

## TITLE 13

### Land Use Regulations

Chapter 1	Zoning Code
Chapter 2	Floodplain Zoning
Chapter 3	Shoreland-Wetland Zoning

## CHAPTER 1

### Zoning Code

#### Article A      Introduction

13-1-1	Authority
13-1-2	Title
13-1-3	General Purpose
13-1-4	Intent and Purposes in View
13-1-5	Abrogation and Greater Restrictions
13-1-6	Interpretation
13-1-7	Severability and Non-liability
13-1-8	Repeal and Effective Date
13-1-9	Reserved for Future Use

#### Article B      General Provisions

13-1-10	Jurisdiction and General Provisions
13-1-11	Use Regulations
13-1-12	Site Regulations
13-1-13	Modifications and Area Exceptions
13-1-14	Miscellaneous Use Regulations
13-1-15 through	
13-1-19	Reserved for Future Use

#### Article C      Zoning Districts

13-1-20	Establishment of Districts
13-1-21	Vacation of Streets; Annexations
13-1-22	Zoning Map
13-1-23	Rules for Interpretation of District Boundaries
13-1-24	A-1 Agricultural District
13-1-25	R-1 Single-Family Residential District
13-1-26	R-2 Two-Family Residential District
13-1-27	R-3 Multiple Family Residential District
13-1-28	B-1 Business/Commercial District
13-1-29	I-1 Industrial District
13-1-30	C-1 Conservancy District

- 13-1-31 R-MH Mobile Home District
- 13-1-32 through
- 13-1-49 Reserved for Future Use

Article D      Planned Unit Development (PUD) Conditional Use

- 13-1-50 Planned Unit Development Conditional Use -- Intent
- 13-1-51 Types of Planned Unit Development
- 13-1-52 General Requirements for Planned Unit Developments
- 13-1-53 Physical Requirements for Planned Unit Developments
- 13-1-54 Requirements as to Public Services and Facilities
- 13-1-55 Subsequent Land Division
- 13-1-56 Procedural Requirements -- Intent
- 13-1-57 Procedural Requirements for Planned Unit Developments
- 13-1-58 Basis for Approval of the Petition for Planned Unit Development
- 13-1-59 Determination of Disposition of the Petition

Article E      Conditional Uses

- 13-1-60 Statement of Purpose -- Conditional Uses
- 13-1-61 Authority of the Village Board; Requirements
- 13-1-62 Initiation of Conditional Use
- 13-1-63 Application for Conditional Use
- 13-1-64 Hearing on Application
- 13-1-65 Notice of Hearing on Application
- 13-1-66 Standards -- Conditional Uses
- 13-1-67 Denial of Application for Conditional Use Permit
- 13-1-68 Conditions and Guarantees
- 13-1-69 Validity of Conditional Use Permit
- 13-1-70 Complaints Regarding Conditional Uses
- 13-1-71 Bed and Breakfast Establishments
- 13-1-72 Home Occupations
- 13-1-73 through
- 13-1-79 Reserved for Future Use

Article F      Nonconforming Uses, Structures and Lots

- 13-1-80 Existing Nonconforming Uses and Structures
- 13-1-81 Abolishment or Replacement
- 13-1-82 Existing Nonconforming Structures
- 13-1-83 Changes and Substitutions
- 13-1-84 Residential Building Setbacks
- 13-1-85 through
- 13-1-89 Reserved for Future Use

Article G      Traffic Visibility, Loading, Parking and Access

- 13-1-90      Traffic Visibility
- 13-1-91      Loading Requirements
- 13-1-92      Parking Requirements
- 13-1-93      Driveways
- 13-1-94      Highway Access
- 13-1-95 through
- 13-1-99      Reserved for Future Use

Article H      Signs, Canopies, Awnings and Billboards

- 13-1-100      Purpose of Sign, Canopy and Awning Regulations
- 13-1-101      Signs, Canopies, Awnings and Billboards -- Definitions
- 13-1-102      Required Permits for Signs, Canopies, Awnings and Billboards
- 13-1-103      Signs Not Requiring a Permit
- 13-1-104      Permitted Commercial and Industrial Signs
- 13-1-105      Permitted Residential Signs
- 13-1-106      Landscape Features
- 13-1-107      Prohibited Signs
- 13-1-108      Dangerous and Abandoned Signs
- 13-1-109      Variances or Exceptions
- 13-1-110      Construction and Maintenance Regulations for Signs
- 13-1-111      Special Sign Requirements
- 13-1-112      Nonconforming Signs
- 13-1-113      Awnings and Canopies
- 13-1-114      Violations of Sign Code
- 13-1-115 through
- 13-1-119      Reserved for Future Use

Article I      Performance Standards

- 13-1-120      Compliance
- 13-1-121      Sound
- 13-1-122      Air Pollution
- 13-1-123      Fire and Explosive Hazards
- 13-1-124      Glare and Heat
- 13-1-125      Liquid or Solid Wastes
- 13-1-126      Vibration
- 13-1-127      Odors
- 13-1-128      Radioactivity and Electrical Disturbances
- 13-1-129      Reserved for Future Use

Article J      Signal Receiving Antennas; Wind Energy Systems

- 13-1-130      Signal Receiving Antennas
- 13-1-131      Conditional Use Permits Required -- Wind Energy Systems
- 13-1-132      Permit Procedure -- Wind Energy Systems
- 13-1-133      Specific Requirements Regarding Wind Energy Systems
- 13-1-134 through
- 13-1-139      Reserved for Future Use

Article K      Accessory Uses and Structures; Fences

- 13-1-140      Accessory Uses or Structures
- 13-1-141      Outside Storage of Firewood
- 13-1-142      Fences
- 13-1-143      Swimming Pools
- 13-1-144 through
- 13-1-149      Reserved for Future Use

Article L      Administration

- 13-1-150      General Administrative System
- 13-1-151      Zoning Administrator
- 13-1-152      Role of Specific Village Officials in Zoning Administration
- 13-1-153      Zoning Permit
- 13-1-154      Violations and Penalties
- 13-1-155 through
- 13-1-159      Reserved for Future Use

Article M      Changes and Amendments to the Zoning Code

- 13-1-160      Authority
- 13-1-161      Initiation of Changes and Amendments
- 13-1-162      Procedure for Changes and Amendments
- 13-1-163      Protest
- 13-1-164 through
- 13-1-169      Reserved for Future Use

Article N      Appeals

- 13-1-170      Appeals to the Zoning Board of Appeals
- 13-1-171      Hearing of Appeals
- 13-1-172      Decisions of Board of Appeals
- 13-1-173      Variations
- 13-1-174      Review by Court of Record
- 13-1-175 through
- 13-1-179      Reserved for Future Use

Article O      Mobile Homes

- 13-1-180      Intent -- Where Mobile Home Districts Permitted
- 13-1-181      Definitions
- 13-1-182      Mobile Home Occupancy Permits
- 13-1-183      Minimum Number of Lots or Spaces
- 13-1-184      Permitted and Permissible Uses and Structures
- 13-1-185      Mobile Home Park Developer's Permit
- 13-1-186      Standard Requirements for Mobile Home Parks, Additions or Extensions
- 13-1-187      Mobile Home Park Operator's License



- 13-1-188      Operation of Mobile Home Parks; Responsibilities of Park Management
- 13-1-189      Responsibilities and Duties of Mobile Home Park Occupants
- 13-1-190      Additional Regulations on Mobile Homes and Mobile Home Parks
- 13-1-191      Compliance with Plumbing, Electrical and Building Ordinances
- 13-1-192      Standards for General Site Planning for Mobile Home Communities
- 13-1-193 through
- 13-1-199      Reserved for Future Use

Article P      Definitions

- 13-1-200      Definitions

## ARTICLE A

### Introduction

#### SEC. 13-1-1 AUTHORITY.

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

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

#### SEC. 13-1-2 TITLE.

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

#### SEC. 13-1-3 GENERAL PURPOSE.

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

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

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

- (a) Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people;
- (b) Divide the Village into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses;
- (c) Protect the character and the stability of the residential, business, manufacturing and other districts within the Village and to promote the orderly and beneficial development thereof;
- (d) Regulate lot coverage, the intensity of use of lot areas and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage;
- (e) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements;
- (f) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- (g) Secure safety from fire, panic, flooding, pollution, contamination and other dangers;
- (h) Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the Village;
- (i) Preserve and protect the beauty of the Village of Colfax;

- (j) To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;
- (k) To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
- (l) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;
- (m) Further the maintenance of safe and healthful water conditions;
- (n) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- (o) Provide for and protect a variety of suitable commercial and industrial sites;
- (p) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (q) Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the Village of Colfax;
- (r) Provide for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

#### **SEC. 13-1-5 ABROGATION AND GREATER RESTRICTIONS.**

It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

#### **SEC. 13-1-6 INTERPRETATION.**

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be construed to be a limitation or repeal of any other power now possessed by the Village of Colfax.

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

- (a) 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.
- (b) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.

#### **SEC. 13-1-8 REPEAL AND EFFECTIVE DATE.**

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

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

## ARTICLE B

### General Provisions

#### SEC. 13-1-10 JURISDICTION AND GENERAL PROVISIONS.

- (a) **Jurisdiction.** The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the Village of Colfax.
- (b) **Compliance.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and without full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.
- (c) **District Regulations to be Complied With.** Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.
- (d) **Yard Reduction or Joint Use.**
  - (1) No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this Chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.
  - (2) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this Code shall be included as a part of a yard or other open space required for another building.
- (e) **One Main Building per Lot.** Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one (1) main building on one (1) lot.
- (f) **Lots Abutting More Restrictive District.** Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two (2) districts which abut the district boundary line.

#### SEC. 13-1-11 USE REGULATIONS.

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

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

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

#### SEC. 13-1-12 SITE REGULATIONS.

- (a) **Street Frontage.** All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of forty (40) feet; however, to be buildable, the lot shall comply with the frontage requirements of the zoning district in which it is located.
- (b) **Principal Structures.** All principal structures shall be located on a lot. Only one (1) principal structure shall be located, erected or moved onto a lot. The Village Board may permit as a conditional use more than one (1) principal structure per lot in any district where more than one (1) such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Village Board may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.
- (c) **Dedicated Street.** No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- (d) **Lots Abutting More Restrictive Districts.** Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yard setbacks in the less restrictive district shall be modified for a distance of not less than sixty (60) feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.
- (e) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Village Board by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Village Board, in applying the provisions of the Section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting

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

- (f) **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Village Board, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.
- (g) **Decks.** For purposes of this Chapter, decks and porches shall be considered a part of a principal building or structure.
- (h) **Corner Side Yards.** The required side yard on the street side of corner lots shall be at least fifty percent (50%) greater than the minimum specified for the District.
- (i) **Required Buffer Strips in Industrial Districts.** Where an Industrial District abuts a Residential District, there shall be provided along any rear, side or front line, coincidental with any Industrial-Residential boundary, a buffer strip not less than forty (40) feet in width, as measured at right angles to said lot line. Plant materials at least six (6) feet in height, of such variety and growth habits as to provide a year-round, effective visual screen when viewed from the Residential District, shall be planted within the exterior twenty-five (25) feet abutting the Residential District. If the required planting screen is set back from the Industrial-Residential boundary, the portion of the buffer strip facing the Residential District shall be attractively maintained. The exterior twenty-five (25) feet of the buffer strip shall not be devoted to the parking of vehicles or storage of any material or accessory uses. The interior fifteen (15) feet may be devoted to parking of vehicles.

#### SEC. 13-1-13 MODIFICATIONS AND AREA EXCEPTIONS.

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

- (a) Churches, schools, hospitals, sanitoriums and other public and quasi-public buildings may be erected to a height not exceeding sixty (60) feet nor five (5) stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one (1) foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
- (b) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials; microwave radio relay structures; telephone, telegraph and power poles and lines and necessary mechanical appurtenances are hereby excepted from the height regulations of this Code and may be erected in accordance with other regulations or codes of the Village.

- (c) Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than thirty-six (36) inches.
- (d) Open or enclosed fire escapes and fire towers may project into a required yard not more than five (5) feet and into a required court not more than three and one-half (3-1/2) feet, provided it be so located as not to obstruct light and ventilation.

**SEC. 13-1-14 REDUCTION OR JOINT USE.**

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

**SEC. 13-1-15 THROUGH SEC. 13-1-19 RESERVED FOR FUTURE USE.**

## ARTICLE C

### Zoning Districts

#### SEC. 13-1-20 ESTABLISHMENT OF DISTRICTS.

- (a) **Districts.** For the purpose of this Chapter, present and future, provision is hereby made for the division of the Village of Colfax into the following nine (9) basic zoning districts:
- (1) R-D Rural Development District
  - (2) R-1 Single-Family Residential District
  - (3) R-2 Multi-Family Residential District
  - (4) B-1 General Commercial District
  - (5) B-2 Highway Commercial District
  - (6) I-1 Industrial District
  - (7) C-1 Conservancy District
  - (8) R-MH Mobile Home District
  - (9) A-1 Agricultural District

#### SEC. 13-1-21 VACATION OF STREETS; ANNEXATIONS.

- (a) **Vacation of Streets.** Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- (b) **Annexations.** Annexations to or consolidations with the Village subsequent to the effective date of this Chapter shall be placed in the R-1 Single-Family Residential District, unless the annexation ordinance places the land in another district.

#### SEC. 13-1-22 ZONING MAP.

- (a) The Village of Colfax is hereby divided into Zoning Districts as shown upon a map designated as the Official Zoning Map of the Village of Colfax and made a part of this Chapter. The "Official Zoning Map of the Village of Colfax, Wisconsin" in the form prepared by Owen Ayres and Associates dated April 1981, is hereby adopted as the official zoning map of the Village of Colfax. The Official Zoning Map and all the notations, references and other information shown thereon are a part of this Chapter and shall have the same force and effect as if the matters and information set forth by said map were fully described herein. The Official Zoning Map shall be properly attested and kept on file along with the text of the Official Zoning Regulations in the office of the Village Clerk-Treasurer of the Village of Colfax.
- (b) The District Boundaries shall be determined by measurement from and as shown on the Official Zoning Map, and in case of any question as to the interpretation of such boundary lines, the Village Board shall interpret the map according to the reasonable intent of this Chapter. Unless otherwise specifically indicated or dimensioned on the map, the district boundaries are normally lot lines; section, quarter section or sixteenth section lines; or the centerlines of streets, highways, railways or alleys.



## SEC. 13-1-23 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

- (a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as approximately following Village boundaries shall be construed as following municipal boundaries.
- (d) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (e) Boundaries indicated as following shorelines shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
- (f) Boundaries indicated as parallel to or extensions of features indicated in the preceding shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

## SEC. 13-1-24 A-1 AGRICULTURAL DISTRICT.

### (a) Permitted Uses and Structures.

- (1) Single-family dwellings, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
- (2) Structures and uses accessory to single-family dwellings.
- (3) Manufactured homes complying with all of the following requirements and limitations:
  - a. The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length.
  - b. The home shall be installed on an approved foundation system in conformity with the uniform building code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
  - c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
  - d. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.
  - e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the Village of Colfax.
- (4) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.

(b) **Conditional Uses and Structures.**

- (1) Parks.
- (2) Greenways and open spaces.
- (3) Playgrounds.
- (4) Public and private schools.
- (5) Hospitals.
- (6) Nursing homes.
- (7) Utility lines and pumping stations.
- (8) Golf courses.
- (9) Churches.
- (10) Libraries.
- (11) Single-family planned residential developments.

**SEC. 13-1-25 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.**

(a) **Permitted Uses and Structures.**

- (1) Single-family dwellings, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
- (2) Structures and uses accessory to single-family dwellings.
- (3) Manufactured homes complying with all of the following requirements and limitations:
  - a. The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length.
  - b. The home shall be installed on an approved foundation system in conformity with the uniform building code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
  - c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
  - d. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.
  - e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the Village of Colfax.
- (4) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.

(b) **Conditional Uses and Structures.**

- (1) Parks.
- (2) Greenways and open spaces.
- (3) Playgrounds.
- (4) Public and private schools.
- (5) Hospitals.
- (6) Utility lines and pumping stations.
- (7) Golf courses.
- (8) Churches.
- (9) Libraries.
- (10) Single-family planned residential development.
- (11) Agricultural uses.
- (12) Mobile home parks.

## ARTICLE C

### RESIDENTIAL DISTRICT REQUIREMENTS

#### Sec. 13-1-25 R-1 NEW SINGLE FAMILY RESIDENTIAL DISTRICT – Large Lot

1. Purpose. The R-1 District is intended to provide for single-family residential land uses in newer urban areas served by public sewers. The District is also intended to protect the integrity of residential areas by prohibiting the incursion of incompatible non-residential uses, and is for the exclusive location of single-family dwellings.
2. Permitted Uses. The following uses are permitted within an R-1 District:
  - a) single-family dwellings;
  - b) accessory buildings not exceeding an area of more than 30 percent of the required rear yard; and
  - c) uses customarily incidental to any of the above uses when located on the same lot and not involving the conduct of a business.
3. Requirements. In order to be considered a conforming lot or structure within an R-1 District, a lot or structure must:
  - a) have a minimum lot size of 18,000 square feet and a minimum lot width of 80 feet;
  - b) have a front yard setback of 25 feet, a rear yard setback of 25 feet, and a side yard setback of 10 feet;
  - c) have a minimum living area of 900 square feet in the principal building;
  - d) not exceed a maximum principal building height of 35 feet; and
  - e) have an accessory building side yard setback of 3 feet, rear yard setback of 3 feet and a maximum accessory building height not to exceed 15 feet.
4. Conditional Uses. The following uses shall be considered conditional uses within an R-1 District:
  - a) churches, municipal buildings, public and parochial schools; and
  - b) public parks and playgrounds

#### SEC. 13-1-26 R-2 SINGLE FAMILY RESIDENTIAL DISTRICT – Medium Lot

1. Purpose. The R-2 District is intended to provide for single-family dwellings in newer urban areas on larger lots. The District is also intended to provide an area protected from traffic hazards and safe from blighting influences.
2. Permitted Uses. The following uses are permitted within an R-2 District:
  - a) single-family dwellings;
  - b) accessory buildings not exceeding an area of more than 30 percent of the required rear yard; and
  - c) uses customarily incidental to any of the above uses when located on the same lot and not involving the conduct of a business.
3. Requirements. In order to be considered a conforming lot or structure within an R-2 District, a lot or structure must:
  - a) have a minimum lot size of 7,500 square feet and a minimum lot width of 70 feet;
  - b) have a front yard setback of 30 feet, a rear yard setback of 50 feet, and a side yard setback of 10 feet;

- c) have a minimum living area of 900 square feet in the principal building;
- d) not exceed a maximum principal building height of 35 feet; and
- e) have an accessory building side yard setback of 3 feet, rear yard setback of 3 feet, and not exceed a maximum accessory building height of 15 feet.

4. Conditional Uses. The following uses shall be considered conditional uses within an R-2 District:

- a) public parks and playgrounds; and
- b) churches.

#### SEC. 13-1-27 R-3 EXISTING SINGLE FAMILY MIXED RESIDENTIAL DISTRICT

1. Purpose. The R-3 District is intended to provide for single-family and two-family dwellings within the built-up area of Colfax. The District is also intended to provide an area protected from traffic hazards and safe from blighting influences.

2. Permitted Uses. The following uses are permitted within an R-3 District:

- a) single-family dwellings;
- b) accessory buildings not exceeding an area of more than 30 percent of the required rear yard; and
- c) uses customarily incidental to any of the above uses when located on the same lot and not involving the conduct of a business.

3. Requirements. In order to be considered a conforming lot or structure within an R-3 District, a lot or structure must:

- a) have a minimum lot size of 6,000 square feet per family and a minimum lot width of 50 feet;
- b) have a front yard setback of 15 feet, a rear yard setback of 30 feet, and a side yard setback of 6 feet;
- c) have a minimum living area of 900 square feet in the principal building;
- d) not exceed a maximum principal building height of 35 feet; and
- e) have an accessory building side yard setback of 3 feet, rear yard setback of 3 feet, and a maximum accessory building height not to exceed 15 feet.

4. Conditional Uses. The following uses shall be considered conditional uses within an R-3 District:

- a) two-family dwellings;
- b) Bed and Breakfast services;
- c) residential storage buildings not involving the conduct of a business;
- d) churches, municipal buildings, public and parochial schools;
- e) public parks and playgrounds;
- f) day care centers;
- g) owner only operated windshield repair service; and
- h) selling of antiques, high end collectibles and consignment items.

#### SEC. 13-1-28 R-4 TWO FAMILY RESIDENTIAL DISTRICT

1. Purpose. The R-4 District is intended to provide for two-family dwellings served by public sewer. The District is also intended to provide an area protected from traffic hazards and safe from blighting influences.

2. Permitted Uses. The following uses are permitted within an R-4 District:

- a) two-family dwellings;

- b) accessory buildings not exceeding an area of more than 30 percent of the required rear yard; and
  - c) uses customarily incidental to any of the above uses when located on the same lot and not involving the conduct of a business.
3. Requirements. In order to be considered a conforming lot or structure within an R-4 District, a lot or structure must:
- a) have a minimum lot size of 8,000 square feet and a minimum lot width of 90 feet;
  - b) have a front yard setback of 30 feet, a rear yard setback of 25 feet, and a side yard setback of 10 feet;
  - c) have a minimum living area of 1,800 square feet in the principal building;
  - d) not exceed a maximum principal building height of 35 feet; and
  - e) have an accessory building side yard setback of 3 feet, rear yard setback of 3 feet, and not exceed a maximum accessory building height of 15 feet.
4. Conditional Uses. The following uses shall be considered conditional uses within an R-4 District:
- a) churches, public and parochial schools;
  - b) public parks and playgrounds; and
  - c) day care centers.

#### SEC. 13-1-29 R-5 MULTIPLE FAMILY RESIDENTIAL DISTRICT

1. Purpose. The R-5 District is intended to provide appropriate areas for multi-family land uses only in urban areas served by public sewers. The District is also intended to provide rental housing in an area protected from traffic hazards.
2. Permitted Uses. The following uses are permitted within an R-5 District:
- a) multi-family dwellings;
  - b) uses customarily incidental to any of the above uses when located on the same lot and not involving the conduct of a business.
  - c) accessory buildings not exceeding an area of more than 30 percent of the required rear yard.
3. Requirements. In order to be considered a conforming lot or structure within an R-5 District, a lot or structure must:
- a) have a minimum lot size of 2,500 square feet per family unit up to and including four (4) families, and 2,250 square feet per family thereafter and a minimum lot width of 100 feet;
  - b) have a front yard setback of 30 feet, a rear yard setback of 25 feet, and a side yard setback of 15 feet;
  - c) not exceed a maximum principal building height of 45 feet; and
  - d) have an accessory building side yard setback of 3 feet, rear yard setback of 3 feet, and not exceed a maximum accessory building height of 20 feet.
4. Conditional Uses. The following uses shall be considered conditional uses within an R-5 District:
- a) charitable institutions, rest homes or nursing homes, private non-profit clubs and lodges;
  - b) mobile home parks in accordance with mobile home requirements;
  - c) churches; and
  - d) public parks and playgrounds;

SEC. 13-1-30 R-6 NEW ZERO LOT LINE SINGLE FAMILY RESIDENTIAL DISTRICT

1. Purpose. The R-6 District is intended to provide for two single-family residential units attached to each other with zero lot line set back on one side. They are to be built in newer urban areas served by public sewers. This will permit two single-family homes to be joined to give the appearance of a two family dwelling. For that reason R-6 lots will always be approved in sets of two. The District is also intended to protect the integrity of residential areas by prohibiting the incursion of incompatible non-residential uses, and is for the exclusive location of single-family dwellings.
2. Permitted Uses. The following uses are permitted within an R-6 District:
  - a) single-family dwellings;
  - b) accessory buildings not exceeding an area of more than 30 percent of the required rear yard; and
  - c) uses customarily incidental to any of the above uses when located on the same lot and not involving the conduct of a business.
3. Requirements. In order to be considered a conforming lot or structure within an R-6 District, a lot or structure must:
  - a) have a minimum lot size of 4,000 square feet and a minimum lot width of 40 feet for each dwelling unit;
  - b) have a front yard setback of 30 feet, a rear yard setback of 25 feet, and a side yard setback of 15 feet on the side not attached to an adjoining dwelling and 0 feet on the side attached to an adjoining dwelling;
  - c) have a minimum living area of 900 square feet in the principal building;
  - d) not exceed a maximum principal building height of 35 feet; and
  - e) have an accessory building side yard setback of 3 feet, rear yard setback of 3 feet and a maximum accessory building height not to exceed 15 feet.
4. Conditional Uses. The following uses shall be considered conditional uses within an R-6 District:
  - a) churches, public and parochial schools; and
  - b) public parks and playgrounds.

