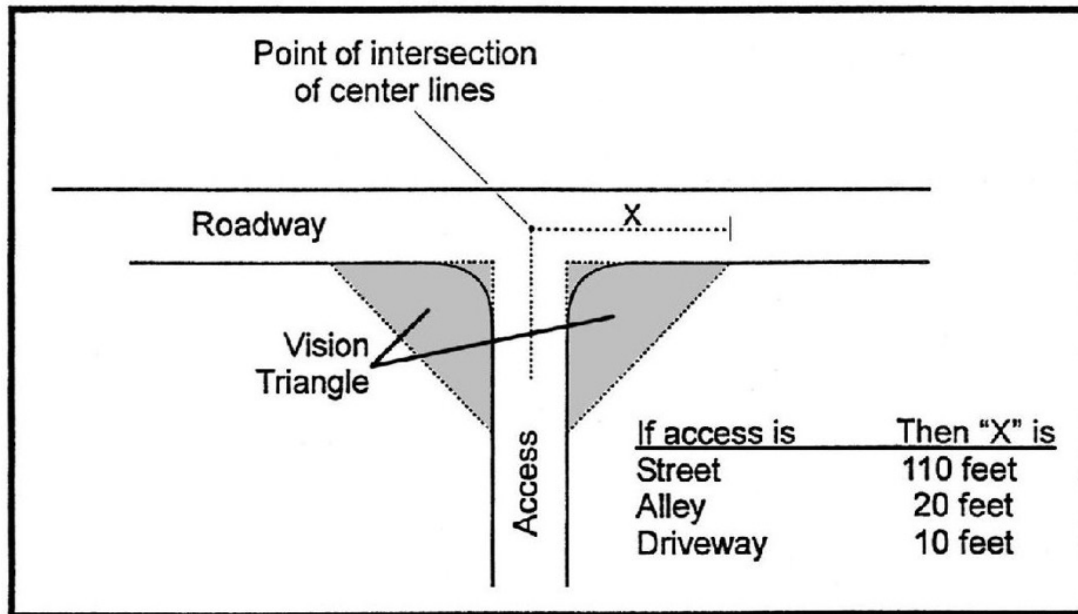
(b) Alley Vision Triangles. The alley vision triangle is a triangular area formed by extending the two curb lines (or edges of pavement) a distance of 20 feet from their point of intersection, and connecting these points with an imaginary line, thereby creating a triangle.

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

(d) Prohibitions. No fence, wall, screen, sign, structure, or foliage shall be erected, planted or maintained in such a manner as to obstruct or interfere with a clear line of sight for the drivers of approaching vehicles within the vision triangle between two and one-half feet and eight

feet above the average grade of the curb. This shall not be interpreted to prohibit traffic sign posts, utility poles or tree trunks within the vision triangle.

The figure below illustrates the vision triangle concepts discussed above.



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

Division 7. Traffic and Parking*

Sec. 118-1026. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: *Net leasable area* means present or potentially habitable space designed for an owner's or tenant's occupancy and exclusive use.

(Ord. of 11-24-94, § 2.111(1))

Cross references: Definitions generally, § 1-2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(o) All open, off-street parking areas providing more than 25 spaces, except parking areas restricted to use by employees only, should provide parking spaces for use by motor vehicles which transport physically disabled persons in accordance with the requirements of Wis. Stats. §§ 346.50 and 346.503. (Ord. of 11-24-94, § 2.111(2) – (16))

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

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

- | | | |
|------|---|---|
| (1) | Single-family | 2 spaces per dwelling |
| (2) | Two-family | 2 spaces per dwelling |
| (3) | Multiple-family | 2 spaces per dwelling |
| (4) | Boardinghouses | 1 space per living unit |
| (5) | Public and semipublic education and institutional uses, elementary and junior high school | 1 space for each classroom, workshop laboratory or office plus one space per 200 square feet of auditorium gymnasium and cafeteria |
| (6) | Senior high school | 4 spaces for each classroom, workshop, laboratory or office plus 1 space per 200 square feet of auditorium, gymnasium and cafeteria |
| (7) | Municipal neighborhood community buildings | 1 space per 250 square feet of net leasable area |
| (8) | Libraries, museums (not for profit) | 1 space per 250 square feet of net leasable area |
| (9) | Churches | 1 space for four seats |
| (10) | Auditoriums | 1 space per 100 square feet of net leasable area |
| (11) | Day care facilities | 2 spaces plus 1 additional space for each 10 children |
| (12) | Public buildings other than elementary and high schools | Public buildings other than elementary and high schools |
| (13) | Recreational and entertainment theater | 1 space per each 3 seats |

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

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

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

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

Sec. 118-1029. Driveways.

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

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

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

(c) Sharing of access to state and county trunk highways by commercial or industrial land uses may also be permitted by the village. Such shared access shall be shown on an adopted neighborhood or similar plan as may be determined by the plan commission. Such shared access shall have the approval of the county highway department or state department of transportation, depending upon jurisdiction. A cross access agreement shall be recorded by all landowners utilizing such shared access. Such shared access must meet standard specifications.
(Ord. of 11-24-94, § 2.113)

Sec. 118-1030. Loading requirements.

In all zoning districts, adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public ways and so that all vehicles need not back onto any public way.
(Ord. of 11-24-94, § 2.114)

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

Article VI. Reserved*

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

Article VII. Signs and Graphics**

Sec. 118-1110. Intent and purpose.

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

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

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

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

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

Sec. 118-1111. General prohibition.

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

Sec. 118-1112. Signs – Definitions.

The following definitions are used in this article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

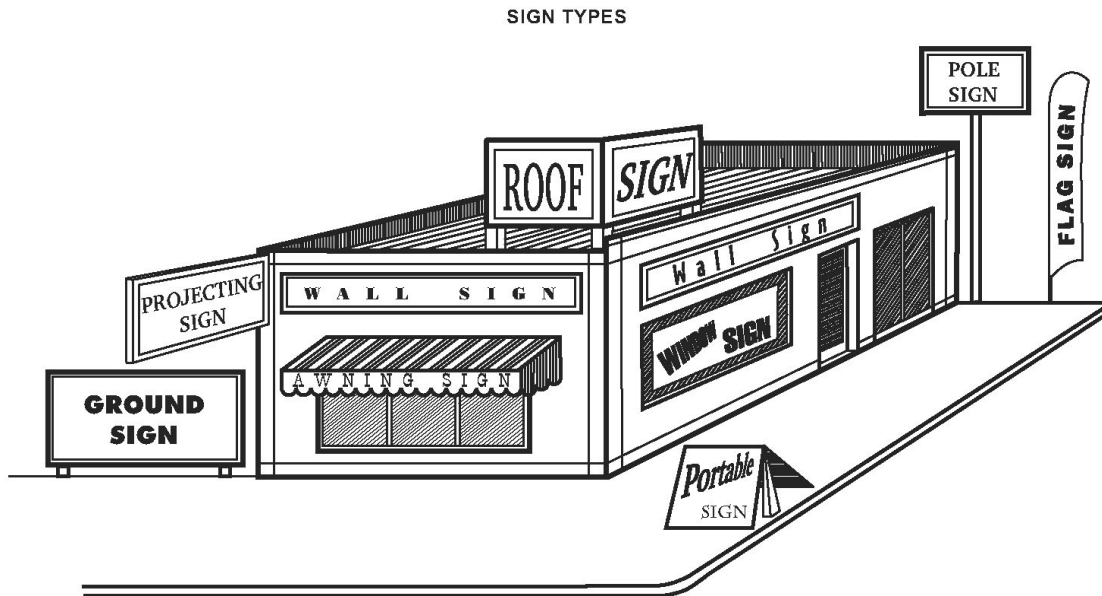
Sign. Any object, device, display, structure or part thereof, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures,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

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

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

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

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



(Amended; Ordinance 2017-01)

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

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

(a) Temporary Signs.

