



AGENDA  
ZONING CODE SUBCOMMITTEE  
APRIL 21, 2020  
10:00 AM

**THIS MEETING WILL BE HELD VIRTUALLY ON WEBEX DUE TO THE GOVERNOR'S EMERGENCY SAFER AT HOME ORDER RELATED TO THE COVID-19 VIRUS. THIS MEETING CAN BE ACCESSED IN ONE OF THE FOLLOWING WAYS:**

1. BY CALLING **408-418-9388** AND ENTERING "ACCESS CODE" **629319079#** THEN ENTERING IN "ATTENDEE ID" **11#**
2. CLICKING THE FOLLOWING LINK: <https://meetingsamer9.webex.com/meet/administrator32>
3. **PLEASE BE ADVISED:** REQUESTS FROM PERSONS WITH DISABILITIES WHO NEED ASSISTANCE TO PARTICIPATE IN THIS MEETING OR INDIVIDUALS WHO HAVE HEARING IMPAIRMENTS SHOULD NOTIFY THE VILLAGE CLERK'S OFFICE AT 262-628-2260 WITH AS MUCH ADVANCED NOTICE AS POSSIBLE.
4. THE MEETING MATERIALS WILL BE AVAILABLE AT [WWW.RICHFIELDWI.GOV](http://WWW.RICHFIELDWI.GOV)

1. Call to Order/ Roll Call
2. Verification of Compliance with Open Meeting Law
3. Pledge of Allegiance
4. DISCUSSION/ACTION ITEMS
  - a. Discussion regarding Chapter 70 Zoning Code Recodification
5. ADJOURNMENT

Additional explanation of items on the agenda (Communication Forms) can be found on the village's website at [www.richfieldwi.gov](http://www.richfieldwi.gov). Notification of this meeting has been posted in accordance with the Open Meeting Laws of the State of Wisconsin. It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice.



**ARTICLE 1 - GENERAL PROVISIONS** (November 15, 2019)

70.01	Title	Replaces s. 70.02 of existing code
70.02	Authority	Replaces s. 70.01 of existing code
70.03	Jurisdiction	Replaces s. 70.10 of existing code
70.04	Legislative findings	Replaces s. 70.04 of existing code
70.05	Purpose	Replaces s. 70.03 of existing code
70.06	Re-enactment and repeal	Standard provision
70.07	Compliance	Standard provision
70.08	Liability	Replaces s. 70.08 of existing code
70.09	Severability	Replaces s. 70.07 of existing code
70.10	Relationship of this chapter to other regulations	Standard provision
70.11	Relationship of this chapter to private agreements	Standard provision
70.12	Additional local regulations	Standard provision
70.13	No defense to nuisance action	Standard provision
70.14	Applicability to public entities	Standard provision
70.15	Relief from other provisions	Standard provision
70.16	Applicability to projects under the purview of the Public...	Standard provision
70.17	Repeal of conflicting provisions	Standard provision
70.18	Copyright protection	New

**ARTICLE 2 - INTERPRETATION, CONSTRUCTION AND DEFINITIONS**

70.50	General rules	Standard provision
70.51	Interpretation	Standard provision
70.52	Delegation of authority	Standard provision
70.53	Internal conflicts	Standard provision
70.54	Website	New
70.55	Use of graphics, illustrations, headings, references...	Standard provision
70.56	Reference to state and federal law	New
70.57	Interpretation of boundaries and designations...	Standard provision
70.58	General rules of interpretation	Standard provision
70.59	Computation of time	New
70.60	Land use descriptions	New
70.61	General definitions	New

**ARTICLE 3 - ADMINISTRATIVE BODIES**

Content in this article is derived from Article III, Chapter 7 of the Municipal Code. <https://www.ecode360.com/16176743> Upon adoption of the zoning code, the sections in Article III will remain but all content will be removed. A statement will be added pointing to this article in the zoning code.

**DIVISION 1 - PLAN COMMISSION** Currently in s. 7-15

**DIVISION 2 - ARCHITECTURAL REVIEW BOARD** Currently in s. 7-19

**DIVISION 3 - ZONING BOARD OF APPEALS** Currently in s. 7-17

**DIVISION 4 - ZONING ADMINISTRATOR** All of the content in this division is new.

**ARTICLE 4 - GENERAL PROCEDURAL REQUIREMENTS**

**DIVISION 1 - GENERALLY**

70.200	Legislative findings	New
70.201	Purpose	New
70.202	Authority to file an application	New
70.203	Permission to enter subject property	New
70.204	Burden of proof	New
70.205	Effect of an outstanding violation	New
70.206	Effect of an outstanding obligation	New
70.207	Concurrent review	New, but current practice
70.208	Application fees and other charges	New, but current practice
70.209	Charge back of professional service fees	New, but current practice
70.210	Non-confidentiality of submitted information	New
70.211	Nature of staff comments	New
70.212	Withdrawal of application	New, but current practice
70.213	Appeals	New
70.214	Revocation or modification of an approval	New
70.215	Application review schedule	New
70.216	Application forms	New
70.217	Other approvals	New
70.218	Building permit	New, but current practice

**DIVISION 2 - NOTICE REQUIREMENTS**

The content in this division is new but follows the protocol the village has been using along with any requirements set forth in state statute. The one exception perhaps is Section 70.438 which describes a requirement of having an affidavit showing that the required notice was given.

**DIVISION 3 - PUBLIC HEARINGS**

The content in this division is new but follows the protocol the village has been using. The one exception perhaps is Section 70.452 which describes the general steps during a public hearing.

**DIVISION 4 - SITE VISITS**

The content in this division is new but follows the protocol the Board of Zoning Appeals uses during any site visits it conducts.

**DIVISION 5 - FINANCIAL GUARANTEES**

The content in this division is new.

**ARTICLE 5 – SPECIFIC PROCEDURAL REQUIREMENTS**

Content in this article is derived from various parts of the zoning code. Some of the procedures are new and are so designated.

**DIVISION 1 - CODE AMENDMENT**

-

**DIVISION 2 - PLANNED DEVELOPMENT DISTRICT**

-

**DIVISION 3 - CONDITIONAL USE**

-

**DIVISION 4 - WIRELESS TELECOMMUNICATION FACILITY**

-

**DIVISION 5 - SITE PLAN AND PLAN OF OPERATION**

-

**DIVISION 6 - ARCHITECTURAL REVIEW**

-

**DIVISION 7 - SPECIAL EXCEPTION**

New

<b>DIVISION 8 - ZONING PERMIT</b>	-
<b>DIVISION 9 - FLOODPLAIN PERMIT</b>	-
<b>DIVISION 10 - BERM PERMIT</b>	-
<b>DIVISION 11 - TEMPORARY USE – 30 DAYS OR LESS</b>	-
<b>DIVISION 12 - TEMPORARY USE – MORE THAN 30 DAYS BUT LESS THAN 90 DAYS</b>	-
<b>DIVISION 13 - TERMINATION OF APPROVAL</b>	-
<b>DIVISION 14 - REGISTRATION OF A NONCONFORMING USE</b>	New
<b>DIVISION 15 - CONVERSION OF A NONCONFORMING USE</b>	-
<b>DIVISION 16 - EXPANSION OF A NONCONFORMING BUILDING</b>	New
<b>DIVISION 17 - RURAL ACCESSORY BUILDING DETERMINATION</b>	-
<b>DIVISION 18 - CODE INTERPRETATION</b>	-
<b>DIVISION 19 - ADMINISTRATIVE APPEAL</b>	-
<b>DIVISION 20 - VARIANCE</b>	-
<b>ARTICLE 6 – ZONING DISTRICTS AND LAND USE</b>	
<b>DIVISION 1 - GENERAL PROVISIONS</b>	
70.800 Legislative findings	New
70.801 Purpose	New
<b>DIVISION 2 - ZONING DISTRICTS AND ZONING MAP</b>	
70.820 Generally	New
70.821 Base zoning districts	New with revised descriptions
70.822 Overlay zoning districts	New
70.823 Planned development districts	New
70.824 Relationship between base and overlay districts	New
70.825 Necessity of zoning district designation	New
70.826 Effect of land transfer on zoning designation	New
70.827 Zoning map	New
<b>DIVISION 3 - ALLOWABLE LAND USES</b>	
70.840 Land uses generally allowed within zoning districts	New
70.841 Similarity of land uses	New
70.842 Land uses not listed	New
70.843 Project classified in more than one category	New
70.844 Wind energy	New
70.845 Special standards for accessory land uses	New
70.846 Special provisions for community living arrangements	Existing provision
70.847 Special provisions for specified foster homes and treatment foster homes	New
70.848 Map of conditional use	New
<b>DIVISION 4 - DIMENSIONAL AND RELATED STANDARDS</b>	New content, but measurement and related standards have not changed
<b>DIVISION 5 - ENVIRONMENTAL AND ENGINEERING STANDARDS</b>	Generally new content or substantially revised
<b>DIVISION 6 - GENERAL STANDARDS</b>	Generally new content or substantially revised

<b>DIVISION 7 - PERFORMANCE STANDARDS</b>	New content
<b>DIVISION 8 - SITE DESIGN STANDARDS</b>	Generally new content
<b>DIVISION 9 - ARCHITECTURAL STANDARDS</b>	Existing standard in code with minor editing
<b>ARTICLE 7 – ALTERNATIVE DEVELOPMENT OPTIONS</b>	New
<b>ARTICLE 8 – SPECIFIC PLANNED DEVELOPMENT DISTRICTS</b>	New
<b>ARTICLE 9 – FLOODPLAIN OVERLAY DISTRICT</b>	The content in this article is derived from the DNR's model ordinance. No substantive changes are proposed.
<b>ARTICLE 10 – SHORELAND-WETLAND OVERLAY DISTRICT</b>	The content in this article is derived from the village's existing code requirements. No substantive changes are proposed.
<b>ARTICLE 11 – SHORELAND OVERLAY DISTRICT</b>	The content in this article is derived from the village's existing code requirements. No substantive changes are proposed.
<b>ARTICLE 12 – ENVIRONMENTAL CORRIDOR OVERLAY DISTRICT</b>	New
<b>ARTICLE 13 - LANDSCAPING AND BUFFERS</b>	
70.1600 Legislative findings	New
70.1601 Purpose	New
70.1602 Landscape plan	Existing provision in code
70.1603 Landscaping required	Existing provision in code
70.1604 Minimum landscape standards	Existing provision in code
70.1605 Bufferyard	Existing provision in code
70.1606 Credit for preserved existing plant materials	Existing provision in code
70.1607 Alternative minimum landscape surface ratio	Existing provision in code
70.1608 Species of plantings	Existing provision in code
70.1609 Ground cover	Existing provision in code
70.1610 Placement	Existing provision in code
70.1611 Protection of existing trees and flora	Existing provision in code
70.1612 Requirements for installation and maintenance of...	Existing provision in code
70.1613 Review of plans and specifications by the zoning...	Existing provision in code
70.1614 Authorization to start construction	Existing provision in code
70.1615 Landscape guarantee	New
<b>ARTICLE 13 - PARKING AND LOADING FACILITIES</b>	
70.1700 Legislative findings	New
70.1701 Purpose	New
70.1702 Off-street parking	Derived from existing code requirements in s. 70.185. The specific parking standards will be in Appendix B.
70.1703 Off-street loading berths	New
<b>ARTICLE 14 - NONCONFORMITIES</b>	
70.1800 Legislative findings	New
70.1801 Official registry of nonconforming lots, buildings and land uses	New
70.1802 Nonconforming lots	Standard provisions

70.1803 Nonconforming buildings

Standard provisions

70.1804 Nonconforming uses

Standard provisions

70.1806 Special provisions for mobile home and manufactured...

New – based on state law

70.1807 Special provisions for nonconforming boathouses

New – based on state law

70.1808 Special provisions related to the shoreland-wetland...

New – based on existing provisions in Article 9.

70.1809 Special provisions related to the floodplain overlay district

New – based on existing provisions in Article 8.

**ARTICLE 15 – REASONABLE ACCOMMODATIONS**

This article is new and is based on existing requirements in federal law.

**ARTICLE 16 – ENFORCEMENT**

Content in this article is derived from the village's existing code/policies. No substantive changes are proposed.



**ARTICLE 14  
PARKING AND LOADING FACILITIES**

**70.1700 Legislative findings**

The Village Board makes the following legislative findings:

- (1) The design of parking areas is critically important to the economic viability of commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability.
- (2) Standards are needed to establish the minimum and maximum number of parking spaces that are needed to serve various land uses.
- (3) Excessively large parking lots reduce density, increase the cost of development, create an unhealthy built environment, contribute to the heat island effect associated with urban areas, and decrease the infiltration of storm water into the ground.
- (4) Special standards are needed to accommodate the needs of the disabled.
- (5) Shared parking can reduce parking facility costs (including aesthetic and environmental impacts), allows greater flexibility in facility location and site design, and encourages more efficient land use.
- (6) Parking lots and their access represent a vital connection between the local transportation network and land uses.
- (7) Incorrectly designed parking lots and site access can have negative impacts on the site itself, the adjacent and nearby public roadways, and the image of the business community.

**70.1701 Purpose**

This article promotes the public health, safety, and general welfare and is intended to:

- (1) increase the safety and capacity of public streets by requiring off-street parking and off-street loading facilities,
- (2) minimize adverse effects of off-street parking and off-street loading facilities on adjacent properties and surrounding neighborhoods,
- (3) lessen congestion and prevent the overtaking of public roads by regulating the location and capacity of off-street parking and off-street loading facilities,
- (4) maintain and enhance a safe and efficient transportation system,
- (5) minimize the occurrences of motor vehicles backing into public roads,
- (6) encourage bicycle use by providing adequate and safe facilities for the storage of bicycles, and
- (7) minimize impervious surfaces.

**70.1702 Off-street parking**

A. **Applicability.** The off-street parking requirements in this article apply to all new development, including expansions, as follows:

- ~~(1) **New construction.** A new use shall comply with the off-street parking requirements.~~
- ~~(2) **Change in use.** When an existing use is changed to another permitted use with a higher parking demand and the required number of parking spaces for the new use is less than 125 percent of the number of existing spaces, additional spaces are not required.~~
- ~~(3)(1) **Expansion of existing use.** When an existing use is enlarged and the required number of parking spaces is more than 125 percent of the number of existing spaces, the expanded use shall comply.~~

B. **General design principles.** Parking areas shall be designed based on the following principles:

- (1) Provide continuous flow of traffic through the parking area.
  - (2) Allow safe movement of pedestrians from parking to buildings.
  - ~~(3) Avoid conflicts between vehicular, bicycle, and pedestrian traffic. Pedestrian circulation shall take precedence over vehicular circulation.~~
  - (3) Allow for appropriate landscaping of parking areas without conflicting with outdoor lighting.
  - ~~(4) Ensure that site facilities and amenities are accessible to people with disabilities as required by this article and the Americans with Disabilities Act (ADA).~~
  - (4) Ensure that emergency service vehicles are able to travel through parking areas, including fire trucks (having a curb-to-curb turning radius of 40 feet) and tow trucks (having a curb-to-curb turning radius of 47 feet with a car in tow).
  - (5) Minimize impervious surfaces.
  - (6) Allow for the logical expansion of parking areas to accommodate different land uses or an expansion of an existing use.
  - (7) Ensure that the stormwater generated on the site is accommodated consistent with village requirements.
- C. **Proximity of parking to principal use.** Parking spaces required by this article shall be located on the same lot with the principal use, except as provided in this subsection. When required parking spaces cannot be located on the same lot, as determined by the Plan Commission, parking spaces may be located on a different lot provided the parking spaces are located in the same zoning district. Parking for nonresidential uses shall not be located more than 500 feet from the lot with the principal use. Parking for residential uses shall not be located more than 200 feet from the principal entrance of the residential building. If required off-street parking is to be provided off-site, the use of such site shall be secured with a permanent agreement acceptable to the village attorney and recorded in the office of the Washington County register of deeds. The Village of Richfield shall be named in that agreement as a party having the right of enforcement.
- D. **Location of parking on a lot.** In commercial and industrial zoning districts, parking may be located in any yard provided such spaces and aisles are located (1) at least 5 feet from another property in a commercial or industrial zoning district, except when such lots are developed with a joint parking lot and there is a cross-access easement in place, (2) at least 15 feet from the side lot line or rear lot line of a property in a residential zoning district, and (3) at least 5 feet from the front lot line. In a residential zoning district, parking for a multi-family building with three or more dwelling units may be located in the side or rear yards provided such spaces and aisles are located at least 5 feet from any property boundary line. Parking is only allowed in the front yard for single-family dwellings and duplex units when on a driveway.
- E. **Accessibility.** Parking spaces shall be accessible at all times from a street, an alley, or a driveway intended to serve such parking. No parking area consisting of 2 or more parking spaces shall be designed as to require a motor vehicle to back into a public street, except for single-family dwellings and duplex units.
- F. **Use of parking spaces.** Off-street parking areas shall be for occupants, employees, visitors, and patrons. The storage of merchandise, supplies, motor vehicles for sale, or the repair of vehicles in a parking area is prohibited, unless otherwise allowed in this chapter. In addition, the use of an off-street parking area for overnight camping, including recreational vehicle camping, is prohibited.
- ~~G. **Pedestrian routes in a parking area.** When a pedestrian circulation route crosses a vehicular route, a crosswalk shall be provided to improve pedestrian safety (Exhibit 13-1).~~
- G. **Surfacing.** An off-street parking area (i.e., spaces and aisles) shall be hard surfaced (e.g., pervious concrete, asphaltic concrete, pavers, or similar product), except for those land uses listed as agriculture or resource-based in Appendix A which may be surfaced with crushed gravel. If it is not possible to hard surface the parking area between November 1 and April 1, the village building inspector may issue an occupancy permit provided the property owner and zoning administrator enter into a written agreement that requires completion no later than June 1.
- H. **Marking of parking spaces.** Parking spaces within an off-street parking area shall be clearly marked, except for single-family dwellings, two-family dwellings, twin homes, and townhouses.