**ARTICLE D**  
**BUSINESS DISTRICT REQUIREMENTS**

**SEC-13-1-31    B-1 DOWNTOWN BUSINESS DISTRICT**

1. Purpose. The B-1 District is intended to provide an area for central business needs of the community and to create an area of specialized retail and service business.
2. Permitted Uses. The following uses are permitted within a B-1 District:
  - a) apartment hotels;
  - b) appliance stores;
  - c) antique;
  - d) bakeries;
  - e) banks;
  - f) barber and beauty shops;
  - g) business offices;
  - h) butcher;
  - i) caterers;
  - j) churches;
  - k) clinics;
  - l) clothing stores and repair shops;
  - m) clubs;
  - n) cocktail lounges;
  - o) cold storage facilities;
  - p) day care center;
  - q) doctor office;
  - r) drug stores;
  - s) electrical supply;
  - t) financial institutions;
  - u) florists;
  - v) food lockers;
  - w) funeral homes;
  - x) furniture stores;
  - y) furniture upholstery shops;
  - z) gas stations;
  - aa) gift store;
  - bb) grocery stores;
  - cc) hardware stores;
  - dd) heating supply;
  - ee) hobby shops;
  - ff) home occupations;
  - gg) laundromats and dry cleaning establishments employing not over 3 persons;
  - hh) offices;
  - ii) press rooms;
  - jj) night clubs;
  - kk) office supplies;
  - ll) optical offices;
  - mm) pawn shops;

- nn) personal service establishments;
- oo) pet stores;
- pp) pet supply store;
- qq) places of entertainment;
- rr) photographic supplies;
- ss) plumbing supplies;
- tt) post office;
- uu) printing;
- vv) private clubs;
- ww) private schools;
- xx) professional, governmental, and business offices;
- yy) publishing;
- zz) radio broadcasting studios;
- aaa) residential units above commercial uses;
- bbb) restaurants,
- ccc) second hand stores;
- ddd) self-service and pickup laundry and dry-cleaning establishments;
- eee) signs;
- fff) studios;
- ggg) taverns;
- hhh) variety stores and vegetable stores;
- iii) veterinary clinic;
- jjj) video stores; and
- kkk) other permitted uses.

3. Requirements. In order to be considered a conforming lot or structure within a B-1 District, a lot or structure must:
  - a) have a minimum lot size of 4,000 square feet on sewerred lots.
  - b) not exceed a maximum principal building height of 45 feet; and
  - c) have an accessory building side and rear yard setback of 3 feet and a maximum accessory building height of 25 feet.
4. Conditional Uses. The following uses shall be considered conditional uses within a B-1 District:
  - a) public and semi-public uses such as fire stations and emergency shelters;
  - b) modifications of parking requirements;
  - c) bed and breakfasts;
  - d) hotels and motels;
  - e) day care centers;
  - f) single residential units attached to or part of the business unit; and
  - g) product testing laboratory.
5. Outside Storage. All business, servicing, serving, processing and storage areas shall be conducted within completely enclosed buildings. (Except for off street parking and loading areas.)

#### SEC. 13-1-32 B-2 BUSINESS DISTRICT

1. Purpose. The B-2 District is intended to provide an area for the businesses oriented towards the highway user, tourist, or temporary visitors to the Village.



2. Permitted Uses. The following uses are permitted within a B-2 District:

- a) service stations;
- b) drive-in restaurants,
- c) hotels and motels;
- d) banks with drive-thru banking services
- e) auto sales;
- f) convenience store;
- g) funeral home
- h) grocery store
- i) mobile home and equipment sales and services;
- j) animal hospitals and veterinary clinics;
- k) marine sales and supplies;
- l) theaters;
- m) any use permitted in the B-1 District;
- n) car washes;
- o) laser products;
- p) day care facility; and
- q) museum.

3. Requirements. In order to be considered a conforming lot or structure within a B-2 District, a lot or structure must:

- a) have a minimum lot size of 10,000 square feet and a minimum lot width of 80 feet;
- b) have a front yard setback of 25 feet, a rear yard setback of 15 feet, and a side yard setback of 10 feet;
- c) not exceed a maximum principal building height of 45 feet; and
- d) have an accessory building side and rear yard setback of 3 feet and a maximum accessory building height of 25 feet.

4. Conditional Uses. The following uses shall be considered conditional uses within a B-2 District:

- a) truck stops;
- b) public and semi-public uses such as fire stations, senior center, emergency shelters, and Village garages;
- c) industrial incubators;
- d) warehousing and mini-warehousing;
- e) excavating and construction offices, repair, and storage; and
- f) grain bins and storage bins;

4. Screening. Outdoor storage and processing areas shall be at least 30 percent effectively screened from streets, and 80 percent screened adjacent to residential districts.

## ARTICLE E

### MANUFACTURING DISTRICT REQUIREMENTS

#### SEC. 13-1-33 M MANUFACTURING DISTRICT

1. Purpose. The M District is intended to provide for industry and manufacturing in areas suited for industry based on location, topography, existing streets and potential for utilities, and relationships to other uses. The M District is intended to keep out uses not compatible with industry.
2. Permitted Uses. The following uses are permitted within an M District:
  - a) the manufacture, processing or assembly of goods, which do not require open storage;
  - b) repair, service, processing or assembly of goods which do not require open storage;
  - c) wholesale businesses without open storage; and
  - d) storing and warehousing of products without open storage.
3. Requirements. In order to be considered a conforming lot or structure within an M District, a lot or structure must:
  - a) have a minimum lot size of 20,000 square feet and a minimum lot width of 100 feet;
  - b) have a front yard setback of 15 feet, rear yard setback of 15 feet, and a side yard setback of 15 feet;
  - c) not exceed a maximum building height of 50 feet; and
  - d) have a side and rear yard setback of 5 feet for accessory buildings.
4. Conditional Uses. The following uses shall be considered conditional uses within an M District:
  - a) all permitted uses with open storage;
  - b) commercial processing, but not butchering of fowl or animals; and
  - c) lumberyards; and
  - d) junk or salvage yards if screened.
5. Screening.

Any open storage use shall be screened by being contained within an opaque fence or wall 72 inches high or a visual screen consisting of evergreen, or evergreen type hedges or shrubs, spaced at intervals of not more than 6 feet, located and maintained in good condition within 15 feet of the property line or in anyway out of view of the public.

## ARTICLE D

### Planned Unit Development (PUD) Conditional Use

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

- (a) The planned unit development conditional use is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The planned unit development under this Chapter will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while, at the same time, maintaining insofar as possible, the land use density and other standards or use requirements as set forth in the underlying basic zoning district.
- (b) The unified and planned development of a site in a single, partnership or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Chapter 703 of the Wisconsin Statutes (condominiums) may be permitted by the Village of Colfax upon specific petition under Section 13-1-57 of this Chapter and after public hearing, with such development encompassing one (1) or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this Section of the Chapter have been met.

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

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

#### SEC. 13-1-52 GENERAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS.

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

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

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

## ARTICLE D

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- (a) The planned unit development conditional use is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The planned unit development under this Chapter will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while, at the same time, maintaining insofar as possible, the land use density and other standards or use requirements as set forth in the underlying basic zoning district.
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#### SEC. 13-1-53 PHYSICAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS.

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

Principal Uses

Minimum Area of PUD

Residential PUD	3 acres
Commercial PUD	5 acres
Industrial PUD	10 acres
Mixed Compatible Use	10 acres

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

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

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

**SEC. 13-1-55 SUBSEQUENT LAND DIVISION.**

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

**SEC. 13-1-56 PROCEDURAL REQUIREMENTS – INTENT.**

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

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

- (a) **Pre-Petition Conference.** Prior to the official submission of the petition for the approval of a planned unit development, the owner or his agent making such petition shall meet with the Village Board or its staff to discuss the scope and proposed nature of the contemplated development.
- (b) **Petition for Approval.** Following the pre-petition conference, the owner or his agent may file a petition with the Village Clerk-Treasurer for approval of a planned unit development. Such petition shall be accompanied by a review fee of Twenty-five Dollars (\$25.00), as well as incorporate the following information:
  - (1) **Informational Statement.** A statement which sets forth the relationship of the proposed PUD to the Village's adopted master (comprehensive land use and thoroughfare plan) plan, neighborhood plan, or any adopted component thereof, and the general character of and the uses to be included in the proposed PUD, including the following information:
    - a. Total area to be included in the PUD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
    - b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
    - c. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.
    - d. Any proposed departures from the standards of development as set forth in the Village zoning regulations, land subdivision ordinance, other Village regulations or administrative rules, or other universal guidelines.
    - e. The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.
  - (2) **A General Development Plan Including:**
    - 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 sewer, water supply facilities and stormwater drainage facilities.
    - h. The existing and proposed location of all private utilities or other easements.
    - i. Existing topography on the site with contours at no greater than two (2) foot intervals.
    - j. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
    - k. If the development is to be staged, a staging plan.

1. A plan showing how the entire development can be further subdivided in the future.
- (c) **Public Hearing.** The Village Board shall hold public hearing on the petition in the manner provided in Sections 13-1-63 and 13-1-64 for Conditional Uses.

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

- (a) **Requirements.** The Village Board, in making a determination approving a petition for planned unit development, shall find as follows:
  - (1) That the general requirements made and provided in Section 13-1-52 will be met;
  - (2) That the applicable physical requirements made and provided in Section 13-1-53 will be met;
  - (3) That the requirements as to public services and facilities made and provided in Section 13-1-54 will be met.
- (b) **Proposed Construction Schedule.** The Village Board, in making their respective recommendation and determination, shall consider the reasonableness of the proposed construction schedule and any staging plan for the physical development of the proposed PUD, commencement of the physical development within one (1) year of approval being deemed reasonable.
- (c) **Residential PUD, Considerations.** The Village Board, in making their respective recommendation and determination as to a proposed residential planned unit development, shall further consider whether:
  - (1) Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.
  - (2) The total net residential density within the planned unit development will be compatible with the Village master plan (comprehensive land use and thoroughfare plan), neighborhood plan, or components thereof, and shall be compatible with the density of the district wherein located.
  - (3) Structure types will be generally compatible with other structural types permitted in the underlying basic use district. To this end, structure type shall be limited as follows:
    - a. Planned residential developments in the residential districts shall not exceed sixteen (16) dwelling units per structure.
  - (4) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities if privately owned.
  - (5) Provision has been made for adequate, continuing fire and police protection.
  - (6) The population density of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
  - (7) Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.
- (d) **Commercial PUD, Considerations.** The Village Board, in making their respective recommendation and determination as to a proposed commercial planned unit development, shall further consider whether:

- (1) The economic practicality of the proposed development can be justified.
  - (2) The proposed development will be served by off-street parking and truck service facilities in accordance with this Chapter.
  - (3) The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.
  - (4) The locations of entrances and exists have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern of the surrounding neighborhood.
  - (5) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.
- (e) **Industrial PUD, Considerations.** The Village Board, in making their respective recommendations and determination as to a proposed industrial planned unit development, shall further consider whether:
- (1) The operational character and physical plant arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.
  - (2) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water sanitary sewer and storm water drainage and maintenance of public areas.
  - (3) The proposed development will include provision for off-street parking and truck service areas in accordance with this Chapter and will be adequately served by easy-access rail and/or arterial highway facilities.
  - (4) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.
- (f) **Mixed Use PUD, Considerations.** The Village Board, in making their respective recommendation and determination as to a proposed mixed use planned unit development, shall further consider whether:
- (1) The proposed mixture of uses procedures a unified composite which is compatible with the zoning district and which, as a total development entity, is compatible with the surrounding neighborhood.
  - (2) The various types of uses conform to the general requirements as herein-before set forth, applicable to projects of such use and character.
  - (3) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.

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

- (a) **General.** The Village Board, following public hearing thereon and after due consideration, shall either deny the petition, approve the petition as submitted or approve the petition subject to any additional conditions and restrictions the Village Board may impose.



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

**ARTICLE E****Conditional Uses****SEC. 13-1-60 STATEMENT OF PURPOSE – CONDITIONAL USES.**

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

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

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

**SEC. 13-1-62 INITIATION OF CONDITIONAL USE.**

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for one (1) or more of the conditional uses provided for in this Article in the zoning district in which such land is located.

**SEC. 13-1-63 APPLICATION FOR CONDITIONAL USE.**

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

**SEC. 13-1-64 HEARING ON APPLICATION.**

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

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

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 Notice under the Wisconsin Statutes in the official Village newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Village Board and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such public hearing.

**SEC. 13-1-66 STANDARDS -- CONDITIONAL USES.**

No application for a conditional use shall be granted by the Village Board unless such the Board shall find all of the following conditions are present:

- (a) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (b) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
- (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (d) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (f) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
- (g) That the proposed use does not violate flood plain regulations governing the site.
- (h) That, when applying the above standards to any new construction of a building or an addition to an existing building, the Board shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
- (i) That, in addition to passing upon a Conditional Use Permit, the Board shall also evaluate the effect of the proposed use upon:
  - (1) The maintenance of safe and healthful conditions.
  - (2) The prevention and control of water pollution including sedimentation.
  - (3) Existing topographic and drainage features and vegetative cover on the site.
  - (4) The location of the site with respect to floodplains and floodways of rivers and streams.
  - (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
  - (6) The location of the site with respect to existing or future access roads.
  - (7) The need of the proposed use for a shoreland location.
  - (8) Its compatibility with uses on adjacent land.
  - (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

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

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

#### **SEC. 13-1-68 CONDITIONS AND GUARANTEES.**

The following conditions shall apply to all conditional uses:

- (a) **Conditions.** Prior to the granting of any conditional use, the Village Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-66 above. In all cases in which conditional uses are

granted, the Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:

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

#### SEC. 13-1-69 VALIDITY OF CONDITIONAL USE PERMIT.

Where the Village Board has approved or conditionally approved an application for a conditional use, such approval shall become null and void within twelve (12) months of the date of the Board's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is

commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Board may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Village Board at least thirty (30) days before the expiration of said permit.

#### **SEC. 13-1-70 COMPLAINTS REGARDING CONDITIONAL USES.**

The Village Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Village Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 13-1-66 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 13-1-65 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Village Board may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13-1-66 or conditions previously imposed by the Village Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 13-1-66 will be met, the Village Board may revoke the subject conditional approval and direct the Zoning Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Village Board shall be furnished to the current owner of the conditional use in writing stating the reasons therefor.

#### **SEC. 13-1-71 BED AND BREAKFAST ESTABLISHMENTS.**

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

**SEC. 13-1-72 HOME OCCUPATIONS.**

- (a) **Intent.** The intent of this Section is to provide a means to accommodate a small family business as a conditional use without the necessity of a rezone into a commercial district. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this Section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary.
- (b) **Restrictions on Home Occupations.** Home occupations are a conditional use in all Residential Districts and are subject to the requirements of the District in which the use is located, in addition to the following:
  - (1) The home occupation shall be conducted only within the enclosed area of the dwelling unit or an attached garage.
  - (2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.
  - (3) No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.
  - (4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
  - (5) Only one (1) sign may be used to indicate the type of occupation or business. Such sign shall not be illuminated.
  - (6) The use shall not involve the use of commercial vehicles for more than occasional delivery of materials to or from the premises.
  - (7) The Village Board may determine the percentage of the property that may be devoted to the occupation; no more than fifty percent (50%) of the area of the principal structure may be used as a home occupation.
  - (8) The home occupation may be restricted to a service-oriented business prohibiting the manufacturing of items or products or the sale of items or products on the premises.
  - (9) The types and number of equipment or machinery may be restricted by the Village Board.
  - (10) Sale or transfer of the property shall cause the Conditional Use Permit to be null and void.
  - (11) Under no circumstances shall a vehicle repair or body work business qualify as a home occupation.
- (c) **Exception.** A home occupation under this Section may be maintained in any Residential District as a permitted use, as opposed to a conditional use, if the standards of Subsection (b) above are complied with, and no sign is erected or maintained regarding the home occupation, no more than one (1) person works on the premises and no customers regularly come to the house.

**SEC. 13-1-73 THROUGH SEC. 13-1-79 RESERVED FOR FUTURE USE.**

## ARTICLE F

### Nonconforming Uses, Structures and Lots

#### SEC. 13-1-80 EXISTING NONCONFORMING USES AND STRUCTURES.

- (a) The lawful nonconforming use of a structure or land, including but not limited to fences, parking and zoning setbacks existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter. However, only that portion of the land in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Chapter.
- (b) If no structural alterations are made, a nonconforming use of a building may be changed to any use permitted in the same use district as that in which the use existing is permitted according to the provisions of this Chapter; provided when a use district is changed, any existing, nonconforming use in such changed district may be continued or changed to a use permitted in the same use district as that in which the existing use is permitted; provided all other regulations governing the new use are complied with.
- (c) 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 the neighboring uses.

#### SEC. 13-1-81 ABOLISHMENT OR REPLACEMENT.

- (a) **Termination.** If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure or land shall conform to the provisions of this Chapter.
- (b) **Building Destroyed by Fire.** Where a building located in a district restricted against its use has been destroyed by fire or other calamity to the extent of not more than fifty percent (50%) of its fair market value, the same may be rebuilt; but where such a building is destroyed to the extent of more than fifty percent (50%) of its fair market value, a permit may be granted for its reconstruction within twelve (12) months from the date of such fire or other calamity, except any public utility located in a restricted district shall be permitted to rebuild, alter or enlarge in any business or industrial district as the interest of the public demands.

#### SEC. 13-1-82 EXISTING NONCONFORMING STRUCTURES.

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



**SEC. 13-1-83 CHANGES AND SUBSTITUTIONS.**

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

**SEC. 13-1-84 RESIDENTIAL BUILDING SETBACKS.**

In residential districts, except for corner lots, required setbacks shall be modified in the following cases:

- (a) Where fifty percent (50%) or more of the frontage on a block is occupied by residences having setbacks less than required by this Chapter, the setback on each remaining lot shall be no nearer the front lot line than a line adjoining the adjacent front corners of the nearest principal structures which are in the same block frontage on either side of the proposed structure. If, on a block frontage, no principal structure exists to one (1) side of a proposed structure, a structure may be assumed to exist on the corner lot which conforms to the minimum setback and side yard width requirements of this Chapter.

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

## ARTICLE G

## Traffic Visibility, Loading, Parking and Access

## SEC. 13-1-90 TRAFFIC VISIBILITY.

- (a) On a corner lot in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining the points along said street lines fifteen (15) feet from the point of intersection.
- (b) In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

## SEC. 13-1-91 LOADING REQUIREMENTS.

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

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

- (b) **Multiple or Mixed Uses.** Where a building is devoted to more than one (1) use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.
- (c) **Location.** Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within thirty (30) feet of the nearest point of intersection of two (2) streets or require any vehicle to back into a public street.

- (d) **Design Standards.** Each off-street loading space shall have a width of at least twelve (12) feet, a length of at least forty-five (45) feet, and a vertical clearance of at least fourteen (14) feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to ten (10) feet in width, twenty-five (25) feet in length, and eight (8) feet in vertical clearance. Every loading space shall be sufficiently screened in the form of a solid fence or shrubbery to protect neighboring residences.
- (e) **Surfacing.** All open off-street loading berths shall be improved with a compacted gravel base, not less than six (6) inches thick, surfaced with not less than two (2) inches of asphalt or treated with some comparable all-weather dustless material.
- (f) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any Residence District.
- (g) **Utilization.** Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- (h) **Central Loading.** Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:
  - (1) Each zoning lot served shall have direct access to the Central Loading Area without crossing streets or alleys at grade.
  - (2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.)
  - (3) No zoning lot served shall be more than three hundred (300) feet removed from the Central Loading Area.
  - (4) The tunnel or ramp connecting the Central Loading Area with the zoning lot served shall be not less than seven (7) feet in width and have a clearance of not less than seven (7) feet.

## SEC. 13-1-92 PARKING REQUIREMENTS.

All new parking lots and all alterations of existing lots shall be subject to the approval of the Village Board. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, except those areas which are located within the fire zone as designated on the Official Map, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- (a) **Access.** Adequate access to a public street shall be provided for each parking space.
- (b) **Size.** Size of each parking stall shall be not less than one hundred eighty (180) square feet, exclusive of the space required for ingress and egress.
- (c) **Location.**
  - (1) Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.
  - (2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts but shall not be closer than five (5) feet to a side lot line, right-of-way line or rear lot line.

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

<u>Use</u>	<u>Minimum Parking Required</u>
Dwellings: Single-family, two-family and mobile homes	2 stalls for each dwelling unit
Dwellings: Multi-family	2 stalls for each dwelling unit
Housing for the elderly	0.75 space for each dwelling with one-half of these spaces to be built before occupancy and the balance of which spaces shall be reserved until such time as the Village Board may order them installed
Hotels, motels	1 stall for each guest room plus 1 stall for each 3 employees
Sororities, dormitories, rooming and boarding houses	1 stall for each bed
Retirement homes, orphanages	1 stall per 2,000 feet of principal floor area
Rest and nursing homes	1 stall for each 5 beds plus 1 stall for each 3 employees
Medical and dental clinics	5 stalls for each doctor
Churches, community centers, vocational and night schools, and other places of public assembly	1 stall for each 5 seats

Secondary and elementary schools	1 stall for each 2 employees plus 1 stall for each 5 students of 16 years of age or more
Restaurants, bars, clubs and lodges, places of entertainment	1 stall for each 150 square feet
Manufacturing and processing plants (including meat and food processing), laboratories and warehouses	1 stall for every 2 employees; number of employees shall be construed to mean the maximum number on the premises at one time
Financial institutions, business, government and professional offices, retail and service establishments	1 stall for each 300 square feet of floor area and 1 stall for each 2 employees
Motor vehicle sales (new and used)	1 space for each 500 square feet of floor area used plus one space for each 300 square feet of outdoor display area for each motor vehicle to be displayed. (This requirement does not include service garages -- see above.)
Repair shops, retail and service stores	1 space for each 150 square feet of net floor space
Automobile repair garages and service stations	1 space for each employee plus 1 space for each 250 square feet of floor area used for repair work
Bowling alleys	5 spaces for each alley

- (f) **Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.
- (g) **Handicapped Parking Requirements.** In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.
- (h) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of fifty percent (50%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- (i) **Off-Lot Parking.**
  - (1) Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located off-lot provided the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the Village Attorney.