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

- a. A property owner may place one sign with a sign face no larger than four (4) square feet on the property at any time.
- b. A property owner may place a sign no larger than 8.5 inches by 11 inches in one window on the property at any time.
- c. Such signs are limited to no more than seven (7) days, whether or not consecutive, within any calendar month.

(2) One temporary sign may be located on a property when:

- a. The owner consents and that property is being offered for sale through a licensed real estate agent;

- b. If not offered for sale through a real estate agent, when the sign is owned by the property owner and that property is offered for sale by the owner through advertising in a local newspaper of general circulation; and
 - c. For a period of 15 days following the date on which a contract of sale has been executed by a person purchasing the property.
- (3) A person exercising the right to place temporary signs on a property as described in this subsection (a)(1) above must limit the number of signs on the property per 0.25 acre at any one time to 2 plus a sign allowed in subsection (a)(2) above or if the property is smaller than 0.25 acres then no more than 2 signs plus a sign allowed in subsection (a)(2) above per principal building on the property.
- (4) Except as otherwise provided in the Wisconsin Statutes, the sign face of any temporary sign, unless otherwise limited in this subsection (a) above must not be larger than four (4) square feet.
- (5) Election campaign signs. Election campaign signs may be allowed in any district without a permit provided that permission shall be obtained from the property owner, renter, or lessee; and provided that such sign shall not be erected for more than the election campaign period set forth in Wis. Stat. §12.04, and removed within seven days following the election. Such signs in residential zoning districts shall not exceed 11 square feet on each sign face per sign, unless located on a county or state trunk highway or village designated arterial street, in which case the maximum sign area may be increased to 16 square feet; may not exceed six feet in height; and, may not exceed a total of 16 square feet per lot. To avoid sign clutter and visual distraction, individual signs more than four square feet in area should be spaced apart from other signs on the property at least 30 feet. No such sign shall be placed on public lands, within public rights-of-way or within the designated vision triangle of two intersecting streets. If a sign is placed without such permission, it will be subject to removal without notice. Fees for short-term temporary signs shall be waived. In the event that Wis. Stat. Section 12.04 would permit a sign that is larger than the size limitations set forth above, such sign, regardless of sign content, is allowed only for the period described in Section 12.04.
- (6) Rummage, garage or estate sales permitted when under Section 118-858 shall comply with the temporary sign requirements set forth above.

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

(c) Required Signs. Where a federal, state or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either

generally or specifically, the owner must comply with the applicable law by posting a sign on the property.

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

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

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

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

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

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

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

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

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

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

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

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

(c) Permanent ground signage structures, other than billboards, as defined herein, shall not exceed 15 feet in height above the mean centerline grade of the nearest street unless approved by the plan commission; shall not exceed in sign area, 32 square feet on one side at the street property line but may be up to 40 square feet of sign face per side when the sign is at least five feet from the street property line. Only one ground sign structure shall be allowed on a street frontage of a single (individual) property and no ground sign structure shall be placed closer than 150 feet from another ground sign structure, projecting sign or billboard. Any such sign shall not be illuminated during the seven-hour period beginning at 11:00 p.m. and ending at 6:00 a.m., except during the normal hours of operation. No such structure shall have exposed flashing, digital or electrically movable lighting or images of any kind, except when approved by the plan commission, with the exception that such signs may have movable words and numbers if required by local, state or federal law. Such signs, when located in the downtown district, must comply with the signage standards provided in this section. Permanent ground sign structures on parcels of more than five acres in area, over 40 square feet in sign area, and any subsequent changes to such signs must be approved by the plan commission (also see section 118-1119).

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

issuance of a new permit by the zoning administrator or building inspector (also see section 118-1119).

(e) Permanent window signage area shall be placed only on the inside of the window and shall not exceed 50 percent of the glass area of the window upon which the sign is displayed. Perforated window decals may cover 100 percent of the window. Illuminated signs in windows shall not be illuminated after the business is closed for the day.

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

(g) Combinations of any sign structure signage area in this section shall meet all the requirements for the individual sign. See subsections 118-1116(b) and (c).

(h) Roof with sign structures as defined herein shall not be allowed, except as permitted in section 118-1119.

(i) Portable sandwich board signs shall require a permit unless they adhere to the following requirements:

(1) One portable sandwich board sign is allowed per business.

(2) Such signs shall be located adjacent to the business premises, and only displayed during business hours of operation.

(3) Portable business signs shall not exceed four (4) feet in height and two (2) feet in width.

(j) All signs with no current permit must be removed immediately.

Sec. 118-1117. Obsolete signs.

An obsolete sign shall be removed or painted out by the owner, agent, or person having the beneficial use of the building or structure upon which such copy or message may be found within 30 days after written notification from the zoning administrator. Upon failure to comply with such notice within the time specified in such notice, the zoning administrator is authorized to cause removal of such copy or message, and any expense incident thereto shall be paid by the owner of the building, sign, or structure upon which such copy or message is displayed. Upon vacating a commercial establishment, the proprietor shall be responsible for the removal of all signs used in conjunction with the business.

Sec. 118-1118. Signs permitted in conservancy and floodplain zoning districts with a permit.

Signs as permitted in subsections 118-1114(a) shall be permitted in the upland and lowland conservancy and floodplain zoning districts upon the issuance of a permit by the building inspector or zoning administrator.

Sec. 118-1119. Special restrictive provisions.

Following are special restrictive provisions that relate, generally, to all signs or premises in the village:

(a) The following signs shall be prohibited except as provided in section 118-1116:

- (1) Signs on roof tops;
- (2) Flashing, blinking or electronically movable copy (scrolling) signs;
- (3) Portable and other movable signs, as well as any sign within a public street or highway right-of-way.

(b) Signs facing on federal interstate or federal aid primary highways shall meet all the requirements and regulations set forth in Wisconsin statutes and federal regulations as well as the regulations for the type and location of signs set forth herein, whichever is more restrictive.

(c) The plan commission or zoning administrator may require a cash bond or irrevocable letter of credit of the applicant for a permanent sign permit to ensure that the sign is erected as required by these regulations and the plan commission's directions.