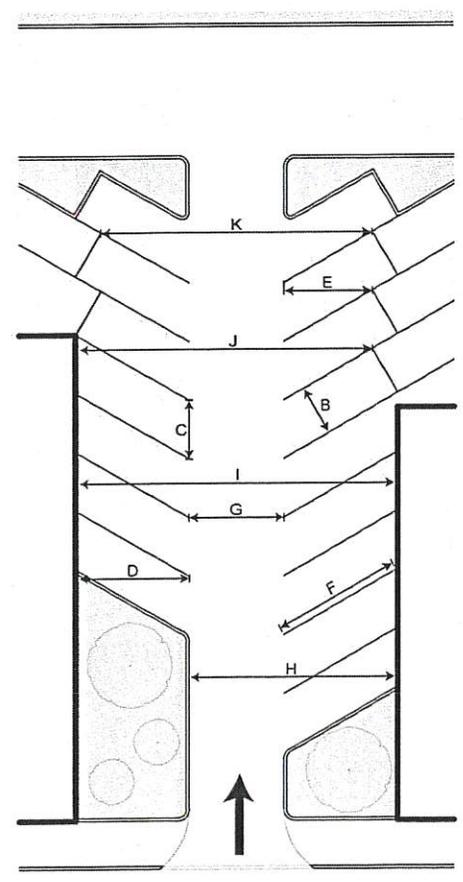
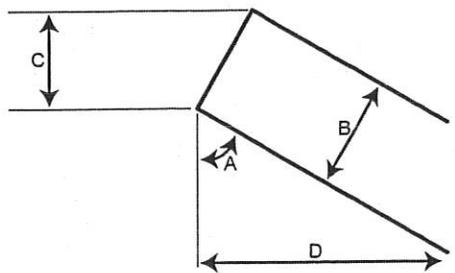
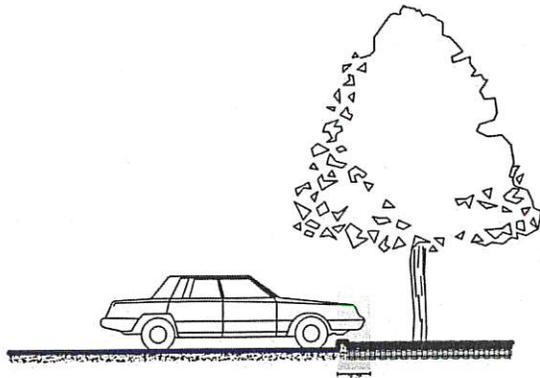
- I. **Drainage.** An off-street parking area shall be properly graded for drainage.
- J. **Snow storage.** Required parking spaces and access aisles shall not be used for snow storage. Areas used for snow storage shall be clearly depicted on the site plan if snow will be stored on site.
- K. **Landscaping.** Landscaping for an off-street parking area must be provided consistent with the requirements set forth in Article 13.
- ~~M. **Electric charging station.** One or more electric charging stations may be included in the parking lot design. If charging stations are not installed at the time of construction, underground conduits to potential charging stations should then be installed to lessen installation costs when a station is added at a later date.~~
- L. **Signage.** Signage related to off-street parking and on-site traffic circulation must comply with the requirements set forth in Chapter 309 of the municipal code.
- M. **Outdoor lighting.** Outdoor lighting within a parking area must be provided consistent with the requirements set forth in Chapter 234 of the municipal code.
- N. **Screening.** When a parking area with 5 or more parking spaces adjoins a property in a residential zoning district, a 4-foot screen (e.g., landscaping, berm, fence, or any combination) shall be installed and maintained.
- O. **Dimensional standards.** Parking spaces, except for handicapped parking; access aisles; and other features in a parking area shall conform to the dimensions in Exhibit 14-1.

The remainder of this page intentionally left blank.

Exhibit 14-1. Parking area dimensional standards

	Parking angle - A				
	0°	45°	60°	75°	90°
B Stall width at parking angle	9.0 ft.	9.0 ft.	9.0 ft.	9.0 ft.	9.0 ft.
C Stall width parallel to access aisle	17.0 ft.	12.7 ft.	10.4 ft.	9.3 ft.	9.0 ft.
D Stall depth to wall	9.0 ft.	17.5 ft.	19.0 ft.	19.5 ft.	18.5 ft.
E Stall depth to interlock	–	15.3 ft.	17.5 ft.	18.8 ft.	–
F Stall length	18.0 ft.	18.0 ft.	18.0 ft.	18.0 ft.	18.0 ft.
G Aisle width one-way	12.0 ft.	12.0 ft.	16.0 ft.	17.2 ft.	24.0 ft.
H Module width – wall to wall (single-loaded)	21.0 ft.	29.5 ft.	35.0 ft.	42.5 ft.	44.5 ft.
I Module width – wall to wall (double-loaded)	30.0 ft.	47.0 ft.	54.0 ft.	62.0 ft.	63.0 ft.
J Module width – wall to interlock (double-loaded)	–	44.8 ft.	52.5 ft.	61.3 ft.	–
K Module width – interlock to interlock (double-loaded)	–	42.6 ft.	51.0 ft.	60.6 ft.	–

**Stall reduction for landscaped areas.** When a parking space abuts a landscape island or planter, the front 2 feet of the required parking space length may overhang the planter, provided that wheel stops or curbing are provided.



- P. **Minimum number of spaces.** Off-street parking spaces shall be provided in the number specified in Appendix B, except as follows:
  - (1) Land uses located in the downtown zoning district are not required to provide off-street parking.
  - (2) When bicycle parking is provided consistent with this article, bicycle parking spaces may be used to satisfy the number of required parking spaces up to a maximum of 4 percent provided the number of required parking spaces is 25 or more. For example, if the parking standards as applied to a project call for 100 vehicle parking spaces, no more than 4 bicycle parking spaces may be substituted (96 vehicle parking spaces and 4 bicycle parking spaces).
  - (3) Pursuant to the procedures and requirements in Article 5, the Plan Commission may authorize the use of a lesser parking standard for a particular land use as a special exception provided sufficient evidence is provided that shows actual off-street parking demand for that use is less than the standard set forth in Appendix B.
- Q. **Maximum number of spaces.** For land uses located in a business, mixed-use, or industrial zoning district, the number of parking spaces provided in a ground surface parking lot shall not exceed the number of minimum parking spaces by more than 15 percent, except that the Plan Commission may allow more parking spaces above that threshold as a special exception pursuant to the procedures and requirements in Article 5 provided the commission determines that additional spaces are needed for that particular use or location. There shall be no limitation on the number of parking spaces when located in a parking garage or similar structure.
- R. **Mixed-use requirements.** For mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various land uses. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use except when considered shared parking as allowed in this article.
- S. **Compact cars.** Up to 10 percent of the required number of parking spaces may be sized for compact cars. A compact vehicle parking space shall be so designated by a sign or other means approved by the village building inspector.

~~V. **Shared parking.** There may be instances where two or more land uses could share the same parking facilities as shown in Exhibit 13-3. The zoning administrator may, upon written petition, authorize the joint use of parking facilities required by such uses, provided:~~

- ~~(1) the applicant shows that there is no substantial conflict or overlap in the principal operating hours of the building or use for which the joint use of parking facilities is proposed;~~
- ~~(2) the parking facility for which joint use is proposed is located within 500 feet of the building or use required to provide parking;~~
- ~~(3) directional signage is provided where appropriate and allowed; and~~
- ~~(4) pedestrian routes are direct, clear, and safe.~~

~~The parties involved in the joint use of off-street parking facilities shall document their agreement for such joint use by a legal instrument approved by the village attorney as to form and content. Such instrument, when approved as conforming to the provisions of this part, shall be recorded in the office of the Washington County register of deeds and a copy filed with the zoning administrator.~~

**70.1703 – Accessible parking and passenger loading**

- A. ~~**Generally.** Accessible parking spaces shall be provided subject to this part; the Americans with Disability Act (ADA), as may be amended; and the ADA Standards for Accessible Design 28 CFR 36, revised as of July 1, 1994 as may be amended.~~
- B. ~~**Number required.** If parking spaces are required, then accessible spaces shall be provided in addition to the required number of regular spaces in the quantity as shown in Exhibit 14-4. One of 8 accessible parking spaces, but always at least one, must be van-accessible.~~
- C. ~~**Location.** Accessible spaces serving a particular building shall be located on the shortest accessible route of travel between the parking and the accessible entrance. When there are multiple entrances to a building of similar prominence (e.g., shopping mall) with near-by parking, accessible spaces shall be dispersed and provided at each location. In parking facilities that do not serve a particular building,~~

~~accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.~~

- ~~D. **Dimensions.** Accessible parking spaces shall be at least 96 inches wide.~~
- ~~E. **Vertical clearance.** For van-accessible parking spaces, a 98-inch high clearance shall be maintained above the space, access aisle, and on the route to and from the van-accessible space.~~
- ~~F. **Maximum slope.** Accessible spaces and adjoining access aisles shall have a maximum slope of 1:50 in all directions. When accessible spaces are provided in an existing parking lot, the spaces shall be located on the most level surface close to the accessible building entrance.~~
- ~~G. **Signage.** Each accessible space shall be so designated with a sign identified by the international symbol of accessibility mounted on a vertical pole. In addition, van-accessible spaces shall be so designated with a sign indicating "Van Accessible." Such signs shall be located so they cannot be obscured by a vehicle parked in the space (at least 6 feet in height).~~
- ~~H. **Pavement striping and markings.** The boundary of the access aisle must be marked and the end of which may be squared or a semicircle. Additional pavement markings denoting the space are optional.~~
- ~~I. **Accessible route.** An accessible route must be provided from the accessible parking space to the accessible entrance of the building. It shall be at least 36 inches wide, without steps or curbs. It shall be paved and not contain any feature that would restrict, inhibit, or unreasonably impeded the movement of a physically disabled individual.~~
- ~~J.A. **Access aisle.** An access aisle for an accessible space shall be the same length as the adjacent parking space it serves and be at least 60 inches wide for car access and 96 inches wide for van accessibility. Two adjoining accessible parking spaces may share a common access aisle (Exhibit 14-5). An access aisle for a passenger loading zone shall be 60 inches wide and 20 feet long and adjacent and parallel to the space.~~

**70.1703 Off-street loading berths**

- A. **Generally.** Off-street loading berths are required for new buildings and building expansions with any use that receives deliveries or makes shipments from large trucks including retail stores, manufacturing, warehousing, processing, offices, health care centers, and schools (Exhibit 14-2).
- B. **Dimensional standards.** A loading berth shall comply with the dimensional standards in Exhibit 14-3. The minimum vertical clearance also applies to all areas providing access to the loading berth.
- C. **Location.** A loading berth shall not be located on the front of the building, except when entirely located within the building and the access door is integrated into the overall design of the building. A loading berth shall not be located within a required side yard setback area. A loading berth shall not be located within a public road right-of-way or interfere with the intended use of a public road right-of-way. A loading berth or access to a loading berth shall not interfere with onsite traffic or pedestrian circulation or on-site parking.
- D. **Surfacing.** A loading berth shall be hard surfaced (e.g., pervious concrete, asphaltic concrete, pavers, or similar product). If it is not possible to hard surface a loading berth between November 1 and April 1, the village building inspector may issue an occupancy permit provided the property owner and zoning administrator enter into a written agreement that requires completion no later than June 1.
- E. **Marking.** A loading berth shall be clearly marked.

**Exhibit 14-3. Minimum number of loading berths**

Floor area	Minimum number of loading berths
6,000 to 12,499 square feet	1 small berth
12,500 to 24,999 square feet	2 small berths
25,000 to 39,999 square feet	1 large berth
40,000 to 99,999 square feet	2 large berths
100,000 square feet or more	2 large berths plus 1 large berth for each additional 80,000 square feet over 100,000 square feet

**Exhibit 14-2. Dimensions of loading berths by type**

Type	Minimum width	Minimum length	Minimum overhead clearance
Small berth	10 feet	25 feet	14 feet
Large berth	12 feet	50 feet	14 feet

- F. **Use.** A loading berth shall only be used for loading and unloading of vehicles.
- G. **Drainage.** A loading berth shall be graded for proper drainage.
- H. **Outdoor lighting.** Outdoor lighting for a loading berth shall comply with the requirements set forth in Chapter 234 of the municipal code.
- I. **Screening.** The reviewing authority may require screening (e.g., landscaping, berm, fence, or any combination) when the use of the loading berth has the potential of negatively impacting adjoining residential uses.
- J. **Minimum number of loading berths.** Those buildings subject to this section shall provide one or more loading berths as specified in Exhibit 13-7.

**70.1704 — Bicycle parking**

~~A. **Generally.** Bicycle parking may be provided consistent with the recommended standards contained in Exhibit 13-8.~~

~~Exhibit 13-8. Recommended number of bicycle parking spaces~~

<del>Land use</del>	<del>Number of recommended spaces</del>
<del>Primary or secondary school</del>	<del>10 percent of the number of students, plus 3 percent of the number of employees</del>
<del>College or university</del>	<del>6 percent of the number of students, plus 3 percent of the number of employees</del>
<del>Dorms, fraternities, sororities</del>	<del>1 space per 3 students</del>
<del>Shopping mall</del>	<del>5 percent of the number of required vehicle parking spaces</del>
<del>Office</del>	<del>5 percent of the number of required vehicle parking spaces</del>
<del>Governmental</del>	<del>10 percent of the number of required vehicle parking spaces</del>
<del>Movie theater</del>	<del>3 percent of the number of required vehicle parking spaces</del>
<del>Restaurant</del>	<del>3 percent of the number of required vehicle parking spaces</del>
<del>Manufacturing / industrial</del>	<del>3 percent of the number of required vehicle parking spaces</del>
<del>Other</del>	<del>3 to 7 percent of the number of required vehicle parking spaces</del>

- ~~B. **Location.** Bicycle parking shall be located in visible and prominent locations near the building entrance and shall be as close, or closer to the entrance than the nearest parking space. Under no circumstance should bicycle parking be more than 100 feet from the building entrance. Where there is more than one building on a site, or where a building has more than one main entrance, the parking shall be distributed to serve all buildings or main entrances. If possible, racks should be protected from the elements by an awning, overhang, or similar covering. Racks shall not be placed so they block the entrance or inhibit pedestrian flow in or out of the building.~~
- ~~C. **Design.** Bicycle parking areas should be incorporated into the overall building design, parking lot layout, and pedestrian circulation and coordinated with street furniture (e.g., benches, street lights, planters) when it is part of the overall project.~~
- ~~D. **Accessibility.** Each bicycle parking space shall be accessible without moving another bicycle. In most circumstances, a space 2 feet by 6 feet is adequate. When needed, an aisle at least 5 feet wide shall be provided. (Exhibit 13-9)~~
- ~~E. **Lighting.** Bicycle parking spaces shall have adequate lighting to promote security and avoid vandalism and theft.~~
- ~~F. **Rack design.** Bicycle parking may be provided in floor, wall, or ceiling mounted racks. Racks should meet the following requirements:
 
  - ~~(1) The rack holds the bicycle frame, not just a wheel.~~
  - ~~(2) A U-shaped shackle lock can be used to secure the bicycle to the rack.~~
  - ~~(3) The rack is designed to accommodate a wide range of bicycle sizes, wheel sizes, and types.~~~~

~~(4) The rack is covered with material that will not chip the paint off of a bicycle that leans against it.~~

~~(5) The rack does not have hazards, such as sharp edges.~~

~~The rack is securely fastened to the ground, a wall, or other solid surface.~~

70.1704 to 70.1799 Reserved

**Chapter 70 – Zoning**  
**Table of Contents**  
(Draft March 16, 2020)

**Article**

1. General Provisions	1	-	49
2. Interpretation, Construction, and Definitions	50	-	99
3. Administrative Bodies			
Division 1 – Plan Commission	100	-	119
Division 2 – Architectural Review Board	120	-	149
Division 3 – Zoning Board of Appeals	150	-	169
Division 4 – Zoning Administrator	170	-	199
4. General Procedural Requirements			
Division 1 – Generally	200	-	229
Division 2 – Notice Requirements	230	-	249
Division 3 – Public Hearings	250	-	269
Division 4 – Site Visits	270	-	279
Division 5 – Financial Guarantees	280	-	299
5. Specific Procedural Requirements			
Division 1 – Code Amendment	300	-	319
Division 2 – Planned Development District	320	-	349
Division 3 – Conditional Use	350	-	369
Division 4 – Wireless Telecommunication Facility	370	-	389
Division 5 – Site Plan and Plan of Operation	390	-	419
Division 6 – Architectural Review	420	-	439
Division 7 – Special Exception	440	-	459
Division 8 – Zoning Permit	460	-	479
Division 9 – Floodplain Permit	480	-	499
Division 10 – Berm Permit	500	-	519
Division 11 – Temporary Use – 30 Days or Less	520	-	539
Division 12 – Temporary Use – More than 30 Days but Less than 90 Days	540	-	559
Division 13 – Termination of approval	560	-	579
Division 14 – Registration of a Nonconforming Use	580	-	599
Division 15 – Conversion of a Nonconforming Use	600	-	619
Division 16 – Expansion of a Nonconforming Building	620	-	639
Division 17 – Rural Accessory Building Determination	640	-	659
Division 18 – Code Interpretation	660	-	679
Division 19 – Administrative Appeal	680	-	699
Division 20 – Variance	700	-	799
6. Zoning Districts and Land Use			
Division 1 – General Provisions	800	-	819
Division 2 – Zoning Districts and Zoning Map	820	-	839
Division 3 – Allowable Land Use	840	-	859

Division 4 – Dimensional and Related Standards	860	-	899
Division 5 – Environmental and Engineering Standards	900	-	919
Division 6 – General Standards	920	-	939
Division 7 – Performance Standards	940	-	959
Division 8 – Site Design Standards	960	-	979
Division 9 – Architectural Standards	980	-	999
7. Alternative Development Options			
Division 1 – Conventional Planned Unit Development	1000	-	1039
Division 2 – Conservation Subdivision	1040	-	1059
Division 3 – Adaptive Reuse	1060	-	1099
8. Specific Planned Development Districts	1100	-	1199
9. Floodplain Overlay District			
Division 1 – General Provisions	1200	-	1209
Division 2 – Maps and Districts	1210	-	1219
Division 3 – General Provisions Applicable to all Floodplain Districts	1220	-	859
Division 4 – Floodway District	1230	-	1239
Division 5 – Floodfringe District	1240	-	1249
Division 6 – General Floodplain District	1250	-	1259
Division 7 – Flood Storage District	1260	-	1269
Division 8 – Administration	1270	-	1279
Division 7 – Nonconformities	1280	-	1299
10. Shoreland-Wetland Overlay District	1300	-	1399
11. Shoreland Overlay District	1400	-	1499
12. Environmental Corridor Overlay District	1500	-	1599
13. Landscaping and Buffers	1600	-	1699
14. Parking and Loading Facilities	1700	-	1799
15. Nonconformities	1800	-	1899
16. Reasonable Accommodations	1900	-	1999
17. Enforcement	2000	-	2099

## Appendix

---

- A. Land Use Matrix
- B. Land Uses
- C. General Dimensional Standards
- D. Dimensional Standards in Planned Development Districts
- E. General Definitions
- F. Mapping Requirements

**CHAPTER 70  
ZONING****ARTICLE 1  
GENERAL PROVISIONS****70.01 Title**

This chapter shall be known as "Zoning" and may be referred to herein as "this chapter."