- (2) Off-lot parking spaces for residential uses shall be within two hundred fifty (250) feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within three hundred (300) feet of the entrance of the establishment.
- (3) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial, business or industrial zoning district.
- (4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.
- (j) **Surfacing.** All off-street parking areas shall be graded and surfaced so as to be dust-free and properly drained. Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.
- (k) **Restricted Areas.** No front yard of a lot in any Residential District and no front yard of a lot in any Business District upon which a dwelling unit is located shall be used for the parking of motor vehicles, nor shall motor vehicles parked on any other front yard be permitted within five (5) feet of the right-of-way line of a street.
- (l) **Curbs or Barriers.** Shall be installed so as to prevent parked vehicles from extending over any lot lines.

#### SEC. 13-1-93 DRIVEWAYS.

All driveways installed, altered, changed, replaced or extended after the effective date of this Chapter shall meet the requirements of Title 6, Chapter 3 of this Code of Ordinances:

#### SEC. 13-1-94 HIGHWAY ACCESS.

- (a) **Highway Access.** No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes nor to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes (such as exit and entrance ramps). No driveway openings shall be permitted within one hundred (100) feet of the intersection of an arterial street right-of-way line.
- (b) Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- (c) Temporary access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

#### SEC. 13-1-95 THROUGH SEC. 13-1-99 RESERVED FOR FUTURE USE.

## ARTICLE H

### Signs, Canopies, Awnings and Billboards

#### SEC. 13-1-100 PURPOSE OF SIGN, CANOPY AND AWNING REGULATIONS.

The purpose of this Article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs, awnings, canopies and billboards. The provisions herein contained shall be binding alike upon every owner of a building, every lessee and every person in charge or responsible for or who causes the construction, repair, relocation or alteration of any outdoor sign and other advertising structures in the Village of Colfax; painting, posting and general maintenance are excepted.

#### SEC. 13-1-101 SIGNS, CANOPIES, AWNINGS AND BILLBOARDS -- DEFINITIONS.

The following definitions are used in this Article:

- (a) **Area of Sign.** The area is the perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the sign may be placed unless they are designed as part of the sign. If the sign consists of more than one section or module, all areas will be totaled. The area of an irregularly shaped sign shall be computed using the actual sign face surface. The area of the irregularly shaped sign shall be the entire area within a single continuous rectilinear perimeter of not more than eight (8) straight lines.
- (b) **Awning.** A temporary hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure.
- (c) **Billboard.** A sign which advertises goods, products or facilities, or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.
- (d) **Blanketing.** The unreasonable obstruction of view of a sign caused by the placement of another sign.
- (e) **Canopy.** A canopy is a shelter, with or without a sign, attached to or connected with a building and extending into a setback or over the public sidewalk.
- (f) **Day.** A day shall be designated as a period of time in terms of calendar days.
- (g) **Directly Illuminated Sign.** Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.
- (h) **Directory Sign.** Shall mean any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories. Directory signs shall be encouraged for use with advertising of multiple-occupied commercial and industrial buildings.
- (i) **Electronic Message Unit Sign.** Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.

- (j) **Flashing Sign.** Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.
- (k) **Freestanding (Ground and/or Pole Sign).** Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.
- (l) **Identification Sign.** Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.
- (m) **Indirectly Illuminated Sign.** Shall mean a sign that is illuminated from a source outside of the actual sign.
- (n) **Marquee Sign.** Shall mean any sign attached to and made part of a marquee. A marquee is defined as a permanent roof-like structure 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.
- (o) **Nonconforming Sign.** Any sign which does not conform to the regulations of this Ordinance.
- (p) **Off-Premise Sign.** Any sign, device or display which advertises goods other than that commonly available or services other than that commonly performed on the premise on which the sign is located.
- (q) **Political Sign.** Any sign displaying a candidate for an election, or a current election's subject matter.
- (r) **Portable Sign/Message Boards.** Any sign not permanently attached to the ground which is designed to be easily moved from one location to another.
- (s) **Projecting Sign.** Any sign extending more than eighteen (18) inches, but less than four (4) feet from the face of a wall or building; such sign may not extend more than three (3) feet into the right-of-way.
- (t) **Real Estate Sign.** Any sign which is used to offer for sale, lease or rent the property upon which the sign is placed.
- (u) **Roof Sign.** Any sign erected upon or over the roof or parapet of any building.
- (v) **Sign.** A sign shall include anything that promotes, calls attention or invites patronage (or anything similar to the aforementioned) to a business, location or product.
- (w) **Temporary Sign.** Any sign which is erected or displayed for a limited period of time not to exceed twenty-eight (28) consecutive days or which is displayed only during regular business hours and removed for storage at other times. A temporary sign shall not exceed eight (8) square feet in area. Examples of temporary signs include banners and decorative-type displays. For purposes of this Chapter, a portable sign is not a temporary sign.
- (x) **Wall Sign.** Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than sixteen (16) inches from such wall.
- (y) **Window Sign.** Any sign located completely within an enclosed building and visible from a public way.



**SEC. 13-1-102 REQUIRED PERMITS FOR SIGNS, CANOPIES, AWNINGS AND BILLBOARDS.**

- (a) **Application.** Except those specified in Section 13-1-103, no signs, billboards, awnings or canopies shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity with the provisions of this Article. The sign shall also meet all other structural requirements of other applicable codes and ordinances of the Village of Colfax. If the sign will affect the structural strength of a building, is large enough to require structural supports and bracing, or is to have electrical wiring, a building permit from the Building Inspector shall also be required. Signs shall not be erected or altered until a permit has been issued by the Zoning Administrator. "Altered" shall be defined as any modification in the size, height, dimensions, location or mounting of a sign other than routine maintenance.
- (b) **Required Information.** Application for a sign permit shall be made in writing upon forms furnished by the Zoning Administrator which contain the following information about the sign: dimensions, including display surface; materials; illumination; wiring; height above grade; distance from lot lines; and the person, firm or corporation erecting or altering the sign. A permit is not required for a copy change when no change in business name is involved.
- (c) **Permit Fees.** Required permit fees shall be paid to the Zoning Administrator for each sign permit issued under this Article, provided, however, that a fee shall not be charged for putting an existing sign in conformity with this Article, or for a copy change when no change in business name is involved.
- (d) **Insurance.** Any person, firm or corporation engaged in the business of erecting, repairing, maintaining or relocating any sign shall maintain in effect at all times a policy of liability insurance with limits of One Hundred Thousand Dollars (\$100,000.00) for bodily injury and Two Hundred Thousand Dollars (\$200,000.00) aggregate and One Hundred Thousand Dollars (\$100,000.00) property damage. Proof of insurance shall be presented to the Zoning Administrator before the sign permit is granted.
- (e) **Inspection.** The applicant shall, upon completion of the installation, relocation or alteration of the sign, notify the Zoning Administrator who will assure the sign complies with the regulations of this Article. If a building permit was also required the applicant shall also notify the Building Inspector.
- (f) **Exceptions.**
  - (1) **Temporary Signs.** Permits are not required for such temporary signs as real estate (which advertises sale or rental of the premises upon which it is posted), or similar type signs provided such signs do not exceed twenty-five (25) square feet of display surfaces. All temporary signs shall be removed within ten (10) days after their use has discontinued. Temporary signs shall not be located on a right-of-way terrace and shall not interfere with driveway vision clearance.
  - (2) **Window Signs.** Window signs directing attention to a business or profession conducted on the premises or to a product, service or entertainment sold or offered on said premises shall be permitted without a permit.
- (g) **Appeals.** The Zoning Administrator may, at any time for a violation of this Article, revoke a permit or require changes so the sign conforms with this Article. The holder of a revoked permit shall be entitled to an appeal before the Village Board. Any person, firm or corporation aggrieved by any permit denial or decision by the Zoning Administrator relative to the provisions of these sign regulations may appeal and seek review of such decision to the Village Board.

**SEC. 13-1-103 SIGNS NOT REQUIRING A PERMIT.**

The following signs do not require a sign permit, provided that they are not located over a public road right-of-way or in, on or over public water:

(a) **Commercial, Industrial and Planned Unit Development (Commercial/Industrial) Districts.**

- (1) Warning signs not to exceed four (4) square feet located on the premises.
- (2) Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against the structure.
- (3) Official signs, such as traffic control, parking restriction, information and notices.
- (4) Rummage or garage sale signs not to exceed eight (8) square feet in area, but use of this type of sign shall be limited to seventy-two (72) hours per sale.
- (5) Signs designating entrances, exits, service areas, parking areas, restrooms and other such signs relating to functional operation of the building or premises shall be permitted without limitation other than reasonable size and necessity.
- (6) Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers or names of occupants of premises.
- (7) Flags and insignia of any government, except when displayed in connection with commercial promotion.
- (8) Legal notices, identification information or directional signs erected by governmental bodies.
- (9) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
- (10) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- (11) Political signs may be posted sixty (60) days before an election and must be removed within ten (10) days after said election. Said sign shall be a maximum of thirty-two (32) square feet.
- (12) Window signs are allowed with no permits.
- (13) Bills, posters and banners shall be allowed with no permits.

(b) **Residential, Conservancy and Agricultural Districts.**

- (1) Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two (2) feet in height and ten (10) feet in length.
- (2) Memorial signs, tablets, names of buildings and dates of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
- (3) Official signs, such as traffic control, parking restrictions, information and notices.
- (4) Awnings or canopies servicing only a particular single-family dwelling unit, provided the same shall conform to the regulations applicable to the zoning district in which the same are located.
- (5) House numbers or signs identifying parks or country clubs or official bulletin boards.
- (6) Political signs may be posted sixty (60) days before an election and must be removed within ten (10) days after said election. Said sign shall be a maximum of eight (8) square feet.

- (7) Rummage or garage sale signs not to exceed eight (8) square feet in area, but use of this type of sign shall be limited to seventy-two (72) hours per sale.

#### SEC. 13-1-104 PERMITTED COMMERCIAL AND INDUSTRIAL SIGNS.

- (a) **Permitted Signs.** The following signs shall require a permit to be issued by the Village of Colfax. Signs may be permitted in all commercial, planned unit development (commercial/industrial) and industrial districts, subject to the following restrictions:
  - (1) Wall signs placed against the exterior walls of buildings shall not extend more than six (6) inches outside of a building's wall surface, shall not exceed three hundred (300) square feet in area for any one (1) premises and shall not exceed twenty (20) feet in height above the mean centerline street grade.
  - (2) Projecting Signs fastened to, suspended from, or supported by structures shall not exceed one hundred (100) square feet in area for any one (1) premises; shall not extend more than six (6) feet into any required yard; shall not extend more than three (3) feet into any public right-of-way; shall not be less than ten (10) feet above the sidewalk nor fifteen (15) feet above a driveway or an alley.
  - (3) Ground Signs shall not exceed twenty (20) feet in height above the mean centerline street grade, shall meet all yard requirements for the district in which they are located and shall not exceed one hundred (100) square feet on all sides for any one (1) premises.
  - (4) Roof signs shall not exceed ten (10) feet in height above the roof, shall meet all the yard and height requirements for the district in which they are located and shall not exceed three hundred (300) square feet on all sides for any one (1) premises.
  - (5) Combinations of any of the above signs shall meet all the requirements for the individual sign.
- (b) **Lighting.** Business and industrial signs may be internally lighted or illuminated by a hooded reflector, provided, however, that such lighting shall be arranged to prevent glare and no sign shall be lighted by a lighting of intermittent or varying intensity. Animated signs, or signs having moving parts, or signs which may be mistaken for traffic signal devices, or which diminish the visibility or effectiveness of such traffic signal devices are prohibited.
- (c) **Signs Causing Obstruction Prohibited.** Any sign so erected, constructed or maintained as to obstruct or be attached to any fire escape, window, door or opening used as means of ingress or egress, or for firefighting purposes, or placed so as to interfere with any opening required for legal ventilation is prohibited.
- (d) **Signs at Intersection Prohibited.** No sign or advertising device shall be erected or maintained at the intersection of streets in such a manner as to obstruct clear vision of the intersection.
- (e) **Canopy Signs Restricted.** Signs shall be permitted to hang from canopies or covered walks in Business or Industrial Districts provided that there shall be only one (1) sign, not to exceed five (5) square feet, for each business and that the sign shall be at least ten (10) feet above ground level.

**SEC. 13-1-105 PERMITTED RESIDENTIAL SIGNS.**

In addition to those permitted signs not requiring a permit pursuant to Section 13-1-103(b), the following nonflashing, nonilluminated signs are permitted under the conditions specified in all residential and planned unit development (residential), districts established by this Chapter:

- (a) **Nameplate and Identification Signs.** Subject to the following:
  - (1) Area and Content -- Residential. There shall be not more than one (1) nameplate, not exceeding one (1) square feet in area, for each dwelling unit, indicating the name or address of the occupant or a permitted home occupation. On a corner lot, two (2) such nameplates for each dwelling unit (one facing each street) shall be permitted.
  - (2) Area and Content -- Nonresidential. For non-residential buildings, a single identification sign, not exceeding nine (9) square feet in area and indicating only the name and address of the building, may be displayed. On a corner lot, two (2) such signs (one facing each street) shall be permitted.
  - (3) Projection. Such signs shall be affixed flat against the wall of the building.
  - (4) Height. No sign shall project higher than one (1) story or fifteen (15) feet above curb level, whichever is lower.
- (b) **"For Sale" and "To Rent Signs.** Subject to the following:
  - (1) Area and Number. There shall be not more than one (1) sign per zoning lot, except that on a corner zoning lot two (2) signs (one facing each street) shall be permitted. No sign shall exceed eight (8) square feet in area nor be closer than twelve (12) feet to any other zoning lot.
  - (2) Height. No sign shall project higher than one (1) story or fifteen (15) feet above curb level, whichever is lower, when attached to a building; detached or free-standing signs shall not be more than four (4) feet in height, measured from the soil grade to the top of the sign post.
- (c) **Signs Accessory to Parking Area.** Subject to the following:
  - (1) Area and Number. Signs designating parking area entrances or exits are limited to one (1) sign for each such exit or entrance, and to a maximum size of two (2) square feet each. One (1) sign per parking area, designating the conditions of use or identity of such parking area and limited to a maximum size of nine (9) square feet, shall be permitted. On a corner lot, two (2) such signs (one facing each street) shall be permitted.
  - (2) Projection. No sign shall project beyond the property line into the public way.
  - (3) Height. No sign shall project higher than seven (7) feet above curb level.
- (d) **Signs Accessory to Roadside Stands.** Subject to the following:
  - (1) Content. The signs shall be only for the purpose of identification of the roadside stand and advertising the agricultural products for sale therein.
  - (2) Area and Number. The signs shall be on the same zoning lot (either zoned agricultural or with a conditional use permit) as the roadside stand, and there shall be not more than two (2) signs per lot. No sign shall exceed twelve (12) square feet in area nor be closer than fifty (50) feet from any other zoning lot.
  - (3) Projection. No sign shall project beyond the property line into the public way.
  - (4) Height. No sign shall project higher than fifteen (15) feet above curb level.
  - (5) Permit. A sign permit is required for this type of sign.

- (e) **Temporary Signs Accessory to Subdivision Developments or Other Permitted Improvements in Residential Districts.** Subject to the following:
  - (1) Content. The signs shall be only for the purpose of identification of homes for sale or rent in the subdivision under construction, or for the identification of other nonresidential uses under construction.
  - (2) Area, Number and Setback. Such signs shall not exceed two (2) in number for each subdivision nor fifty (50) square feet each in area. They shall observe the front yard requirement of the principal use and shall be located at least fifty (50) feet from all other boundaries of the site.
  - (3) Height. No sign shall project higher than eight (8) feet above curb level.
  - (4) Time Limitations. The sign or signs shall be removed by the applicant or property owner within two (2) years of the date of the issuance of a sign permit.
- (f) **Subdivision Identification Signs.** Subject to the following:
  - (1) Content. The signs shall bear only the name of the subdivision or development.
  - (2) Area and Number. There shall be not more than two (2) signs located at each entrance to a subdivision. No sign shall exceed thirty-two (32) square feet in area. Such identification signs shall only be erected after review and approved by the Zoning Administrator.
  - (3) Height. No sign shall project higher than twelve (12) feet above curb level; the Plan Commission may, however, temporarily authorize a larger sign for a period not to exceed two (2) years.
  - (4) Permit. A sign permit is required for this type of sign. Drawings showing the specific design, appearance and location of the sign shall be submitted to the Zoning Administrator for approval. The location of any such sign shall be at the discretion of the Zoning Administrator based upon the character of the area, the type and purpose of the sign and the length of time permitted.
- (g) **Nonflashing, Illuminated Church Bulletins.** Subject to the following:
  - (1) Area and Number. There shall be not more than one (1) sign per lot, except that on a corner lot, two (2) signs (one facing each street) shall be permitted. No sign shall exceed sixteen (16) square feet in area nor be closer than eight (8) feet from any other zoning lot.
  - (2) Projection. No sign shall project beyond the property line into the public way.
  - (3) Height. No sign shall project higher than one (1) story or fifteen (15) feet above the curb level, whichever is lower.

## SEC. 13-1-106 LANDSCAPE FEATURES.

Landscape features such as plant materials, berms, boulders, fencing and similar design elements unincorporated or in conjunction with the freestanding signs are encouraged and shall not be counted as allowable sign area.

## SEC. 13-1-107 PROHIBITED SIGNS.

- (a) **Traffic Interference.** Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs or devices. Signs, canopies and awnings shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices or the safe flow of traffic. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign, awning or canopy shall be placed so as to obstruct or interfere with traffic visibility.
- (b) **Moving or Flashing Signs.** No sign shall be erected which has any flashing, rotating or brilliant intermittent parts or lights or bare reflecting-type bulbs, except those giving public service information such as time, date, temperature, weather or similar information or where allowed by conditional use permit. No signs, billboards or other advertising media which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.
- (c) **Signs on Public Rights-of-Way.** Signs shall not be permitted on public rights-of-way, except for municipal traffic control, parking and directional signs and as otherwise specified in this Chapter, or be located within five (5) feet of a property line.

## SEC. 13-1-108 DANGEROUS AND ABANDONED SIGNS.

- (a) **Removal of Dangerous Signs.** All signs shall be removed by the owner or lessee of the premises upon which the sign is located in the judgment of the Zoning Administrator, such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the Zoning Administrator may remove the sign at cost of the owner, following adequate written notice. The owner may appeal the decision of the Zoning Administrator to the Village Board.
- (b) **Abandoned Signs.** Except as otherwise herein provided, all sign messages shall be removed by the owner or lessee of the premises upon which an off-premise sign is located when the business it advertised is longer conducted where advertised. If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner sixty (60) days' written notice to remove said sign and thereafter upon the owner's or lessee's failure to comply may remove such sign, any costs for which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the Zoning Administrator may take any other appropriate legal action necessary to attain compliance.
- (c) **Violations.** All signs constructed or maintained in violation of any of the provisions of this Article after the date of adoption are hereby declared public nuisances within the meaning of this Code of Ordinances. In addition to the penalty provisions for violations of this Article, the Zoning Administrator or Village Board may bring an action to abate the nuisance in the manner set forth in the Wisconsin Statutes.

## SEC. 13-1-109 VARIANCES OR EXCEPTIONS.

Variances or exceptions to these sign regulations may be granted by the Village Board following a recommendation from the Zoning Administrator, pursuant to the standards of the Village Zoning Code.

**SEC. 13-1-110 CONSTRUCTION AND MAINTENANCE REGULATIONS FOR SIGNS.**

- (a) **Installation.** All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Zoning Administrator and/or Zoning Administrator.
- (b) **General Requirements.**
  - (1) **Construction Standards.** All signs, except flat signs and those signs weighing less than ten (10) pounds, shall be designed, fastened and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area and shall be constructed, attached, fastened or anchored to adequately support the dead load and any anticipated live loads (i.e., ice, snow) of the sign.
  - (2) **Illuminated Signs.** Any illuminated signs shall not interfere with surrounding properties or traffic.
  - (3) **Roof Signs.** No sign shall be located so as to project above the parapet line unless approved by the Zoning Administrator.
  - (4) **Projection.** Signs including supports shall not interfere with surrounding properties or traffic.
  - (5) **Prohibited Mounting.** No signs shall be painted on, attached to or affixed to any trees, rocks, or other similar organic or inorganic natural matter, including utility poles or apparatus.
  - (6) **Blanketing.** Blanketing of signs on buildings shall not be allowed.
  - (7) **Maintenance.** All signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean. All signs shall be kept in good structural condition, well painted, and clean at all times and the immediate premises shall be maintained in a clean, sanitary and inoffensive condition and kept free and clear of all obnoxious substances, rubbish and weeds.
  - (8) **Annexed Areas.** All signs in newly annexed areas shall comply with this Article within five (5) years of annexation.
- (c) **Location Adjacent to Residence District.** No advertising signs shall be permitted within seventy-five (75) feet of any residence district boundary line unless said sign is completely screened from said residence district by a building, solid fence, or an evergreen planting, which planting shall be not more than two (2) feet shorter than the height of the sign at the time said evergreens are planted; said evergreens shall be spaced not more than one-half (1/2) the height of the tree for regular varieties and one-third (1/3) the height of the tree for columnar varieties of trees; said evergreen planting shall be continuously maintained; or said sign is facing away from the residence district and the back is screened as provided below.
- (d) **Sign Mounting.** All signs shall be mounted in one (1) of the following manners:
  - (1) Flat against a building or wall.
  - (2) Back to back in pairs so that the back of the sign will be screened from public view.
  - (3) In clusters in an arrangement which will screen the back of the signs from public view.
  - (4) Or otherwise mounted so that the backs of all signs or sign structures showing to public view shall be painted and maintained a neutral color or a color that blends with surrounding environment.

## SEC. 13-1-111 SPECIAL SIGN REQUIREMENTS.

- (a) **Electronic Message Unit Signs.**
  - (1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.
  - (2) Segmented messages must be displayed for not less than one-half (1/2) second and more than ten (10) seconds.
  - (3) Traveling messages may travel no slower than sixteen (16) light columns per second and no faster than thirty-two (32) columns per second.
- (b) **Portable Signs/Message Boards.** Such signs shall be limited in use to thirty (30) days at a time following approval by the Zoning Administrator, provided, however, that the Zoning Administrator shall not give approval for placement of a portable sign/message board if it presents a vision obstruction; such signs shall not be displayed more frequently than three (3) times per year at any one (1) location. The maximum size of a portable sign/message board shall be ten (10) square feet on each face, back to back.
- (c) **Search Lights.** The Zoning Administrator may permit the temporary use of a searchlight for advertising purposes in any district provided that the searchlight will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Searchlight permits shall not be granted for a period of more than five (5) days in any six (6) month period.

## SEC. 13-1-112 NONCONFORMING SIGNS.

- (a) **Signs Eligible For Characterization as Legal Nonconforming.** Any sign located within the Village of Colfax limits of the date of adoption of this Article hereafter which does not conform with the provisions of this Article is eligible for characterization as a legal nonconforming sign and is permitted.
- (b) **Loss of Legal Nonconforming Status.** A sign loses its nonconforming status if one (1) or more of the following occurs:
  - (1) If said sign is damaged by fire, flood, explosion, earthquake, war, riot or Act of God; or structurally altered in any way, except for normal maintenance and repair; the sign may be reconstructed and used as before if it is reconstructed within three (3) months after such calamity, unless the damage to the sign is fifty percent (50%) or more of its replacement value, in which case, the constructed sign shall comply with the provisions of this Article.
  - (2) The sign is relocated;
  - (3) The sign fails to conform to the Village requirements regarding maintenance and repair, abandonment or dangerous or defective signs;
  - (4) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Article with a new permit secured therefor or shall be removed.
- (c) **Legal Nonconforming Sign Maintenance and Repair.** Nothing in this Article shall relieve the owner or use of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this Article regarding safety, maintenance and repair of signs.