Sec. 118-1120. Searchlights/balloons.

The village board may permit the temporary use of a searchlight or balloons for advertising purposes in any district except residential districts provided that the searchlight or balloon will not be located in any public right-of-way; will not be located closer than ten feet to an adjacent property; and, will not be a vision or audio nuisance or cause a hazard to traffic or adjoining properties. Searchlight and balloon permits shall be granted for a period of not more than five days in any six-month period and the searchlight shall not be illuminated during the period beginning at 10:00 p.m. and ending at dawn.

Sec. 118-1121. Illumination, design and color.

Signs may not use unshielded lighting, including exposed incandescent lights that are hung or strung on poles, wires or any other type of support, to intentionally light a sign. All signs must not have exposed electrical wiring. In no case shall the lighting intensity of any sign, whether resulting from internal or external illumination, exceed sixty (60) foot candles when measured with a standard light meter held perpendicular to the sign face at a distance of ten inches. Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window or fire escape and no sign shall be attached to a standpipe or fire escape. Signs shall be placed so as not to obstruct or interfere with traffic visibility.

and neighboring property and shall not be lighted in a way that causes glare or impairs driver visibility upon public ways. Signs must also meet the following criteria:

(a) Signs using internal illuminated messages must be constructed from a material that is not transparent. The message incorporated into the sign must be cut out and replaced with a translucent material with the light source contained inside the sign.

(b) Internal illuminated signs may have translucency on the face of the sign with an internal light source.

(c) Signs with backlighting must have a message that is raised beyond the sign's background and the source of lighting must illuminate the sign from the behind in the form of backlighting.

(d) Signs with spotlights shall be designed, located and shielded to prevent direct sunlight and glare upon neighboring properties, roadways, and the sky with direct light or glare.

(e) Electronic signs meeting the requirements of the subsection below are permitted as approved by the plan commission:

- (1) Electronic signs that display or alternated between time and/or temperature are permitted to be attached to buildings according to the requirements of this chapter.
- (2) Electronic signs displaying messages in addition to or other than the time and/or temperature must be self-supporting, unattached to any building structure and must meet the requirements of this chapter. Each sign must have a non-electronic, set portion that is at least fifty (50) percent of the size of the electronic portion.
- (3) Electronic sign displays shall meet the following requirements:
 - a. The sign's background must be dark or shaded with only the message of the sign having light illumination qualities.
 - b. Ambient light monitors must be included in all electronic signs and must automatically modify the illumination level of the sign reliant on external ambient lighting conditions.
 - c. Illumination of the sign shall not surpass two (2) foot candles (two lumens per square feet), as measured from any point along the property line. Illumination brightness may not be obtrusive to any neighboring properties and may not exceed manufacturers recommended levels.
 - d. Sign displays may not be altered at a rate any faster than ten (10) seconds. Signs must display all messages in full for a minimum of a ten-second time limit.
 - e. Apparent movement or animations such as flashing, blinking, pulsing, etc., shall not be displayed on any sign unless approved by the plan commission.

(f) Neon signs or exterior neon displays are permitted only when they are custom designed to complement the architectural design and character as approved by the plan commission.

(g) Internal or external illuminated between the hours of 11:00 p.m. and sunrise is not permitted unless the property to which it belongs is open for business during that time. Signs located in residential districts shall not be illuminated.

(h) Facing of illuminated signs, except those permitted in residential zoning districts, shall not be permitted to be toward an adjoining residence and no sign-related illuminating device shall be directed toward neighboring property lines in all districts.

Sec. 118-1122. Existing signs.

Signs lawfully existing at the time of the adoption of or related amendment to this section may be continued although the size or location does not conform to this section provided that the owners of such signs shall, within three months of the effective date of this section or any amendment thereto, fill out a permit application for the building inspector's records. Upon the filing of such application, the building inspector shall issue an initial permit to the sign owner without fee. Said signs are deemed a nonconforming use or structure, and are subject to applicable statutory provisions as to the same. Certain existing signs are of a type that requires a permit that is valid for a specific time period and are subject to the regulation of such signs as set forth herein. Nonconforming permanent signs shall be kept in good repair, but the cost of maintenance shall not be considered grounds for their continued use. If not kept in good repair to the satisfaction of the building inspector, the building inspector may require removal of the sign within a 60-day period. The owners of signs which are not repaired, painted, or maintained pursuant to written notification and orders by the building inspector shall also be subject to enforcement action (see section 118-1125).

Sec. 118-1123. Administration.

Applications for permits for the erection of signs requiring a permit shall be filed with the building inspector, who shall review the application for its completeness, accuracy and adherence to this article and approve or deny the application within a reasonable period from the date of receipt unless the time is extended by written agreement with the applicant. A sign permit shall become null and void if work authorized under the permit has not been completed within six months from the date of issuance. Applications shall be made on forms provided by the building inspector and shall contain or have attached thereto at least the following information:

(a) Name, address, and telephone number of the applicant, and location of building, structure, lot or property to which or upon which the sign is to be attached or erected.

(b) Name of person, firm, corporation, or association erecting the sign.

(c) Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed or erected.

(d) A scale drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.

(e) Copies of any other permit required and issued for said sign, including the written approval by the Electrical inspector in the case of illuminated signs. The building inspector shall examine the plans and specifications, inspecting all wiring and connections to determine if the same complies with this Code.

(f) Copies of any other permit required and issued for said sign, including the written approval by the Electrical inspector in the case of illuminated signs. The building inspector shall examine the plans and specifications, inspecting all wiring and connections to determine if the same complies with this Code.

(g) Additional information such as photographs or colored renderings.

(h) Payment of a fee as set forth herein. The building inspector may direct that the applicant for a sign permit meet with the plan commission to review the request and provide guidance in the issuance of the permit or interpretation of the standards.

Sec. 118-1124. Inspection and removal of signs.

From time to time the zoning administrator or building inspector may inspect signs within the village for compliance with the provisions of this section and if such provisions are not being met, such fact shall be reported to the sign owner with a request that the sign be made to comply with this section. If, within a reasonable period of time set by the building inspector (see sections 118-1122 and 118-1123), the sign is not made to comply with this section, the building inspector may direct that the sign be removed by the owner, and if not so removed shall cause the sign to be removed and the cost of such removal assessed to the sign owner or the owner of the property from which the sign is removed.

Sec. 118-1125. Maintenance of signs.

All signs shall be maintained and kept in good repair. Signs intended to be permanent must be structurally affixed to a building, structure or a ground mounting and constructed of materials that are permanent in nature.

The owner of a permanent sign and/or the owner of the land on which the sign is located shall maintain such sign in good and safe condition which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition, and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass. Failure to do so after notice from the building inspector shall be cause for the removal of such signs under section 118-1124. Whenever the building inspector determines that the cost to repair a sign will exceed 50 percent of its replacement cost, or is a public nuisance and unsafe, such sign shall be deemed a hazard and the building inspector shall order its removal as set forth in section 118-1124. This section shall apply to both new and legal nonconforming signs.