**70.02 Authority**

This chapter is adopted under the authority granted under ss. 60.62, 61.35, and 62.23, Wis. Stats., as amended.

**70.03 Jurisdiction**

This chapter shall only apply to that land lying within the corporate limits of the Village of Richfield, Washington County, the boundary of which may change over time through annexations and detachments.<sup>[1]</sup>

**Editorial notes:**

[1] An annexation removes land from a town and adds it to a city or village. A detachment removes land from a city or village and adds it to a town or to another city or village.

**70.04 Legislative findings**

A. **General findings.** The Village Board makes the following legislative findings:

- (1) The Village Board adopted a comprehensive plan pursuant to s. 66.1001, Wis. Stats., and has made various amendments since then.
- (2) This chapter is intended to be consistent with the overall intent of the village's comprehensive plan, as may be amended.

B. **Other findings.** Other legislative findings are included in various articles, divisions, and sections of this chapter as may be appropriate.

**70.05 Purpose**

A. **General purpose.** This chapter promotes the public health, safety, and welfare and is intended to:

- (1) implement the goals, objectives, and policies of the village's comprehensive plan to the greatest extent practicable;
- (2) encourage the most appropriate use of land throughout the village;
- (3) conserve the value of buildings;
- (4) establish clear and consistent standards, regulations, and procedures for the review of proposed development as may be regulated by this chapter; and
- (5) establish minimum standards for the use or development of land within the village.

B. **Specific purposes.** Consistent with s. 62.23(7), Wis. Stats., this chapter is also intended to:

- (1) secure safety from fire, panic, and other dangers;
- (2) promote health and general welfare;
- (3) provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems;
- (4) encourage the protection of groundwater resources;
- (5) prevent the overcrowding of land;

- (6) avoid undue concentration of population;
  - (7) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and
  - (8) preserve burial sites, as defined in s. 157.70(1)(b), Wis. Stats.
- C. **Other purposes.** Other purposes may be included in various articles, divisions, and sections as may be appropriate.

#### **70.06 Re-enactment and repeal**

This chapter carries forward by re-enactment some of the provisions of the regulations governing zoning and related matters which the Village Board adopted under authority of state law prior to the effective date of this chapter. This chapter is not intended to repeal those regulations in their entirety, but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced, unless explicitly surrendered by specific provisions of this chapter. If a provision in the regulations which were in effect on the date this chapter became effective is not specifically carried forward in this chapter, such provision is repealed. As to the effect of this section on existing land uses refer to Article 15.

#### **70.07 Compliance**

- A. **Generally.** Except as specifically provided, the provisions of this chapter shall apply to all development within the Village of Richfield. No development shall be undertaken without the prior authorizations required by this chapter and other applicable rules and regulations of the Village of Richfield.
- B. **Exception for a previously granted permit or other approval.** If a permit or other approval has been previously granted and the authorized work, in whole or in part, is no longer allowed under the current zoning regulations, the holder of the permit is authorized to establish the use or undertake the authorized work within one year of the date of the approval. If the authorized work does not commence within that time period and continue in good faith to completion, such permit or other approval shall lapse and be null and void.
- C. **Exception for the establishment of a use, structure, or building not requiring authorization.** If prior to the adoption of this chapter, or amendment thereto, a lawful land use, structure, or building is actively being established that did not require a permit or other approval under the zoning regulations in effect at that time, said work may continue to completion even when such land use, structure, or building (1) now requires a permit or other authorization under this chapter, (2) is being developed contrary to this chapter, or (3) is otherwise prohibited under this chapter. If such work does not continue in good faith to completion, any work must thereafter conform to this chapter.

#### **70.08 Liability**

The Village of Richfield and its officials, agencies, employees, agents, and assigns shall not be liable for any flood damage, sanitation problems, structural damage, or other damages or loss of property value that may occur as a result of reliance upon and conformance with this chapter.

#### **70.09 Severability**

- A. If any section, clause, provision, or portion of this chapter is determined to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected by such ruling.
- B. If any application of this chapter to a particular structure or parcel is determined to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not apply to any other structure or parcel not specifically included in the ruling.

**70.10 Relationship of this chapter to other regulations**

In addition to meeting the requirements contained in this chapter, development shall comply with all applicable regulations of federal and state agencies. In all cases, the strictest of the applicable provisions shall apply.

**70.11 Relationship of this chapter to private agreements**

This chapter is not intended to repeal, abrogate, annul, impair, or interfere with any easement, covenant, deed restriction, or other private agreement governing land development. However, when this chapter imposes a greater restriction than the aforementioned, the provisions of this chapter shall apply.

**70.12 Additional local regulations**

In addition to meeting the regulations contained in this chapter, development shall comply with all applicable regulations in the municipal code, including the following and any amendments thereto:

- (1) Chapter 66 – Subdivision Regulations
- (2) Chapter 119 – Animal Waste Storage Facilities
- (3) Chapter 135 – Building Construction
- (4) Chapter 143 – Business Licenses and Permits
- (5) Chapter 167 – Erosion Control and Stormwater Management (Groundwater Protection)
- (6) Chapter 212 – Impact Fees
- (7) Chapter 234 – Outdoor Lighting
- (8) Chapter 248 – Mobile/Manufactured Homes
- (9) Chapter 286 – Property Maintenance
- (10) Chapter 309 – Signs

In all cases, the strictest of the applicable provisions shall apply.

**70.13 No defense to nuisance action**

Compliance with the standards and requirements in this chapter shall not constitute an absolute defense to an action to abate a public or private nuisance.

**70.14 Applicability to public entities**

This chapter shall apply to all publicly-owned land to the fullest extent allowed by state and federal law. When a public entity undertakes any development that is exempted by state or federal law from this chapter, in whole or in part, it is strongly encouraged to meet the provisions of this chapter.

**70.15 Relief from other provisions**

Nothing in these provisions shall relieve any person from satisfying any condition or requirement associated with a previous approval issued under this chapter, or any local, state, or federal law or requirement.

**70.16 Applicability to projects under the purview of the Public Service Commission**

This chapter shall apply to projects under the purview of the Wisconsin Public Service Commission (PSC) to the fullest extent allowed by state law.<sup>(1)</sup> The Plan Commission or the Village Board, or both, may submit a written request to the PSC outlining those standards and/or requirements of this chapter that the PSC should impose as conditions of project approval, if approval is to be granted.

**Editorial notes:**

[1] See s. 196.491(3)(j), Wis. Stats., and also American Transmission Co., LLC v. Dane County, 2009 WI App. 126

**70.17 Repeal of conflicting provisions**

All other ordinances or parts of ordinances of the village that are inconsistent or conflicting with this chapter, to the extent of the inconsistency only, are hereby repealed.

**70.18 Copyright protection**

This chapter contains images that are copyright protected and are denoted as such. All such images are used with permission of the copyright holder for the exclusive purposes of this chapter. Any images subject to copyright protection may be reproduced as part of this chapter and are subject to the open records law of Wisconsin, but may not be used in other works without the permission of the copyright holder.

**70.19 to 70.49 Reserved**

## ARTICLE 2 INTERPRETATION, CONSTRUCTION AND DEFINITIONS

### 70.50 General rules

- A. **Generally.** In the interpretation and application of this chapter, all provisions shall be liberally construed in favor of the Village so the true intent and meaning of this chapter is carried out as set forth in s. 70.05.
- B. **Minimum requirements.** The interpretation and application of any provision of this chapter shall be held to be the minimum requirement adopted for the promotion of the public health, safety, and general welfare and not be deemed a limitation or repeal of any other power granted by state statute.

### 70.51 Interpretation

In the event a question arises concerning any provision or the application of any provision of this chapter, interpretations shall be issued consistent with Article 5.

### 70.52 Delegation of authority

If a provision in this chapter states that an elected official, department supervisor, or some other employee is to perform some act, such individual may designate, delegate, or authorize a subordinate to perform the act unless state law or the provision clearly specifies otherwise.

### 70.53 Internal conflicts

More specific provisions of this chapter shall be followed in lieu of more general provisions unless the context otherwise requires. Additionally, the most restrictive provisions shall apply.

### 70.54 Website

The Village may create and maintain a website to share the key aspects of this chapter, including the zoning map, in an interactive platform. If there is any discrepancy between such website and this chapter, this chapter controls.

### 70.55 Use of graphics, illustrations, headings, references, and ~~commentary editorial~~ notes

- A. **Purpose.** Graphics, illustrations, headings, references, statutory citations, and ~~commentary editorial~~ notes are included to improve the readability of this chapter and increase reader comprehension. Specifically, graphics and illustrations are included to help the reader visualize the meaning of the text. Headings and subheadings generally state the content of that section and are intended to help the reader quickly find information. References are included when the section is related to a state or local law or another section in this chapter. These are included to help the reader understand the relationship among various provisions. ~~Commentary-Editorial~~ notes are included to supplement and/or further clarify a sentence or provision but are not part of this chapter.
- B. **Interpretation.** A graphic, illustration, heading, reference, statutory citation, or commentary note shall not govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision.
- C. **Effect of deficiency.** Because the text controls, no provision shall be held invalid by reason of any deficiency in any graphic, illustration, heading, reference, statutory citation, or ~~commentary editorial~~ note.

### 70.56 Reference to state and federal law

If a provision in this chapter references a specific state or federal law, such reference shall be interpreted to mean the most current version of the referenced section at the time the reference is applied. If a referenced section is repealed and replaced by another section with comparable subject matter, the replacement

section shall control. If a referenced section is repealed and not replaced, the repealed section shall control if it is determined by the village attorney that the village has the authority to apply the repealed language.

#### 70.57 Interpretation of boundaries and designations for zoning districts

A. **Boundary line interpretations.** Interpretations regarding boundaries of zoning districts shall be made in accordance with the following rules:

- (1) **Political boundaries.** Boundaries shown as following, or approximately following, any political boundary shall be construed as following such line.
- (2) **Section lines.** Boundaries shown as following, or approximately following, a section line, half-section line, or quarter-section line shall be construed as following such line.
- (3) **Centerlines.** Boundaries shown as following, or approximately following, any railroad, alley, road, street, highway, or similar feature shall be construed as following the centerline of such feature.
- (4) **Property lines.** Boundaries shown as following, or approximately following, any platted lot line or other property line shall be construed as following such line. In the event adjoining property owners transfer land as allowed by state law and both of the original lots were in different zoning districts, the zoning district boundary line can only be changed with a revision of the zoning map as set forth in Article 5.
- (5) **Natural boundaries.** Boundaries shown as following, or approximately following, any natural feature such as a stream, river, canal, other bodies of water, or topographical features, such as a watershed boundary, shall be construed as following such natural feature as verified by field inspection when necessary.

In the event there is a question as to the location of a zoning district boundary, the Plan Commission shall review such matter at a regular or special meeting and render a decision.

B. **Street abandonment.** In the event a public road, street, or alley is officially vacated or abandoned, the zoning provisions applicable to the land to which it reverted shall apply to such vacated or abandoned road, street, or alley, unless otherwise provided by village action.

#### 70.58 General rules of interpretation

In the construction of this chapter, the following shall be observed, unless such construction would be inconsistent with the text or with the manifest intent of this chapter:

- (1) **Gender.** Words of the masculine gender include the feminine and neuter, and vice versa.
- (2) **Singular and plural words.** Words in the singular include the plural and words in the plural include the singular.
- (3) **Tense.** Words in the present tense include the past and future tense, and the future tense includes the present tense.
- (4) **"Must", "shall" and "will".** The words "must", "shall" and "will" imply a mandatory condition.
- (5) **"May" or "should".** The words "may" and "should" imply a permissive condition.
- (6) **"Includes" or "including".** The words "includes" or "including" shall not limit a provision to the specific example(s) listed, but are intended to extend their meaning to all other instances or circumstances of like kind or character.
- (7) **"Such as".** The phrase "such as" shall not limit a provision to the specific example(s) listed, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (8) **Conjunctions.** When used at the end of a series, the word "and" indicates that all listed items apply. When the word "or" is used at the end of a series, it indicates that one or more of the listed items apply.

**70.59 Computation of time**

When a time period is specified in this chapter, the first day of the period shall be the first day after the event that triggered the time clock to start. If the last day of the time period is a Saturday, Sunday, or a legal holiday recognized by the state of Wisconsin, that day shall be excluded and the time period shall be extended to the next business day.

**70.60 Land use descriptions**

For the purpose of chapter, land uses that are permissible in one or more of the zoning districts are described as set forth in Appendix B. For organizational purposes, similar land uses are grouped together to form a series. The first 17 series are for principal land uses, accessory land uses are found in Series 18, and temporary land uses are found in Series 19.

**70.61 General definitions**

- A. **Words and phrases not defined.** Unless specifically defined in this section, words and phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.
- B. **Words and phrases defined.** For the purpose of this chapter, certain words and phrases are defined in Appendix E and shall have the meaning ascribed to them, except where the context clearly indicates a different meaning.

**70.62 to 70.99 Reserved**

- DRAFT March 16, 2020 -

**ARTICLE 3  
ADMINISTRATIVE BODIES****DIVISION 1  
PLAN COMMISSION****70.100 Establishment**

A Plan Commission is established pursuant to s. 62.23(1), Wis. Stats., to undertake the responsibilities as defined in this chapter and as allowed by state law.

**70.101 Authority**

- A. **Generally.** The Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote the proper planning for the Village of Richfield, whether enumerated in this section or not.<sup>[1]</sup>
- B. **Right to enter property.** The Plan Commission, along with its individual members and authorized agents, may enter upon land which is the subject of a pending application it has authority to act on as set forth in s. 70.05.<sup>[2]</sup>
- C. **Staff.** The Plan Commission may employ, or contract for the services of, such professional planning technicians and staff as are considered necessary for the discharge of the duties and responsibilities of the commission, provided such expense does not exceed the appropriation that may be made for the commission by the Village Board for such purpose.<sup>[3]</sup>
- D. **Comprehensive plan.** The Plan Commission may by resolution recommend to the Village Board the adoption of or amendment to a comprehensive plan.<sup>[4]</sup>
- E. **Code amendments.** The Plan Commission shall act on proposed amendments of this chapter as set forth in Article 5.
- F. **Development review.** The Plan Commission shall render decisions and recommendations relating to development applications required by this chapter.
- G. **Interpretation of this code.** The Plan Commission shall act on interpretations of this chapter as set forth in Article 5.

**Editorial notes:**

- [1] See s. 62.23(4), Wis. Stats  
[2] See s. 62.23(4), Wis. Stats  
[3] See s. 62.23(1)(e), Wis. Stats  
[4] See s. 62.23(2), Wis. Stats.

**70.102 Composition and appointment of members**

- A. **Number and appointment.** The Plan Commission shall consist of 7 regular members, 5 of whom are residents of the Village who do not hold an elected office in the Village and are appointed by the Village Board. Subject to the confirmation of the Village Board, the village president shall appoint the two other members. One or both of such appointees may be Village Board members. The village president may include himself/herself as one of the Village Board member appointees.
- B. **Terms.** Each citizen member shall be appointed to a 3-year term.<sup>[1]</sup> Initial appointments in May 2008 shall be staggered as determined by the Village Board. The term of a village trustee shall be for one year and can be reappointed for consecutive terms without limitation. The term of the village president shall coincide with his or her elected term.
- C. **Considerations in making citizen appointments.** Citizen members shall be persons of recognized experience and qualifications and shall be residents of the Village of Richfield.<sup>[2]</sup>
- D. **Conditions for removal.** A citizen member shall be removed from the Plan Commission and the member's office declared vacant when the member moves outside of the village. If the village president or a village trustee serving on the commission resigns or is removed from his or her office, or his or her term expires, his or her term on the commission shall automatically terminate.

**Editorial notes:**

- [1] See s. 62.23(1)(d), Wis. Stats.  
[2] See s. 62.23(1)(a), Wis. Stats.

**70.103 Officers**

The village president may also be the chairperson of the Plan Commission or may appoint a citizen member as chair, for a one-year term in that capacity. The Plan Commission shall elect a vice chair annually in June. If the chairperson is absent for a meeting, the vice chair shall preside over the meeting. The commission may create and fill other offices.

**70.104 Commission procedures**

The Plan Commission may adopt rules of procedure to carry out its purposes. All such rules shall conform to this chapter, other village regulations, and state law and shall be filed in the office of the village clerk.<sup>[1]</sup>

**Editorial notes:**

- [1] See s. 62.23(2), Wis. Stats.

**70.105 Meetings**

Meetings of the Plan Commission are open to the public unless conducted in close session as authorized by state law. All meetings, except site visits, shall be conducted in the village hall or in such other public place as may be selected by the commission.

**70.106 Meeting minutes**

The Plan Commission shall keep minutes of its proceedings. The commission may amend previously adopted minutes provided such revision is based on substantive evidence.

**70.107 Schedule of meetings**

Meetings of the Plan Commission are held at the call of the chairperson of the commission and at such other times as the commission may determine.

**70.108 Voting and quorum**

- A. **Requirements for quorum.** A quorum of the Plan Commission shall consist of 4 voting members. If there is not a quorum present, the fact shall be entered in the minutes, and the meeting adjourned.
- B. **Requirements for voting.** Unless otherwise specifically stated, a decision of the Plan Commission shall be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.
- C. **Disqualification or voluntary abstention.** A member of the Plan Commission shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present when (1) the member has a direct financial interest in the outcome of the matter at issue; (2) the member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; (3) the member would violate the code of ethics set forth in ch. 19 Wis. Stats., or any ethics code as may be adopted by the village; (4) participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or (5) another law precludes participation.