**SEC. 13-1-113 AWNINGS AND CANOPIES.**

- (a) **Permitted Awnings.** No awnings shall be erected or maintained, except such awnings as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:
  - (1) **Support.** Awnings shall be securely attached to and supported by the building and shall be without posts or columns beyond the setback line.
  - (2) **Height.** All awnings shall be constructed and erected so that the lowest portion thereof shall be not less than seven (7) feet above the level of the public sidewalk or public thoroughfare.
  - (3) **Setback from Curb Line.** No awning shall extend within one (1) foot of the curb line.
- (b) **Permitted Canopies.** No canopies shall be erected or maintained, except such canopies as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:
  - (1) **Support.** The structural support of all canopies shall be approved by the Zoning Administrator as in compliance with the Building Code of the Village and shall meet state building codes. All frames and supports shall be of metal and designed to withstand a wind pressure as provided in Section 13-1-110 of this Code. All canopies shall be attached to a building, and no supports shall exist beyond the setback line between the canopy and the sidewalk or ground below.
  - (2) **Height Above Sidewalk.** All canopies shall be constructed and erected so that the lowest portion thereof shall not be less than eight (8) feet above the level of the sidewalk or public thoroughfare.
  - (3) **Setback From Curb.** No canopy shall extend beyond a point two (2) feet from the curb line.

**SEC. 13-1-114 VIOLATIONS OF SIGN CODE.**

- (a) **Construction Without Permit.** Any person, firm or corporation who begins, erects or completes the erection or construction of any sign, awning or canopy controlled by this Article prior to the granting of a sign permit shall pay a penalty double the amount of the permit otherwise required.
- (b) **Compliance Notice.**
  - (1) If the Zoning Administrator finds any sign, awning or canopy regulated herein unsafe or insecure or is a menace to the public, it shall give written notice to the sign owner and to the property owner.
  - (2) If such sign, awning or canopy owner fails to remove or alter the sign, awning or canopy so as to comply with the standards herein set forth within five (5) days after such notice, the Zoning Administrator may cause such sign, awning or canopy to be removed or altered at the expense of the owner of the sign, awning or canopy or the owner of the property upon which it is located so as to comply with the provisions of this Article.

- (c) **Violations; Penalties.** Any person who shall violate any of the provisions of this Article shall be subject to a penalty which shall be as follows:
- (1) Any person found guilty of violating any part of this Article who has previously been notified of being in violation or been convicted of violating the same Article within one (1) year shall, upon conviction thereof, be subject to a forfeiture as prescribed by Section 1-1-6 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 exceeding six (6) months.
  - (2) Each violation and each day a violation continues or occurs 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 provision of this Article.

**SEC. 13-1-115 THROUGH SEC. 13-1-119 RESERVED FOR FUTURE USE.**

**ARTICLE I****Performance Standards****SEC. 13-1-120 COMPLIANCE.**

This Chapter permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. No structure, land, or water shall hereafter be used except in compliance with their district regulations and with the following performance standards.

**SEC. 13-1-121 SOUND.**

The volume of sound inherently and recurrently generated shall not exceed the following standards at any point along the boundaries of the zone in which the use is located:

- (a) Objectionable sounds of an intermittent nature shall be controlled so as not to become a nuisance to adjacent uses.
- (b) Maximum sound pressure levels shall be measured with a sound level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association and shall not exceed the values for octave bands lying within the several frequency limits given in the following table after the application of appropriate corrections:

<u>Frequency Ranges Containing Standard Octave Bands in Cycles Per Second</u>	<u>Octave Band Sound Pressure Level in Decibels</u>
0 - 74	72
75 - 149	67
150 - 299	59
300 - 599	52
600 - 1,199	46
1,200 - 2,399	40
2,400 - 4,800	34
Above 4,800	32

**SEC. 13-1-122 AIR POLLUTION.**

No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or other forms of property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas, nor any color of visible smoke equal to or darker than number two (2) on the Ringlemann Chart described in the United States Bureau of Mine's "Information Circular 7718", in any Industrial District.

**SEC. 13-1-123 FIRE AND EXPLOSIVE HAZARDS.**

All activities involving the manufacturing, utilization, processing or storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion, and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system.

**SEC. 13-1-124 GLARE AND HEAT.**

Any operation producing intense glare or heat, such as combustion or welding, shall be performed within a completely enclosed building, in such a manner as not to create a public nuisance or hazard across lot lines. Exposed sources of light shall be shielded so as not to create a nuisance across lot lines. Illumination which has its source in a manufacturing district shall, in no case, be permitted to exceed 0.1 foot candle in an adjoining Residential District.

**SEC. 13-1-125 LIQUID OR SOLID WASTES.**

No activity shall discharge, at any point, onto any land or into any water or public sewer, any materials of such nature, quantity, noxiousness, toxicity or temperature that they can contaminate, pollute or harm the quantity or quality of any water supply; can cause the emission of dangerous or offensive elements; can overload the existing municipal utilities; or can injure or damage persons or property.

**SEC. 13-1-126 VIBRATION.**

There shall be no vibrations emanating from any operation which will be discernible to human feeling beyond the boundaries of the immediate site.

**SEC. 13-1-127 ODORS.**

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside their premises.

**SEC. 13-1-128 RADIOACTIVITY AND ELECTRICAL DISTURBANCES.**

No activity shall emit radioactivity or electrical disturbances outside its premises which are dangerous or adversely affect the use of neighboring premises.

**SEC. 13-1-129 RESERVED FOR FUTURE USE.**

**ARTICLE J****Signal Receiving Antennas; Wind Energy Systems****SEC. 13-1-130 SIGNAL RECEIVING ANTENNAS.**

- (a) **Purpose.** In order to secure uniformity and compliance with Federal Communications Commission rules (FCC 96-328) on over-the-air reception devices implementing Section 207 of the Telecommunications Act of 1996, this Section regulating the placement of signal receiving antennas and over-the-air reception devices is adopted to:
- (1) Provide uniform regulation where necessary of all signal receiving antenna devices;
  - (2) Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals;
  - (3) Preserve the integrity of historic preservation districts;
  - (4) Protect the public from injury from roof-mounted antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the roof-mounted antenna; and
  - (5) Provide for placement of such antennas in locations that preserve access to rear property areas by firefighting apparatus and emergency personnel.
- (b) **Definitions.**
- (1) For purposes of this Section, a "signal receiving antenna" is defined as any outdoor apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. This definition includes all types of signal receiving antennas and over-the-air reception devices, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHF television antennas, and AM, FM, ham and short-wave radio antennas, regardless of the method of mounting.
  - (2) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of at least one (1) owner shall be considered an owner.
- (c) **Limited Permit Requirement.**
- (1) No owner shall, within the Village, build, construct, use or place any type of signal receiving antenna or over-the-air reception device that is roof-mounted or proposed to be located in a designated historic preservation district until a permit shall have first been obtained from the Zoning Administrator.
  - (2) Application for a signal receiving antenna permit when required under Subsection (c)(1) shall be made in writing to the Zoning Administrator. With such application, there shall be submitted a sufficient set of mounting plans and specifications to allow a determination to be made that the device can be safely roof-mounted, or, in the case of a historic preservation district, can be located in such a manner as to not seriously detract from the historic character of the district. There is no fee for such permit. If such application meets the requirements of this Section, the application shall be approved.

- (d) **Exemption.** Signal receiving devices less than twenty-four (24) inches in diameter are exempt from the requirements of this Section, except for the requirements in Subsection (e)(1), (6), (8) and (11).
- (e) **Installation Standards.** Signal receiving antennas installed in any zoning district within the Village shall comply with the following provisions:

(1) **Setbacks.**

- a. Any signal receiving antenna and its mounting post shall be located a minimum of ten (10) feet from any property line. The purpose of setback regulations is to protect the aesthetics of the area and to preserve adequate access for emergency equipment and personnel.
  - b. Subject to the provisions herein, signal receiving antennas shall only be located in the rear yard of any lot. If reasonable reception of signals is not possible with a rear yard placement due to the physical characteristics of the lot and area, the signal receiving antenna shall be placed in the side yard of the lot. In the event that reasonable reception of signals is not possible by locating the signal receiving antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of structures on the property following compliance with Subsection (c) above. The corner lots, a side yard is only a yard that does not face a street.
  - c. If side yard, front yard or roof mounting is requested, the Zoning Board of Appeals shall determine where reasonable reception is possible, based on evidence provided by the person seeking to erect or construct the antenna.
- (2) **Mounting.** Signal receiving antennas attached to the roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all imposed loading and complies with applicable state and local building code requirements. The Zoning Administrator may require engineering calculations.
- (3) **Diameter.** The diameter of the signal receiving antenna shall not exceed twelve (12) feet for the ground-mounted antenna and ten (10) feet for the roof-mounted antenna, except for stations used to provide community antenna television services.
- (4) **Height.**
- a. A ground-mounted signal receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may not exceed twelve (12) feet in height, as measured from the ground to the highest point of the dish.
  - b. A roof-mounted antenna may not exceed ten (10) feet in height above the surrounding roof line as measured from the lowest point of the existing roof line.
- (5) **Wind Pressure.** All signal receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.
- (6) **Electrical Installations.** To safeguard public safety, electrical installations in connection with signal receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the signal receiving antenna to the

receivers shall be installed underground unless installation site conditions preclude underground. If a signal receiving antenna is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All signal receiving antennas shall be grounded against direct lightning strikes.

- (7) Temporary Placement. No portable or trailer-mounted signal receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all provisions of this Section.
  - (8) Advertising. No form of advertising or identification, sign or mural is allowed on the signal receiving antenna other than the customary manufacturer's identification plates.
  - (9) Interference With Broadcasting. Signal receiving antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the signal receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
  - (10) Compliance With Federal Regulations. The installation and use of every signal receiving antenna shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder, including Federal Communications Commission rules.
  - (11) Aesthetic Considerations. Signal receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.
- (f) **Enforcement.**
- (1) It shall be unlawful to construct, use, build or locate any signal receiving antenna in violation of any provisions of this Section. In the event of any violation, the Village Board, a Village enforcement official, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.
  - (2) Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction, be subject to the general penalty found in Section 1-1-6.

#### SEC. 13-1-131      **CONDITIONAL USE PERMITS REQUIRED – WIND ENERGY SYSTEMS.**

- (a) **Approval Required.** No owner shall, within the Village, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- (b) **Separate Permit Required for each System.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.

- (c) **Basis of Approval.** The Village Board shall base its determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the Village and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.
- (d) **Definitions.** "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

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

- (a) **Application.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the Village. The application shall include the following information:
  - (1) The name and address of the applicant.
  - (2) The address of the property on which the system will be located.
  - (3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
  - (4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
  - (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
  - (6) Any other information which the Zoning Administrator, Village Board or Building Inspector may deem to be necessary to the proper review of the application.
  - (7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Village Board.
- (b) **Hearing.** Upon referral of the application, the Village Board shall schedule a public hearing thereof following the procedures for conditional use permits in Article E.
- (c) **Determination.** Following public hearing and necessary study and investigation, the Village Board shall, as soon as practical, render its decision and a copy be made a permanent part of the Board's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved,



shall indicate the reasons for disapproval. The Village Board may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.

- (d) **Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Village Board following a public hearing thereon.
- (e) **Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Village Board and if, in the opinion of the Board, such change or addition constitutes a substantial alteration, a public hearing before the Village Board shall be required and notice thereof be given.
- (f) **Approval Does Not Waive Permit Requirements.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

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

- (a) **Additional Standards.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.
- (b) **Application.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- (c) **Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.
- (d) **Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.
- (e) **Electro-magnetic Interference.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (f) **Location and Height.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a

property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.

- (g) **Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- (h) **Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

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

## ARTICLE K

### Accessory Uses and Structures; Fences

#### SEC. 13-1-140 ACCESSORY USES OR STRUCTURES.

- (a) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- (b) **Placement Restrictions.** Residential accessory buildings which are not a part of the main building shall comply with the following height and setback requirements. They are not permitted in the front yard. Accessory buildings and structures such as storage buildings, garages, swimming pools, heating-air conditioning equipment and wind and solar energy conversion equipment, provided such buildings, structures or equipment are permitted as follows:
  - (1) In the aggregate, shall not occupy more than thirty-five percent (35%) of any required rear yard areas.
  - (2) Shall be located no closer than three (3) feet from any part of any other building or structure.
  - (3) Shall comply with all applicable Village setback requirements for principal structures.
- (c) **Use Restrictions – Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined herein and shall not be occupied as a dwelling unit.
- (d) **Placement Restrictions – Nonresidential Districts.** An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard and shall not be nearer than three (3) feet to any side or rear lot line.
- (e) **Reversed Corner Lots.** When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than three (3) feet to the side line of the adjacent structure.
- (f) **Landscaping and Decorative Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens.
- (g) **Temporary Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.
- (h) **Garages in Embankments in Front Yards.** Where the mean natural grade of a front yard is more than eight (8) feet above the curb level, a private garage may be erected within the front yard, provided as follows:
  - (1) That such private garage shall be located not less than five (5) feet from the front lot line;
  - (2) That the floor level of such private garage shall be not more than one (1) foot above the curb level; and
  - (3) That at least one-half (1/2) the height of such private garage shall be below the mean grade of the front yard.

- (4) **Picket Fence.** A fence having a pointed post, stake, pale or peg laced vertically with the point or sharp part pointing upward to form a part of the fence.
- (c) **Height of Fences Regulated.**
  - (1) A fence or wall may be erected, placed or maintained along a lot line on residentially zoned property or adjacent thereto to a height not exceeding six (6) feet above the ground level and be no closer than three (3) feet to a public right-of-way, except that no such fence or wall which is located in a required front or corner side yard shall exceed a height of three (3) feet. Where such lot line is adjacent to a non-residentially zoned property, there shall be an eight (8) foot limit on the height of a fence or wall along such lot line.
  - (2) No fence or wall shall be erected, placed or maintained along a lot line on any non-residentially zoned property, adjacent to a residentially zoned property, to a height exceeding eight (8) feet.
  - (3) No woven, twisted, welded or interlaced wire fence shall be located in a Residential District, unless such fencing is ornamental in character.
  - (4) No wood-slat snow fence shall be permitted in a Residential District.
- (d) **Setback for Residential Fences.** New fences adjacent to a residential property are permitted adjacent lot lines. Fences may be constructed alongside lot lines but shall not extend into the front setback area as extended to the side lot lines. Fence owners are solely responsible for erecting their fence within their legal property boundaries.
- (e) **Security Fences.** Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- (f) **Prohibited Fences.** No fence shall be constructed which is a picket fence or which is of an otherwise dangerous condition, or which conducts electricity or is designed to electrically shock or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground or height and project toward the fenced property and away from any public area.
- (g) **Fences to be Repaired.** All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.
- (h) **Temporary Fences.** Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days.
- (i) **Nonconforming Fences.** Any fence existing on the effective date of this Municipal Code and not in conformance with this Section may be maintained, but no alteration, modification or improvement of said fence shall comply with this Section.

## SEC. 13-1-143 SWIMMING POOLS.

- (a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than one and one-half (1-1/2) feet located above or below the surface of ground elevation, used or intended to be used solely by the

- (i) **Outdoor Lighting.** Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
- (j) **Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., shall be permitted in setback areas but not closer than three (3) feet to an abutting property line other than a street line.
- (k) **Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed three (3) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls and provided further that along a street frontage no such wall shall be closer than three (3) feet to the property line.
- (l) **Agricultural Structures.** Agricultural structures such as barns, silos and windmills shall not exceed in height twice their distance from the nearest lot line.

#### SEC. 13-1-141 OUTSIDE STORAGE OF FIREWOOD.

- (a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.
- (b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.
- (c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of within fifteen (15) days and shall not be allowed to remain on the premises.
- (d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.
- (e) Not more than thirty percent (30%) of the side and rear yard may be used for storage of firewood at any one (1) time.

#### SEC. 13-1-142 FENCES.

- (a) **Fences Defined.** For the purpose of this Section, a "fence" is herein defined as an enclosed barrier consisting of wood, stone or metal intended to prevent ingress or egress. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.
- (b) **Fences Categorized.** Fences shall be categorized into four (4) classifications:
  - (1) Boundary Fence. A fence placed on or within three (3) feet of the property lines of adjacent properties.
  - (2) Protective Fence. A fence constructed to enclose a hazard to the public health, safety and welfare.
  - (3) Architectural or Aesthetic Fence. A fence constructed to enhance the appearance of the structure or the landscape.

owner, operator or lessee thereof and his family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool. The regulations herein shall also be applicable to hot tubs.

- (b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of fifteen (15) inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Section.
- (c) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Building Inspector, the Building Inspector shall not issue a permit for construction as provided for in Subsection (b), unless the following construction requirements are observed:
  - (1) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and code and with any and all Ordinances of the Village now in effect or hereafter enacted.
  - (2) All plumbing work shall be in accordance with all applicable Ordinances of the Village and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method and, in no case, shall waters from any pool be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located on in the general vicinity.
  - (3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state laws and Village Ordinances regulating electrical installations.
- (d) **Setbacks and Other Requirements.**
  - (1) Private swimming pools shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
  - (2) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building, and in no case shall the water line of any pool be less than six (6) feet from any lot line.
- (e) **Location.** Swimming pools constructed in Residential Districts shall be located on the same lot as, and in either the rear or the side yard of, a principal building; however, they shall not be constructed in the front yard or in a required corner side yard in such districts. Swimming pools either open or enclosed shall be considered the same as accessory buildings for purposes of calculating the maximum area they may occupy in a required rear yard.
- (f) **Fence.**
  - (1) Pools whether in-ground or above-ground, within the scope of this Section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool. Such fence or wall shall not be less than six (6) feet in height and so constructed as not to have voids, holes or openings larger than four (4) inches in one (1) dimension. The fence material shall be a cyclone type fence, vertical slats, or other members built to discourage or impede climbing; all areas adjacent or near the fence shall be cleared of material

which might be used for climbing purposes. Gates or doors shall be kept locked while the pool is not in actual use. All gates or door openings or other means of access into such swimming pool shall be self-closing and self-latching and shall be at least thirty-six (36) inches in height with latches placed in such a manner that they can only be operated from the inside of the enclosure if they are less than forty-eight (48) inches above the ground level, or shall employ such other safe means of securing access that such pool shall be inaccessible to a child under ten (10) years of age when such swimming pool is not in actual use or attended.

- (2) Barriers of metal, wood, hard plastic, canvas or other durable material designed and employed to prevent use of, or entry into, the pool (rather than to control heat loss or keep out dirt or insects) shall be acceptable guarding for a pool if the same can be locked or secured to prevent such entry or use.
- (3) The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing a minimum of thirty-six (36) inches high on the top or where the sidewalls are a minimum of thirty-six (36) inches high and pool ladders can be secured when not in use.
- (g) **Draining and Approval Thereof.** No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer or septic tank nor to overflow upon or cause damage to any adjoining property. Provisions may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval by the Building Inspector. In all cases where a private swimming pool is to be constructed on premises served by a private sewage disposal system approval of the State Board of Health shall be necessary before the construction of any such pool may commence.
- (h) **Filter System Required.** All private swimming pools within the meaning of this Chapter must have, in connection therewith, some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.
- (i) **Dirt Bottoms Prohibited.** All swimming pools of a permanent nature shall have the sides and bottom of a smooth finish, and no sand or dirt bottom shall be permitted.
- (j) **Safety Devices.** Every swimming pool which has a capacity for water exceeding four (4) feet in depth at any point, shall be equipped with a reasonable number of life preservers and/or other safety devices.

SEC. 13-1-144 THROUGH SEC. 13-1-149 RESERVED FOR FUTURE USE.

**ARTICLE L****Administration****SEC. 13-1-150 GENERAL ADMINISTRATIVE SYSTEM.**

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

**SEC. 13-1-151 ZONING ADMINISTRATOR.**

- (a) The Village Board shall designate a Village official to serve as the Zoning Administrator and as the administrative enforcement officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter. The Zoning Administrator shall further:
  - (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, moved, 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 assure compliance with this Chapter.
  - (5) Investigate all complaints made relating to the location of structures and the use of structures, lands and waters, give notice of all violations of this Chapter to the owner, resident, agent or occupant of the premises and report uncorrected violations to the Village Attorney in a manner specified by him.
  - (6) Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
  - (7) Request assistance and cooperation from the Village Clerk-Treasurer, Building Inspector and Village Attorney as deemed necessary.
- (b) Due to the size of the Village of Colfax it may not be feasible to find a suitable person willing to take on the responsibility of being Zoning Administrator on a part-time basis. It is therefore provided that the function of the Zoning Administrator can be delegated to a committee of the Board or a single member of the Board or the Village President. An officer other than a Board member or another employee of the Village may also be designated to handle the duties of Zoning Administrator on part-time basis in addition to the other duties performed by such person.



**SEC. 13-1-152 ROLE OF SPECIFIC VILLAGE OFFICIALS IN ZONING ADMINISTRATION.**

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

**SEC. 13-1-153 ZONING PERMIT.**

- (a) **Zoning Permit Required.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit. The zoning permit may be issued as part of issuance of a building permit; there shall be a charge for only one (1) permit under such circumstances.
- (b) **Application.** Applications for a zoning permit shall be made to the Zoning Administrator and shall include the following where pertinent and necessary for proper review:
  - (1) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.
  - (2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
  - (3) Plat of survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and showing such of the following as may be required by the Zoning Administrator: the location, boundaries, dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; public utilities; off-street parking, loading areas and driveways; existing highway access restrictions; high water; channel, floodway and floodplain boundaries; and existing and proposed street, side and rear yards.
  - (4) Proposed water supply plan if municipal water service is not available. This plan shall be reviewed by the Village Engineer. The owner shall certify, in writing, that an adequate and safe supply of water will be provided.
  - (5) Additional information as may be required by the Village Board, Village Engineer, and Zoning Administrator or Building Inspector, including all information required for site plan approval under Section 13-1-155.
  - (6) Fee receipt from the Village Clerk-Treasurer in the amount of Twenty Dollars (\$20.00).
- (c) **Action.**
  - (1) A zoning permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days of application and the applicant shall post such permit in a conspicuous place at the site.
  - (2) The permit shall expire within six (6) months unless substantial work has commenced or within eighteen (18) months after the issuance of the permit if the structure for which a permit is issued is not substantially completed,

in which case of expiration, the application shall reapply for a zoning permit before commencing work on the structure.

- (3) Any permit issued in conflict with the provisions of this Chapter shall be null and void.

**SEC. 13-1-154 VIOLATIONS AND PENALTIES.**

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

**SEC. 13-1-155 THROUGH SEC. 13-1-159 RESERVED FOR FUTURE USE.**

## ARTICLE M

### Changes and Amendments to the Zoning Code

#### SEC. 13-1-160 AUTHORITY.

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

#### SEC. 13-1-161 INITIATION OF CHANGES OR AMENDMENTS.

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

#### SEC. 13-1-162 PROCEDURE FOR CHANGES OR AMENDMENTS.

- (a) **Application.** Petitions for any change to the district boundaries and map(s) or amendments to the text regulations shall be addressed to the Village Board and shall be filed with the Zoning Administrator, describe the premises to be rezoned or the portions of text of regulations to be amended, list the reasons justifying the petition, specify the proposed use, if applicable, and have attached the following, if petition be for change of district boundaries:
  - (1) Plot plan, drawn to a scale of one (1) inch equals one hundred (100) feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within three hundred (300) feet of the area proposed to be rezoned.
  - (2) Owners' names and addresses of all properties lying within one hundred (100) feet of the area proposed to be rezoned.
  - (3) Together with additional information as may be required by the Village Board.
- (b) **Hearings.**
  - (1) The Village Board shall hold a public hearing at a time established by the Village Board upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985 of the Wisconsin Statutes. At least ten (10) days' prior, written notice shall also be given to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment.
- (c) **Village Board's Action.** Following such hearing, the Village Board shall vote on the proposed ordinance effecting the proposed change or amendment.