Sec. 118-1126. Sign structure construction standards.

Sign structures shall meet the following requirements:

(a) Wind pressure and dead load requirements. All permanent sign structures, temporary sign structures and other advertising structures shall be designed and constructed to

withstand wind pressure of not less than 40 pounds per square foot of area, and shall be constructed to receive dead loads as required in the village building code, other ordinances, state or federal law.

(b) Protection of the public. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration, or maintenance of a sign structure is permitted provided the space occupied is roped off, fenced off, or otherwise isolated to prevent hazard to pedestrians and property.

(c) Supporting members or braces of all sign structures shall be constructed of galvanized iron, properly treated wood, stainless steel, or other non-corrosive, non-combustible material. All projecting sign structures, if placed at an angle to the wall of any building, shall be attached by such non-corrosive metal bolts, anchors, cable, or other metal attachments as shall ensure permanent and safe construction and shall be maintained free from defects, rust or other deterioration. Every means or device used for attaching any signage structure shall extend through the walls of the building should the building inspector determine that the safe and permanent support of such sign structure so requires it and shall be securely anchored by wall plates and listed fasteners to the inside of the walls or to bearings on the underside of two or more building structural members in accordance with instruction given by the building inspector, engineer, architect or manufacturer. Small, flat signs containing less than ten square feet of area may be attached to a building by the use of approved fasteners or other means to the satisfaction of the building inspector. Structural engineering and attachment details prepared by a registered architect or engineer may be required.

(d) No sign structure, or any part thereof, or anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or stand pipe, and no such sign structure or any part of any such sign or any anchor, brace, or guide rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through a door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against a building by the fire department as necessity therefore may require.

(e) Exceptions to area, height and setback requirements may be granted as approved by plan commission. The sign structures located in the setback area as permitted shall not interfere with reasonable vision clearance. The plan commission may permit signs to deviate from required area, height and setback requirements upon review of detailed site plans and sign and sign structure details.

(f) Signage along with sign structures within downtown districts shall meet all requirements within that district as approved by the CDA and plan commission and shall comply with the downtown design guidelines.

(g) Aesthetic appearance, lighting and landscaping of permanent signs must be accomplished to the satisfaction of the plan commission, and when located within the downtown district, shall be reviewed and approved by both the CDA and plan commission.

Sec. 118-1127. Permit fees.

Initial application for a sign permit and extension of such permits as required herein. Each application for a required permit or extension of a permit shall be accompanied by a fee as set forth in the village approved fee schedule. Each individual sign requires a permit unless specifically stated otherwise in these regulations. All permits for temporary signs or banners

expire on June 30th each year unless stated otherwise herein and require no permit fee. The fees have been established by the village board as a part of the village's comprehensive fee schedule and are subject to periodic review and change by action of the village board. The village herein shall not deem the acceptance of fees as provided an assumption of liability. (Ord. No. 2010-03, § 1(Exh. A), 6-28-10)

Secs. 118-1128--118-1150. Reserved.

Article VIII. Mobile Tower Siting

Sec. 118-1151. Definitions.

The following definitions shall apply to this Chapter:

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

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

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

Mobile Service Provider means a person who provides mobile service as defined by federal law.

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

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

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

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

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

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

- (1) for structures with an overall height of two hundred (200) feet or less, increases the overall height of the structure by more than twenty (20) feet;
- (2) for structures with an overall height of more than two hundred (200) feet, increases the overall height of the structure by 10% or more;
- (3) measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by more than twenty (20) feet or more, unless a larger area is needed for collocation;
- (4) increases the square footage of an existing equipment compound to a total area of more than 2500 square feet.

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

Existing Structure means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with the Village.

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

Sec. 118-1152. Purpose.

The purpose of this section is to regulate by zoning permit, site plan review, or conditional use the siting and construction of any new mobile service support structures and/or facilities.

Mobile service support structures or other supporting buildings or structures that are used to elevate an antenna, or which act as an antenna, and are intended for wireless telecommunications, are subject to the regulations and site development standards set forth in this Chapter.

Sec. 118-1153. Amateur and citizen band towers.

Amateur and citizen band towers and antennas where the structure is fifty (50) feet or more in height are exempt from the provisions of this Chapter except for the following:

- (1) The installation or construction of such structure must require a site plan review and approval in accordance with the procedure set forth in Section 118-821. The Plan Commission may request a hearing following a site plan review if it is determined that such a hearing is in the public interest.
- (2) Such structures must be considered an accessory structure and may only be permitted in the side yard and rear yard. A minimum ten (10) foot side-yard and rear-yard setback must be maintained.

Sec. 118-1154. Application submittal requirements – new mobile service support structures.

The siting and construction of any new mobile service support structures will require a conditional use permit. All structures should be camouflaged to the greatest extent possible, including compatible building materials, colors, and screening. Per Wisconsin State Statute Section 66.0404(4)(g), an application may not be denied based solely on aesthetics concerns. A zoning permit application must be completed by the applicant and submitted to the Village Clerk. The application must contain the following information:

- (1) Applicant name, business address, and phone number of all known occupants of the proposed mobile service support structure, including contact individual(s) for the applicant(s). The proposed structure must be designed structurally, electronically, and in all respects to accommodate collocation of both the applicant's antennas and antennas for at least two (2) additional users. The equipment compound must also be able to accommodate multiple users.
- (2) The location of the proposed mobile service support facility.
- (3) If the applicant does not own the site or the tower, the applicant must provide a lease agreement or binding lease memorandum which shows on its face:
 - a. that it does not preclude the site owner from entering into leases on the site with other provider(s);
 - b. that it does not preclude the tower owner from entering into leases on the tower with other provider(s);
 - c. the legal descriptions and amount of property leased;
 - d. in the event of abandonment, the Village reserves the right to remove the tower at the property owner's expense.
- (4) A scaled site plan which shows property lines, location of mobile service support structure, setback distances, mobile service facility, and fencing.
- (5) A sketch, concept, or rendition of the site as proposed.
- (6) An explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who is responsible over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is not technically feasible; or is economically burdensome to the mobile service provider.
- (7) A construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

- (8) A tabular and/or map inventory of all of the applicant's existing towers and antennas which are located within the county. The inventory must specify the location, antennae height, and structure type of each of the applicant's existing mobile service support facilities. The inventory must also specify whether such towers are currently in operation and indicate the ability of the existing structures to accommodate additional collocation antennas.
- (9) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.
- (10) Evidence that the applicant has informed local airport owners and operators about any permit application for structures above two hundred (200) feet tall or within a three-mile radius of any existing public or private airport, including all landing strips.

Sec. 118-1155. Application process – new mobile service support structures.