**70.109 Compensation of members**

The Village Board shall establish annually the compensation to be paid to members to defray expenses related to service on the Plan Commission.

**70.110 Official oath**

Citizen members of the Plan Commission shall take the official oath as required by s. 19.01, Wis. Stats. The village clerk shall keep a copy of such oaths.

**70.111 to 70.119 Reserved****DIVISION 2  
ARCHITECTURAL REVIEW BOARD****70.120 Establishment**

An Architectural Review Board is established to undertake the responsibilities as defined in this chapter and as allowed by state law.

**70.121 Authority**

The Architectural Review Board shall have the powers and duties of hearing, reviewing and acting upon items as brought forward by the zoning administrator and/or building inspector, to provide recommendation to the Plan Commission. The Board may call upon the review of other specialists, at the cost of the applicant, to determine the integrity and validity of the building and/or project. The Village Board may delegate other duties and responsibilities to this board on an as-needed basis.

**70.122 Composition and appointment of members**

The Architectural Review Board shall consist of 5 members. The village president, subject to confirmation by the Village Board, shall appoint one member, and the Village Board shall appoint the other 4 members. No more than one of the appointees may be a Village Board member. No more than one of the appointees may be a Plan Commission member. Initial appointments shall be staggered as determined by the Village Board. At least one member shall be an architect. The remaining 4 members shall have experience in, but not limited to, the following fields: architectural products, real estate, construction, development, design or other specialties involving architectural design, site plan/technical specification reading and interpretation, development finances, etc.

**70.123 Officers**

The person appointed by the village president, subject to the confirmation by the Village Board, will serve as the chairperson. If the chairperson is absent for a meeting, the zoning administrator or his or her designee shall call the meeting to order and the Board shall elect a chair for that meeting.

**70.124 Board procedures**

The Architectural Review Board may adopt rules of procedure to carry out its purposes. All such rules shall conform to this chapter, other village regulations, and state law and shall be filed in the office of the village clerk.

**70.125 Meetings**

Meetings of the Architectural Review Board are open to the public unless conducted in close session as authorized by state law. All meetings shall be conducted in the village hall or in such other public place as may be selected by the board.

**70.126 Meeting minutes**

The Architectural Review Board shall keep minutes of its proceedings. The board may amend previously adopted minutes provided such revision is based on substantive evidence.

**70.127 Schedule of meetings**

Meetings of the Architectural Review Board are held at the call of the chairperson of the board and at such other times as the board may determine.

**70.128 Voting and quorum**

- A. **Requirements for quorum.** A quorum of the Architectural Review Board shall consist of 3 voting members. If there is not a quorum present, the fact shall be entered in the minutes, and the meeting adjourned.
- B. **Requirements for voting.** Unless otherwise specifically stated, a decision of the Architectural Review Board shall be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.
- C. **Disqualification or voluntary abstention.** A member of the Architectural Review Board shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present when (1) the member has a direct financial interest in the outcome of the matter at issue; (2) the member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; (3) the member would violate the code of ethics set forth in ch. 19. Wis. Stats., or any ethics code as may be adopted by the village; (4) participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or (5) another law precludes participation.

**70.129 Meetings**

Meetings of the Architectural Review Board are open to the public unless conducted in close session as authorized by state law.<sup>[1]</sup> Meetings shall be conducted in the village hall or in such other public place as may be selected by the board.

**Editorial notes:**

[1] See s. 62.23(7)(e)(3), Wis. Stats.

**70.130 Meeting minutes**

The Architectural Review Board shall keep minutes of its proceedings, showing the vote of each voting member on each question, or, if absent or failing to vote, indicating such fact.<sup>[1]</sup> The board may amend previously adopted minutes provided such revision is based on substantive evidence.

**Editorial notes:**

[1] See s. 62.23(7)(e)(3), Wis. Stats.

**70.131 Schedule of meetings**

Meetings are held at the call of the chairperson of the Architectural Review Board and at such other times as the Architectural Review Board may determine.

**70.132 Compensation of members**

The Village Board shall establish annually the compensation to be paid to members to defray expenses related to service on the Board.

**70.133 Official oath**

Citizen members of the Architectural Review Board shall take the official oath as required by s. 19.01, Wis. Stats. The village clerk shall keep a copy of such oaths.

**70.134 to 70.149 Reserved****DIVISION 3  
ZONING BOARD OF APPEALS****70.150 Establishment**

A Zoning Board of Appeals is established pursuant to s. 62.23(7)(e), Wis. Stats., to undertake the responsibilities as defined in this chapter and state law.

**70.151 Authority**

- A. **Administrative appeals.** The Zoning Board of Appeals shall hear and decide administrative appeals consistent with the requirements in Article 5 where it is alleged that the zoning administrator or building inspector (1) failed to act as required by this chapter; (2) made an error in issuing a permit or in denying an application; (3) made an error in enforcement; or (4) made an error in an interpretation or any other determination. In exercising these powers, the board may compel the administrative official to act as required or reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination being appealed and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.
- B. **Variations.** The Zoning Board of Appeals shall hear and decide variations consistent with the requirements in Article 5.
- C. **Right to enter.** The Zoning Board of Appeals, its individual members, employees, and authorized agents, may enter upon land which is the subject of a pending application as set forth in s. 70.203.
- D. **Amendments to this code.** The Zoning Board of Appeals may recommend amendments to this chapter if deems advisable.

**70.152 Authority of chairperson**

The chairperson of the Zoning Board of Appeals or acting chairperson may administer oaths and compel the attendance of witnesses.<sup>[1]</sup>

**Editorial notes:**

[1] See s. 62.23(7)(e)(3), Wis. Stats.

**70.153 Composition and appointment of members**

- A. **Number and appointment.** The Zoning Board of Appeals shall consist of 5 regular members as appointed by the village president, subject to confirmation by the Village Board.<sup>[1]</sup>
- B. **Alternates.** The village president, subject to confirmation by the Village Board, shall appoint 2 alternates to the Zoning Board of Appeals for staggered 3-year terms and annually appoint one of them as the first alternate and the other as the second alternate.<sup>[2]</sup>
- C. **Considerations in making appointments.** Regular members and alternate members of the Zoning Board of Appeals shall reside in the Village of Richfield. A village employee shall not serve as a regular member or as an alternate.
- D. **Terms.** Each regular member on the Zoning Board of Appeals shall be appointed to hold office for a period of 3 years, except that for regular members 2 of those first appointed shall serve for one year, 2 for 2 years, and the fifth for 3 years.
- E. **Vacancies.** Vacancies on the Zoning Board of Appeals shall be filled for the unexpired term of any member or alternate whose term becomes vacant.
- F. **Removal.** The village president may remove a regular member or an alternate from the Zoning Board of Appeals.

**Editorial notes:**

- [1] See s. 62.23(7)(e)(2), Wis. Stats.  
[2] See s. 62.23(7)(e)(2), Wis. Stats.

**70.154 Officers**

The village president shall designate one regular member to be the chairperson. The Zoning Board of Appeals may designate other such officers deemed necessary. If the chairperson is absent for a meeting, the zoning administrator or his or her designee shall call the meeting to order and the Board shall elect a chair for that meeting.

**70.155 Board procedures**

The Zoning Board of Appeals may adopt rules of procedure to carry out its purposes. All such rules shall conform to this chapter, other village regulations, and state law and shall be filed in the office of the village clerk.

**70.156 Meetings**

Meetings of the Zoning Board of Appeals are open to the public unless conducted in close session as authorized by state law.<sup>[1]</sup> Meetings, except for site visits, shall be conducted in the village hall or in such other public place as may be selected by the board.

**Editorial notes:**

- [1] See s. 62.23(7)(e)(3), Wis. Stats.

**70.157 Meeting minutes**

The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each voting member on each question, or, if absent or failing to vote, indicating such fact.<sup>[1]</sup> The board may amend previously adopted minutes provided such revision is based on substantive evidence.

**Editorial notes:**

- [1] See s. 62.23(7)(e)(3), Wis. Stats.

**70.158 Schedule of meetings**

Meetings are held at the call of the chairperson of the Zoning Board of Appeals and at such other times as the Zoning Board of Appeals may determine.

**70.159 Voting and quorum**

- A. **Requirements for quorum.** A quorum shall consist of 3 voting members. If there is not a quorum present, the fact shall be entered in the minutes, and the meeting adjourned.
- B. **Requirements for voting.** A decision of the Zoning Board of Appeals shall be by majority vote of the members present at a meeting in which a quorum is in attendance and voting.<sup>[1]</sup>
- C. **Disqualification or voluntary abstention.** A member shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present when (1) the member has a direct financial interest in the outcome of the matter at issue; (2) the member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; (3) the member would violate the code of ethics set forth in ch. 19, Wis. Stats., or any ethics code as may be adopted by the village, (4) participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or (5) another law precludes participation.
- D. **Voting by alternates.** The first alternate may vote only when one of the regular members of the board is absent or is not able to vote on a pending matter. The second alternate may vote only when the first alternate is absent or is not able to vote or when more than one regular member is absent is or is not able to vote.<sup>[2]</sup>

**Editorial notes:**

- [1] See s. 62.23(7)(e)(3m), Wis. Stats.

[2] See s. 62.23(7)(e)(2), Wis. Stats.

#### **70.160 Compensation of members**

The Village Board shall establish annually the compensation to be paid to members to defray expenses related to service on the Board

#### **70.161 Official oath**

Members of the Zoning Board of Appeals shall take the official oath as required by s. 19.01, Wis. Stats. The village clerk shall keep a copy of such oaths.

#### **70.162 to 70.169 Reserved**

### **DIVISION 4 ZONING ADMINISTRATOR**

#### **70.170 Establishment**

The position of zoning administrator is established to undertake the responsibilities as defined in this chapter and state law.

#### **70.171 Appointment**

The village president shall appoint, subject to confirmation by the Village Board, and supervise the zoning administrator.

#### **70.172 Authority**

The zoning administrator shall administer, supervise, and enforce the provisions of this chapter and in furtherance of those duties shall have the authority to:

- (1) meet with applicants to advise them of the requirements of this chapter;
- (2) issue administrative permits;
- (3) revoke or modify any administratively-issued permit or interpretation with reasonable cause;
- (4) keep a written record of permits issued, interpretations made, inspections, work approved, enforcement activities, and other similar official actions;
- (5) prepare staff reports consistent with this chapter and make recommendations as may be required or deemed appropriate;
- (6) work with the village clerk in the preparation of meeting agendas for the Plan Commission and Zoning Board of Appeals and submit them to the appropriate chairperson for review and approval;
- (7) develop, amend, and utilize application forms, checklists, and other forms he or she deems appropriate to administer the development review processes contained in this chapter;
- (8) recommend amendments to this chapter and to other chapters of the municipal code of the Village of Richfield relating to land use and development;
- (9) assist the building inspector and village attorney with enforcement proceedings as may be requested; and
- (10) undertake any other activity not enumerated in this section but necessary to administer and enforce this chapter or any other section of the municipal code of the Village of Richfield as may be appropriate.

**70.173 Conflict of interest**

The zoning administrator and/or authorized designee of the zoning administrator shall not perform work on a proposed or approved development project in which he or she has a direct financial interest in the outcome of the matter at issue or otherwise has a conflict of interest.

**70.174 to 70.199 Reserved**

**ARTICLE 4  
GENERAL PROCEDURAL REQUIREMENTS**

**DIVISION 1  
GENERALLY**

**70.200 Legislative findings**

The Village Board makes the following legislative findings:

- (1) Development review procedures should be easily understood and well-structured, and only involve those steps and requirements that are needed to properly review the application. Excessive procedural requirements add unnecessary costs to development projects.
- (2) The general public, property owners in the area, and affected agencies have a right to know about proposed development projects and have meaningful participation in the review process to the extent allowed or required by this chapter.
- (3) Enforcing the rules and regulations contained in this chapter is an important function of government.

**70.201 Purpose**

The development review requirements and procedures in this chapter are intended to:

- (1) provide efficient and timely review of applications and ensure fairness and due process,
- (2) ensure that applications are reviewed consistently by establishing criteria in making recommendations and final decisions, and
- (3) ensure complete and timely compliance.

**70.202 Authority to file an application**

Unless otherwise specified in this chapter, the owner of the property or a person having the power of attorney for the property owner shall sign the application submitted for review. A person signing an application under the authority of a power of attorney shall include a copy of the power of attorney with the application.

**70.203 Permission to enter subject property**

Submission of an application as may be required in this chapter authorizes village officials and employees, or other designated agents to enter the subject property to verify information in the application and to conduct other site investigations as may be necessary to review the application. This does not authorize any individual to enter any building on the subject property in the absence of the property owner or his or her authorized agent. Failure to allow access to the subject property is sufficient grounds to deny the application.

**70.204 Burden of proof**

- A. **During application review process.** During the application review process, the applicant has the burden of proof to show that the application should be approved based on the decision criteria relating to that application.
- B. **During appeal of an administrative decision.** During an administrative appeal proceeding, the petitioner has the burden of proof to show that such decision is not consistent with this chapter.
- C. **During enforcement proceedings.** During an enforcement proceeding, the zoning administrator or administrative unit taking enforcement action has the burden of proof to show that the action or development is in violation of this chapter.

**70.205 Effect of an outstanding violation**

If the zoning administrator determines that a parcel is in violation of this chapter, no permit or approval of any kind shall be granted under this chapter that would benefit such parcel, except to correct the violation or as may be required by state law.

**70.206 Effect of an outstanding obligation**

No permit or approval of any kind shall be granted under this chapter that would benefit a parcel for which taxes, assessments, special assessments, or other required payments are delinquent and unpaid.

**70.207 Concurrent review**

To the extent possible, a development project requiring multiple reviews should be done concurrently. When one approval is a condition precedent to approval of another application, the approvals shall be issued in the requisite order.

**70.208 Application fees and other charges**

- A. **Assessment of fees.** From time to time, the Village Board may by resolution establish application fees and other charges it deems necessary in the administration of this chapter.
- B. **After the fact fees.** The Village Board may establish an "after-the-fact" fee for any procedure it deems appropriate. Payment of such fees shall not release the applicant from full compliance with this chapter nor from prosecution for a violation of this chapter.
- C. **Timing for payment.** Application fees shall be paid at the time the application is submitted for review.
- D. **Refunds.** Application fees are nonrefundable, except when the application and fee were accepted by the zoning administrator or village staff in error.

**70.209 Charge back of professional service fees**

- A. **Generally.** When specifically authorized by this chapter and pursuant to s. 66.0628, Wis. Stats., an applicant shall be responsible for paying the professional service fees of individuals or private firms the Village Board elects to hire to assist in the review of a submitted application. Such fees may cover time, materials, and other related expenses of attorneys, planners, engineers, and other specialists, and their support staff. Payment of fees is required whether the application is approved or not.
- B. **Upfront payment.** The applicant shall submit an upfront payment established by the village when submitting an application. In the event the amount in the escrow account is not anticipated to cover related costs, the applicant shall promptly submit additional funds. In the event, the amount in the escrow is not sufficient, no additional work should proceed. In addition, the village clerk shall automatically charge any unpaid balance as a delinquent tax against the property as provided by state law.

**70.210 Non-confidentiality of submitted information**

All written information that an applicant submits to the zoning administrator during a pre-submittal meeting or at any point in the review process is considered part of the public record subject to disclosure under state and local law.

**70.211 Nature of staff comments**

~~Statements~~Any statements and recommendations that are made by the zoning administrator, village staff and officials, and other representatives prior to or during the application review process ~~shall~~ are not be binding on the decision-making body responsible for making the final decision.

**70.212 Withdrawal of application**

- A. **Timing of withdrawal.** An applicant may withdraw an application anytime after submittal, but prior to a final decision.
- B. **Effect of withdrawal.** A request to withdraw an application terminates the review process and no decision shall be rendered.
- C. **Retention of application materials.** A withdrawn application and related review documents shall be kept as a permanent public record.

**70.213 Appeals**

If a development project is approved under this chapter, the applicant may, upon receipt of the decision notice and satisfaction of all precedent conditions of approval, commence the work as authorized under the approval with the understanding that an aggrieved person may file an appeal with the appropriate review body. Prior to the end of the appeal period, all such work proceeds at the risk of the applicant. Similarly, any work that is done while an appeal is pending is done at the risk of the applicant.

**70.214 Revocation or modification of an approval**

If a development project is approved under this chapter, the review authority granting final approval may revoke or modify an approval if it is determined that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

**70.215 Application review schedule**

- A. **Authority.** The zoning administrator shall from time to time prepare a schedule establishing deadlines for submitting the various types of applications.
- B. **Publication of schedule.** The zoning administrator shall make the current review schedule available to the public and may post it on the village's website.

**70.216 Application forms**

The zoning administrator shall prepare application forms and may amend them from time to time.

**70.217 Other approvals**

It is the responsibility of those undertaking development projects within the village to obtain all applicable permits and other approvals as may be required by the Village of Richfield, Washington County, and federal and state authorities as may be required.

**70.218 Building permit**

A building permit for the construction of a new building or the expansion of an existing building shall not be issued until such time as a zoning permit has been issued or a written determination is made that one is not required.

**70.219 to 70.229 Reserved**

## DIVISION 2 NOTICE REQUIREMENTS

### 70.230 Generally

The type of notice that is given for each of the various procedures outlined in this article is dictated by the nature of the decision. Administrative decisions, such as a zoning permit, involve very little discretion. Either the proposed development meets the standards in this chapter or it does not. In contrast, there are other decisions that involve more discretion and judgment based on particular circumstances. The review of a conditional use application, for example, involves discretion on the part of those involved in making recommendations and a final determination whether the application should be approved or not. As a general rule, notice for an application is not given for administrative decisions. More notice is given when a proposed action could potentially affect other parties, including nearby property owners, other governmental bodies, and the general public. This division describes the different types of notice and related requirements.

### 70.231 Cost to provide notice

The Village pays the costs related to the provision of notice required under this division, unless otherwise specified in the adopted fee schedule.

### 70.232 Public notice

- A. **Generally.** When required, the official responsible for processing the application shall place public notice in the official newspaper as set forth in this section.
- B. **Time requirements.** A class 1 notice shall be published one time at least 7 days before the meeting or hearing. A class 2 notice shall be published once each week for 2 consecutive weeks, the last one occurring at least 7 days before the meeting or hearing.<sup>[1]</sup>
- C. **Content.** The notice shall include the information listed in Exhibit 4-1.