**SEC. 13-1-163 PROTEST.**

- (a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (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 (3/4) of the full Village Board membership.
- (b) In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Village Board membership to adopt such amendment.

**SEC. 13-1-164 THROUGH SEC. 13-1-169 RESERVED FOR FUTURE USE.**

## ARTICLE N

### Appeals

#### SEC. 13-1-170 APPEALS TO THE ZONING BOARD OF APPEALS.

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

exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required.

- (7) **Permits.** The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.

#### **SEC. 13-1-171 HEARING ON APPEALS.**

The Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper not less than seven (7) days prior thereto, cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than five (5) days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five (5) days prior to the hearing of the fee owners of records of all land within one hundred (100) feet of any part of the subject building or premises involved in the appeal.

#### **SEC. 13-1-172 DECISIONS OF BOARD OF APPEALS.**

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

#### **SEC. 13-1-173 VARIATIONS.**

- (a) **Purpose.**
  - (1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.
  - (2) The Village Board may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.
  - (3) For the purposes of this Section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

- (b) **Application for Variation.** The application for variation shall be filed with the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:
  - (1) Name and address of applicant and all abutting and opposite property owners of record.
  - (2) Statement that the applicant is the owner or the authorized agent of the owner of the property.
  - (3) Address and description of the property.
  - (4) A site plan showing an accurate depiction of the property.
  - (5) Additional information required by the Village Engineer, Village Board, Zoning Board of Appeals or Zoning Administrator.
  - (6) Fee receipt in the amount of Twenty-five Dollars (\$25.00).
- (c) **Public Hearing of Application.** The Village Board shall conduct at least one (1) public hearing on the proposed variation. Notice of such hearing shall be given not more than thirty (30) days and not less than ten (10) days before the hearing in one (1) or more of the newspapers in general circulation in the Village, and shall give due notice to the parties in interest, the Zoning Administrator and the Village Board. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Board shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant.
- (d) **Action of the Board.** For the Board to grant a variance, it must find that:
  - (1) Denial of variation may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.
  - (2) The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
  - (3) The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.
  - (4) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
  - (5) The proposed variation will not undermine the spirit and general and specific purposes of the Zoning Code.
- (e) **Board of Appeals Action.** Parties may appeal decisions of the Village Board under this Section to the Board of Appeals; the Board of Appeals shall follow the procedures applicable to the Village Board under this Section.
- (f) **Conditions.** The Village Board or the Board of Appeals on appeal may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

**SEC. 13-1-174 REVIEW BY COURT OF RECORD.**

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

**SEC. 13-1-175 THROUGH SEC. 13-1-179 RESERVED FOR FUTURE USE.**



## ARTICLE O

### Mobile Homes

#### SEC. 13-1-180 INTENT -- WHERE MOBILE HOME PARKS PERMITTED.

- (a) Mobile home parks may be established in the R-MH Residential District in accordance with the procedures, requirements and limitations set forth in this Article. Within such mobile home parks, mobile homes, with such additional supporting uses and occupancies as are permitted herein, may be established subject to the requirements and limitations set forth in these and other regulations.
- (b) It is the intent of this Article to recognize mobile homes constructed prior to October 1, 1974, as distinct and different from units designated as Mobile Homes within the definitions of this Article and to prohibit units not meeting the requirements for Mobile Homes as defined herein. Units constructed prior to 1974 are prohibited. Mobile Homes meeting the requirements of the One- and Two-Family Building Dwelling Code shall not be permitted in a mobile home park except as a conditional use. Permits may be obtained only after approval by the Village Board. For purposes of this Article, manufactured homes are not mobile homes.
- (c) No person shall park, locate or place any mobile home outside of a licensed mobile home park in the Village of Colfax, except:
  - (1) Unoccupied mobile homes may be parked on the lawfully situated premises of a licensed mobile home dealer for the purposes of sale display; the lawfully situated premises of a vehicle service business for purposes of servicing or making necessary repairs; the premises leased or owned by the owner of such mobile home for purposes of sales display for a period not exceeding one hundred twenty (120) days, provided no business is carried on therein, or in an accessory private garage, building or rear yard of the owner of such mobile home, provided no business is carried on therein.
  - (2) Individual mobile homes may be allowed by the Village Board in Residential Districts as temporary uses not to exceed one hundred twenty (120) days under exceptional circumstances, such as to provide temporary housing during reconstruction following a fire.

#### SEC. 13-1-181 DEFINITIONS.

The following definitions are used in this Article:

- (a) **Mobile Home Communities (Parks).** Mobile home communities/parks are distinguished from subdivisions lacking common facilities and continuing management services. The latter would be controlled by general subdivision regulations, which would apply also to mobile home subdivisions without common open space or continuing management.
- (b) **Mobile Home Subdivision.** A parcel of land platted for subdivision according to all requirements of the comprehensive plan, designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by mobile homes.
- (c) **Residential Mobile Home.** A single-family dwelling built on or after October 1, 1974, in accordance with the ANSI Code (American National Standards Institute) or in accordance with the HUD Code (Housing & Urban Development), both of which govern the heating and cooling systems, electrical systems, fire safety, body and frame construction, thermal protections and plumbing systems. All said

homes shall bear the proper approved Wisconsin insignia as required by the Wisconsin Administrative Code, ILHR 20.12-20.17. "Mobile home" also means a dwelling which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances, except that a mobile home is not deemed a mobile home if the assessable value of such additions, attachments, annexes, foundations and appurtenances equals or exceeds fifty percent (50%) of the assessable value of the mobile home. The term "mobile home" shall not include a factory-built structure meeting the following requirements:

- (1) Intended to be set on a foundation by virtue of its construction.
- (2) Which is normally transported only once, from the factory to the construction site.
- (3) Which, from its very beginning, is designed to be permanently affixed to land.
- (d) **Foundation Siding.** A fire and weather resistant, pre-finished material surrounding the entire perimeter of a home and completely enclosing a space between the exterior wall of such home and the ground. Foundation siding shall be properly vented, harmonious, and compatible with the house and installed within sixty (60) days from the date of placement on site.
- (e) **Primary Exposure.** Open areas adjacent to the front wall (or main entrance) of a dwelling unit.
- (f) **Secondary Exposure.** Open areas adjacent to side and rear walls of a dwelling unit.
- (g) **Statutory Definitions.** In addition to the above definitions, definitions contained in Section 66.058 of the Wisconsin Statutes shall also be applicable.

#### SEC. 13-1-182 MOBILE HOME OCCUPANCY PERMITS.

- (a) Mobile homes legally located and occupied on premises outside a licensed mobile home park prior to the enactment of this Chapter may be continued in such location, provided that the owner of the premises on which such unit is located shall apply to the Village Clerk-Treasurer within sixty (60) days after the original effective date of this Chapter for a use permit showing the date on which such use and occupancy commenced, the names of the owner and occupants and that such use and occupancy is otherwise in conformity with the applicable laws and regulations of the State and Village. Such nonconforming use shall be automatically terminated upon a discontinuance for any reason for twelve (12) consecutive months or if the total structural repairs and alterations to the mobile home exceed fifty percent (50%) of the net value.
- (b) The owner or occupant of a mobile home shall, within five (5) days after entering of a licensed mobile home park or removing to another park within the Village, obtain a permit from the Village Clerk-Treasurer. Such permits shall be issued only for mobile homes which bear a seal, stamp or certificate of the manufacturer guaranteeing that the mobile home is constructed in accordance with the standards of the American National Standards Institute Book A 119.1, as originally existing, or, if amended, as amended.
- (c) Nothing herein shall prevent the owner of a mobile home under Subsection (a) hereof from replacing the mobile home with a newer model, provided that the replacement unit meets all applicable standards of construction in the industry existing as of the date of replacement, not at the date of manufacture of the replacement unit.

**SEC. 13-1-183 MINIMUM NUMBER OF LOTS OR SPACES.**

- (a) Where a mobile home park is to be established for the development of a single mobile home community, the minimum area shall be two (2) acres. Minimum number of lots or spaces completed and ready for occupancy before first occupancy is permitted shall be established as twenty-five percent (25%) of total units permitted on the site.
- (b) These limitations shall not apply where expansion of an existing mobile home community is concerned and where such expansion will not increase variation from requirements applying to mobile home communities, as set forth herein.

**SEC. 13-1-184 PERMITTED AND PERMISSIBLE USES AND STRUCTURES.**

The following principal uses and structures are permitted within authorized mobile home parks:

- (c) **One-Family Detached Mobile Homes (residential mobile home).** In mobile home communities, recreational vehicles shall not be occupied as living quarters and sales lots shall not be permitted, but dwellings may be sold on lots they occupy in residential use.
- (d) **Permitted Accessory Uses and Structures.** Uses and structures that are customarily accessory and clearly incidental to permitted principal uses and structures shall be permitted, except for those requiring specific approval as provided below.

**SEC. 13-1-185 MOBILE HOME PARK DEVELOPER'S PERMIT.**

- (a) No person shall construct or extend any mobile home park or mobile home park building or facility within the limits of the Village without first securing a mobile home park developer's permit from the Village. Such permits shall be issued by the Village Clerk-Treasurer upon approval by the governing body.
- (b) Applications for mobile home park developer's permits shall be filed with the Village Clerk-Treasurer with sufficient copies for the Village Clerk-Treasurer to forward one (1) each to the Building Inspector, Fire Chief and Chief of Police, who shall investigate and review said application to determine whether the applicant, the premises on which said park will be located and the proposed design and specifications thereof and all buildings proposed to be constructed thereon will comply with the applicable regulations, ordinances and laws of the State and Village and report their findings in writing to the governing body within sixty (60) days. Such reports shall be considered by the governing body before any permit is issued hereunder. Failure of any officer or body to report within the allotted time shall be deemed a favorable recommendation.
- (c) Applications for mobile home park developer's permit shall be accompanied by a fee of Twenty-five Dollars (\$25.00) to cover the cost of investigation and processing, plus regular building permit fees for all buildings or structures to be erected within the proposed park.
- (d) Applications shall be made on forms furnished by the Village Clerk-Treasurer and shall include the following information:

- (1) Name and address of applicant.
- (2) Location and legal description of the proposed park, addition, modification or extension.
- (3) A complete plot plan showing compliance with all applicable provisions of this Chapter and the municipal building code and zoning and subdivision ordinances.
- (4) Completion preliminary engineering plans and specifications, including a scale drawing of the proposed park showing, but not limited to:
  - a. Plans and specifications of all utilities, including: sewerage collection and disposal, storm water drainage, water and electrical distribution and supply, refuse storage and collection, lighting, telephone and TV antenna systems.
  - b. Location and width of roadways and walkways, buffer strips, recreational and other common areas.
  - c. The location of mobile home stands with the mobile home spaces, including a detailed sketch of at least one (1) typical mobile home space and stand therein.
  - d. Landscape plan showing all plantings.
  - e. Plans and specifications of all park buildings and structures.
- (5) Interest of applicant in proposed mobile home park or extension thereof. If owner of tract is a person other than applicant, a duly verified statement by the owner that applicant is authorized by him to construct and maintain the proposed park, addition, modification or extension and make the application.
- (6) Written statements describing proposed park operations, management and maintenance, including proposed fees and charges and other requirements to be imposed on park occupants by the park operator.
- (e) Final engineering plans and specifications complying with the provisions of this Article and the zoning regulations and any modifications or conditions imposed by the governing body shall be submitted to the Village Clerk-Treasurer and checked by the proper municipal officials for compliance before the license is issued.

**SEC. 13-1-186 STANDARD REQUIREMENTS FOR MOBILE HOME PARKS, ADDITIONS OR EXTENSIONS.**

All mobile home parks and modifications of or additions or extensions to existing parks shall comply with the following:

- (a) Chapter HSS 177, Wisconsin Administrative Code, as now existing or hereafter amended, is hereby made a part of this Chapter and incorporated herein by reference as if fully set forth, except that such regulations shall not be deemed to modify any requirement of this Chapter or any other applicable law or Ordinance of the State or Village.
- (b) Mobile home spaces shall be a minimum of fifty (50) feet wide and one hundred (100) feet in depth, have a setback of twenty (20) feet from all street right-of-ways, and have a side yard setback of ten (10) feet, except that driveways may extend to within four (4) feet of a property line. Accessory structures, such as awnings, cabanas, storage cabinets, carports, windbreaks or attached porches shall be considered part of the unit for purposes of determining compliance with this provision. No mobile home site shall be rented for a period of less than thirty (30) days. There shall be two (2) surfaced automobile parking spaces for

each mobile home. Unless adequately screened by existing vegetative cover, a mobile park shall be screened around its outer perimeter by a planting of hedges or trees, capable of reaching a height of fifteen (15) feet or more, the individual trees to be such a number and so arranged that within ten (10) years they will have formed a screen equivalent in opacity to a solid fence or wall. Such permanent planting shall be grown or maintained to a height of not less than fifteen (15) feet when mature.

- (c) No mobile home park shall be laid out, constructed or operated without Village sanitary sewer service.
- (d) All liquid wastes originating at units, service or other buildings shall be discharged into a sewerage system extended from and connected with the public sewerage system. Such systems shall comply with all provisions of the State Code and Village Ordinances relating to plumbing and sanitation. Each individual space shall be provided with a three (3) inch watertight sewer connection protected from damage by heaving and thawing or parking of the unit and located within the rear one-third ( $1/3$ ) of the stand, with a continuous grade which is not subject to surface drainage, so constructed that it can be closed when not in use and trapped in such a manner that it can be kept odor free.
- (e) Adequate provision shall be made for the disposal of solid and liquid wastes in a manner approved by the Village Board. Open burning of waste or refuse is prohibited.
- (f) All television cable systems, electrical and telephone distribution lines and oil or gas piping serving the park or spaces therein shall be installed underground. Distribution systems shall be new and all parts and installations shall comply with all applicable federal, state and local codes.
- (g) Each space shall be provided with direct electrical service of not less than one hundred (100) amperes for two hundred twenty (220) volt service.
- (h) A minimum of two (2) off-street parking spaces surfaced with bituminous concrete or similar material capable of carrying a wheel load of four thousand (4,000) pounds shall be provided for each mobile home space.
- (i) Condition of soil, ground water level, drainage and topography shall not create hazards to the property, health or safety of occupants of mobile home spaces or living units. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property within or without the park to hazards.
- (j) Exposed ground surfaces in all parts of every mobile home park shall be paved or covered with stone screenings or other solid material or protected with a vegetative growth that is capable of preventing soil erosion and eliminating objectionable dust.
- (k) The ground surface in all parts of every mobile home park shall be graded and equipped to drain all surface water in a safe, sanitary and efficient manner.
- (l) All parks shall be furnished with individual outdoor lot lighting of twenty-five to sixty (25-60) watts so spaced and equipped with luminaires placed for the safe movement of pedestrians and vehicles at night.
- (m) All mobile home spaces shall abut upon a street. All streets shall be provided with a smooth, hard and dense surface which shall be well drained under normal use and weather conditions for the area. Pavement edges shall be curbed and protected to prevent raveling of the wearing surface and shifting of the pavement base. Grades of streets shall be sufficient to insure adequate surface drainage but not more than eight percent (8%), provided a maximum grade of

twelve percent (12%) may be used if approved by the Village Board, as safe and designed to avoid traffic hazards. Streets shall be at approximately right angles within one hundred (100) feet of an intersection. Intersections of more than two (2) streets at one (1) point shall not be allowed. A distance of at least one hundred fifty (150) feet shall be maintained between center lines of offset intersecting streets.

- (n) All parks shall be provided with pedestrian walks between individual mobile homes, park streets and community facilities of not less than three (3) feet in width. Grade and surfacing of walks shall be approved by the Village Board as safe and comparable to sidewalks in other areas of the municipality subject to similar usage, except, that as an alternative, inverted curbing may be used which provides approximately three (3) feet of concrete walking area adjacent to the curbline.
- (o) All mobile home parks shall have a greenbelt or buffer strip not less than ten (10) feet wide along all boundaries. Unless adequately screened by existing vegetative cover, all mobile home parks shall be provided within such greenbelt or buffer strip with screening of natural growth or screen fence, except where the adjoining property is also a mobile home park. Compliance with this requirement shall be made within five (5) years from the granting of the mobile home park developer's permit. Screening or planting requirements may be waived or modified by the governing body if it finds that the exterior architectural appeal and functional plan of the park, when completed, will be materially enhanced by modification or elimination of such screen planting requirements.
- (p) Mobile home park operators shall, at the time of approval, pay the park development fees required for conventional subdivisions in Title 14 of this Code of Ordinances.
- (q) Single-family nondependent mobile homes and approved accessory structures included in the original plans and specifications or revisions thereof, parks, playgrounds, open space, off-street parking lots, one (1) park office and service buildings for exclusive use of park residents shall be the only permitted uses in mobile home parks, provided the Village Board may approve the following uses when designed and limited to exclusive use of park residents:
  - (1) Laundromats.
  - (2) Clubhouses and facilities for private, social or recreation clubs.
  - (3) Swimming pools.
- (r) No signs shall be erected in mobile home parks.
- (s) All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home space. Entrances to parks shall be designed to minimize congestion and traffic hazards and allow free movement of traffic on adjacent streets.

#### **SEC. 13-1-187 MOBILE HOME PARK OPERATOR'S LICENSE.**

- (a) It shall be unlawful for any person to establish, operate, maintain or administer or permit to be established, operated or maintained upon any property owned, leased or controlled by him a mobile home park within the Village without a valid, unexpired mobile home park license issued by the Village Clerk-Treasurer and approved by the Village Board upon determination that the standards in this Section have been met and payment of the required fees.
- (b) Mobile home park licenses shall be issued for a calendar year and shall expire on December 31 next succeeding date of issue. Licenses may be issued after January 1 of any year but no rebate or diminution of the fee shall be allowed therefor.

- (c) The annual fee for a mobile home park license shall be One Hundred Dollars (\$100.00) for each fifty (50) mobile home spaces or fraction thereof; such fee shall also be paid upon the renewal of such license. Licenses may be transferred during a license year for a fee of Ten Dollars (\$10.00).
- (d) Licenses granted under this Section shall be subject to revocation or suspension by the governing body for cause in accordance with Section 66.058(2), Wis. Stats., and the procedures in that Section shall be followed. "Cause" as used in this Subsection shall include, but not be limited to:
  - (1) Failure or neglect to abide by the requirements of this Chapter or the laws or regulations of the State of Wisconsin relating to mobile home parks and their operation.
  - (2) Conviction of any offense under the laws of the State or Ordinances of the Village relating to fraudulent or misleading advertising or deceptive practices regarding the sale or renting of mobile homes or the leasing or rental of mobile home spaces or sale, lease or operation of park facilities.
  - (3) Operation or maintenance of the mobile home park in a manner inimical to the health, safety or welfare of park occupants or the inhabitants of the Village, including, but not limited to, repeated violations of laws or ordinances relating to health, sanitation, refuse disposal, fire hazards, morals or nuisances.
  - (4) Transfer or sale of an ownership interest in any mobile home space or the underlying land other than to another eligible licensee. Such action shall also subject the owner of the underlying land to all requirements of the state or municipal subdivision control laws and regulations regardless of the size or number of lots or spaces so transferred or sold.
- (e) Except as provided in Subsection (f) of this Section, no mobile home park license shall be granted for any premises or to any person not meeting the following standards and requirements:
  - (1) All standards and requirements set forth in Section 13-1-188 except as specifically waived or modified in writing by the Village Board and endorsed on the mobile home developer's permit. This requirement includes a valid certificate from the Wisconsin Department of Health and Social Services that the park complies with the provisions of Ch. HSS 177, Wis. Adm. Code, applicable thereto.
  - (2) Mobile home parks should be used only for the parking and occupancy of single-family nondependent mobile homes and accessory structures and appurtenances and uses.
  - (3) Applicant shall file with the Village Board certificates certifying that all equipment, roads, sanitary facilities, water facilities and other equipment and facilities, including roads, have been constructed or installed in the park as required by this Chapter and are in required operating condition at the time of said application. In addition, the Chief of Police, Building Inspector, and the Chief of the Fire Department shall inspect or cause to be inspected each application and the premises to determine compliance with all applicable laws, regulations and ordinances applicable thereto. These officials shall furnish 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.
  - (4) Location and operation of the park shall comply with all zoning and land use Ordinances of the State and Village.

- (f) Mobile home parks in existence and operating under a valid mobile home park license upon the effective date of this Chapter, including parks in areas hereafter annexed to the Village, shall be exempt from the requirements hereof relating to land use and occupancy provided such use and occupancy complies with the applicable laws and ordinances in effect at the time of issuance of the original license but shall file application for a mobile home park developer's nonconforming use permit and comply with all other provisions of this Chapter within six (6) months after the effective date hereof, provided that an existing mobile home park having a density in excess of that provided in Section 13-1-188 shall not increase its density and shall be operated in other respects in accordance with this Chapter. The governing body may extend the time for compliance as herein required upon such conditions as it shall determine necessary to protect the health, safety and welfare of park occupants or inhabitants of the Village. All extensions, modifications or additions to lawfully licensed existing parks or facilities or structures therein shall comply with this Chapter.

**SEC. 13-1-188 OPERATION OF MOBILE HOME PARKS; RESPONSIBILITIES OF PARK MANAGEMENT.**

- (a) In every mobile home park there shall be located an office of the attendant or person in charge of said park. A copy of the park license and of this Chapter shall be posted therein and the park register shall, at all times, be kept in said office.
- (b) The attendant or person in charge and the park licensee shall operate the park in compliance with this Chapter and regulations and Ordinances of the Village and State and their agents or officers and shall have the following duties:
- (1) Maintain a register of all park occupants, to be open at all times to inspection by state, federal and municipal officers, which shall show:
    - a. Names and addresses of all owners and occupants of each mobile home.
    - b. Number of children of school age.
    - c. State of legal residence.
    - d. Dates of entrance and departure of each mobile home.
    - e. Make, model, year and serial number or license number of each mobile home and towing or other motor vehicles and state, territory or country which issued such licenses.
    - f. Place of employment of each occupant, if any.
  - (2) Notify park occupants of the provisions of this Chapter and inform them of their duties and responsibilities and report promptly to the proper authorities any violations of this Chapter or any other violations of law which may come to their attention.
  - (3) Report to Village law enforcement officials all cases of persons or animals affected or suspected of being affected with any dangerous communicable disease.
  - (4) Supervise the placement of each mobile home on its stand which includes securing its stability and installing all utility connections and tiedowns.
  - (5) Maintain park grounds, buildings and structures free of insect and rodent harborage and infestation and accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.
  - (6) Maintain the park free from growth of noxious weeds.



- (7) Maintain the park free of litter, rubbish and other flammable materials; provide portable fire extinguishers of a type approved by the Fire Chief in all locations designated by the Chief and maintain such extinguishers in good operating condition and cause every area within the park designated as a fire lane by the Fire Chief to be kept free and clear of obstructions.
- (8) Check to insure that every mobile home unit has furnished, and in operation, a substantial, fly-tight, watertight, rodentproof container for the deposit of garbage and refuse in accordance with the Ordinances of the Village.
- (9) Provide for the sanitary and safe removal and disposal of all refuse and garbage at least weekly. Removal and disposal of garbage and refuse shall be in accordance with the laws of the State of Wisconsin and the Ordinances and regulations of the municipality, including regulations promulgated by the Fire Chief.
- (10) Allow inspections of park premises and facilities at reasonable times by municipal officials or their agents or employees as provided by Section 13-1-190(b) of this Chapter.