- (1) If an applicant submits to the Village an application to engage in an activity described in this section, which contains all of the information required under this Chapter, the Village must consider the application complete. If the Village does not believe that the application is complete, the Village must notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. The applicant may resubmit an application as often as necessary until it is complete.
- (2) Within ninety (90) days of its receipt of a completed application, the Village must complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the ninety (90) day period:
 - a. Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this Chapter;
 - b. The Village Board must make a final decision whether to approve or deny the application, after receiving a recommendation of the Plan Commission;
 - c. The Village must notify the applicant in writing of the final decision;
 - d. If the application is approved, the Zoning Administrator will issue the applicant a zoning permit;
 - f. written notification substantial evidence which supports that decision.
- (3) The Village may deny an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and does not provide the sworn statement described in Section 16-9-4(f).
- (4) If an applicant provides the Village with an engineering certification showing that the proposed mobile service support structure is designed to collapse within a smaller area than the setback or fall zone area required in the specified zoning district, that zoning setback does not apply to the proposed structure unless the

Village provides the applicant with substantial evidence that the engineering certification is flawed.

Sec. 118-1156. Technical review.

In the event the Plan Commission determines that it is necessary to consult with a third party in considering a permit, all reasonable costs and expenses, excluding travel expenses, associated with such consultation shall be borne by the applicant. Failure to pay such costs and expenses or to provide information requested by the Plan Commission shall be grounds for denial or revocation of a conditional use permit. The applicant may provide to the Plan Commission the names of consultants believed by the applicant to be qualified to assist in resolving the issues before the Plan Commission.

Sec. 118-1157. Abandonment.

- (1) Any mobile service support structure and facilities not in operation for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the owner of the mobile service support structure and facility of the property where the structure and facility are located must remove the support structure and all supporting equipment, buildings, and foundations to a depth of five (5) feet, and must restore the location to its natural condition (except any grading may remain in the after-condition as determined by the zoning administrator) within ninety (90) days of receipt of notice from the zoning administrator. If removal and restoration to the satisfaction of the zoning administrator does not occur within the said ninety (90) days, the zoning administrator may remove and salvage said mobile service support structure and facility and restore the site at the expense of the mobile service provider or property owner.
- (2) The applicant must submit a copy of a signed agreement, which may be the lease agreement, between the property owner and the owner of the mobile service facility detailing requirements for abandonment and subsequent removal based on the provisions of Section 16-9-7(a). Said agreement must also identify that the agreement must be binding on future property owner(s) and future owner(s) of the mobile service support structure and facility.
- (3) The mobile service support structure and facility must be recorded in the Register of Deed's Office and a copy of the deed must be filed with the Zoning Administrator.

Sec. 118-1158. Security for removal.

The applicant shall provide to the Village, prior to the issuance of the permit, a performance bond in the amount of twenty thousand dollars (\$20,000.00) to guarantee that the tower and all supporting equipment, buildings and foundations will be removed when no longer in operation. The Village must be named as obligee in the bond, and it must approve the bonding company. The face of the bond must reflect that the Village will be given notice if the bonding company cancels the bond. If, prior to the removal of the tower, tower removal rates exceed twenty thousand dollars (\$20,000.00), the Village reserves the right to require a corresponding increase in the bond amount.

Sec. 118-1159. Continued compliance.

Upon written inquiry by the Plan Commission, the permit holder under this section shall have the burden of presenting credible evidence establishing to a reasonable degree of certainty the continued compliance with all conditions placed upon the conditional use permits. Failure to establish compliance with all conditions placed upon the conditional use will be grounds for revocation of the permit.

Sec. 118-1160. Use of existing structures.

A mobile service facility may locate on alternative support structures, such as clock towers, steeples, silos, light poles, buildings, water towers or similar structures, provided that the placement of the antenna will not extend more than six (6) feet from the structure. Mobile service facilities located on roofs must not occupy more than fifty (50) percent of the roof surface of a building and must be secured from the remaining area to prevent unauthorized access. The mobile service facility must be painted or otherwise treated to match the exterior of the structure. Such mobile service facility installation will be classified as either a class 1 or class 2 collocation and will require a site plan review.

Sec. 118-1161. Application submittal requirements – Class 1 Collocations.

A collocation will be classified as a class 1 collocation if the following substantial modifications are added to the exiting mobile service support structure:

- (1) an increase in the overall height of the structure by more than twenty (20) feet, for structures with an overall height of two hundred (200) feet or less;
- (2) an increase in the overall height of the structure by 10% or more, for structures with an overall height of more than two hundred (200) feet;
- (3) an increase in width of the support structure by twenty (20) feet or more, measured at the level of the appurtenance added to the structure as a result of the modification;
- (4) an increase in the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

A zoning application must be completed by the applicant and submitted to the Village Clerk. The application must contain the following information:

- (1) Applicant name, business address, and phone number of the contact individual(s) for the applicant(s).
- (2) The location of the existing mobile service support structure, including legal description, amount of property leased, and the height of the proposed and existing mounted antennas and/or equipment.
- (3) A construction plan which describes the proposed modifications to the mobile support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

- (4) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.

Sec. 118-1162. Application Process – Class 1 Collocation.

- (1) If an applicant submits to the Village an application to engage in an activity described in this section, which contains all of the information required under this Chapter, the Village must consider the application complete. If the Village does not believe that the application is complete, the Village must notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (2) Within ninety (90) days of its receipt of a completed application, the Village must complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the ninety (90) day period:
 - a. Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this Chapter;
 - b. The Village Board must make a final decision whether to approve or deny the application, after recommendation of the Plan Commission;
 - c. Notify the applicant in writing of the Village Board's final decision;
 - d. If the application is approved, issue the applicant a zoning permit;
 - e. If the decision is to deny the application, include with the written notification substantial evidence which supports that decision.

Sec. 118-1163. Application submittal requirements – Class 2 Collocation.

A collocation will be classified as a class 2 collocation if the substantial modifications described in Section 16-9-11 are not required for service.

A zoning application must be completed by the applicant and submitted to the Zoning Administrator. The application must contain the following information:

- (1) Applicant name, business address, and phone number of the contact individual(s) for the applicant(s);
- (2) The location of the existing support structure; including legal description, amount of property leased, and the height of the proposed and existing mounted antennas and/or equipment;
- (3) A report by a structural engineer licensed by the State of Wisconsin certifying the structural design and its ability to accommodate additional antennas.

Sec. 118-1164. Application process – Class 2 Collocation.

- (1) If an applicant submits to the Village an application to engage in an activity described in this section, which contains all of the information required under this Chapter, the Village must consider the application complete. If the Village does not believe that the application is complete, the Village must notify the applicant in writing, within five (5) days of receiving the application, that the application is not complete. The written notification must specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (2) Within forty-five (45) days of its receipt of a completed application, the Village must complete all of the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the forty-five (45) day period:
 - a. Review the application to determine whether it complies with all applicable aspects of the zoning ordinance and limitations of this Chapter;
 - b. The Village Board must make a final decision whether to approve or deny the application, after recommendation of the Plan Commission;
 - c. Notify the applicant in writing of the Village Board's final decision;
 - d. If the application is approved, issue the applicant a zoning permit;
 - e. If the decision is to deny the application, include with the written notification substantial evidence which supports that decision.

Sec. 118-1165. Application process – liability.

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

Sec. 118-1166. Site specifics.