#### Editorial notes:

[1] See ss. 985.01(1m) and 985.07, Wis. Stats.

### 70.233 Property owner notice

- A. **Generally.** When required, the zoning administrator shall mail a notice to property owners within 300-500 feet of the subject property involved in the application as set forth in this section.
- B. **Time requirements.** The notice shall be mailed by regular mail at least 10 business days prior to the date of the meeting at which the matter will be considered.
- C. **Content.** The notice shall include the information listed in Exhibit 4-1.
- D. **Source of names and addresses.** The names and addresses of property owners shall be deemed to be those listed on the tax records maintained by Washington County.
- E. **Failure to receive notice.** The failure of a person to receive notice as described in this section shall not invalidate or otherwise have any effect upon a public hearing or other action taken on the application.
- F. **Additional notice.** When the applicant also owns the land adjoining the subject property involved in the application, the administrator shall mail a notice to those property owners within 300 feet of such property.
- G. **Affidavit of mailing.** The person sending the notices shall prepare an affidavit of mailing to certify that notice was provided as described in this section. Such affidavit must be kept as a public record.

### 70.234 Distribution list notice<sup>[1]</sup>

- A. **Establishment of distribution list.** The village clerk shall maintain a list of persons who submit a written request to receive notice of any proposed regulation or amendment thereof that may affect the allowable use of the person's property.

- B. **When notice is required.** The body conducting the public hearing shall send a notice, which contains a copy of the proposed regulation or amendment, to each person on the distribution list whose property, the allowable use of which may be affected by the proposed regulation or amendment.
- C. **Method of distribution of notices.** The notice shall be by mail or in any reasonable form that is agreed to by the person and the village clerk.
- D. **Establishment of charges.** The Village Board may from time to time adopt a resolution establishing a processing fee that shall be charged to each person on the list who is sent a notice. The amount of such fee shall not exceed the approximate cost of providing the notice to the person.
- E. **Effect of failure to send notice.** An ordinance or amendment shall take effect if the body conducting the meeting fails to send the notice as required by this section.
- F. **Affidavit of mailing.** The person sending the notices shall prepare an affidavit of mailing to certify that notice was provided as described in this section. Such affidavit must be kept as a public record.

**Editorial notes:**

[1] See s. 62.23(7)(d)(4), Wis. Stats.

**70.235 Meeting agenda notice**

When required, the body responsible for acting on the application shall place the item on its meeting agenda.

**70.236 Content of required notice**

Notices shall include the information listed in Exhibit 4-1.

**Exhibit 4-1. Content of notice**

	Public Notice (s. 70.232)	Property Owner Notice (s. 70.233)	Distribution List Notice (s. 70.234)
Applicant name	X	X	X
Subject property address or other description by which the public can locate the subject property	X	X	X
Nature of the application	X	X	X
A description of the proposed project	X	X	X
Name of body or official who will consider the application	X	X	X
Date, time and location of the public hearing	X	X	X
Location where the public can view the application	X	X	X
The criteria that will be used to evaluate the proposal	-	X	-
General location map (or available from the village clerk during normal office hours)	X	X	-

Key: An "X" means that the indicated information is required; a dash "-" means that the indicated information is not required

1. If the proposed amendment would have the effect of changing the allowable use of any property, the notice must include either a map showing the property affected by the amendment or a description of the property affected by the amendment and a statement that a map may be obtained from the village clerk.

**70.237 to 70.249 Reserved**

**DIVISION 3  
PUBLIC HEARINGS**

**70.250 Legislative findings**

The Village Board makes the following legislative findings relating to public hearings:

- (1) Public hearings should be conducted in an orderly, timely, and efficient manner.
- (2) Public input is important and should be encouraged.

#### **70.251 General requirements**

- A. **Meetings to be public.** All public hearings shall be conducted in the village hall or in such other public place as may be selected by the body conducting the hearing.
- B. **Notice of meetings.** Notice of public hearings shall be given as provided for in Division 2 of this article.

#### **70.252 General procedure**

The presiding officer conducting the public hearing may follow the following procedure listed in this section as a general guideline. For matters of little complexity or controversy, the presiding officer may adjust the procedures as appropriate.

1. Announce the purpose and subject of the public hearing.
2. Determine whether public notice as required by this chapter has been provided. If notice has not been provided, the hearing shall be postponed until such time as proper notice has been provided.
3. Ask if any member of the body conducting the public hearing has a conflict of interest in regard to the matter being discussed and excuse those who do.
4. Ask if any member of the body conducting the public hearing believes another member has a conflict of interest in regard to the matter being discussed. If so, and following a discussion of the alleged conflict of interest, the members (except the member with the alleged conflict) shall determine by vote whether a reasonable person may conclude that the member has a conflict of interest and should be removed from the pending decision.
5. Ask the applicant to describe the proposal.
6. Ask the staff to present a staff report, if required.
7. Allow members of the body conducting the public hearing to direct questions to the applicant and staff, if present.
8. Ask for statements from the public.
9. Read aloud written comments which were submitted when the individual submitting the comments is not in attendance.
10. Call for discussion of the members of the body conducting the public hearing during which time they may ask questions of a member of the public, the applicant, and the staff, if present.
11. Ask the applicant if he or she wishes to (1) respond to any comment made by an individual during the proceeding, (2) submit additional information, (3) amend the application, or (4) request a continuance.
12. Announce that the body shall not accept any additional comment from the applicant or any member of the public once the public hearing is closed.
13. Ask for a motion and second to close the public hearing.

#### **70.253 Continuances**

- A. **Prior to start of public hearing.** In the event the applicant or the applicant's agent is not present for the public hearing, the body conducting the public hearing may authorize a continuance.
- B. **During a public hearing.** Prior to the close of the public hearing, the applicant may request a continuance and the body conducting the public hearing may agree to the continuance upon a showing of good cause. Likewise, the body conducting the public hearing may ask the applicant for a continuance, but the applicant is not required to grant such request. If the applicant does not grant a continuance, the body shall act on the information at its disposal.

- C. **Effect.** A continuance stops the time clock for making a decision.
- D. **Notice requirements.** A public hearing may be continued to a later date without again providing public notice, provided the location, date, time for the continued hearing are announced at the time of the continuance.

#### 70.254 Public comment

- A. **Time limitations on public comment.** The presiding officer may impose a time limit on members of the public who wish to address the body conducting the public hearing to assure completion of the agenda in a timely manner. Under no circumstance shall such time limit be less than 3 minutes.
- B. **Written comment.** Prior to the close of the public hearing, members of the public may submit written comments to the body conducting the public hearing. Such documents shall be retained and made part of the public record for the proceeding.

#### 70.255 to 70.269 Reserved

### DIVISION 4 SITE VISITS

#### 70.270 Authorization

The Zoning Board of Appeals, Plan Commission, and Village Board may conduct a site visit to inspect a property as it relates to a pending development application.

#### 70.271 Open meeting requirements

A site visit is a public meeting and must comply with Wisconsin's open meeting requirements and the requirements of the Americans with Disabilities Act (ADA). Any person who would like to attend a site visit should notify the village clerk in advance of the date. The village clerk will follow established procedures in complying with such request.

#### 70.272 Rules of conduct

- A. **Participation.** To ensure everyone hears what is being said during a site visit, participants should stay together as they tour the subject property.
- B. **Comments.** No recommendations can be offered, and no decisions can be made during a site visit.
- C. **Quorum required.** A site visit must be attended by a quorum of the review authority.
- D. **Overview of site visit.** When the review authority reconvenes their meeting or public hearing, the presiding officer should initiate a discussion of the members to document the major points that were discussed and/or observations made on the site visit.

#### 70.273 Site visit during a public hearing

If a site visit is conducted as part of a public hearing, discussion is strictly limited to points of clarification, such as (1) the location of features (e.g., property boundary lines), (2) placement of proposed improvements, (3) features to be retained or removed as part of the proposed project, and the like. The merits of the proposal must not be discussed during the site visit.

#### 70.274 Site visit not part of a public hearing

If a site visit is not part of a public hearing, the petitioner and Plan Commission members may engage in a general discussion related to the pending application. Such discussion should however be limited to what is observed during the tour as it relates to the proposed project.

70.275 to 70.279 Reserved

## DIVISION 5 FINANCIAL GUARANTEES

### 70.280 Performance bond

For the purpose of this chapter, a performance bond is not an acceptable financial guarantee.

### 70.281 Letter of credit

- A. **Form.** The letter of credit shall be irrevocable and shall be in a form acceptable to the village attorney.
- B. **Amount.** The amount of the letter of credit shall conform to the amount established in this chapter. If an amount is not specified in this chapter, the Village Board shall establish the amount.
- C. **Acceptance required.** A letter of credit is not accepted by the village until formal action by the Village Board upon the recommendation of the village attorney.
- D. **Minimum requirements for issuer.** The bank, savings and loan, or other financial institution issuing the letter of credit must be authorized to do business in the state of Wisconsin and have a financial standing acceptable to the village attorney.
- E. **Obligation of private party.** The provision of a letter of credit shall not remove the burden of performing the work the letter of credit is intended to guarantee.

### 70.282 Cash deposit

- A. **Generally.** If a cash deposit is provided under this chapter, the village is not obligated to pay interest thereon. Any such cash deposit shall remain in the custody of the village treasurer.
- B. **Amount.** The amount of the cash deposit shall conform to the amount established in this chapter. If an amount is not specified in this chapter, the Village Board shall establish the amount.
- C. **Acceptance required.** A cash bond is not accepted by the village until formal action by the Village Board.
- D. **Obligation of private party.** The provision of a cash deposit shall not remove the burden of performing the work the cash deposit is intended to guarantee.
- E. **Administrative fee.** When a cash deposit is offered as a financial guarantee, the village may charge a fee for the additional work required of the village clerk and village treasurer to monitor and handle the cash deposit. The amount of such fee shall be set by the Village Board from time-to-time by resolution.

### 70.283 Insufficient funds

If the Village exercises its right to use a financial guarantee and the cost of performing the authorized work exceeds the amount of the financial guarantee, the village shall send a bill to the property owner for the outstanding balance. If the property owner does not pay such costs within 30 days after billing, such costs shall constitute a special charge under s. 66.0628, Wis. Stats., or as otherwise authorized by state law.

70.284 to 70.299 Reserved

**ARTICLE 5  
SPECIFIC PROCEDURAL REQUIREMENTS**

**Divisions**

1. Code amendment
2. Planned development district
3. Conditional use
4. Wireless telecommunication facility
5. Site plan and plan of operation
6. Architectural review
7. Special exception
8. Zoning permit
9. Floodplain permit
10. Berm permit
11. Temporary Use – 30 Days or Less
12. Temporary Use – More than 30 Days but Less than 90 Days
13. Termination of approval
14. Registration of a nonconforming use
15. Conversion of a nonconforming use
16. Expansion of a nonconforming building
17. Rural accessory building determination
18. Code interpretation
19. Administrative appeal
20. Variance

**DIVISION 1  
CODE AMENDMENT**

**70.300 Generally**

From time to time, it may be necessary or desirable to amend the text of this chapter and the zoning map. This division describes the procedures and requirements to amend this chapter and the zoning map.

**70.301 Initiation**

Any of the following may submit an application to amend the text of this chapter or the zoning map:

- (1) a property owner in the area to be affected by the proposed amendment,
- (2) the zoning administrator,
- (3) the Plan Commission,
- (4) the Zoning Board of Appeals, and
- (5) the Village Board.

**70.302 Review procedure <sup>[1]</sup>**

The general steps outlined below shall be used to amend the text of this chapter and the zoning map.

1. **Submittal of application materials.** The applicant submits a complete application to the zoning administrator along with the application fee as may be established by the Village Board.

2. **Distribution to Department of Natural Resources.** If the proposed amendment would revise floodplain or shoreland-wetland regulations in this chapter, the zoning administrator sends a copy of the application to the regional office of the Wisconsin Department of Natural Resources within 5 work days of receipt.
3. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information if deemed appropriate.
4. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
5. **Special notice to specified municipalities.** At least 10 calendar days prior to the date of the public hearing, the zoning administrator gives notice of the proposed amendment to the clerk of any municipality whose boundary are within 1,000 feet of any lands included in the proposed amendment.
6. **Special notice to Department of Natural Resources.** If the proposed amendment would revise the floodplain regulations in this chapter, the zoning administrator sends a copy of the public hearing notice to the regional office of the Wisconsin Department of Natural Resources at least 10 calendar days before the date of the public hearing.<sup>[2]</sup>
7. **General notice by type of application.** If a proposed amendment would revise the text of this chapter, the zoning administrator provides for (i) a class 2 public notice, (ii) distribution list notice, and (iii) meeting agenda notice consistent with Division 2 of Article 4. If a property owner initiates a proposed amendment that would revise the zoning map, the zoning administrator provides for (i) class 2 public notice, (ii) property owner notice, (iii) distribution list notice, and (iv) meeting agenda notice consistent with Division 2 of Article 4. If the Village initiates a proposed amendment that would revise the zoning map, the zoning administrator provides for (i) class 2 public notice, (ii) distribution list notice, and (iii) meeting agenda notice consistent with Division 2 of Article 4.
8. **Staff report preparation and distribution.** The zoning administrator ~~prepares~~may prepare a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
9. **Public hearing.** Allowing for proper notice, the Village Board and Plan Commission conducts a joint public hearing to review the application consistent with Division 3 of Article 4, with the Plan Commission chair serving as the presiding officer. Prior to the close of the public hearing, the applicant, Village Board, or the Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Village Board and/or Plan Commission may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research and to prepare such documents it deems necessary, including a preliminary decision document.
10. **Plan Commission recommendationRecommendation.** After considering the public comments received at the public hearing and the staff report, if any, the Plan Commission, ~~no more than 40 calendar days after the public hearing,~~ makes a recommendation to the Village Board based on the decision criteria ~~contained~~ in this division to (i) approve the amendment, (ii) approve the amendment with conditions, or (iii) deny the amendment.
11. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
12. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
13. **Decision.** The Village Board after considering the Plan Commission's recommendation makes a decision based on the decision criteria ~~contained~~ in this division to (i) approve the amendment, (ii) approve the amendment with conditions, or (iii) deny the amendment.
14. **Required vote with downzoning.** An amendment must be approved by at least two-thirds of the members-elect if the amendment would decrease the development density of the land to be less dense

than was allowed under its previous usage or that would reduce the number of permitted uses of the land to fewer uses than were allowed under its previous usage. If a person requests or agrees to such downzoning, the ordinance may be enacted by a simple majority of the members-elect.<sup>[3]</sup>

15. **Required vote with a protest by qualified property owners.** Prior to January 1, 2019, an amendment to the zoning map may not become effective except upon a favorable vote of three-quarters of the Village Board members voting on the proposed change when (i) those owning 20 percent or more of the land area within the proposed map amendment file a written protest, (ii) those owning 20 percent or more of the land area within 100 feet of the proposed map amendment file a written protest, or (iii) those owning 20 percent or more of the land directly opposite of the proposed map amendment but within 100 feet of the street frontage file a written protest.<sup>[4]</sup>
16. **Required vote with protest of airport.** If a proposed amendment would make any change in an airport affected area, as defined under s. 62.23(6)(am)1.b., Wis. Stats., and the owner or operator of the airport bordered by the airport affected area files a protest against the proposed amendment, no ordinance which makes such change may be approved except by the affirmative vote of two-thirds of the members of the Village Board present and voting.<sup>[5]</sup>
17. **Preparation of decision document.** If the Village Board approves the proposed amendment, the zoning administrator prepares a final ordinance.
18. **Applicant notification.** Within a reasonable time following the Village Board's decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
19. **Notification to Department of Natural Resources.** If the proposed amendment is approved and modifies the floodplain regulations in this chapter, the zoning administrator sends a copy of the ordinance to the regional office of the Wisconsin Department of Natural Resources via regular mail and/or email within 10 calendar days of the date of decision.
20. **Preparation of new zoning map.** If the proposed amendment is approved and modifies the zoning map, the zoning administrator shall cause a new zoning map to be prepared consistent with Article 6.

**Editorial notes:**

- [1] See s. 62.23(7)(d), Wis. Stats.
- [2] See s NR 116.20(2)(c) and ch. NR 117, Wis. Admin. Code
- [3] See s. 66.10015(3), Wis. Stats.
- [4] See s. 62.23(7)(d)(2m)(a), Wis. Stats
- [5] See s. 62.23(7)(d)(2m)(b), Wis. Stats.

### 70.303 Effective date of adopted ordinance

- A. **Generally.** An adopted ordinance shall take effect as prescribed in state law.
- B. **Exceptions.** An amendment involving floodplain regulations shall not become effective until it is reviewed and approved by the regional office of the Wisconsin Department of Natural Resources. An amendment that modifies official floodplain zoning maps, floodway lines, or water surface profiles shall not become effective until it is reviewed and approved by the Federal Emergency Management Agency.

### 70.304 Basis of decision

- A. **Text amendment.** If a proposed amendment would revise the text of this chapter, the Plan Commission in making its recommendation and the Village Board in making its decision shall consider the following factors:
  - (1) whether the amendment is consistent with the Village's comprehensive plan;
  - (2) whether the amendment is consistent with other planning documents adopted by the Village Board;
  - (3) whether this chapter with the amendment is internally consistent;
  - (4) whether the amendment is the least restrictive approach to address issues of public health, safety, and welfare;
  - (5) the extent to which the text amendment will likely create new nonconforming uses and structures;

- (6) if the proposed amendment relates to floodplain regulations, whether the chapter as amended complies with ss. 62.23 and 87.30, Wis. Stats., ch. NR 116, Wis. Admin. Code, and other state laws;
  - (7) if the proposed amendment relates to shoreland-wetland regulations, whether the chapter as amended complies with s. 62.231, Wis. Stats.; ch. NR 117, Wis. Admin. Code; and other state laws;
  - (8) whether the proposed amendment is needed to comply with a new or revised state or federal law; and
  - (9) any other factor not specifically or generally listed, but deemed appropriate by the Plan Commission or Village Board given the particular circumstances.
- B. **Zoning map amendment.** If a proposed amendment would revise the zoning map, the Plan Commission in making its recommendation and the Village Board in making its decision shall consider the following factors:
- (1) whether the amendment is consistent with the Village's comprehensive plan, including future land use maps or similar maps;
  - (2) whether the amendment is consistent with other planning documents adopted by the Village Board;
  - (3) the extent to which the amendment will or will likely increase or decrease the number of nonconforming uses and structures; and
  - (4) any other factor not specifically or generally listed, but deemed appropriate by the Plan Commission or Village Board given the particular circumstances.
- C. **Special review criteria for amendments to the shoreland-wetland overlay district boundary.** To ensure this chapter remains consistent with the shoreland protection objectives of s. 144.26, Wis. Stats., the Village Board shall 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 wetland functions:
- (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 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.