**SEC. 13-1-189 RESPONSIBILITIES AND DUTIES OF MOBILE HOME PARK OCCUPANTS.**

- (a) Park occupants shall comply with all applicable requirements of this Chapter and regulations issued hereunder and shall maintain their mobile home space, its facilities and equipment in good repair and in a clean and sanitary condition.
- (b) Park occupants shall be responsible for proper placement of their mobile homes on the mobile home stand and proper installation of all utility connections in accordance with the instructions of the park management.
- (c) No owner or person in charge of a dog, cat or other pet animal shall permit it to run at large or to cause any nuisance within the limits of any mobile home park.
- (d) Each owner or occupant of a nonexempt mobile home within a mobile home park shall remit to the licensee or authorized park management the cash deposit and monthly parking permit fee.
- (e) It shall be the duty of every occupant of a park to give the park licensee or management, or his agent or employee, access to any part of such park or mobile home premises at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this Chapter or any law or Ordinance of the State or Village or lawful regulation or order adopted thereunder.
- (f) Mobile homes shall be parked only on the mobile home stands provided and shall be placed thereon in accordance with all requirements of this Chapter.
- (g) No mobile home owner or occupant shall conduct in any unit or any mobile home park any business or engage in any other activity which would not be permitted in single-family residential areas in the Village.
- (h) No person shall discharge any wastewater on the surface of the ground within any mobile home park.
- (i) No person shall erect or place upon any mobile home space any permanent or temporary structure intended to be used for dwelling purposes or in connection with any mobile home unit except as specifically authorized by this Chapter.

**SEC. 13-1-190      ADDITIONAL REGULATIONS ON MOBILE HOMES AND  
MOBILE HOME PARKS.**

- (a) Wrecked, damaged or dilapidated mobile homes shall not be kept or stored in a mobile home park or upon any premises in the Village. The Building Inspector or Village Board shall determine if a mobile home is damaged or dilapidated to a point which makes it unfit for human occupancy. Such mobile homes are hereby declared to be a public nuisance. Whenever the Building Inspector or Village Board so determines, he shall notify the licensee or landowner and owner of the mobile home in writing that such public nuisance exists within the park or on lands owned by him giving the findings upon which his determination is based and shall order such home removed from the park or site or repaired to a safe, sanitary and wholesome condition of occupancy within a reasonable time, but not less than thirty (30) days.
- (b) Authorized representatives of the Village Board are authorized and directed to inspect mobile home parks not less than once in every twelve (12) month period to determine the health, safety and welfare of the occupants of the park and inhabitants of the Village as affected thereby and the compliance of structures and activities therein with this Chapter and all other applicable laws of the State and Ordinances of the Village.
- (c) Fires in mobile home parks shall be made only in stoves and other cooking or heating equipment intended for such purposes. Outside burning is prohibited except by permit and subject to requirements or restrictions of the Fire Chief.
- (d) All plumbing, building, electrical, oil or gas distribution, alterations or repairs in the park shall be in accordance with the regulations of applicable laws, ordinances and regulations of the State and municipalities and their authorized agents, and may be performed by a professional mobile home service technician.
- (e) All mobile homes in mobile home parks shall be skirted unless the unit is placed within one (1) foot vertically of the stand with soil or other material completely closing such space from view and entry by rodents and vermin. Areas enclosed by such skirting shall be maintained free of rodents and fire hazards.
- (f) No person shall construct, alter or add to any structure, attachment or building in a mobile home park or on a mobile home space without a permit from the Building Inspector. Construction on, or addition or alteration to the exterior of a mobile home shall be of the same type of construction and materials as the mobile home affected. This Subsection shall not apply to addition of awnings, antennas or skirting to mobile homes. Accessory structures on mobile home spaces shall comply with all setback, side yard and rear yard requirements for mobile home units.
- (g) Storage under mobile homes is prohibited.

**SEC. 13-1-191      COMPLIANCE WITH PLUMBING, ELECTRICAL AND  
BUILDING ORDINANCES.**

All plumbing, electric, electrical, building and other work on or at any mobile home park under this Chapter shall be in accordance with the 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 Chapter grant no right to erect or repair any structure, to do any plumbing work or to do any electric work.

# **SEC. 13-1-192      STANDARDS FOR GENERAL SITE PLANNING FOR MOBILE HOME COMMUNITIES.**

The following guides, standards and requirements shall apply in site planning for mobile home communities:

- (a) **Principal Vehicular Access Points.** Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Merging and turnout lanes and/or traffic dividers shall be required where existing or anticipated heavy flows indicate need. In general, minor streets shall not be connected with streets outside the district in such a way as to encourage the use of such minor streets by substantial amounts of through traffic. No lot within the community shall have direct vehicular access to a street bordering the development.
- (b) **Access for Pedestrians and Cyclists.** Access for pedestrians and cyclists entering or leaving the community shall be by safe and convenient routes. Such ways need not be adjacent to or limited to the vicinity of vehicular access points. Where there are crossings of such ways and vehicular routes at edges of planned developments, such crossings shall be safely located, marked and controlled and where such ways are exposed to substantial vehicular traffic at edges of communities, safeguards may be required to prevent crossings except at designated points. Bicycle paths, if provided, shall be so related to the pedestrian way system that street crossings are combined.
- (c) **Protection of Visibility -- Automotive Traffic, Cyclists and Pedestrians.** At intersections of any streets, public or private, the provisions of Section 13-1-90 shall apply and is hereby adopted by reference.
- (d) **Ways for Pedestrians and/or Cyclists in Exterior Yards.** In any exterior yard, required or other, ways for pedestrian and/or cyclists may be permitted, if appropriately located, fenced or landscaped to prevent potential hazards arising from vehicular traffic on adjacent streets or other hazards and annoyances to users or to occupants of adjoining property. When otherwise in accord with the requirements concerning such ways set forth above, approved ways in such locations shall be counted as common recreation facilities and may also be used for utilities easements.
- (e) **Internal Relationships.** The site plan shall provide for safe, efficient, convenient and harmonious groupings of structures, uses and facilities, and for appropriate relation of space inside and outside buildings to intended uses and structural features. In particular:
  - (1) **Streets, Drives and Parking and Service Areas.** Streets, drives and parking and service areas shall provide safe and convenient access to dwellings and community facilities and for service and emergency vehicles, but streets shall not be so laid out as to encourage outside traffic to traverse the community, nor occupy more land than is required to provide access as indicated, nor create unnecessary fragmentation of the community into small blocks. In general, block size shall be the maximum consistent with use, the shape of the site and the convenience and safety of the occupants.
  - (2) **Vehicular Access to Streets.** Vehicular access to streets from off-street parking areas may be direct from dwellings if the street or portion of the street serves fifty (50) units or less. Determination of units served shall be based on normal routes anticipated for traffic. Along streets or portions of streets serving more than fifty (50) dwelling units, or constituting major routes to or around central facilities, access from parking and service areas

shall be so combined, limited, located, designed and controlled as to channel traffic conveniently, safely and in a manner that minimizes marginal traffic friction, and direct vehicular access from individual dwellings shall generally be prohibited.

(3) Ways for Pedestrians and Cyclists; Use by Emergency, Maintenance or Service Vehicles.

- a. Walkways shall form a logical, safe and convenient system for pedestrian access to all dwellings, project facilities and principal off-street pedestrian destinations. Maximum walking distance in the open between dwelling units and related parking spaces, delivery areas and trash and garbage storage areas intended for use of occupants shall not exceed one hundred (100) feet.
- b. Walkways to be used by substantial numbers of children as play areas or routes to school, bus stops or other destinations shall be so located and safeguarded as to minimize conflicts with normal automotive traffic. If an internal walkway system is provided, away from streets, bicycle paths shall be incorporated in the walkway system. Street crossings shall be held to a minimum on such walkways and shall be located and designated to provide safety and shall be appropriately marked and otherwise safeguarded. Ways for pedestrians and cyclists, appropriately located, designed and constructed may be combined with other easements and used by emergency, maintenance or service vehicle but shall not be used by other automotive traffic.

**SEC. 13-1-193 THROUGH SEC. 13-1-199 RESERVED FOR FUTURE USE.**

## ARTICLE P

## Definitions

## SEC. 13-1-200 DEFINITIONS.

- (a) For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for a section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.
- (1) Abutting. Have a common property line or district line.
  - (2) Accessory Use or Structure. A use or detached structure subordinate to the principal use of a structure, parcel of land or water and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure. Including, but not limited to, garage, prefabricated metal buildings for storage, carport, greenhouses, screened enclosures, swimming pool, bathhouse and filter equipment shed, playhouse and gazebo.
  - (3) Acre, Net. The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within 43,560 square feet.
  - (4) Alley. A public way not more than twenty-one (21) feet wide which affords only a secondary means of access to abutting property.
  - (5) Apartment. A room or suite of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.
  - (6) Arterial Street. A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall include freeways and expressways as well as arterial streets, highways and parkways.
  - (7) A Zones. Areas of potential flooding shown on the Village's "Flood Insurance Rate Map" which would be inundated by the regional flood as defined herein. These zones may be numbered as A0, A1 to A99, or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
  - (8) Basement. That portion of any structure located partly below the average adjoining lot grade which is not designed or used primarily for year-around living accommodations. Space partly below grade which is designed and finished as habitable space is not defined as basement space.
  - (9) Block. A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.
  - (10) Boarding House. A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for three (3) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.
  - (11) Buildable Lot Area. The portion of a lot remaining after required yards have been provided.
  - (12) Building. Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

- (13) Building, Detached. A building surrounded by open space on the same lot.
- (14) Building, Heights of. The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.
- (15) Building Setback Line. A line parallel to the lot line at a distance parallel to it, regulated by the yard requirements set up in this Code.
- (16) Building, Principal. A building in which the principal use of the lot on which it is located is conducted.
- (17) Business. An occupation, employment or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.
- (18) Campground. A privately or municipally owned parcel or tract of land, maintained, intended or used for the purposes of supplying temporary or overnight living accommodations to the public by providing designated areas for the placement of trailers, tents, buses, automobiles, or sleeping bags, and may include structures to provide services to the patrons, such as restrooms, bathing and laundry facilities.
- (19) Channel. Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.
- (20) Community Living Arrangement. The following facilities licensed or operated or permitted under the authority of the Wisconsin State Statutes: Child welfare agencies under Section 48.60, group foster homes for children under Section 48.02(7m) and community-based residential facilities under Section 50.01, but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformance with applicable Sections of the Wisconsin State Statutes, including Sections 46.03(22), 69.97(15), 62.23(7)(i) and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.
- (21) Conditional Uses. Uses of a special nature as to make impractical their predetermination as a principal use in a district.
- (22) Controlled Access Arterial Street. The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.
- (23) Corner Lot. On corner lots, the setback shall be measured from the street line on which the lot fronts. The setback from the side street shall be equal to seventy-five percent (75%) of the setback required on residences fronting on the side street -- but the side yard setback shall in no case restrict the buildable width to less than thirty (30) feet. Said corner lots shall be consisting of a parcel of property abutting on two (2) or more streets at their intersection providing that the interior angle of such intersection is less than one hundred thirty-five degrees (135°).
- (24) Conservation Standards. Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide, prepared by the USDA Soil Conservation Service for Dunn County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation.

- (25) Development. Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.
- (26) District, Basic. A part or parts of the Village for which the regulations of this Chapter governing the use and location of land and building are uniform.
- (27) District, Overlay. Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.
- (28) Dwelling. A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.
- (29) Dwelling Unit. A group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one (1) family.
- (30) Dwelling, Efficiency. A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.
- (31) Dwelling, Single-Family. A detached building designed for or occupied by one (1) family.
- (32) Dwelling, Two-Family. A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.
- (33) Dwelling, Multiple-Family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not to exceed the number of dwelling units provided.
- (34) Equal Degree of Hydraulic Encroachment. The effect of any encroachment into the floodway is to be computed by assuming an equal degree of hydraulic encroachment on the opposite side of a river or stream for a significant hydraulic reach, in order to compute the effect of the encroachment upon hydraulic conveyance. This computation assures that the property owners up, down or across the river or stream will have the same rights of hydraulic encroachment.
- (35) Essential Services. Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.
- (36) Family. One (1) or more persons immediately related by blood, marriage or adoption and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family. A family may include in addition thereto two (2) but not more than two (2) persons not related by blood, marriage or adoption. A person shall be considered to be related for the purpose of this Section if he is dwelling for the purpose of adoption or for a foster care program.  
Exceptions: Nothing in this Chapter shall prohibit, under the definition of "Family," priests, laybrothers, nurses or such other collective body of persons living together in one (1) house under the same management and

care, subsisting in common, and directing their attention to a common object or the promotion of their mutual interest and social happiness as set forth by the Wisconsin Supreme Court in Missionaries of Our Lady of LaSalette vs. Village of Whitefish Bay Board of Zoning Appeals, 267 Wis. 609, which is hereby incorporated by reference.

- (37) Farmstead. A single-family residential structure located on a parcel of land, which primary land use is associated with agriculture.
- (38) Flood. A temporary rise in streamflow or stage in lake level that results in water overtopping the banks and inundating the areas adjacent to the stream channel or lake bed.
- (39) Flood Insurance Study. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mudslide (i.e., mud flow) and/or floor-related erosion hazards. Such studies shall result in the publication of a Flood Insurance Rate Map showing the intensity of flood hazards in either numbered or unnumbered A Zones.
- (40) Flood Profile. A graph showing the relationship of the floodwater surface elevation of a flood event of a specified recurrence interval to the stream bed and other significant natural and man-made features along a stream.
- (41) Flood Protection Elevation. A point two (2) feet above the water surface elevation of the 100-year recurrence interval flood. This safety factor, also called "freeboard," is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris accumulation, wave action and obstructions of bridge openings.
- (42) Flood Stage. The elevation of the floodwater surface above an officially established datum plane, which is Mean Sea Level, 1929 Adjustment, on the Supplementary Floodland Zoning Map.
- (43) Floodlands. For the purpose of this Code, the floodlands are all lands contained in the "regional flood" or 100-year recurrence interval flood. For the purpose of zoning regulation, the floodlands are divided into the floodway district, the floodplain conservancy district and the floodplain fringe overlay district.
- (44) Floodplain Fringe. Those floodlands, outside the floodway, subject to inundation by the 100-year recurrence interval flood. For the purpose of this Code, the floodplain fringe includes the floodplain conservancy district and the floodplain fringe overlay district.
- (45) Floodproofing. Measures designed to prevent and reduce flood damage for those uses which cannot be removed from, or which, of necessity, must be erected in the floodplain, ranging from structural modifications through installation of special equipment or materials, to operation and management safeguards, such as the following: reinforcing the basement walls; underpinning of floors; permanent sealing of all exterior openings; use of masonry construction; erection of permanent watertight bulkheads, shutters and doors; treatment of exposed timbers; elevation of flood-vulnerable utilities; use of waterproof cement; adequate fuse protection; sealing of basement walls; installation of sump pumps; placement of automatic swing check valves; installation of seal-tight windows and doors; installation of wire reinforced glass; location and elevation of valuable items; waterproofing, disconnecting, elevation or removal of all electric equipment; avoidance of the use of flood-vulnerable areas; temporary removal of waterproofing of merchandise; operation of emergency pump equipment; closing of backwater sewer valve; placement of plugs and food drain pipes; placement of movable watertight bulkheads; erection of sand bag levees; and



the shoring of weak walls or structures. Floodproofing of structures shall be extended at least to a point two (2) feet above the elevation of the regional flood. Any structure that is located entirely or partially below the flood protection elevation shall be anchored to protect it from larger floods.

- (46) Floodway. A designated portion of the 100-year flood area that will safely convey the regulatory flood discharge with small, acceptable upstream and downstream stage increases, limited in Wisconsin to 0.1 foot unless special legal measures are provided. The floodway, which includes the channel, is that portion of the floodplain not suited for human habitation. All fill, structures and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.
- (47) Floor Area -- Business and Manufacturing Buildings. For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.
- (48) Foster Family Home. The primary domicile of a foster parent which is four (4) or fewer foster children and which is licensed under Section 48.62 of the Wisconsin State Statutes and amendments thereto.
- (49) Frontage. All the property butting on one (1) side of a street between two (2) intersecting streets or all of the property abutting on one (1) side of a street between an intersecting street and the dead end of a street.
- (50) Garage -- Private. A detached accessory building or portion of the principal building, designed, arranged, used or intended to be used for storage of automobiles of the occupant of the premises.
- (51) Garage -- Public. Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.
- (52) Group Foster Home. Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.
- (53) Home Occupation. A gainful occupation conducted by resident members of the family only, within their place of residence. The use is to be clearly incidental to the use of the dwelling unit for residential purposes and shall not endanger the public health or safety. No articles shall be sold or offered for sale on the premises except such as is produced by the occupation on the premises, and no mechanical or electrical equipment shall be installed or maintained other than such as is customarily incidental to domestic use. Persons operating a home occupation shall employ no more than one (1) nonresident employee. No material or equipment shall be stored outside the confines of the home. No mechanical equipment may be used which creates a disturbance such as noise, dust, odor or electrical disturbance. The home may not be altered to attract business. No motors shall be utilized which exceed one (1) horse power each and not exceeding five (5) horsepower in total, such activity being deemed a public nuisance. Repairing of motor bicycles, motorcycles and motor driven cycles, other than those licensed and owned by the occupants of a home in a residential

area is strictly prohibited. For the purpose of this Subsection, the definitions of the above-mentioned vehicles shall be as set forth in Chapter 340 of the Vehicle Code of the Wisconsin State Statutes. Such repairing is deemed a public nuisance. It is immaterial for the purpose of this Subsection whether or not such repairing is done in return for remuneration.

- (54) Hotel. A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.
- (55) Kennel. An area or structure for breeding, rearing, boarding or training of three (3) or more dogs over the age of five (5) months.
- (56) Loading Area. A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.
- (57) Lodging House. A building where lodging only is provided for compensation for not more than three (3) persons not members of the family.
- (58) Lot. A parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this Code as pertaining to the district wherein located.
- (59) Lot, Corner. A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five degrees ( $135^{\circ}$ ) or less, measured on the lot side.
- (60) Lot, Interior. A lot situated on a single street which is bounded by adjacent lots along each of its other lines and is not a corner lot.
- (61) Lot, Through. A lot which has a pair of opposite lot lines along two (2) substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.
- (62) Lot, Substandard. A parcel of land held in separate ownership having frontage on a public street, or other approved means of access, occupied or intended to be occupied by a principal building or structure, together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas or other open space provisions of this Code as pertaining to the district wherein located.
- (63) Lot Coverage (residential). The area of a lot occupied by the principal building or buildings and accessory building.
- (64) Lot Coverage (except residential). The area of a lot occupied by the principal building or buildings and accessory buildings including any driveways, parking areas, loading areas, storage areas and walkways.
- (65) Lot Line. A property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the abutting street or alley right-of-way line.
- (66) Lot Lines and Area. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
- (67) Lot Width. The horizontal distance between the side lot lines measured at the building setback line.

- (68) Manufactured Home. A structure certified and labeled as a manufactured home under 42 USC Sections 5401-5426, which, when placed on the site:
  - a. Is set on an enclosed continuous foundation in accordance with Sec. 70.43 (1), Wis. Stats., and ILHR 21, Subchapters III, IV, and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
  - b. Is installed in accordance with the manufacturer's instructions;
  - c. Is properly connected to utilities; and
  - d. Meets other applicable standards of this Chapter.
- (69) Minor Structures. Any small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four (4) feet in height.
- (70) Mobile Home. A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof), built on a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.
- (71) Mobile Home Lot. A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- (72) Mobile Home Park. A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park are rented to individual mobile home users.
- (73) Mobile Home Subdivision. A land subdivision, as defined by Chapter 236 of the Wisconsin Statutes and any Village Land Division Ordinance, with lots intended for the placement of individual mobile home units. Individual homesites are in separate ownership as opposed to the rental arrangements in mobile home parks.
- (74) Modular Unit. A modular unit is a factor fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational or industrial purposes.
- (75) Nonconforming Uses. Any structure, use of land, use of land and structure in combination or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Code or amendments thereto and which is not in conformance with this Code. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall not be considered a nonconforming use, but shall be considered nonconforming with respect to those characteristics.
- (76) Official Letter of Map Amendment. Official notification from the Federal Emergency Management Agency (FEMA) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.
- (77) Parking Lot. A structure or premises containing five (5) or more parking spaces open to the public.
- (78) Parking Space. A graded and surfaced area of not less than one hundred eighty (180) square feet in area, either enclosed or open, for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

- (79) Parties in Interest. Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.
- (80) Public and Semi-Public Uses. Governmental and cultural uses, such as administrative offices, fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums. Public, private and parochial preschool, elementary and secondary schools, and churches. Cemeteries, private clubs and lodges and storage garages.
- (81) Professional Office. The office of a doctor, practitioner, dentist, minister, architect, landscape architect, engineer, lawyer, author, musician or other recognized trade. When established in a residential district, a professional office shall be incidental to the residential occupation, not more than twenty-five percent (25%) of the floor area of one (1) story of a dwelling unit shall be occupied by such office and only one (1) unlighted nameplate, not exceeding one (1) square foot in area, containing the name and profession of the occupant of the premises shall be exhibited.
- (82) Public Airport. Any airport which complies with the definition contained in Section 114.013(3), Wisconsin Statutes, or any airport which serves or offers to serve common carriers engaged in air transport.
- (83) Rear Yard. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one (1) of the street yards on a corner lot.
- (84) Regional Flood. This regional flood is a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every one hundred (100) years; this means that in any given year, there is a one percent (1%) chance that the regional flood may occur or be exceeded. During a typical thirty (30) year mortgage period, the regional flood has a twenty-six percent (26%) chance of occurrence.
- (85) Retail. The sale of goods or merchandise in small quantities to the consumer.
- (86) Salvage Yard. Site used for the storage or sale of salvageable materials or for the purposes of salvage, wrecking, dismantling, or demolition of salvageable materials. This includes the collection and/or dismantling of automobiles or other objects of transportation, re-use or resale.
- (87) Setback. The minimum horizontal distance between the front lot line (measured from right-of-way line) and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed twenty-four (24) inches. any overhang of the cornice in excess of twenty-four (24) inches shall be compensated by increasing the setback by an amount equal to the excess of cornice over twenty-four (24) inches. Uncovered steps shall not be included in measuring the setback.
- (88) Side Yard. A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

- (89) Signs. Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.
- (90) Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. A basement having one-half (1/2) or more of its height above grade shall be deemed a story for purposes of height regulation.
- (91) Story, Half. That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than four and one-half (4-1/2) feet above the finished floor of such story. In the case of one (1) family dwellings, two (2) family dwellings and multi-family dwellings less than three (3) stories in height, a half (1/2) story in a sloping roof shall not be counted as a story for the purposes of this Code.
- (92) Street. Property other than an alley or private thoroughfare or travelway which is subject to public easement or right-of-way for use as a thoroughfare and which is twenty-one (21) feet or more in width.
- (93) Street Yard. A yard extending across the full width of the lot, the depot of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) street yards.
- (94) Structure. Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.
- (95) Structural Alterations. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.
- (96) Temporary Structure. A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure, such as billboards.
- (97) Use. The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.
- (98) Use, Accessory. A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.
- (99) Use, Principal. The main use of land or building as distinguished from subordinate or accessory use.
- (100) Utilities. Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.
- (101) Vision Clearance. An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

- (102) Yard. An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except the vegetation. The street and rear yards extend the full width of the lot.
- (103) Zero Lot Line. The concept whereby two (2) respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.
- (104) Zoning Permit. A permit issued by the Zoning Administrator to certify that the use of lands, structures, air and waters subject to this Chapter are or shall be used in accordance with the provisions of said Chapter.