- (1) As with commercial-scale wind energy facilities, mobile service support structures setbacks must not be less than the height of the tower above grade between the base of the tower and property line. The setback may be reduced if the requirements of Section 118-1155(4) are met.
- (2) When more than one (1) tower is placed on a site, all setback and design requirements must be met by each tower.
- (3) A site with a guyed mobile support structure must provide:
 - a. A setback of at least twenty-five (25) feet between a guy anchor and any property line abutting a residential district, public property, or street; and

- b. A setback equal to or exceeding the rear setback required for the adjoining property where the adjoining property is not a public property or street, nor in a residential district.
- c. A guy anchor may be located on an adjoining property when:
 - i. Written authorization from the adjoining property owner is provided at the time of application for conditional use approval; and
 - ii. The guy anchor meets the requirement of subsections (1) and (2) above, as to all other adjoining property lines.
- (4) Mobile service facility accessory structures must be limited to fifteen (15) feet in height.
- (5) Mobile service support structures must not be illuminated except as required by the Wisconsin Division of Aeronautics or the Federal Aviation Administration.

Sec. 118-1167. Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Sec. 118-1168. Fees.

Application fees for new mobile service support structures, and class 1 and 2 collocations, shall be in accordance with a fee schedule set by resolution of the Village Board from time-to-time.

Sec. 118-1169. Reserved.

Article IX. Floodplain Regulations

Sec. 118-1170 Statutory authorization, finding of fact, statement of purpose, title and general provisions.

(a) *Statutory Authorization.* This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for villages and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, Stat.

(b) *Finding Of Fact.* Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

(c) *Statement Of Purpose.* This ordinance is intended to regulate floodplain development to:

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

(d) *Title.* This ordinance shall be known as the Floodplain Zoning Ordinance for the Village of Union Grove, Wisconsin.

(e) *General Provisions.*

- (1) *Areas To Be Regulated.* This ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.
- (2) *Official Maps & Revisions.* The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see s.118-1177 *Amendments*) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Village Clerk. If more than one map or revision is referenced, the most restrictive information shall apply.

a. *Official Maps:* Based on the FIS:

1. Flood Insurance Rate Map (FIRM), panel numbers 55101C0179D, 55101C0183D, 55101C0187D,

55101C0191D, dated May 2, 2012, with corresponding profiles that are based on the Flood Insurance Study (FIS) dated February 1, 2019, volume number 55101CV001B.

Approved by: The DNR and FEMA

- (3) *Establishment Of Floodplain Zoning Districts.* The regional floodplain areas are divided into three districts as follows:
 - a. The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.
 - b. The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.
 - c. The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.
- (4) *Locating Floodplain Boundaries.* Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 118-1177 *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 118-1176(c)(3) and the criteria in (a) and (b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to s. 118-1177 *Amendments*.
 - a. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
 - b. Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.
- (5) *Removal Of Lands From Floodplain.* Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 118-1177 *Amendments*.

- (6) *Compliance.* Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.
- (7) *Municipalities And State Agencies Regulated.* Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.
- (8) *Abrogation And Greater Restrictions.*
- a. This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; s. 61.35 for villages; or s. 87.30, Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
 - b. This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
- (9) *Interpretation.* In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
- (10) *Warning And Disclaimer Of Liability.* The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.
- (11) *Severability.* Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
- (12) *Annexed Areas For Cities And Villages.* The Racine County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the

municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

Sec. 118-1171 General standards applicable to all floodplain districts.

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

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in s. 118-1176(a)(2). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

(a) *Hydraulic And Hydrologic Analyses.*

(1) No floodplain development shall:

- a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
- b. Cause any increase in the regional flood height due to floodplain storage area lost.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of s. 118-1177 *Amendments* are met.

(b) *Watercourse Alterations.*

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of s. 118-1171(a) must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 118-1177 *Amendments*, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

(c) *Chapter 30, 31, Wis. Stats., Development.*

Development which requires a permit from the Department, under chs. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to s. 118-1177 *Amendments*.

(d) *Public Or Private Campgrounds.*

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (1) The campground is approved by the Department of Health Services;
- (2) A land use permit for the campground is issued by the zoning administrator;
- (3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) above - to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations;
- (6) Only camping units that are fully licensed, if required, and ready for highway use are allowed;
- (7) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which

is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;

- (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. 118-1172, 118-1173 or 118-1174 for the floodplain district in which the structure is located;
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and
- (12) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

Sec. 118-1172. Floodway District (FW).

(a) *Applicability.* This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 118-1174(d).

(b) *Permitted Uses.* The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
 - they meet the standards in s. 118-1172(c) and 118-1172(d); and
 - all permits or certificates have been issued according to s. 118-1176(a).
- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 118-1172(c)(4).
 - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss.118-1172(c) and 118-1172(d).
 - (5) Extraction of sand, gravel or other materials that comply with s. 118-1172(c)(4).

- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
 - (7) Public utilities, streets and bridges that comply with s. 118-1172(c)(3).
- (c) *Standards For Developments In The Floodway.*
- (1) *General.*
 - a. Any development in the floodway shall comply with s. 118-1171 and have a low flood damage potential.
 - b. Applicants shall provide the following data to determine the effects of the proposal according to s. 118-1171(a):
 - 1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - 2. An analysis calculating the effects of this proposal on regional flood height.
 - c. The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. (b) above.
 - (2) *Structures.* Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
 - a. Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
 - b. Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - c. Must be anchored to resist flotation, collapse, and lateral movement;
 - d. Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
 - e. It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

- (3) *Public Utilities, Streets And Bridges.* Public utilities, streets and bridges may be allowed by permit, if:
 - a. Adequate floodproofing measures are provided to the flood protection elevation; and
 - b. Construction meets the development standards of s.118-1171(a).
- (4) *Fills Or Deposition Of Materials.* Fills or deposition of materials may be allowed by permit, if:
 - a. The requirements of s. 118-1171(a) are met;
 - b. No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;
 - c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - d. The fill is not classified as a solid or hazardous material.

(d) *Prohibited Uses.* All uses not listed as permitted uses in s. 118-1173(b) are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and

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

Sec. 118-1173 Floodfringe District (FF).

(a) *Applicability.* This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 118-1174(d).

(b) *Permitted Uses.* Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 118-1173(c) are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 118-1176(a) have been issued.

(c) *Standards For Development In The Floodfringe.* Sec. 118-1171(a) shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of s. 118-1175 *Nonconforming Uses*;

- (1) *Residential Uses.* Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of s. 118-1175 *Nonconforming Uses*;
 - a. The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of s 118-1173(c)(1)(b) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
 - b. The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
 - c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (d).
 - d. In developments where existing street or sewer line elevations make compliance with subd. (c) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
 - 1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - 2. The municipality has a DNR-approved emergency evacuation plan.