#### 70.305 Imposition of conditions

- A. **Generally.** The Plan Commission may recommend and the Village Board may impose one or more conditions of approval as may be necessary to grant approval.
- B. **Mandatory conditions of approval relating to certain existing land uses.** If a proposed amendment would revise the zoning map and is initiated by a property owner and the subject property hosts a land use that at the time of application is not permitted in the proposed zoning district, such use shall be removed as a condition of approval. If the subject property hosts a land use that at the time of application is classified as a conditional use in the proposed zoning district, the property owner shall as a condition of approval submit a conditional use application and obtain approval for that land use or, if conditional use approval is not granted, remove such use.

#### 70.306 Application content

- A. **Landowner-initiated map amendment.** An application for a landowner-initiated zoning map amendment shall include the following:
- (1) an application form as may be used by the Village,
  - (2) a project map prepared at an appropriate scale depicting the information listed in **Appendix F**, and

- Draft March 16, 2020 -

(3) other supporting information the applicant deems appropriate.

B. **Other amendments.** For all other types of amendments, the application shall include the following:

- (1) an application form as may be used by the Village, and
- (2) other supporting information the applicant deems appropriate.

#### 70.307 Staff report content

The staff report should ~~contain~~ include the following:

- (1) preliminary findings for the decision criteria listed in this division;
- (2) proposed revisions, if appropriate; and
- (3) other information deemed necessary.

#### 70.308 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

#### 70.309 to 70.319 Reserved

### DIVISION 2 PLANNED DEVELOPMENT DISTRICT

#### 70.320 Generally

A planned development district allows for more flexibility in the development of land while ensuring substantial compliance with the intent of this chapter and the Village's comprehensive plan. As further described in Article 7, the following may be reviewed as a planned development district:

- (1) conventional planned unit development,
- (2) conservation subdivision, and
- (3) adaptive reuse project.

#### 70.321 Initiation

The owner of the subject property may submit an application for the establishment of a planned development district.

#### ~~70.322 Where allowed~~

~~A planned development district may be established in those area listed in Exhibit 6-1.~~

#### ~~70.323 Ownership~~

~~At the time of establishment, all land within a planned development district shall be under single ownership or control.~~

#### ~~70.324 Minimum size~~

~~To qualify for consideration as a planned development district, the area shall include at least 5 acres.~~

#### 70.322 Development agreement

If a planned development district is established pursuant to this division, the Village and developer may enter into a development agreement that specifies the duties and obligations of both parties with respect to the development project.

**70.323 — Allowable uses**

~~Land uses allowed in the underlying zoning district(s) may be allowed in a planned development district as specified in a general development plan. When the underlying zoning district is a residential or commercial district, a combination of residential, recreational, institutional, and/or commercial uses may be allowed. When the underlying zoning is an industrial district, a combination of commercial and industrial uses may be allowed. A planned development district with a mix of residential and industrial uses is prohibited.~~

**70.323 Review procedure**

Establishment of a planned development district involves a two-step process. The review of a proposed project begins with a general development plan. If the general development plan is approved (i.e., an ordinance is adopted), a precise implementation plan for all or a part of the project is reviewed. If the precise implementation plan is approved, the project is officially approved. The general steps outlined below shall be used in the review of an application for the establishment of a planned development district.

**Step One – General Development Plan**

1. **Pre-submittal meeting with staff.** The applicant or the applicant's agent meets with the zoning administrator to review (i) applicable regulations and procedures; (ii) applicable sections of the Village's comprehensive plan and applicable neighborhood plans, if any; and (iii) the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the Village's zoning requirements.
2. **Pre-application conference with Plan Commission.** The applicant meets with the Plan Commission for an informal discussion relating to the proposed project. At that meeting, the applicant shall provide the Plan Commission with materials that describe the proposed project in sufficient detail for a preliminary, non-binding review.
3. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
4. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
5. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
6. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator provides for (i) a class 2 public notice, (ii) property owner notice, and (iii) meeting agenda notice.
7. **Staff report preparation and distribution.** The zoning administrator ~~prepares~~ may prepare a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
8. **Public hearing.** Allowing for proper notice, the Plan Commission ~~and Village Board~~ conducts a joint public hearing to review the application consistent with Division 3 of Article 4, with the Plan Commission chair serving as the presiding officer. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Plan Commission may direct the zoning administrator to conduct additional research related to the proposed district.
9. **Staff follow-up.** After the close of the public hearing, the Plan Commission may direct the zoning administrator, village engineer, and/or the village attorney to prepare a preliminary decision document.

- Draft March 16, 2020 -

10. ~~Plan Commission recommendation~~**Recommendation.** ~~No more than 60 calendar days after the public hearing, the~~ The Plan Commission makes a recommendation to the Village Board based on the decision criteria ~~contained~~ in this division to (i) approve the general development plan, subject to approval of a precise implementation plan; (ii) approve the general development plan with conditions, subject to approval of a precise implementation plan; or (iii) deny the general development plan.
11. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
12. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
13. **Decision.** The Village Board after considering the Plan Commission's recommendation makes a decision based on the decision criteria ~~contained~~ in this division to (i) approve the general development plan, subject to approval of a precise implementation plan; (ii) approve the general development plan with conditions, subject to approval of a precise implementation plan; or (iii) deny the general development plan.
14. **Preparation of decision document.** If the general development plan is approved, the zoning administrator prepares a final ordinance.
15. **Applicant notification.** Within a reasonable time following the Village Board's decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
16. **Acceptance by property owner.** If the general development plan is approved, the property owner must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 2 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the Village at the expiration of such time limit. The decision document shall only become effective when all of the property owner signatures have been obtained and the original signature copy is returned to the zoning administrator.

#### Step Two – Precise implementation plan

1. **Submittal of precise implementation plan.** The applicant submits a precise implementation plan and other required materials to the zoning administrator along with the application fee as may be established by the Village Board. At the discretion of the applicant, such materials may be submitted concurrently with the review of the general development plan.
2. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
4. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator shall provide for a meeting agenda notice.
5. **Staff report preparation and distribution.** The zoning administrator ~~prepares may prepare~~ a staff report that evaluates whether the precise implementation plan is consistent with the approved general development plan and the suitability of the proposed plan given the additional information provided in the plan and supplemental materials. The zoning administrator provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.

6. **Meeting.** Allowing for proper notice, the Plan Commission reviews the precise implementation plan and the staff report, if any.
7. **Determination of consistency.** The Plan Commission determines whether the precise implementation plan is generally consistent with the approved general development plan with respect to density/intensity and permissible land uses. If the Plan Commission determines that the precise implementation plan is not generally consistent, the Plan Commission shall render that decision in writing and take no further action on the precise implementation plan.
8. **Plan Commission recommendationRecommendation.** If the precise implementation plan is deemed to be consistent with the general development plan, the Plan Commission makes a recommendation to the Village Board based on the decision criteria ~~contained~~ in this division to (i) approve the precise implementation plan, (ii) approve the precise implementation plan with conditions, or (iii) deny the precise implementation plan.
9. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
10. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
11. **Decision.** The Village Board after considering the Plan Commission's recommendation makes a decision based on the decision criteria ~~contained~~ in this division to (i) approve the precise implementation plan, (ii) approve the precise implementation plan with conditions, or (iii) deny the precise implementation plan.
12. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division.
13. **Applicant notification.** Within a reasonable time following the Village Board's decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
14. **Acceptance by property owner.** If an approval includes one or more conditions of approval, the property owner must sign the decision document to acknowledge the ~~terms of the approval~~imposition of such condition or conditions and return the same to the zoning administrator within 2 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the Village at the expiration of such time limit. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.

#### 70.324 Basis of decision

In the review of a general development plan and the precise implementation plan, the Plan Commission in making its recommendation and the Village Board in making its decision shall consider the following factors:

- (1) whether development in the proposed project is in keeping with the spirit and intent of this chapter;
- (2) whether development in the proposed project is consistent with the Village's comprehensive plan;
- (3) whether development in the proposed district is consistent with a neighborhood plan or other subarea plan that may have been prepared for land in or near the proposed district;
- (4) the effects of development in the proposed project on traffic safety and efficiency, both within and outside of the district;
- (5) whether the proposed plan for development in the proposed project is properly planned and is properly coordinated with the existing and anticipated land uses on properties in the immediate and surrounding area;
- (6) the extent to which the natural features and, open space, ~~and/or farmland~~ on the site are preserved;
- (7) whether development in the proposed project complies with provisions of this chapter and other land development regulations of the Village that may apply;
- (8) the effects of development in the proposed project on public services and facilities;

- Draft March 16, 2020 -

- (9) whether adequate water and sanitary sewer facilities can be provided;
- (10) the proposed means of maintaining any undeveloped areas of the proposed project for the purpose for which it was set aside;
- (11) effects of the proposed use on surrounding properties, including existing and anticipated uses;
- (12) effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts;
- (13) whether the plan for development is clearly superior to development that is permitted based on the design and development standards of the underlying zoning district; and
- (14) any other factor that relates to the purposes of this chapter set forth in s. 70.05 or as allowed by state law.

#### 70.325 Imposition of conditions

- A. **Generally.** The Plan Commission may recommend and the Village Board may impose conditions as may be necessary to grant approval. Such conditions may relate to any of the factors it considered in reaching its decision. In addition, the Plan Commission may recommend and the Village Board may require the provision of off-site exactions that may be necessary to approve the establishment of the planned development district project.
- B. **Effect on contracts with another party.** The Village Board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

#### Editorial notes:

- [1] See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

#### 70.326 Application form and content

- A. **General development plan.** The application submittal for a general development plan shall include the following:
  - (1) an application form as may be used by the Village;
  - (2) a general development plan prepared at an appropriate scale depicting the information listed in Appendix F;
  - (3) a preliminary draft of covenants if any are to be imposed; and
  - (4) a development schedule, if the project is to be constructed in phases, which includes the anticipated beginning date and ending date of each phase and a description of those project-related elements to be completed in each phase.
- B. **Precise implementation plan.** The application submittal for a precise implementation plan shall include the following:
  - (1) an application form as may be used by the Village;
  - (2) a precise implementation plan prepared at an appropriate scale depicting the information listed in Appendix F;
  - (3) a final draft of covenants if any are to be imposed;
  - (4) homeowners association documents, if proposed or required;
  - (5) a development agreement, if proposed or required; and
  - (6) a development schedule, if the project is to be constructed in phases, which includes the anticipated beginning date and ending date of each phase and a description of those project-related elements to be completed in each phase.

#### 70.327 Staff report content

The staff report should ~~contain~~include the following:

- (1) preliminary findings for the decision criteria listed in this division;

- (2) a preliminary list of recommended conditions of approval; and
- (3) other information deemed necessary.

**70.328 Effect of approval**

If the Village Board approves a planned development district, the approval shall run with the land and is binding on all subsequent property owners.

**70.329 Effect of approved planned development district on land division standards**

Development in a planned development district is subject to the Village's land division regulations to the extent applicable, except that the Plan Commission or Village Board may waive a development standard in the land division regulations as provided therein.

~~**70.334 Review of actual development within an approved planned development district**~~

~~If the Village Board approves a planned development district, proposed development in the district is reviewed consistent with the requirements of this article as may apply (e.g., building, site, and plan of operation).~~

**70.330 Amendment of an approved planned development district**

If the Village Board approves a planned development district, the Plan Commission and Village Board shall review all proposed changes to the project plan that was approved at the time of approval. If in the opinion of the Village Board, the proposed change constitutes a minor alteration, the Village Board may approve the requested change at a regular or special meeting of the Village Board. If the proposed change constitutes a major alteration, the review procedure in this division must be followed.

**70.331 Expiration of an approval**

If any portion of a planned development district that can be developed remains substantially undeveloped 3 years after final approval, the Village Board may rescind the approval, in whole or in part, following a public hearing. Upon petition and with cause, the Village Board may grant a one-time extension, not to exceed 4 years. In the event the Village Board rescinds an approval, the Village Board shall at that time reclassify undeveloped lands in the district based on the zoning regulations in effect at that time. Developed portions of the planned development district may either be allowed to retain the planned development district designation or reclassified based on the zoning regulations in effect at that time.

**70.332 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

**70.333 to 70.349** Reserved

**DIVISION 3  
CONDITIONAL USE**

**70.350 Generally**

Although each zoning district is primarily intended for a predominant type of land use, there are a number of uses that may be appropriate under certain conditions. These are referred to as conditional uses. This division describes the requirements and procedures for reviewing a conditional use, including an amendment of an approved conditional use.

**70.351 Applicability and ~~limitations~~restrictions**

- A. **General applicability.** Those land uses designated as a conditional use in the land-use matrix (Appendix A) must comply with the requirements in this division.

- Draft March 16, 2020 -

- B. **Limitation due to nonconforming lot.** ~~In the event a lot is classified as a nonconforming lot (e.g., lot area, lot width), all conditional uses are prohibited, unless the Plan Commission determines, on a case-by-case basis, that the nature of the nonconformity does not affect the appropriateness of the lot for the conditional use. Any such determination in the affirmative shall have no bearing on the Plan Commission's recommendation and/or Village Board's decision under this division. In the event a parcel is classified as nonconforming (e.g., lot area, lot width), the Village may not process an application for a conditional use as set forth in s. 70.353, unless the Plan Commission makes a determination that the nature of the nonconformity does not affect the appropriateness of the parcel for the conditional use.~~
- C. **Limitation due to a nonconforming use on the lot.** ~~In the event a lot has a nonconforming use, all conditional uses are prohibited, unless the Plan Commission determines, on a case-by-case basis, the the nonconforming use and a proposed conditional use are compatible. Any such determination in the affirmative shall have no bearing on the Plan Commission's recommendation and/or Village Board's decision under this division. In the event a parcel has a nonconforming use, the Village may not process an application for a conditional use as set forth in s. 70.353, unless the Plan Commission makes a determination that the nonconforming use and proposed conditional use are compatible.~~
- D. **Limitation due to existing conditional use on the lot.** ~~In the event a lot has an approved conditional use, all conditional uses are prohibited, unless the Plan Commission determines, on a case-by-case basis, that the existing and proposed conditional uses are compatible. Any such determination in the affirmative shall have no bearing on the Plan Commission's recommendation and/or Village Board's decision under this division. In the event a parcel has an approved conditional use, the Village may not process an application for another conditional use as set forth in s. 70.353, unless the Plan Commission makes a determination that the existing and proposed conditional uses are compatible.~~

### 70.352 Initiation

The owner of the subject property may submit an application for the establishment of a conditional use.

### 70.353 Review procedure

- A. **Review and approval.** The Plan Commission and Village Board shall review existing and proposed site conditions, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, the proposed operation, and other factors the Plan Commission and/or Village Board determines are appropriate when considering a conditional use application.
- B. **Steps in the review process.** The general steps outlined below shall be used in the review of a conditional use application.
1. **Pre-submittal meeting with staff.** Before submitting an application, the applicant or the applicant's agent must meet with the zoning administrator to review applicable regulations and procedures and the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the Village's zoning requirements.
  2. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
  3. **Determination of completeness.** The zoning administrator reviews the ~~submittal within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
  4. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Village Board and the Plan Commission consistent with its adopted calendar.

5. **Special notice to Department of Natural Resources.** If the application relates to the floodplain regulations in this chapter, the zoning administrator shall send a copy of the application and public hearing notice to the regional office of the Wisconsin Department of Natural Resources at least 10 calendar days before the date of the public hearing.
6. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator shall provide for (i) a class 2 public notice, (ii) property owner notice, and (iii) meeting agenda notice.
7. **Staff report preparation and distribution.** The zoning administrator ~~prepares~~ may prepare a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
8. **Public hearing.** Allowing for proper notice, the Village Board and the Plan Commission conduct a joint public hearing to review the application consistent with Division 3 of Article 4, with the Plan Commission chair serving as the presiding officer. Prior to the close of the public hearing, the applicant, Village Board, or the Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Village Board and/or Plan Commission may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research. In addition, the Plan Commission may direct the zoning administrator to prepare such documents it deems necessary, including a preliminary decision document.
9. **Staff follow-up.** After the close of the public hearing, the Plan Commission may direct the zoning administrator to prepare a preliminary decision document.
10. **Plan Commission recommendation.** After the public hearing has been closed, the Plan Commission will make a recommendation to the Village Board for approval or denial. The recommendation shall state the terms of the approval or reasons for denial as set forth in a draft conditional use order. The burden of proof is on the applicant to prove they have met the standards of the chapter and those set forth by the Plan Commission/Village Board during the process. ~~The Plan Commission shall render its recommendation within 35 days from the close of the public hearing unless an extension is consented to in writing by the applicant.~~
11. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
12. **Decision.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the staff report, if any, and the Plan Commission's recommendation, the Village Board makes a decision to (i) approve the conditional use, (ii) approve the conditional use with conditions, or (iii) deny the conditional use.
13. **Preparation of final decision document.** Based on the action of the Village Board, the zoning administrator prepares a final decision document consistent with this division, subject to the direction given by the Village Board.
14. **Applicant notification.** Within a reasonable time following the Village Board's decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
15. **Notification to Department of Natural Resources.** If the application relates to the floodplain regulations in this chapter, the zoning administrator sends a copy of the decision document to the regional office of the Wisconsin Department of Natural Resources via regular mail and/or email within 10 calendar days of the date of decision.
16. **Acceptance by property owner.** If the application is approved, the property owner must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the Village at the expiration of such time limit. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
17. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.

- 18. **Recording of decision document.** If the property owner returns the decision document within the required time period with the required signatures, the zoning administrator records the decision document against the subject property in the office of the Washington County register of deeds.
- 19. **Administrative steps.** If the conditional use is approved and the zoning administrator has created a map showing conditional uses, the zoning administrator adds the conditional use to that map.