## CHAPTER 2

### Floodplain Zoning

#### Article A      Introduction

- 13-2-1      Statutory Authorization
- 13-2-2      Finding of Fact
- 13-2-3      State of Purpose
- 13-2-4      Title of Chapter
- 13-2-5 through  
13-2-9      Reserved

#### Article B      General Provisions

- 13-2-10      Areas to be Regulated
- 13-2-11      District Boundaries
- 13-2-12      Locating Floodplain Boundaries
- 13-2-13      Removal of Lands From Floodplain
- 13-2-14      Compliance with Chapter
- 13-2-15      Abrogation and Greater Restrictions; Interpretation of Chapter
- 13-2-16      Warning and Disclaimer of Liability
- 13-2-17      Severability
- 13-2-18      Annexed Areas
- 13-2-19      General Standards Applicable to all Floodplain Districts

#### Article C      Floodway District (FW)

- 13-2-20      Applicability
- 13-2-21      Permitted Uses
- 13-2-22      Standards for Developments in Floodway Areas
- 13-2-23      Prohibited Uses
- 13-2-24 through  
13-2-29      Reserved

#### Article D      Flood Fringe District (FF)

- 13-2-30      Applicability
- 13-2-31      Permitted Uses
- 13-2-32      Standards for Development in Flood Fringe Areas
- 13-2-33 through  
13-2-39      Reserved

Article E      General Floodplain District (GFP)

- 13-2-40      Applicability
- 13-2-41      Permitted Uses
- 13-2-42      Standards for Development in the General Floodplain District
- 13-2-43      Determining Floodway and Flood Fringe Limits
- 13-2-44 through
- 13-2-49      Reserved

Article F      Nonconforming Uses

- 13-2-50      General
- 13-2-51      Floodway Areas
- 13-2-52      Flood Fringe Areas
- 13-2-53 through
- 13-2-59      Reserved

Article G      Administration

- 13-2-60      Zoning Administrator
- 13-2-61      Administrative Procedures
- 13-2-62      Zoning Agency
- 13-2-63      Board of Appeals
- 13-2-64      Review Appeals of Permit Denials
- 13-2-65      Floodproofing
- 13-2-66      Public Information
- 13-2-67 through
- 13-2-69      Reserved

Article H      Amendments

- 13-2-70      Amendments Generally
- 13-2-71      Amendment Procedures
- 13-2-72 through
- 13-2-79      Reserved

Article I      Enforcement and Penalties

- 13-2-80      Enforcement and Penalties
- 13-2-81 through
- 13-2-89      Reserved

Article J      Definitions

- 13-2-90      Definitions



## **ARTICLE A**

### **Introduction**

#### **SEC. 13-2-1 STATUTORY AUTHORIZATION.**

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

#### **SEC. 13-2-2 FINDING OF FACT.**

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

#### **SEC. 13-2-3 STATEMENT OF PURPOSE.**

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

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

#### **SEC. 13-2-4 TITLE.**

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

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

## ARTICLE B

### General Provisions

#### SEC. 13-2-10 AREAS TO BE REGULATED.

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

#### SEC. 13-2-11 DISTRICT BOUNDARIES.

- (a) **Official Map.** The boundary of the floodplain districts including the floodway, floodfringe, and other floodplain districts, are those areas designated as floodplains or A-Zones on the map entitled "Flood Insurance Study Maps with corresponding profiles and the Flood Insurance Study from FEMA". This map, dated August 16, 1988, titled is the official floodplain zoning map and has been approved by the Department of Natural Resources and the Federal Emergency Management Agency (FEMA). This map is on file in the office of the Village Clerk-Treasurer. If more than one (1) map is referenced, the regional flood profiles govern boundary discrepancies according to Section 13-2-12 below.
- (b) **Districts.** The regional floodplain areas within the jurisdiction of this Chapter are hereby divided into three districts: the Floodway District (FW), Flood Fringe District (FF) and General Floodplain District (GFP), defined as follows:
  - (1) The Floodway District (FW) consists of the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood waters.
  - (2) The Flood Fringe District (FF) consists of that portion of the floodplain between the regional flood limits and the floodway.
  - (3) The General Floodplain District (GFP) consists of all areas which have been or may be covered by flood water during the regional flood. It includes both the Floodway and Flood Fringe Districts.

#### SEC. 13-2-12 LOCATING FLOODPLAIN BOUNDARIES.

- (a) Where an apparent discrepancy exists between the location of the outermost boundary of the Flood Fringe District or General Floodplain District shown on the official floodplain zoning map and actual field conditions, the location of the district boundary line shall be initially determined by the Zoning Administrator using the criteria set forth in Subsections (b) or (c) below. Where the Zoning Administrator finds that there is a significant difference between the district boundary shown on the map and the actual field conditions, the map shall be amended using the procedures established in Article H. Disputes between the Zoning Administrator and an applicant on the location of the district boundary line shall be settled according to Section 13-2-63.

- (b) Where flood profiles exist, the location of the district boundary line shall be determined by the Zoning Administrator using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the map and actual field conditions, the regional flood elevations shall govern. A map amendment is required where there is a significant discrepancy between the map and actual field conditions. The Zoning Administrator shall have the authority to grant or deny a land use permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. The Zoning Administrator shall be responsible for initiating any map amendments required under this Section within a reasonable period of time.
- (c) Where flood profiles do not exist, the location of the district boundary line shall be determined by the Zoning Administrator using the scale appearing on the map, visual on-site inspection and any available information provided by the Department. Where there is a significant difference between the district boundary line shown on the map and actual field conditions, the map shall be amended. Where a map amendment has been approved by both the Village Board and the Department, the Zoning Administrator shall have the authority to grant or deny a land use permit.

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

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

#### **SEC. 13-2-14 COMPLIANCE WITH CHAPTER.**

- (a) **Compliance.** Any use or development within the areas to be regulated by this Chapter shall be in compliance with the terms of this Chapter and other applicable local, state and federal regulations.
- (b) **Municipalities and State Agencies Regulated.** Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if Sec. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Sec. 30.12(4)(a), Wis. Stats., applies.

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

- (a) **Greater Restrictions.** This Chapter supersedes all the provisions of any municipal zoning ordinance enacted under Sections 61.35, 62.23 or 87.30, Wis. Stats., which relate to floodplains except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

- (b) **Abrogation.** It is not otherwise intended by this Chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions; however, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.
- (c) **Interpretation.** In their interpretation and application, the provisions of this Chapter shall be held to minimum requirements liberally construed in favor of the governing body and shall not be deemed a limitation on or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 116, Wisconsin Administrative Code, and where the meaning of the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 116 standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

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

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

#### **SEC. 13-2-17 SEVERABILITY.**

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.

#### **SEC. 13-2-18 ANNEXED AREAS.**

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

**SEC. 13-2-19 GENERAL STANDARDS APPLICABLE TO ALL  
FLOODPLAIN DISTRICTS.**

**(a) Hydraulic and Hydrologic Analysis.**

- (1) No development, except as provided in Subsection (a)(2) below, shall be allowed in floodplain areas which will:
  - a. Cause an obstruction to flow, defined in Sec. 13-2-90(a) as any development which physically blocks the conveyance of floodwaters by itself or in conjunction with future similar development causing an increase in regional flood height; or
  - b. Cause an increase in regional flood height due to floodplain storage area lost, which is equal to or exceeding 0.01 foot.
- (2) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this Chapter, the official floodplain zoning maps, including floodway lines and water surface profiles, in accordance with Article H, and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than 1.0 foot for the affected hydraulic reach of the stream unless a waiver is secured from FEMA for the 1.0 foot maximum increase.
- (3) The Zoning Administrator shall deny permits where it is determined the proposed development will cause an obstruction to flow or increase in regional flood height of 0.01 foot or greater.

**(b) Watercourse Alterations.** Prior to any alteration or relocation of a watercourse and prior to the issuance of any land use permit which may be required for the alteration or relocation of a watercourse, the Zoning Administrator shall notify, in writing, adjacent municipalities, the appropriate district office of the Department of Natural Resources and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

**(c) Chapters 30, 31, Wis. Stats., Development.** Development which requires a permit from the Department of Natural Resources, under Chapters 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids may be allowed provided the necessary local permits are obtained and necessary amendments to the official floodway lines, water surface profiles, floodplain zoning maps or floodplain zoning ordinance are made according to Article H.

## ARTICLE C

### Floodway District (FW)

#### SEC. 13-2-20 APPLICABILITY.

The provisions of this Article shall apply to all areas within the Floodway District, as shown on the official floodplain zoning maps, and to the floodway portion of the General Floodplain District, as determined pursuant to Section 13-2-43 of this Chapter.

#### SEC. 13-2-21 PERMITTED USES.

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

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

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

##### (a) General Requirements.

- (1) Any development in floodway areas shall:
  - a. Meet all of the provisions of Section 13-2-18; and
  - b. Have a low flood damage potential.
- (2) Applicants shall provide the following data for the Zoning Administrator to determine the effects of the proposal according to Section 13-2-18(a):
  - a. A cross-section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow; or
  - b. An analysis calculating the effects of this proposal on regional flood height.

- (3) The Zoning Administrator shall deny the permit application where there is determined the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for Subsection 10-1-22(a) above.
- (b) **Structures.** Only structures which are accessory to permitted open space uses, or are essential for historical areas, or are functionally dependent on a waterfront location, may be allowed by permit, providing the structures meet all of the following criteria:
  - (1) The structures are not designed for human habitation;
  - (2) The structures are constructed and placed on the building site so as to cause an increase less than 0.01 foot in flood height and offer minimum obstruction to the flow of flood waters. Structures shall be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and approximately on the same line as those of adjoining structures;
  - (3) The structures are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
  - (4) The structures have all service facilities, such as electrical and heating equipment at or above the flood protection elevation for that particular area.
- (c) **Utilities.** Public utilities, streets and bridges may be allowed by permit, provided that:
  - (1) Adequate flood-proofing measures are provided to the flood protection elevation;
  - (2) Construction does not cause an increase in the regional flood height according to Section 13-2-18(a), except where the water surface profiles, floodplain zoning maps and floodplain zoning ordinance are amended as needed, to reflect any changes resulted from such construction.
- (d) **Fills.** Fills or deposition of materials may be allowed by permit, provided that:
  - (1) The requirements of Section 13-2-18(a) are met;
  - (2) The fill or deposition of materials does not encroach on the channel area between the ordinary high-water mark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Chapter 30, Wis. Stats., and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334, has been issued, if applicable, and the other requirements of this Section are met;
  - (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling and/or bulkheading sufficient to prevent erosion; and provided that
  - (4) Such fills are not associated with private or public solid waste disposal.

#### SEC. 13-2-23 PROHIBITED USES.

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

- (a) Structures in, on or over floodway areas which are designed for human habitation, associated with high flood damage potential, or not associated with permanent open-space uses;

- (b) Storage of any materials that are capable of floating, flammable, explosive or injurious to property water quality or human, animal, plant, fish or other aquatic life;
- (c) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts;
- (d) Any private or public sewage systems, except portable latrines that are removed prior to flooding, and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Chapter ILHR 83, Wisconsin Administrative Code;
- (e) Any public or private wells which are used to obtain water for ultimate human consumption, except those for recreational areas that meet the requirements of local ordinances and Chapters NR 111 and NR 112, Wis. Adm. Code.
- (f) Any solid and hazardous waste disposal sites, whether public or private.
- (g) Any wastewater treatment ponds or facilities except those permitted under Sec. NR 110.15(3)(b), Wis. Adm. Code.
- (h) Any sanitary sewer or water supply lines except those to service existing or proposed development outside the floodway which complies with the regulations for the floodplain area occupied.

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



## ARTICLE D

### Flood Fringe District (FF)

#### SEC. 13-2-30 APPLICABILITY.

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

#### SEC. 13-2-31 PERMITTED USES.

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

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

- (a) **Standards.** All of the provisions of Section 13-2-18 shall apply in addition to the following requirements of this Section, according to the use requested.
- (b) **Residential Uses.** Any structure or building used for human habitation which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet or exceed the following standards:
  - (1) The elevation of the lowest flood excluding the basement or crawlway shall be at or above the flood protection elevation (which is a point two [2] feet above the regional flood elevation) except where Subsection (2) below is applicable. The fill elevation shall be one (1) foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure. The Department may authorize other floodproofing measures where existing streets or sewer lines are at elevations which make compliance impractical provided the Board of Appeals grants a variance due to dimensional restrictions.
  - (2) The basement or crawlway floor may be placed at the regional flood elevation providing it is floodproofed to the flood protection elevation. No permit or variance shall allow any floor, basement or crawlway below the regional flood elevation.
  - (3) Contiguous dryland access, defined in Section 13-2-90, as a vehicle access route above regional flood elevation shall be provided from a structure or building to land which is outside of the floodplain, except as provided in Subsection (4) below.
  - (4) In existing developments where existing streets or sewer lines are at elevations which make compliance with Subsection (b)(3) impractical, the Village may permit new development and substantial improvements where access roads are at or below the regional flood elevation, provided:

- a. The Village has written assurance from the appropriate local units of police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles, considering the anticipated depth, duration and velocity of the regional flood event; or
  - b. The Village has an adequate natural disaster plan concurred with the Division of Emergency Government and approved by the Department.
- (c) **Accessory Structures or Uses.** An accessory structure or use (not connected to a principal structure, including nonresidential agricultural structures), shall meet all the applicable provisions of Section 13-2-22(a), (b) and (d) and 13-2-23. A lesser degree of protection, compatible with these criteria and the criteria in Subsection (d) may be permissible for an accessory structure or use providing that the site is not inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second upon the occurrence of the regional flood.
- (d) **Commercial Uses.** Any commercial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet the requirements of Section 13-2-32(b) above. Storage yards, parking lots and other accessory land uses may be at lower elevations, subject to the requirements of Subsection (f). However, no such area in general use by the public shall be inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second upon the occurrence of the regional flood. Inundation of such yards or parking areas exceeding two (2) feet may be allowed provided an adequate warning system exists to protect life and property.
- (e) **Manufacturing and Industrial Uses.** Any manufacturing or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall be protected to the flood protection elevation utilizing fill, levees, floodwalls, adequate floodproofing measures in accordance with Section 13-2-65, or any combination thereof. On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with the criteria in Subsections (d) and (f) may be permissible for storage yards, parking lots and accessory structures or uses.
- (f) **Storage or Processing Materials.** The storage or processing of materials that are buoyant, flammable, explosive or which, in times of flooding, could be injurious to property, water quality or human, animal, fish, plant or aquatic life shall be at or above the flood protection elevation for the particular area or floodproofed in compliance with Section 13-2-65. Adequate measures shall be taken to assure that said materials will not enter the river or stream during flooding.
- (g) **Public Utilities, Streets and Bridges.** All utilities, streets and bridges should be designed to be compatible with the local comprehensive floodplain development plans; and
  - (1) When failure or interruption of public utilities, streets and bridges would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with Section 13-2-65 to the flood protection elevation;
  - (2) Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations providing they withstand flood forces to the regional flood elevation.

- (h) **Sewage Systems.** All on-site sewage disposal systems shall be floodproofed to the flood protection elevation and shall meet the applicable provisions of all local ordinances and Chapter ILHR 83, Wisconsin Administrative Code.
- (i) **Wells.** All public or private wells shall be floodproofed to the flood protection elevation, pursuant to Section 13-2-65, and shall meet the applicable provisions of Chapters NR 111 and NR 112, Wis. Adm Code.
- (j) **Solid Waste Disposal Sites.** All solid or hazardous waste disposal sites, whether public or private, are prohibited in flood fringe areas.
- (k) **Deposition of Materials.** Any materials deposited for any purpose may only be allowed if all the provisions of this Chapter are met.
- (l) **Mobile Homes and Manufactured Homes.**
  - (1) Owners or operators of all mobile manufactured home parks and subdivisions located in the regional floodplain shall provide for adequate surface drainage to minimize flood damage.
  - (2) All new, replacement and substantially improved mobile manufactured homes to be placed or improved on a site located in the regional floodplain shall:
    - a. Be elevated to the flood protection elevation;
    - b. Meet the residential development standards for the floodfringe in Sec. 13-2-32(b).
    - c. Be anchored so they do not float, collapse or move laterally during a flood.

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

## **ARTICLE E**

### **General Floodplain District (GFP)**

#### **SEC. 13-2-40 APPLICABILITY.**

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

#### **SEC. 13-2-41 PERMITTED USES.**

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

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

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

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

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

- (a) Require the applicant to submit, at the time of application, two (2) copies of an aerial photograph or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures.
- (b) Require the applicant to furnish any of the following additional information as is deemed necessary by the Department for evaluation of the effects of the proposal upon flood height and flood flows, the regional flood elevation and where applicable to determine the boundaries of the floodway:
  - (1) A typical valley cross-section showing the channel of the stream, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development and all historic high-water information.

- (2) Plan (surface view) showing: elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
- (3) Profile showing the slope of the bottom of the channel or flow line of the stream.
- (4) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.
- (c) Transmit one (1) copy of the information described in Subsections (a) and (b) to the Department District office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of Sec. 13-2-61(a)(3) apply, the applicant shall provide all required information and computations, to delineate floodway boundaries and the effects of the project on flood elevations.

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

## ARTICLE F

### Nonconforming Uses

#### SEC. 13-2-50 GENERAL.

Insofar as the standards in this Article are not inconsistent with the provisions of Section 62.23(7)(h), Wis. Stats., they shall apply to all nonconforming structures and nonconforming uses. These regulations apply to the modification of, or addition to, any structure and to the use of any structure or premises which was lawful before passage of this Chapter or any amendment thereto. The existing lawful use of a structure or building or its accessory use which is not in conformity from the provisions of this Chapter may be continued subject to the following conditions:

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

#### SEC. 13-2-51 FLOODWAY AREAS.

- (a) No modifications or additions shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:

- (1) Has been granted a permit or variance which meets the floodway requirements of this Chapter; and
- (2) Meets the requirements of Section 13-2-50; and
- (3) Will not increase the obstruction to flood flows or regional flood height; and
- (4) Any addition to the existing structure shall be floodproofed, pursuant to Section 13-2-65, by means other than the use of fill, to the flood protection elevation.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable provisions of local ordinances and Chapter ILHR 83, Wis. Adm. Code.
- (c) No new well or modification to an existing well, used to obtain water for ultimate human consumption, or modifications to an existing well, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable provisions of all municipal ordinances and Chapters NR 111 and NR 112, Wis. Adm. Code.

#### SEC. 13-2-52 FLOOD FRINGE AREAS.

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

- (d) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and Chapter ILHR 83, Wis. Adm. Code.
- (e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this Chapter and Ch. NR 111 and NR 112, Wis. Adm. Code.

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



## ARTICLE G

### Administration

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

#### SEC. 13-2-60 ZONING ADMINISTRATOR.

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

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

#### SEC. 13-2-61 ADMINISTRATIVE PROCEDURES.

- (a) **Land Use Permit.** A land use permit shall be obtained from the Zoning Administrator before any new "development," as defined in Section 13-2-90(a), or any change in the use of an existing building or structure, including sewage disposal systems and water supply facilities, may be initiated. Application for a land use permit shall be made to the Zoning Administrator upon furnished application forms and shall include the following data:

- (1) General Information:
  - a. Name and address of the applicant, property owner and contractor-builder;
  - b. Legal description of the property, type of proposed use and an indication as to whether new construction or a modification to an existing structure is involved;
- (2) Site Development Plan: The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
  - a. Location, dimensions, area and elevation of the lot;
  - b. Location of the ordinary high-water mark of any abutting navigable waterways;
  - c. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
  - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
  - e. Location and elevation of existing or future access roads;
  - f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps;
  - g. The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD);
  - h. Data sufficient to determine the regional flood elevation at the location of the development and to determine whether or not the requirements of Article C or Article D of this Chapter are met.
  - i. Data sufficient to determine if the proposed development will cause either an obstruction to flow or an increase in regional flood height or discharge according to Section 13-2-18(a). This may include any of the information noted in Sec. 13-2-22(a).
- (3) Data Requirements to Analyze Developments:
  - a. The applicant shall provide all computations and survey data required to show the effects of the project on flood heights, velocities and floodplain storage for all subdivision proposals, as "subdivision" is defined in Sec. 236.02(12), Wis. Stats., and other proposed developments exceeding five (5) acres in area or where the estimated cost exceeds One Hundred Twenty-Five Thousand Dollars (\$125,000.00). The applicant shall provide:
    1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity.
    2. A map showing location and details of vehicular access to lands outside the floodplain.
    3. A surface drainage plan with adequate details showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping improvements, access and road development, electrical and plumbing and similar items reasonably applied to the overall development costs, but need not include land costs.
  - b. The Department will determine elevations and evaluate the proposal where the applicant is not required to provide computations as above and inadequate data exists. The municipality may transmit additional information, such as the data in Section 13-2-43(b) where appropriate, to the Department with the request for analysis.
- (4) Expiration: All permits issued under the authority of this Chapter shall expire one (1) year from the date of issuance.

- (b) **Certificate of Compliance.** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:
- (1) The certificate of compliance shall show that the building or premises or part thereof and the proposed use conform to the provisions of this Chapter.
  - (2) Application of such certificate shall be concurrent with the application for a permit.
  - (3) The certificate of compliance shall be issued within ten (10) days after notification of completion of the work specified in the permit, provided the building or premises or proposed use conforms with all the provisions of this Chapter.
  - (4) The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional architect or registered engineer that floodproofing adequacy meets the requirements of Section 13-2-65.
- (c) **Other Permits.** It is the responsibility of the applicant to secure all other necessary permits from all appropriate Federal, State and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.

#### SEC. 13-2-62 ZONING AGENCY.

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

#### SEC. 13-2-63 BOARD OF APPEALS.

- (a) **Statutory Authorization.** The appropriate board created by Chapter 62.23(7)(e), Wis. Stats., for cities or villages is hereby authorized to act as Board of Appeals for the purposes of this Chapter. The Board of Appeals shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator may not be the Secretary of the Board.
- (b) **Powers and Duties.** The Board of Appeals shall:
- (1) Appeals. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.

- (2) Boundary Disputes. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (3) Variances. Hear and decide, upon appeal, variances from the dimensional standards of this Chapter.
- (c) **Appeals to the Board**. Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within thirty (30) days, as provided by the rules of the Board, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the reasons for appeal. The official whose decision is in question shall transmit to the Board all the papers constituting the record concerning the matter appealed.
- (d) **Notice and Hearing for Appeals Including Variances**.
  - (1) Notice. The Board shall:
    - a. Fix a reasonable time for the hearing;
    - b. Publish adequate Class 1 or 2 notice pursuant to the Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
    - c. Assure that notice shall be mailed to the parties in interest and the district office of the Department at least ten (10) days in advance of the hearing.
  - (2) Hearing. Any party may appear in person or by an agent or attorney. The Board shall:
    - a. Resolve boundary disputes according to Subsection (e);
    - b. Decide variance applications according to Subsection (f);
    - c. Decide appeals of permit denials according to Section 13-2-64.
  - (3) Decision. The final decision regarding the appeal or variance application shall:
    - a. Be made within a reasonable time;
    - b. Be sent to the district office of the Department within ten (10) days of the decision;
    - c. Be a written determination signed by the chairperson or secretary of the Board;
    - d. State the specific facts which are the basis for the Board's decision;
    - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the application for a variance;
    - f. Include the reasons or justifications for granting an appeal, with a description of the hardship or practical difficulty demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.
- (e) **Boundary Disputes**. The following procedure shall be used by the Board of Appeals in hearing disputes concerning the district boundaries shown on the official floodplain zoning map:
  - (1) Where a floodplain district boundary is established by approximate or detailed floodplain studies the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the Board, other available evidence may be examined.
  - (2) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the Board of Appeals.