- (2) *Accessory Structures Or Uses.* Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- (3) *Commercial Uses.* Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of s. 118-1173(c)(1). Subject to the requirements of s. 118-1173(c)(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (4) *Manufacturing And Industrial Uses.* Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s 118-1176(e). Subject to the requirements of s. 118-1173(c)(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (5) *Storage Of Materials.* Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 118-1176(e). Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (6) *Public Utilities, Streets And Bridges.* All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and
 - a. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 118-1176(e).
 - b. Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (7) *Sewage Systems.* All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 118-1176(e)(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.
- (8) *Wells.* All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 118-1176(e)(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- (9) *Solid Waste Disposal Sites.* Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (10) *Deposition Of Materials.* Any deposited material must meet all the provisions of this ordinance.

(11) *Manufactured Homes.*

- a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
- b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 1. have the lowest floor elevated to the flood protection elevation; and
 2. be anchored so they do not float, collapse or move laterally during a flood
- c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 118-1173(c)(1).

(12) *Mobile Recreational Vehicles.* All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 118-1173(c)(11)(b) and (c). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

Sec. 118-1174 General Floodplain District (GFP).

(a) *Applicability.* The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

(b) *Permitted Uses.* Pursuant to s. 118-1174(d), it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the Floodway (s. 118-1172(b)) and Floodfringe (s.118-1173(b)) Districts are allowed within the General Floodplain District, according to the standards of s.118-1174(c), provided that all permits or certificates required under s. 118-1176(a) have been issued.

(c) *Standards For Development In The General Floodplain District.* S. 118-1172 applies to floodway areas, s. 118-1173 applies to floodfringe areas. The rest of this ordinance applies to either district.

- (1) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:

- a. at or above the flood protection elevation; or
 - b. two (2) feet above the highest adjacent grade around the structure; or
 - c. the depth as shown on the FIRM
- (2) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

(d) *Determining Floodway And Floodfringe Limits.* Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.
- (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.
 - a. A Hydrologic and Hydraulic Study as specified in s. 118-1176(a)(2)(c).
 - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

Sec. 118-1175 Nonconforming uses.

(a) *General.*

- (1) *Applicability.* If these standards conform with s.59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.
- (2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

- a. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

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

- b. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
- c. The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- d. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 118-1173(c)(1). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
- e. No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 118-1173(c)(1).

- f. If on a per event basis the total value of the work being done under (d) and (e) above equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 118-1173(c)(1).
- g. Except as provided in subd. (h) below, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
- h. For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

1. Residential Structures

- a. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s. 118-1176(e)(2).
- b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
- c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.

- e. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 118-1174(c)(1).
- f. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

2. Nonresidential Structures

- a. Shall meet the requirements of s. 118-1175(a)(2)(h)1a-b and e-g.
- b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 118-1176(e)(1) or (2).
- c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 118-1174(c)(1).

- (3) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 118-1172(c)(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 118-1176(e) are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 118-1175(a)(2)(h)1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

(b) *Floodway District.*

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:
 - a. Has been granted a permit or variance which meets all ordinance requirements;
 - b. Meets the requirements of s. 118-1175(a);
 - c. Shall not increase the obstruction to flood flows or regional flood height;

- d. Any addition to the existing structure shall be floodproofed, pursuant to s. 118-1176(e), by means other than the use of fill, to the flood protection elevation; and
- e. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - 4. The use must be limited to parking, building access or limited storage.

(2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 118-1176(e)(3) and ch. SPS 383, Wis. Adm. Code.

(3) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 118-1176(e)(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

(c) *Floodfringe District.*

(1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of s. 118-1173(c) except where s. 118-1175(c)(2) is applicable.

(2) Where compliance with the provisions of subd. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 118-1176(c), may grant a variance from those provisions of subd. (1) for

modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

- a. No floor is allowed below the regional flood elevation for residential or commercial structures;
 - b. Human lives are not endangered;
 - c. Public facilities, such as water or sewer, shall not be installed;
 - d. Flood depths shall not exceed two feet;
 - e. Flood velocities shall not exceed two feet per second; and
 - f. The structure shall not be used for storage of materials as described in s. 118-1173(c)(5).
- (3) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, 118-1176(e)(3) and ch. SPS 383, Wis. Adm. Code.
- (4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, s. 118-1176(e)(3) and ch. NR 811 and NR 812, Wis. Adm. Code.

Sec. 118-1176 Administration.

Where a zoning administrator, planning agency or a board of appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

(a) *Zoning Administrator.*

- (1) *Duties And Powers.* The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
- a. Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - b. Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
 - c. Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
 - d. Keep records of all official actions such as:

1. All permits issued, inspections made, and work approved;
 2. Documentation of certified lowest floor and regional flood elevations;
 3. Floodproofing certificates.
 4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 5. All substantial damage assessment reports for floodplain structures.
 6. List of nonconforming structures and uses.
- e. Submit copies of the following items to the Department Regional office:
1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 2. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.
 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- f. Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- g. Submit copies of amendments and biennial reports to the FEMA Regional office.
- (2) *Land Use Permit.* A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:
- a. *General Information.*
1. Name and address of the applicant, property owner and contractor;
 2. Legal description, proposed use, and whether it is new construction or a modification;

- b. *Site Development Plan.* A site plan drawn to scale shall be submitted with the permit application form and shall contain:
1. Location, dimensions, area and elevation of the lot;
 2. Location of the ordinary highwater mark of any abutting navigable waterways;
 3. Location of any structures with distances measured from the lot lines and street center lines;
 4. Location of any existing or proposed on-site sewage systems or private water supply systems;
 5. Location and elevation of existing or future access roads;
 6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
 7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 118-1172 or 118-1173 are met; and
 9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s.118-1171(a). This may include any of the information noted in s.118-1172(c)(1).
- c. *Hydraulic And Hydrologic Studies To Analyze Development.* All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.
1. Zone A floodplains:
 - a. *Hydrology.* The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge.*
 - b. *Hydraulic Modeling.* The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis:*

Determination of Regional Flood Elevation and the following:

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

difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

- c. *Mapping.* A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
 - i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
 - ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

2. *Zone AE Floodplains.*

- a. *Hydrology.* If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
- b. *Hydraulic model.* The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
 - i. *Duplicate Effective Model.* The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
 - ii. *Corrected Effective Model.* The Corrected

Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.

- iii. *Existing (Pre-Project Conditions) Model.*
The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
 - iv. *Revised (Post-Project Conditions) Model.*
The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
 - v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
 - vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
- c. *Mapping.* Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
- i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.

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

- b. Application for such certificate shall be concurrent with the application for a permit;
 - c. If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
 - d. The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of s. 118-1176(e) are met.
- (4) *Other Permits.* Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.
- (b) *Zoning Agency.*
 - (1) The Planning Commission shall:
 - a. oversee the functions of the office of the zoning administrator; and
 - b. review and advise the governing body on all proposed amendments to this ordinance, maps and text.
 - (2) The Planning Commission shall not:
 - a. grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or
 - b. amend the text or zoning maps in place of official action by the governing body.
- (c) *Board Of Appeals.* The Board of Appeals, created under s. 62.23(7)(e), Stats., for villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.
 - (1) *Powers And Duties.* The Board of Appeals shall:
 - a. Appeals – Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;
 - b. Boundary Disputes – Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and

- c. Variances – Hear and decide, upon appeal, variances from the ordinance standards.