**70.354 Basis of decision**

The Plan Commission in making its recommendation and the Village Board in making its final decision shall consider whether the proposal complies with (1) each of the special conditions of approval set forth in s. 70.536, (2) each of the performance standards set forth in s. 70.537, (3) each of the development standards prescribed for the requested conditional use, (4) all other applicable sections of the zoning code, and (5) all other applicable sections of the municipal code, including the Village's groundwater regulations. The recommendation of the Plan Commission and the decision by the Village Board must be based on substantial evidence.

**70.355 Special conditions of approval**

- A. **Generally.** Based on substantial evidence, the Plan Commission may recommend and the Village Board may impose one or more conditions of approval as may be necessary to grant approval. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, operation of the use, off-site impacts, and any other aspect of the use that impacts the public health, safety, or general welfare. Examples of such conditions are listed below.

Issue	Potential Condition
1. Hours of operation	Limit hours of operation to hours to be more compatible with surrounding uses.
2. Buffering	Require more of a buffer than what is otherwise required by this chapter. Buffering may include landscaping, walls or fences, berms, and other features to physically separate adjoining uses.
3. Maximum floor area	Establish a maximum floor area that may be less than what is otherwise allowed.
4. Maximum number of patrons	Limit the size of the use by establishing maximum patron loads, often by seats and/or tables
5. Uses within buildings	Limit commercial uses to the first floor of a multistory building.
6. Number and/or location of entrances	Design the site and building so that entrances are located in areas away from adjoining properties.
7. Outdoor activity	Restrict locations and/or times of outdoor activity.
8. Outdoor storage	Establish a maximum area for outdoor storage that may be less than what is otherwise allowed.
9. Take-out food service	Prohibit drive-up service windows and/or walk-up service windows in certain areas of the property (e.g., near a residential use). If these are allowed, limitations could be set.
10. Delivery services	Prohibit deliver services that entail frequent trips or establish upper limits on the activity.
11. Signage	Prohibit signage in areas of the property that may cause an impact on surrounding areas.

- B. **Limitation on imposing conditions.** A condition of approval shall not lessen a development standard or other requirement ~~contained~~ in this chapter.
- C. **Effect on contracts with another party.** The review authority shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

~~D. **Special condition for business as property owner.** As a condition of approval of a conditional use, the property owner if it is a business entity, such as a limited liability company or a corporation, shall for the life of the conditional use continuously maintain a registered office in the state of Wisconsin as evidenced by registration with the Wisconsin Department of Financial Institutions.~~

**Editorial notes:**

- [1] See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

**70.537 Conditional use performance standards**

~~A. **Generally.** This section describes performance standards for the regulation of uses and to establish an objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict, and prohibit the effects of these uses outside their premises or zoning district. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards. All structures, lands, air, and water shall hereafter comply with the performance standards set forth in this section.~~

~~B. **Odors.** No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor. The Plan Commission and/or Village Board reserves the right to request an odor control plan from the applicant to identify potential odors and implement recommendations from the plan.~~

~~C. **Fire and explosive hazards.**~~

- ~~1. All uses involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices as may be required by the Fire Prevention Code.~~
- ~~2. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire extinguishing system.~~
- ~~3. The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the village fire department and in accord with their requirements to minimize fire and explosive hazards.~~

~~D. **Glare, heat and external lighting.**~~

- ~~1. No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of the property line. Operations producing light, glare, or heat shall be conducted within an enclosed building.~~
- ~~2. External lighting shall be shielded so that light rays do not adversely affect adjacent uses.~~

~~E. **Water quality.**~~

- ~~1. No activity shall locate, store, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might runoff, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant, or aquatic life.~~
- ~~2. No activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward exceeding the minimum standards and those other standards and the application of those standards set forth in Wis. Adm. Code NR 102 or in other applicable Chapters which regulate water quality.~~

~~F. **Noise.** No operation or activity shall transmit any noise beyond the boundaries of the property so that it becomes a nuisance.~~

~~G. **Vibration.** No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground or structure-borne vibrational motion necessary to cause a~~

- Draft March 16, 2020 -

~~reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities are exempt from this standard.~~

~~H. **Traffic Impact.** The Plan Commission and/or the Village Board reserves the right to require a traffic impact study in order to identify impacts to adjacent properties and roadways and to identify improvements or actions required to minimize or eliminate impacts. No use shall be approved unless the applicant implements the conclusions and recommendations of the study. The traffic study shall be prepared by a registered professional engineer in accordance with the following standards:~~

- ~~1. Manual on Transportation Studies (Institute of Transportation Engineers (ITE))~~
- ~~2. Traffic Impact Analysis Guidelines (Wisconsin Department of Transportation)~~
- ~~3. Manual on Uniform Traffic Control Devices (Federal Highway Administration)~~
- ~~4. Trip Generation Manual (Institute of Transportation Engineers)~~
- ~~5. Other local, county or state standards~~

### **70.356 Standard terms for an approved conditional use**

The terms and conditions listed below are automatically incorporated into a conditional use order authorizing a use, unless otherwise stated in the conditional use order.

- (1) Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Plan Commission for determination.
- (2) No use is hereby authorized unless the use is conducted in a lawful, orderly, and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the Washington County of, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Village ordinance or other law.
- (3) The approved conditional use shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Plan Commission as being in compliance with all pertinent ordinances.
- (4) All buildings and grounds shall be maintained in a neat, attractive and orderly way.
- (5) The property shall comply with all rules and regulations of the Village of Richfield and the local fire department, including submission to routine inspections by the village staff and fire department staff.
- (6) Prior to the execution of the conditional use permit, the applicant must obtain any and all approvals that must be obtained before the use may be established or the commencement of any land-disturbing activity related to the approved conditional use.
- (7) Should the permitted conditional use be abandoned in any manner, or discontinued in use for 12 months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to the Village, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the Plan Commission, pursuant to the enforcement provisions of this conditional use order, and all applicable ordinances.
- (8) Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises, structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
- (9) Unless this conditional use order expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Plan Commission if the Plan Commission finds the plan amendment to be minor and consistent with the conditional use permit. Any

- Draft March 16, 2020 -

change in any plan that the plan commission feels, in its sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.

- (10) As a condition precedent to the issuance of the conditional use permit, the owner of the subject property shall approve the issuance of this conditional use order upon the terms and conditions described herein in writing, and the petitioner is required to accept the terms and conditions of the same in its entirety in writing.
- (11) Petitioner shall, on demand, reimburse the Village for all costs and expenses of any type that the Village incurs in connection with this application, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of the necessary documents or attendance at meetings or other related professional services for this application, as well as for any actions the Village is required to take to enforce the conditions in this conditional approval due to a violation of these conditions.
- (12) Any unpaid bills owed to the Village by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Village; shall be placed upon the tax roll for the subject property if not paid within 30 days of billing by the Village, pursuant to s. 66.0627, Wis. Stats. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Village, including possible cause for termination of this approval.
- (13) The petitioner is obligated to file with the village clerk a current mailing address and current phone number at which the petitioner can be reached, which must be continually updated by the petitioner if such contact information should change, for the duration of the conditional use. If the petitioner fails to maintain such current contact information, the petitioner thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.
- (14) All conditions of approval imposed by duly adopted motion of the Village Board in its consideration of the petitioner's application, as noted in the minutes of the Village Board meeting at which approval was granted, are specifically incorporated herein by reference.
- (15) Should any paragraph or phrase of this conditional use order be determined by a court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use order and the remainder shall continue in full force and effect.
- (16) If any aspect of this conditional use order or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Plan Commission.
- (17) If the property owner/operator is a business entity, such as a limited liability company or a corporation, such entity shall for the life of the conditional use continuously maintain a registered office in the state of Wisconsin as evidenced by registration with the Wisconsin Department of Financial Institutions.
- (18) The property owner shall not change the size and/or shape of the subject property by any means without the approval of the Village Board. If the Village Board determines that a proposed change is substantial with regard to the overall size of the parcel and/or configuration, such change shall require issuance of a new conditional use approval pursuant to the requirements in effect at the time of application.
- (19) This approval is given under the Village's zoning code and is not to be, in any way, interpreted to abrogate any private rights other property owners may have pursuant to deed restrictions or restrictive covenants.
- (20) If this conditional use terminates for any reason, the property owner is obligated to remove any improvements specifically related to the conditional use and which cannot be utilized for an approved use (i.e., a use permitted by right or a different conditional use as approved).
- (21) In the event the subject property is found to be in violation and then brought into compliance, the Village Board reserves the right to impose periodic reviews to ensure continued compliance.
- (22) At the discretion of the Plan Commission, the applicant shall either appear before the Plan Commission at a regular or special meeting, with a 30-day advance notice, or provide written documentation to verify compliance with the conditional use approval. The interval of an in-person review or written

documentation shall be established by the Plan Commission, but not more frequently than every 12 months.

#### **70.357 Application form and content**

The application submittal shall include an application form as may be used by the Village and a project map prepared at an appropriate scale depicting the information listed in Appendix F.

#### **70.358 Staff report content**

The staff report should ~~include contain~~ preliminary findings for the decision criteria listed in this division and other information deemed appropriate.

#### **70.359 Content of decision document**

- A. **Approval.** If the application for a conditional use is approved, the decision document should include the following:
- (1) a statement that the conditional use is approved;
  - (2) a description of the conditional use;
  - (3) a description of where the conditional use will occur on the property;
  - (4) reasons for the decision based on the criteria listed in this division;
  - (5) conditions of approval that must be satisfied prior to the establishment of the conditional use, if any;
  - (6) conditions of approval that must be complied with during the life of the conditional use, if any;
  - (7) a statement indicating that the property owner must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same;
  - (8) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
  - (9) a statement that an aggrieved person, other than the applicant, may appeal the decision to a court of competent jurisdiction and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
  - (10) a statement indicating the nature of the approval (i.e., personal to the property owner or runs with the land);
  - (11) other information the Village Board or zoning administrator deems appropriate;
  - (12) the signature of the zoning administrator on behalf of the Village Board; and
  - (13) the date of the decision.
- B. **Denial.** If the application for a conditional use is denied, the decision document should include the following:
- (1) a statement that the conditional use is denied,
  - (2) a description of the project, including acreage and proposed use characteristics,
  - (3) reasons for the decision based on the criteria listed in this division,
  - (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
  - (5) a statement that the decision may be appealed as provided for in this division,
  - (6) other information the Village Board or zoning administrator deems appropriate,
  - (7) the signature of the zoning administrator on behalf of the Village Board, and
  - (8) the date of the decision.

**70.360 Term for an approval**

A conditional use order authorizing a conditional use shall generally have a 5-year term unless otherwise specified in the conditional use order. The order ~~shall may~~ describe an administrative renewal process to allow for streamlined renewal of the conditional use order with a provision that allows the Plan Commission and/or the Village Board to remove the conditional use order from automatic renewal if there are concerns with compliance with the conditional use order or concerns raised by the public about the applicant's operations. If the Plan Commission or the Village Board pulls the conditional use order from automatic approval the conditional use order shall remain in effect while the Plan Commission provides due process to the applicant in reviewing the conditional use order and its potential renewal.

**70.361 Effect of approval**

- A. **Generally.** Unless otherwise specified in the conditional use order, approvals run with the land.
- B. **Temporary uses.** If a use is listed as a temporary use in the land use matrix (Appendix A) and is approved by the Village Board as a conditional use, the use may be re-established with the written approval of the zoning administrator if he or she determines that the use to be re-established is substantially the same as what was originally approved and that the approved use did not create any potentially adverse impacts on the public health, safety, or welfare.

**70.362 Expiration of an approval**

- A. **Non-establishment of use.** If the zoning administrator determines that substantial work as authorized by a conditional use approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 6 months, provided (1) the permit holder requests the extension prior to the expiration of the approval, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.
- B. **Cessation of use.** If the zoning administrator determines that a conditional use has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article.

**70.363 Amendment of an approved conditional use**

Following approval of a conditional use, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

**70.364 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

**70.365 Effect of comprehensive plan**

Pursuant to Wis. Stats. 66.1001(2m)(b), a conditional use approval that may be issued by the Village Board does not need to be consistent with the Village's adopted comprehensive plan.

**70.366 to 70.369** Reserved

**DIVISION 4  
WIRELESS TELECOMMUNICATION FACILITY**

**70.370 Review procedure**

- A. **New telecommunication tower and Class 1 collocation.** The general steps outlined below shall be used to review an application for a new telecommunication tower and a Class 1 collocation as designated in the land-use matrix (Appendix A).
1. **Submittal of application materials.** The applicant submits a completed application to the zoning administrator along with the application fee as may be established by the Village Board.
  2. **Determination of completeness.** The zoning administrator reviews the application and determines whether the application is complete. If the application includes all of the required information, the application shall be found to be complete. The zoning administrator notifies the applicant in writing within 10 days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their application as often as necessary until it is complete. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
  3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
  4. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator provides for (i) a class 2 public notice, (ii) property owner notice, and (iii) meeting agenda notice.
  5. **Staff report preparation and distribution.** The zoning administrator ~~prepares~~ may prepare a written staff report and provides a copy of it to each member of the Plan Commission, the applicant, and any other interested person upon request.
  6. **Public hearing.** Allowing for proper notice, the Plan Commission conducts a public hearing to review the application consistent with Division 2 of Article 4. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance consistent with Division 3 of Article 4.
  7. **Staff follow-up.** If the Plan Commission does not render a decision immediately following the public hearing, the Plan Commission may direct the zoning administrator to prepare a preliminary decision document.
  8. **Decision.** After considering all of the information submitted by the applicant, public comments received at the public hearing, and the staff report, if any, the Plan Commission, ~~no more than 40 calendar days after the public hearing~~, makes a decision to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
  9. **Preparation of final decision document.** Based on the action of the Plan Commission, the zoning administrator prepares a final decision document, subject to the direction given by the Plan Commission.
  10. **Applicant notification.** Within a reasonable time following the Plan Commission's decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
  11. **Acceptance by property owner.** If the application is approved, the property owner must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the Plan Commission may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision is null and void without any further action by the Village. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
  12. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.

13. **Recording of decision document.** If the property owner returns the decision document within the required time period with the required signatures, the zoning administrator records the decision document against the subject property in the Washington County register of deeds office.

In the event an applicant believes the Village has exceeded its authority as set forth in s. 66.0404, Wis. Stats., and other such laws as may apply which may include 47 USCA s. 1455, the applicant shall notify the zoning administrator in writing and the reviewing authority reserves the right to reconsider the matter, to ensure that applicable laws are followed.

- B. **Class 2 collocation.** The general steps outlined below shall be used to review an application for a Class 2 collocation which is allowed in all zoning districts.

1. **Submittal of application materials.** The applicant submits a completed application to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the application and determines whether the application is complete. If the application includes all of the required information, the application shall be found to be complete. The zoning administrator must notify the applicant in writing within 5 days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their application as often as necessary until it is complete. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Decision.** The zoning administrator makes a decision on the application within 45 days of the date the application is deemed complete, unless the time is extended by the applicant. The decision shall be stated in writing. If approval is not granted, the reasons therefor must be stated.
4. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.

In the event an applicant believes the Village has exceeded its authority as set forth in s. 66.0404, Wis. Stats., and other such laws as may apply which may include 47 USCA s. 1455, the applicant shall notify the zoning administrator in writing and the reviewing authority reserves the right to reconsider the matter, to ensure that applicable laws are followed.

#### 70.371 Application form

- A. **New telecommunication tower and Class 1 collocation.** An application form for a new telecommunication tower or a Class 1 collocation must include all of the following information as appropriate:
- (1) The name and business address of, and the contact individual for, the applicant.
  - (2) The location of the proposed tower or affected tower.
  - (3) The location of the proposed mobile service facility.
  - (4) If an application is to substantially modify an existing telecommunication tower, a construction plan which describes the proposed modifications to the tower, and equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
  - (5) If an application is to construct a new telecommunication tower, a construction plan which describes the proposed tower and equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new tower.
  - (6) If an application is to construct a new telecommunication tower, an explanation as to why the applicant chose the proposed location, and why the applicant did not choose collocation, including a sworn statement from the responsible party attesting that collocation within the applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.
- B. **Class 2 collocation.** An application form for a Class 2 collocation must include the following information:
- (1) The name and business address of, and the contact individual for, the applicant.
  - (2) The location of the proposed tower or affected tower.

- (3) The location of the proposed mobile service facility.

#### 70.372 Imposition of conditions

- A. **Generally.** The reviewing authority may impose one or more conditions of approval as may be necessary to grant approval. Such conditions may relate to any aspect of the use that impacts the public health, safety, or general welfare, subject to subsection (B) below.
- B. **Limitations.** The reviewing authority may not impose any of the following as a condition of approval:
  - (1) A requirement relating to environmental testing, sampling, or monitoring.
  - (2) A requirement relating to radio frequency emissions.
  - (3) A requirement to pay a reoccurring fee.
  - (4) A requirement that the structure or mobile service facility owner must provide space on or near the structure for the use of or by the Village at less than the market rate, or to provide the Village other services via the structure or facilities at less than the market rate.
  - (5) Limit the duration of the approval.
  - (6) A requirement that the applicant must indemnify or insure the Village in connection with the political subdivision's exercise of its authority to approve the application.
  - (7) A requirement that the applicant must give the Village the right to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, the Village or an entity in which the Village has a governance, competitive, economic, financial, or other interest.

#### 70.373 Expiration of an approval

- A. **Non-establishment of use.** If the zoning administrator determines that substantial work as authorized by the approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 6 months, provided (1) the permit holder requests the extension prior to the expiration of the approval, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.
- B. **Cessation of use.** If the zoning administrator determines that a conditional use has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article.

#### 70.374 Amendment of an approval

Following approval, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

#### 70.375 Fees

- A. **Professional service reimbursement.** Costs incurred by the Village in obtaining legal, planning, engineering, and other technical and professional advice in connection with an application shall be charged to the applicant as set forth in s. 70.209.
- B. **Limitation on fees.** The total of all fees, excluding professional service reimbursement, associated with the review of an application shall not exceed the limits established by s. 66.0404(4)(d), Wis. Stats.

70.376 to 70.389 Reserved

## DIVISION 5 SITE PLAN AND PLAN OF OPERATION

### 70.390 Generally

- A. **Site plans.** The way in which a land use occupies a lot has a direct effect on the overall functionality of the site, the extent to which the land use can be expanded on the site in the future, effects of the land use on nearby properties, and impacts on existing and anticipated public and private infrastructure. This division describes the requirements and procedures for reviewing a site plan.
- B. **Plan of operations.** The way in which many land uses operate has a direct effect on the nature of the use and potential effects on nearby properties, including existing and anticipated land uses. This division describes the requirements and procedures for reviewing a plan of operation.