- (3) Where it is determined that the district boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the location of the boundary to petition the governing body for a map amendment according to Article H.
- (f) **Variance.**
  - (1) The Board of Appeals may, upon appeal, grant a variance from the dimensional standards of this Chapter where an applicant convincingly demonstrates that:
    - a. Literal enforcement of the provisions of the Chapter will result in unnecessary hardship on the applicant.
    - b. The hardship is due to adoption of the floodplain ordinance and special conditions unique to the property, not common to a group of adjacent lots or premises (in such case the Chapter or map must be amended);
    - c. Such variance is not contrary to the public interest;
    - d. Such variance is consistent with the purpose of this Chapter as stated in Section 13-2-3.
  - (2) A variance shall not:
    - a. Grant, extend or increase any use of property prohibited in the zoning district;
    - b. Be granted for a hardship based solely on an economic gain or loss;
    - c. Be granted for a hardship which is self-created;
    - d. Damage the rights or property values of other persons in the area;
    - e. Permit a lower degree of flood protection in the floodplain than the flood protection elevation;
    - f. Allow any floor, basement or crawlway below the regional flood elevation for residential or commercial structures;
    - g. Allow actions without the requirement amendment to this Chapter or map(s) described in Section 13-2-70.
  - (3) When a variance is granted in a floodplain area, the Board shall notify the applicant in writing that increased flood insurance premiums and risks to life and property may result. A copy of this notification shall be maintained with the variance appeal record.

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

- (a) The Board of Appeals shall review all data constituting the basis for the appeal of permit denial. This data may include (where appropriate):
  - (1) Permit application data listed in Section 13-2-61(a);
  - (2) Floodway/flood fringe determination data in Section 13-2-43;
  - (3) Data listed in Section 13-2-22(a)(2)b where the applicant has not submitted this information to the Zoning Administrator.
  - (4) Other data submitted to the Zoning Administrator with the permit application or submitted to the Board with the appeal.
- (b) For appeals of all denied permits, the Board shall:
  - (1) Follow the procedures of Section 13-2-63;
  - (2) Consider Zoning Agency recommendations;
  - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation, the Board shall:
  - (1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and any appropriate legal arrangements are made with all adversely affected property owners.

- (2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

#### **SEC. 13-2-65 FLOODPROOFING.**

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

#### **SEC. 13-2-66 PUBLIC INFORMATION.**

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

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

## ARTICLE H

### Amendments

#### SEC. 13-2-70 AMENDMENTS GENERALLY.

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

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

#### SEC. 13-2-71 AMENDMENT PROCEDURES.

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

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

## **ARTICLE I**

### **Enforcement and Penalties**

#### **SEC. 13-2-80 ENFORCEMENT AND PENALTIES.**

Any violations of the provisions of this Chapter by any person shall be unlawful and shall be forwarded to the Village Attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the Village a forfeiture of not less than Ten Dollars (\$10.00) and not more than One Hundred Dollars (\$100.00), together with a taxable cost of such action. Each day during within such violation exists shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the Village, the State or any citizen thereof pursuant to Section 87.30, Wis. Stats.

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



## ARTICLE J

## Definitions

## SEC. 13-2-90 DEFINITIONS.

- (a) Unless specifically defined below, words or phrases used in this Chapter shall have the same meaning as they have at common law and to give this Chapter its most reasonable application. Words used in the present tense include the future. Words used in the singular number include the plural and words in the plural number include the singular. The word "may" is permissive. The word "shall" is mandatory and not discretionary.
- (1) A Zones -- Those areas shown on the "Official Floodplain Zoning Map" which would be inundated by the "regional flood" as defined herein. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
  - (2) Accessory Structure or Use -- A detached subordinate structure or a use which is clearly incidental to and customarily found in connection with the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.
  - (3) Basement -- Any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.
  - (4) Bulkhead Line -- A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this Chapter.
  - (5) Certificate of Compliance -- A certification issued by the Zoning Administrator stating that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this Chapter.
  - (6) Channel -- A natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.
  - (7) Crawlways or Crawl Space -- An enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for limited access to plumbing and electrical utilities.
  - (8) Department -- The Wisconsin Department of Natural Resources.
  - (9) Development -- Any artificial change to improved or unimproved real estate, including but not limited to construction of buildings, structure or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; and the storage, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities.
  - (10) Dryland Access -- A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

- (11) Encroachment -- Any fill, structure, building, use or development in the floodway.
- (12) Existing Mobile Home Park or Mobile Home Subdivision -- A parcel (or contiguous parcels) or land divided into two (2) or more mobile home lots for rent or sale for which the construction of facilities for servicing the lots (including, as a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Chapter.
- (13) Expansion to Existing Mobile/Manufactured Home Park -- means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be placed. This includes installation of utilities, either final site grading, pouring pads, or construction of streets.
- (14) Federal Emergency Management Agency (FEMA) -- The federal agency that administers the National Flood Insurance Program. This agency was previously known as the Federal Insurance Administration (FIA) or the Department of Housing and Urban Development (HUD).
- (15) Flood or Flooding -- A general and temporary condition of partial or complete inundation of normally dry land areas caused by:
  - a. The overflow or rise of inland waters;
  - b. The rapid accumulation or runoff of surface waters from any source;
  - c. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; and
  - d. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- (16) Flood Frequency -- The probability of a flood occurrence. A flood frequency is generally determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.
- (17) Flood Fringe -- That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood, and generally associated with standing water rather than flowing water.
- (18) Flood Hazard Boundary Map -- A map prepared by FEMA, designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance program.
- (19) Flood Insurance Study -- A technical engineering examination, evaluation and determination of the municipal flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and regional flood elevations and may provide floodway lines. The flood hazard areas are designated as unnumbered and numbered A-Zones. Flood insurance study maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

- (20) Floodplain -- That land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe and may include other designated floodplain areas for regulatory purposes.
- (21) Floodplain Island -- A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (22) Floodplain Management -- The full range of public policy and action for insuring wise use of floodplains. It includes everything from the collection and dissemination of flood data to the acquisition of floodplain lands and the enactment and administration of codes, ordinances and statutes for land use in the floodplain.
- (23) Flood Profile -- A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- (24) 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.
- (25) Flood Protection Elevation -- An elevation two (2) feet of freeboard above the water surface profile associated with the regional flood. (Also see: Freeboard.)
- (26) Floodway -- The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (27) Flood Storage -- Those floodplain areas where storage of floodwaters has been taken into account in reducing the regional flood discharge.
- (28) Freeboard -- Means a flood protection elevation requirement designed as a safety factor which is usually expressed in terms of a specified amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggradation of the river or stream bed.
- (29) Habitable Buildings -- Any building, or portion thereof, used for human habitation.
- (30) Hearing Notice -- Publication or posting meeting the requirements of Ch. 985, Wis. Stats., Class 1 notice is the minimum required for appeals: Published once at least one (1) week (seven days) before the hearing. Class 2 notice is the minimum required for all zoning ordinances and amendments including map amendments, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- (31) High Flood Damage Potential -- Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- (32) Historic Structure -- Any structure that is:
  - a. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or registered historic district;
  - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or directly by the Secretary of the Interior in states without approved programs.
- (33) Human Habitation -- A human residence or dwelling.
  - (34) Increase in Regional Flood Height -- A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, resulting comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
  - (35) Land Use -- Any nonstructural use made of unimproved or improved real estate. (Also see Development.)
  - (36) Mobile Home or Manufactured Home -- A structure transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For the purpose of this Chapter, it does not include recreational vehicles or travel trailers.
  - (37) Municipality or Municipal -- The Village governmental units enacting, administering and enforcing this floodplain zoning Chapter.
  - (38) NGVD or National Geodetic Vertical Datum -- Elevations referenced to mean sea level datum, 1929 adjustment.
  - (39) Nonconforming Structure -- An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this Chapter for the area of floodplain which it occupies. (For example, an existing residential structure in the flood fringe district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.)
  - (40) Nonconforming Use -- A nonconforming use is an existing lawful use or accessory use of a structure, building which is not in conformity with the provisions of this Chapter for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
  - (41) Obstruction to Flow -- Any development which physically blocks the conveyance of floodwaters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.
  - (42) Official Floodplain Zoning Map -- That map, adopted and made part of this Chapter, which has been approved by the Department of Natural Resources and FEMA.
  - (43) Open Space Use -- Those uses having a relatively low flood damage potential and not involving structures.
  - (44) Ordinary High-Water Mark -- The point on the bank or shore up to which the presence and action or surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

- (45) Person -- An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- (46) Private Sewage System -- A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the Department of Industry, Labor and Human Relations including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one (1) structure or a system located on a different parcel than the structure.
- (47) Public Utilities -- Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- (48) Regional Flood -- A flood determined to be representative of large floods known to have occurred in Wisconsin or which may be expected to occur on a particular lake, river or stream once in every one hundred (100) years.
- (49) Structure -- Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, which includes, but is not limited to, such objects as roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- (50) Substantial Improvements --
  - a. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the present equalized assessed value of the structure either before the improvement or repair is started or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either:
    - 1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which existed before the improvement began, was identified by a municipal official and are necessary to assure safe living conditions; or
    - 2. Any alteration of a designated historical structure or site documented as deserving preservation by the Wisconsin State Historical Society, or listed in the National Register of Historic Places provided the alteration will not preclude the structure's continued designation as an historic structure.
  - b. Ordinary maintenance repairs are not considered structural repairs, modifications or additions. Such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components. "Substantial improvement" begins when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- (51) Unnecessary Hardship -- Those circumstances which are special conditions affecting a particular property, which are not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the Chapter.
- (52) Variance -- An authorization granted by the Board of Appeals to construct, alter or use a structure in a manner which is inconsistent with the dimensional standards contained in this Chapter.

- (53) Watershed -- The entire region or area contributing runoff or surface water to a particular watercourse or body of water.
- (54) Water Surface Profile -- A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- (55) Well -- An excavation opening in the ground made by digging, boring, drilling, driving or other methods for the purpose of obtaining groundwater regardless of its intended use.

## CHAPTER 3

### Shoreland-Wetland Zoning

#### Article A      Statutory Authorization, Findings of Fact, Statement of Purpose and Title

- 13-3-1      Statutory Authorization
- 13-3-2      Findings of Fact
- 13-3-3      Title of Chapter
- 13-3-4 through
- 13-3-9      Reserved for Future Use

#### Article B      General Provisions

- 13-3-10      Compliance
- 13-3-11      Municipalities and State Agencies Regulated
- 13-3-12      Abrogation and Greater Restrictions
- 13-3-13      Interpretation
- 13-3-14      Severability
- 13-3-15      Annexed Areas
- 13-3-16 through
- 13-3-19      Reserved for Future Use

#### Article C      Shoreland-Wetland Zoning District

- 13-3-20      Official Shoreland-Wetland Zoning Maps
- 13-3-21      District Boundaries
- 13-3-22      Permitted Uses
- 13-3-23      Prohibited Uses
- 13-3-24      Nonconforming Structures and Uses
- 13-3-25 through
- 13-3-29      Reserved for Future Use

#### Article D      Administrative Provisions

- 13-3-30      Zoning Administrator
- 13-3-31      Zoning Permits
- 13-3-32      Certificates of Compliance
- 13-3-33      Conditional Use Permits
- 13-3-34      Fees
- 13-3-35      Recording
- 13-3-36      Revocation
- 13-3-37      Board of Appeals
- 13-3-38      Amending Shoreland-Wetland Zoning Regulations
- 13-3-39      Reserved for Future Use

Article E

Penalties; Definitions

13-3-40  
13-3-41

Enforcement and Penalties  
Definitions



## **ARTICLE A**

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

#### **SEC. 13-3-1 STATUTORY AUTHORIZATION.**

This Chapter is adopted pursuant to the authorization in Sections 61.35, 61.351, 87.30 and 144.26, Wis. Stats.

#### **SEC. 13-3-2 FINDINGS OF FACT.**

Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters of the Village of Colfax would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:

- (a) Promote the public health, safety, convenience and general welfare;
- (b) Maintain the storm and flood water storage capacity of wetlands;
- (c) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (d) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- (e) Prohibit certain uses detrimental to the shoreland-wetland area; and
- (f) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

#### **SEC. 13-3-3 TITLE OF CHAPTER.**

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

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

## **ARTICLE B**

### **General Provisions**

#### **SEC. 13-3-10 COMPLIANCE.**

The use of wetlands and the alteration of wetlands within the shoreland area of the Village of Colfax shall be in full compliance with the terms of this Chapter and other applicable local, state or federal regulations. (However, see Section 13-3-24 of this Chapter for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this Chapter.

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

Unless specifically exempted by law, all cities, villages, town and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if Section 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Section 30.12(4)(a), Wis. Stats., applies.

#### **SEC. 13-3-12 ABROGATION AND GREATER RESTRICTIONS.**

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

#### **SEC. 13-3-13 INTERPRETATION.**

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 117, Wis. Adm. Code, and where the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 117 standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

#### **SEC. 13-3-14 SEVERABILITY.**

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

**SEC. 13-3-15 ANNEXED AREAS.**

The shoreland zoning provisions of Dunn County in effect on the date of annexation remain in effect administered by the municipality for all areas annexed by the municipality after May 7, 1982. These annexed lands are described on the municipality's official zoning map. The Dunn County shoreland zoning provisions are incorporated by reference for the purpose of administering this Chapter and are on file in the office of the municipal zoning administrator.

**SEC. 13-3-16 THROUGH SEC. 13-3-19 RESERVED FOR FUTURE USE.**

## ARTICLE C

### Shoreland-Wetland Zoning District

#### SEC. 13-3-20 OFFICIAL SHORELAND-WETLAND ZONING MAPS.

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

- (a) Wisconsin Wetland Inventory map stamped "Final" on November 11, 1986.
- (b) Floodplain zoning maps titled FIA Flood Hazard Boundary Map, dated November 14, 1975.
- (c) Village of Colfax Zoning Map, dated April, 1981.

#### SEC. 13-3-21 DISTRICT BOUNDARIES.

- (a) **Boundaries.** The shoreland-wetland zoning district includes all wetlands in the Village of Colfax, Wisconsin, which are five (5) acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this Chapter in Section 13-3-20 and which are:
  - (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the Village of Colfax shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-3-20 of this Chapter.
  - (2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-3-20. Floodplain Zoning Maps shall be used to determine the extent of floodplain areas in the Village.
- (b) **Determinations of Navigability.** Determinations of navigability and ordinary high-water mark shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for the final determination of navigability or ordinary high-water mark.
- (c) **Discrepancies.** When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official shoreland-wetland zoning maps and the actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If the Department staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in Sections 13-3-21(d) and 13-3-21(e), the Zoning Administrator shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period.

## SEC. 13-3-22 PERMITTED USES.

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

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

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

**SEC. 13-3-23 PROHIBITED USES.**

- (a) **Rezoning Required.** Any use not listed in Section 13-3-22 of this Chapter is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Chapter in accordance with Section 13-3-37 of this Chapter.
- (b) **Boathouses; Other Prohibited Uses.** The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

**SEC. 13-3-24 NONCONFORMING STRUCTURES AND USES.**

The lawful use of a building, structure or property which existed at the time this Chapter, or an applicable amendment to this Chapter, took effect and which is not in conformity with the provisions of the Chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- (a) **Reconstruction and Repair.** The shoreland-wetland provisions of this ordinance authorized by Sec. 61.351, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland-wetland provisions. All other modifications to nonconforming structures are subject to Sec. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to fifty percent (50%) of current fair market value.
- (b) **Nonconforming Use Discontinued.** If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this Chapter.
- (c) **Nonconforming Use Without a Structure.** Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this Chapter adopted under Sections 62.231 or 61.351, Wis. Stats., may be continued although such use does not conform with the provisions of this Chapter. However, such nonconforming use may not be extended.
- (d) **Nonconforming Boathouses.** The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of Sec. 30.121, Wis. Stats.
- (e) **Nuisances.** Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

**SEC. 13-3-25 THROUGH SEC. 13-3-29 RESERVED FOR FUTURE USE.**

## ARTICLE D

### Administrative Provisions

#### SEC. 13-3-30 ZONING ADMINISTRATOR.

The Building Inspector is appointed Zoning Administrator for the purpose of administering and enforcing this Chapter. The Zoning Administrator shall have the following duties and powers:

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

#### SEC. 13-3-31 ZONING PERMITS.

- (a) **When Required.** Unless another Section of this Chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 13-3-41(b)(6) of this Chapter, or any change in the use of an existing building or structure is initiated.
- (b) **Application.** An application for a permit shall be made to the Zoning Administrator upon forms furnished by the Village and shall include, for the purpose of proper enforcement of these regulations, the following information:
  - (1) General Information.
    - a. Name, address and telephone number of applicant, property owner and contractor, where applicable.
    - b. Legal description of the property and a general description of the proposed use or development.
    - c. Whether or not a private water or sewage system is to be installed.
  - (2) Site Development Plan. The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
    - a. Dimensions and area of the lot;
    - b. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
    - c. Description of any existing or proposed on-site sewage systems or private water supply systems;



- d. Location of the ordinary high-water mark of any abutting navigable waterways;
  - e. Boundaries of all wetlands;
  - f. Existing and proposed topographic and drainage features and vegetative cover;
  - g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate floodplain areas;
  - h. Location of existing or future access roads; and
  - i. Specifications and dimensions for areas of proposed wetland alteration.
- (c) **Expiration.** All permits issued under the authority of this Chapter shall expire twelve (12) months from the date of issuance.

#### SEC. 13-3-32 CERTIFICATES OF COMPLIANCE

- (a) **Certificates of Compliance.** Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Zoning Administrator subject to the following provisions:
- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this Chapter.
  - (2) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
  - (3) The certificate of compliance shall be issued within ten (10) days after notification of the completion of the work specified in the zoning or conditional use permit, providing the building or premises and proposed use thereof conform with all the provisions of this Chapter.
- (b) **Temporary Certificate.** The Zoning Administrator may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the Village Board.
- (c) **Issued Upon Written Request.** Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of ordinance adoption, certifying after inspection the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this Chapter.

#### SEC. 13-3-33 CONDITIONAL USE PERMITS.

- (a) **Application.** Any use listed as a conditional use in this Chapter shall be permitted only after an application has been submitted to the Zoning Administrator, a public hearing is held by the Plan Commission followed by an advisory recommendation, and a conditional use permit has been issued by the Village Board following the procedures in Section 13-3-37(b), (c) and (d).
- (b) **Conditions.** Upon consideration of the permit application and the standards applicable to the conditional uses designated in Section 13-3-22, the Village Board shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this Chapter, as are necessary to further the purposes of this Chapter. Such conditions may include specifications for, without limitation because of specific enumeration: Type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities;

landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Village Board may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this Chapter.

#### **SEC. 13-3-34 FEES.**

The Village Board, by resolution, shall establish fees for the following:

- (a) Zoning permits.
- (b) Public hearings.
- (c) Legal notice publications.
- (d) Conditional use permits.
- (e) Rezoning petitions.
- (f) Certificates of compliances.

#### **SEC. 13-3-35 RECORDING.**

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

#### **SEC. 13-3-36 REVOCATION.**

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

#### **SEC. 13-3-37 BOARD OF APPEALS.**

- (a) **Appointment.** The Village President shall appoint a Board of Appeals under Title 2, Chapter 4 of this Code of Ordinances and Section 62.23(7)(e), Wis. Stats., consisting of five (5) members subject to confirmation by the Village Board. The Board of Appeals shall adopt rules for the conduct of the business of the Board of Appeals as required by Section 62.23(7)(e)3, Wis. Stats.
- (b) **Powers and Duties.** The Board of Appeals shall:
  - (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.
  - (2) Hear and decide applications for conditional use permits under this Chapter.
  - (3) May authorize, upon appeal, a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates:
    - a. That literal enforcement of the terms of the ordinance will result in unnecessary hardship for the applicant.
    - b. That the hardship is due to special conditions unique to the property; and is no self-created or based solely on economic gain or loss.
    - c. That such variance is not contrary to the public interest as expressed by the purpose of this Chapter.
    - d. That such variance will not grant or increase any use of property which is prohibited in the zoning district.

- (c) **Appeals to the Board.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision or determination of the Zoning Administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the official from whom the appeal is taken and with the Board of Appeals, a notice of appeal specifying the reasons therefor. The Zoning Administrator or other official from whom the appeal is taken shall transmit to the Board all the papers constituting the record on which the appeal action was taken.
- (d) **Public Hearings.**
  - (1) Before making a decision on an appeal, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may appear in person, by agent or by attorney and present testimony.
  - (2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least ten (10) days prior to all public hearings on issues involving shoreland-wetland zoning.
- (e) **Decisions.**
  - (1) The final disposition of an appeal, or application for a conditional use permit, to the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing, signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or persecution, or grant the application for a conditional use.
  - (2) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within one hundred ninety (190) days after the decision is issued.

#### SEC. 13-3-38 AMENDING SHORELAND-WETLAND ZONING REGULATIONS.

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

- (a) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five (5) days of the submission of the proposed amendment to the Village planning agency.
- (b) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the municipal planning agency, and a public hearing shall be held as required by Section 62.23(7)(d)2, Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least twenty (20) days prior to such hearing.
- (c) In order to insure that the shoreland protection objectives in Section 144.26, Wis. Stats., will be accomplished by the amendment, the Village Board may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:

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

**SEC. 13-3-39      RESERVED FOR FUTURE USE.**

## ARTICLE E

### Penalties; Definitions

#### SEC. 13-3-40 ENFORCEMENT AND PENALTIES.

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced, or any use or accessory use established after the effective date of this Chapter in violation of the provisions of this Chapter, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the Village Board and the Village Attorney who shall prosecute such violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this Chapter shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) per offense, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the Village, the State or any citizen thereof pursuant to Section 87.30(2), Wis. Stats.

#### SEC. 13-3-41 DEFINITIONS.

- (a) For the purpose of administering and enforcing this Chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.
- (b) The following terms used in this Chapter mean:
  - (1) Accessory Structure or Use. A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.
  - (2) Boathouse. As defined in Section 30.121(1), Wis. Stats., a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.
  - (3) Class 2 Public Notice. Publication of a public hearing notice under Chapter 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is required on two (2) consecutive weeks, the last at least seven (7) days prior to the hearing.
  - (4) Conditional Use. A use which is permitted by this Chapter provided that certain conditions specified in the ordinance are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the municipal governing body.
  - (5) Department. The Wisconsin Department of Natural Resources.
  - (6) Development. Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or

accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

- (7) Drainage System. One (1) or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- (8) Environmental Control Facility. Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.
- (9) Fixed Houseboat. As defined in Section 30.121(1), Wis. Stats., a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.
- (10) Navigable Waters. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. Under Section 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Sections 62.351 and 62.221, Wis. Stats., and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
  - a. Such lands are not adjacent to a natural navigable stream or river;
  - b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
  - c. Such lands are maintained in nonstructural agricultural use.
- (11) Ordinary High-Water Mark. The point on the bank or shore up to which the presence and action of surface water is so continuous so as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristic.
- (12) Planning Agency. The Plan Commission created under Section 62.23(1), Wis. Stats., or the Planning Committee of the Village (or if there is not one created, the Building Inspector).
- (13) Shorelands. Lands within the following distances from the ordinary high-water mark of navigable waters; one thousand (1,000) feet from a lake, pond or flowage; and three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
- (14) Shoreland-Wetland District. The zoning district, created in this shoreland-wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this Chapter as described in Section 13-3-20 of this Chapter.

- (15) Unnecessary Hardship. That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this Chapter.
- (16) Variance. An authorization granted by the Board of Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Chapter.
- (17) Wetlands. Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- (18) Wetland Alteration. Any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.