(2) *Appeals To The Board.*

- a. Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

- b. *Notice And Hearing For Appeals Including Variances.*

- 1. Notice – The board shall:

- a. Fix a reasonable time for the hearing;
 - b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
 - c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

- 2. Hearing – Any party may appear in person or by agent. The board shall:

- a. Resolve boundary disputes according to s. 118-1176(c)(3);
 - b. Decide variance applications according to s. 118-1176(c)(4); and
 - c. Decide appeals of permit denials according to s. 118-1176(d).

- c. Decision: The final decision regarding the appeal or variance application shall:

- 1. Be made within a reasonable time;
 - 2. Be sent to the Department Regional office within 10 days of the decision;

3. Be a written determination signed by the chairman or secretary of the Board;
4. State the specific facts which are the basis for the Board's decision;
5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(3) *Boundary Disputes.* The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;
- b. The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and
- c. If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 118-1177 *Amendments*.

(4) *Variance.*

- a. The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 1. Literal enforcement of the ordinance will cause unnecessary hardship;
 2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 3. The variance is not contrary to the public interest; and
 4. The variance is consistent with the purpose of this ordinance in s. 118-1170(c).

- b. In addition to the criteria in subd. (a) above, to qualify for a variance under FEMA regulations, the following criteria must be met:
 - 1. The variance shall not cause any increase in the regional flood elevation;
 - 2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and
 - 3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- c. A variance shall not:
 - 1. Grant, extend or increase any use prohibited in the zoning district;
 - 2. Be granted for a hardship based solely on an economic gain or loss;
 - 3. Be granted for a hardship which is self-created.
 - 4. Damage the rights or property values of other persons in the area;
 - 5. Allow actions without the amendments to this ordinance or map(s) required in s. 118-1177 *Amendments*; and
 - 6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- d. When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

(d) *To Review Appeals Of Permit Denials.*

- (1) The Zoning Agency (s. 118-1176(b)) or Board shall review all data related to the appeal. This may include:
 - a. Permit application data listed in s. 118-1176(a)(2);
 - b. Floodway/floodfringe determination data in s. 118-1174(d);

- c. Data listed in s. 118-1172(c)(1)(b) where the applicant has not submitted this information to the zoning administrator; and
 - d. Other data submitted with the application, or submitted to the Board with the appeal.
- (2) For appeals of all denied permits the Board shall:
 - a. Follow the procedures of s. 118-1176(c);
 - b. Consider zoning agency recommendations; and
 - c. Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:
 - a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s. 118-1177 *Amendments*; and
 - b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.
- (e) *Floodproofing Standards For Nonconforming Structures Or Uses.*
 - (1) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.
 - (2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - a. certified by a registered professional engineer or architect; or
 - b. meets or exceeds the following standards:
 - 1. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - 2. the bottom of all openings shall be no higher than one foot above grade; and

3. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(3) Floodproofing measures shall be designed, as appropriate, to:

- a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
- b. Protect structures to the flood protection elevation;
- c. Anchor structures to foundations to resist flotation and lateral movement; and
- d. Minimize or eliminate infiltration of flood waters.
- e. Minimize or eliminate discharges into flood waters.

(f) *Public Information.*

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.
- (3) Real estate transfers should show what floodplain district any real property is in.

Sec. 118-1177 Amendments.

(a) *When Allowed.* Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 118-1177(b).

- (1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 118-1177(b). Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s.118-1177(b).

(b) *General.* The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 118.1177(c) below. Actions

which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (3) Any changes to any other officially adopted floodplain maps listed in 118-1170(e)(2)(b);
- (4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- (5) Correction of discrepancies between the water surface profiles and floodplain maps;
- (6) Any upgrade to a floodplain zoning ordinance text required by s.NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
- (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

(c) *Procedures.* Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. The petitions shall include all data required by ss. 118-1174(d) and 118-1176(a)(2). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

Sec. 118-1178 Enforcement and penalties.

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of \$50.00 (Fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

Sec. 118-1179 Definitions.

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

1. A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
2. AH ZONE – See “AREA OF SHALLOW FLOODING”.
3. AO ZONE – See “AREA OF SHALLOW FLOODING”.
4. ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
5. ALTERATION – An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
6. AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
7. BASE FLOOD – Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
8. BASEMENT – Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
9. BUILDING – See STRUCTURE.
10. BULKHEAD LINE – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant

to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

11. CAMPGROUND – Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
12. CAMPING UNIT – Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.
13. CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.
14. CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
15. CRAWLWAYS OR "CRAWL SPACE" – An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
16. DECK – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
17. DEPARTMENT – The Wisconsin Department of Natural Resources.
18. DEVELOPMENT – Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
19. DRYLAND ACCESS – A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
20. ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.

21. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.
22. FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
23. FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
 - The overflow or rise of inland waters;
 - The rapid accumulation or runoff of surface waters from any source;
 - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
 - The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
24. FLOOD FREQUENCY – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.
25. FLOODFRINGE – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
26. FLOOD HAZARD BOUNDARY MAP – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
27. FLOOD INSURANCE STUDY – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
28. FLOODPLAIN – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

29. FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
30. FLOODPLAIN MANAGEMENT – Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
31. FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
32. FLOODPROOFING – Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
33. FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
34. FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
35. FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
36. FREEBOARD – A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
37. HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.
38. HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
39. HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
40. HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

41. HISTORIC STRUCTURE – Any structure that is either:
- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
42. INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
43. LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
44. LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.
45. LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement). For nonconforming structures, an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.
46. MAINTENANCE – The act or process of restoring to original soundness, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.
47. MANUFACTURED HOME – A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

48. MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.
49. MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
50. MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
51. MOBILE RECREATIONAL VEHICLE – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
52. MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.
53. MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
54. MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
55. MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.
56. MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
57. MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

- 58. NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea level datum, 1988 adjustment.
- 59. NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.
- 60. NEW CONSTRUCTION – For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- 61. NONCONFORMING STRUCTURE – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- 62. NONCONFORMING USE – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- 63. OBSTRUCTION TO FLOW – Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- 64. OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.
- 65. OPEN SPACE USE – Those uses having a relatively low flood damage potential and not involving structures.
- 66. ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- 67. PERSON – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

68. PRIVATE SEWAGE SYSTEM – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
69. PUBLIC UTILITIES – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
70. REASONABLY SAFE FROM FLOODING – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
71. REGIONAL FLOOD – A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
72. START OF CONSTRUCTION – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
73. STRUCTURE – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
74. SUBDIVISION – Has the meaning given in s. 236.02(12), Wis. Stats.
75. SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
76. SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or

exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

- 77. UNNECESSARY HARDSHIP – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- 78. VARIANCE – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- 79. VIOLATION – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- 80. WATERSHED – The entire region contributing runoff or surface water to a watercourse or body of water.
- 81. WATER SURFACE PROFILE – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- 82. WELL – means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

Sec. 118-1180 to 1189 Reserved.