### 70.391 Applicability

Those land uses designated as requiring site plan review (SP) or plan of operation review (PO) in the land-use matrix (Appendix A) must comply with the requirements in this division.

### 70.392 Initiation

The owner of the subject property may submit an application for a site plan and plan of operation.

### 70.393 Review procedure

The general steps outlined below shall be used in the review of a site plan and plan of operation application.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
4. **Staff report preparation and distribution.** The zoning administrator ~~prepares~~ may prepare a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and the applicant prior to the meeting at which the matter will be considered. The zoning administrator will also provide a copy to interested people upon request.
5. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
6. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
7. **Decision.** The Plan Commission makes a decision to (i) approve the site plan/plan of operation, (ii) approve the site plan/plan of operation with conditions, or (iii) deny the site plan/plan of operation. ~~The Plan Commission may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the initial meeting unless the applicant agrees to an extension of a specified duration.~~
8. **Preparation of decision document.** Based on the action of the Plan Commission, the zoning administrator prepares a decision document consistent with this division.

9. **Applicant notification.** Within a reasonable time following the Plan Commission's decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
10. **Acceptance by property owner.** If the application is approved, the property owner and the operator, if different, must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner or operator, if different, may submit a petition to the village clerk requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the Village at the expiration of such time limit. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
11. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.

#### 70.394 Basis of decision

- A. **Site plan.** The review authority shall consider the following factors in making their decision:
  - (1) effects of the project on traffic safety and efficiency and pedestrian circulation, both on-site and off-site;
  - (2) effects of the project on the natural environment;
  - (3) effects of the project on surrounding properties;
  - (4) compliance with the general site design principles enumerated in s. 70.05;
  - (5) compliance with the design principles for parking lots enumerated in Article 14;
  - (6) compliance with other applicable requirements ~~contained~~ in this chapter; and
  - (7) any other factor that relates to the purposes of this chapter set forth in s. 70.05 or as allowed by state law.
- B. **Plan of operation.** The review authority shall consider the following factors in making their decision:
  - (1) the nature of the land use with regard to the number of employees, nature and extent of truck shipments to and from the site, hours of operation, use of hazardous substances, and other operational characteristics;
  - (2) the nature and extent of anticipated positive and negative effects on properties in the area;
  - (3) actions the applicant will undertake to mitigate the negative effects, if any, of the proposed land use; and
  - (4) any other factor that relates to the purposes of this chapter set forth in s. 70.05 or as allowed by state law.

#### 70.395 Imposition of conditions

- A. **Site plan.** In approving a site plan, the Plan Commission may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping and screening, revisions to the site design, and outdoor lighting.
- B. **Plan of operation.** In approving a plan of operation, the Plan Commission may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to operational characteristic of the land use, including hours of operation and processes or activities related to the land use.
- C. **Effect on contracts with another party.** The Plan Commission shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

Editorial notes:

- [1] See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

#### **70.396 Application form and content**

The application submittal shall include an application form as may be used by the Village.

#### **70.397 Staff report content**

The staff report should ~~include~~ contain the following:

- (1) a description of the proposed project;
- (2) preliminary findings for the decision criteria listed in this division;
- (3) a recommendation to approve the application, approve the application with conditions, or deny the application;
- (4) a preliminary list of conditions whether the staff recommendation is for approval or denial; and
- (5) other information deemed necessary.

#### **70.398 Content of decision document**

- A. **Approval.** If the application for a site plan or plan of operation is approved, the decision document should include the following:
- (1) a statement that the site plan/plan of operation is approved;
  - (2) a description of the land use along with operational characteristics;
  - (3) reasons for the decision based on the criteria listed in this division;
  - (4) conditions of approval, if any;
  - (5) a statement indicating that the property owner and operator, if different, must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same;
  - (6) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
  - (7) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
  - (8) other information the reviewing authority or zoning administrator deems appropriate;
  - (9) the signature of the zoning administrator on behalf of the reviewing authority; and
  - (10) the date of the decision.
- B. **Denial.** If the application for a site plan or plan of operation is denied, the decision document should include the following:
- (1) a statement that the site plan/plan of operation is denied,
  - (2) a description of the land use,
  - (3) reasons for the decision based on the criteria listed in this division,
  - (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
  - (5) a statement that the decision may be appealed as provided for in this division,
  - (6) other information the reviewing authority or zoning administrator deems appropriate,
  - (7) the signature of the zoning administrator on behalf of the reviewing authority, and
  - (8) the date of the decision.

#### **70.399 Effect of approval**

The approval of a site plan and a plan of operation plan shall run with the land and is binding on all subsequent property owners.

**70.400 Expiration of an approval**

An approval of a site plan/plan of operation shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

**70.401 Amendment of an approval**

Following approval of a site plan or plan of operation, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

**70.402 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

**70.403 to 70.419 Reserved****DIVISION 6  
ARCHITECTURAL REVIEW****70.420 Generally**

Architectural review is intended to ensure that buildings fit in to the context in which they occur.

**70.421 Applicability**

Those land uses designated as requiring architectural review in the land-use matrix (Appendix A) must comply with the requirements in this division. The exterior of an existing building designated as requiring architectural review may be resided or re-roofed with the same or similar type of materials.

**70.422 Initiation**

The owner of the subject property may submit an application for architectural review.

**70.423 Review procedure**

The general steps outlined below shall be used in the review of an architectural plan application.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Architectural Review Committee consistent with its adopted calendar.

4. **Recommendation.** The Architectural Review Committee makes a recommendation to the Plan Commission to (i) approve the architectural plan, (ii) approve the architectural plan with conditions, or (iii) deny the architectural plan.
5. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
6. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
7. **Decision.** The Plan Commission makes a decision to (i) approve the architectural plan, (ii) approve the architectural plan with conditions, or (iii) deny the architectural plan. ~~The Plan Commission may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the public meeting unless the applicant agrees to an extension of a specified duration.~~
8. **Preparation of decision document.** Based on the action of the Plan Commission, the zoning administrator prepares a decision document consistent with this division.
9. **Applicant notification.** Within a reasonable time following the Plan Commission's decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
10. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.

#### 70.424 Basis of decision

The review authority shall determine whether the building complies with all applicable provisions of this chapter.

#### 70.425 Imposition of conditions

- A. **Generally.** In approving an architectural plan, the review authority may impose one or more conditions deemed necessary to further the intent and purposes of this chapter.
- B. **Effect on contracts with another party.** The review authority shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

#### Editorial notes:

- [1] See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

#### 70.426 Application form and content

The application submittal shall include an application form as may be used by the Village and a set of architectural plans prepared at an appropriate scale.

#### 70.427 Content of decision document

- A. **Approval.** If the architectural plan is approved, the decision document should include the following:
  - (1) a statement that the architectural plan is approved;
  - (2) a description of the project;
  - (3) reasons for the decision based on the criteria listed in this division;
  - (4) conditions of approval, if any;
  - (5) if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same;
  - (6) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
  - (7) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
  - (8) other information the Plan Commission or administrator deems appropriate;

- (9) the signature of the zoning administrator on behalf of the Plan Commission; and
- (10) the date of the decision.

B. **Denial.** If the architectural plan is denied, the decision document should include the following:

- (1) a statement that the architectural plan is denied,
- (2) a description of the project,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the Plan Commission or zoning administrator deems appropriate,
- (7) the signature of the zoning administrator on behalf of the Plan Commission, and
- (8) the date of the decision.

#### **70.428 Effect of approval**

An approval of an architectural plan shall run with the land and is binding on all subsequent property owners.

#### **70.429 Expiration of an approval**

An approval of an architectural plan shall automatically expire 12 months after the date of issuance unless substantial work has commenced and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

#### **70.430 Amendment of an approval**

Following approval of an architectural plan, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

#### **70.431 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

#### **70.432 to 70.439 Reserved**

### **DIVISION 7 SPECIAL EXCEPTION**

#### **70.440 Generally**

Upon written petition, the Plan Commission may, on a case-by-case basis, grant a special exception for those development standards specifically noted as special exceptions in this chapter.

#### **70.441 Initiation**

The owner of the subject property may submit an application for a special exception.

**70.442 Review procedure**

The general steps outlined below shall be used in the review of a special exception application.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
4. **Staff report preparation and distribution.** The zoning administrator ~~prepares~~ may prepare a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and the applicant prior to the meeting at which the matter will be considered. The zoning administrator will also provide a copy to interested people upon request.
5. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
6. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
7. **Decision.** After considering all of the information submitted by the applicant and the staff report, if any, the Plan Commission makes a decision based on the decision criteria ~~contained~~ in this division to (i) approve the special exception, (ii) approve the special exception with conditions, or (iii) deny the special exception.
8. **Preparation of final decision document.** Based on the action of the Plan Commission, the zoning administrator prepares a final decision document consistent with this division subject to the direction given by the Plan Commission.
9. **Applicant notification.** Within a reasonable time following the Plan Commission's decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
10. **Acceptance by property owner.** If the application is approved, the property owner must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the Village at the expiration of such time limit. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
11. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.

**70.443 Basis of decision**

The review authority shall consider the following factors:

- (1) the size of the property in comparison to other properties in the area;
- (2) the extent to which the issuance of the special exception would be in keeping with the overall intent of this chapter;
- (3) whether there are any unique circumstances and the nature of those circumstances that warrant the issuance of the special exception;

- (4) the nature and extent of anticipated impacts to the natural environment that could potentially occur if the special exception was granted;
- (5) the nature and extent of anticipated positive and negative effects on properties in the area;
- (6) actions the applicant will undertake to mitigate the negative effects, if any, of the proposed special exception;
- (7) a factor specifically listed under a section of this chapter authorizing the issuance of a special exception; and
- (8) any other factor that relates to the purposes of this chapter set forth in s. 70.05 or as allowed by state law.

#### 70.444 Imposition of conditions

- A. **Generally.** In approving a special exception, the review authority may impose one or more conditions deemed necessary to further the intent and purposes of this chapter.
- B. **Effect on contracts with another party.** The review authority shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

#### Editorial notes:

- [1] See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

#### 70.445 Limitations on issuing a special exception

A special exception shall only be approved in those instances where issuance is specifically authorized in this chapter.

#### 70.446 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F.

#### 70.447 Staff report content

The staff report should ~~include contain~~ the following:

- (1) a description of the requested special exception;
- (2) preliminary findings for the decision criteria listed in this division;
- (3) a recommendation to approve the application, approve the application with conditions, or deny the application;
- (4) a preliminary list of conditions whether the staff recommendation is for approval or denial; and
- (5) other information deemed necessary.

#### 70.448 Content of decision document

- A. **Approval.** If the application for a special exception is approved, the decision document should include the following:
  - (1) a statement that the special exception is approved;
  - (2) a description of the special exception;
  - (3) reasons for the decision based on the criteria listed in this division;
  - (4) conditions of approval, if any;
  - (5) a statement indicating that the property owner must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same;
  - (6) a statement that the applicant may appeal the decision to a court of competent jurisdiction;

- (7) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (8) other information the review authority or zoning administrator deems appropriate;
- (9) the signature of the zoning administrator on behalf of the reviewing authority; and
- (10) the date of the decision.

B. **Denial.** If the application for a special exception is denied, the decision document should include the following:

- (1) a statement that the special exception is denied,
- (2) a description of the special exception,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the review authority or zoning administrator deems appropriate,
- (7) the signature of the zoning administrator on behalf of the reviewing authority, and
- (8) the date of the decision.

**70.449 Effect of approval**

If a special exception is approved, such approval shall run with the land and is binding on all subsequent property owners.

**70.450 Expiration of an approval**

An approval for a special exception shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

**70.451 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

**70.452 to 70.459 Reserved**

**DIVISION 8  
ZONING PERMIT**

**70.460 Generally**

A zoning permit is administrative in nature and is intended to ensure that certain types of land uses are in compliance with this chapter and any precedent approvals (e.g., conditional use approval).

**70.461 Applicability**

Those land uses designated as requiring a zoning permit in the land-use matrix (Appendix A) must comply with the requirements in this division when a new use is being established and when there is a change in occupancy of an existing non-residential building.

**70.462 Initiation**

The owner of the subject property may submit an application for a zoning permit.

**70.463 Review procedure**

The general steps outlined below shall be used in the review of an application for a zoning permit.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information if deems appropriate.
3. **Decision.** When the zoning administrator determines the application is complete, he or she makes a decision to (i) approve the zoning permit, (ii) approve the zoning permit with conditions, or (iii) deny the zoning permit
4. **Applicant notification.** Within a reasonable time following his or her decision ~~to approve or deny the application, but not more than 10 days~~, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
5. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.

**70.464 Basis of decision**

In determining whether to issue a zoning permit or deny the permit, the zoning administrator shall determine whether the proposed use is consistent with (1) any prior approvals, such as a conditional use approval, (2) this chapter, and (3) other provisions of the municipal code.

**70.465 Expiration of an approval**

- A. **Project involving construction.** For a project involving any construction, a zoning permit shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.
- B. **Change in use.** For a change in use, the zoning permit shall automatically expire 6 months after the date of issuance if the applicant does not move into the vacant space.

**70.466 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an administrative appeal with the Zoning Board of Appeals within 30 calendar days of the final decision.

**70.467 to 70.479****Reserved**

## DIVISION 9 FLOODPLAIN PERMIT

### 70.480 Generally

A floodplain permit is administrative in nature and is intended to ensure that land uses located in the floodplain overlay district comply with the requirements in Article 9.

### 70.481 Applicability

A floodplain permit must be obtained before any of the following is initiated in the floodplain overlay district:

- (1) new development, broadly construed;
- (2) repair, modification, or addition to an existing structure; or
- (3) change in the use of a building or structure.

### 70.482 Initiation

The owner of the subject property may submit an application for a floodplain permit.

### 70.483 Review procedure

The general steps outlined below shall be used in the review of an application for a floodplain permit.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. If the application is deemed incomplete or if additional information is requested, the zoning administrator will take no further steps to process the application until the deficiencies are remedied or the information is provided. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Decision.** When the zoning administrator determines the application is complete, he or she makes a decision based on the decision criteria ~~contained~~ in this division to (i) approve the floodplain permit, (ii) approve the floodplain permit with conditions, or (iii) deny the floodplain permit.
4. **Applicant notification.** Within a reasonable time following his or her decision ~~to approve or deny the application, but not more than 10 days,~~ the zoning administrator sends the decision document to the applicant by regular mail and/or email.
5. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.

### 70.484 Basis of decision

In determining whether to issue a floodplain permit or deny the permit, the zoning administrator shall determine whether the proposed use is consistent with the standards in Article 8.

### 70.485 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F. The application at a minimum shall include the following:

- (1) name and address of the property owner;
- (2) legal description of the subject property;

- Draft March 16, 2020 -

- (3) a description of the proposed project;
- (4) the elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
- (5) data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Division 4 or 6 [3.0 or 4.0] of Article 8 are met; and
- (6) data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 70. [11.12.142 [2.1]]. This may include any of the information noted in s. 70. [11.12.63. [3.3(1)]].

In addition to the information listed in Appendix F, the following shall be depicted on the site map:

- (1) elevation of existing and proposed roads located in the floodplain,
- (2) elevation of existing and proposed wellheads located in the floodplain, and
- (3) elevation of existing and proposed buildings located in the floodplain.

#### **70.486 Expiration of an approval**

- A. **Project involving construction.** For a project involving any construction, a floodplain permit shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.
- B. **Change in use.** For a change in use, the floodplain permit shall automatically expire 6 months after the date of issuance if the applicant does not move into the vacant space.

#### **70.487 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an administrative appeal with the Zoning Board of Appeals within 30 calendar days of the final decision.

**70.488 to 70.499 Reserved**

### **DIVISION 10 BERM PERMIT**

#### **70.500 Generally**

A berm permit is administrative in nature and is intended to ensure the proposed project complies with all applicable sections of this code.

#### **70.501 Applicability**

A berm permit must be obtained before any work is done to construct or modify an existing berm.

#### **70.502 Initiation**

The owner of the subject property may submit an application for a berm permit.

#### **70.503 Review procedure**

The general steps outlined below shall be used in the review of an application for a berm permit.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. If the application is deemed incomplete or if additional information is requested, the zoning administrator will take no further steps to process the application until the deficiencies are remedied or the information is provided. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Decision.** When the zoning administrator determines the application is complete, he or she makes a decision based on the decision criteria ~~contained~~ in this division to (i) approve the berm permit, (ii) approve the berm permit with conditions, or (iii) deny the berm permit.
4. **Applicant notification.** Within a reasonable time following his or her decision ~~to approve or deny the application, but not more than 10 days,~~ the zoning administrator sends the decision document to the applicant by regular mail and/or email.
5. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.

**70.504 Basis of decision**

In determining whether to issue a berm permit or deny the permit, the zoning administrator shall determine whether the proposed berm complies with all applicable sections of this code.

**70.505 Application form and content**

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F.

**70.506 Expiration of an approval**

A berm permit shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

**70.507 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an administrative appeal with the Zoning Board of Appeals within 30 calendar days of the final decision.

**70.508 to 70.519 Reserved**

**DIVISION 11**  
**TEMPORARY USE – 30 DAYS OR LESS**

**70.520 Generally**

Temporary use permit for 30 days or less are reviewed by the zoning administrator and are intended to ensure that such uses do not cause negative impacts. Temporary uses that would operate for more than 30 but less than 90 days, or, which have the potential of being detrimental to and/or incompatible with adjoining properties or the community at large are reviewed by the Plan Commission as described in the next division.

**70.521 Review procedure**

The general steps outlined below shall be used in the review of an application for a temporary use, 30 days or less.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. If the application is deemed incomplete or if additional information is requested, the zoning administrator will take no further steps to process the application until the deficiencies are remedied or the information is provided. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Decision.** When the zoning administrator determines the application is complete, he or she makes a decision based on the decision criteria in this division to (i) approve the permit, (ii) approve the permit with conditions, or (iii) deny the application.
4. **Applicant notification.** Within a reasonable time following his or her decision ~~to approve or deny the application~~, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
5. **Public record copy.** A copy of the decision document is retained as a public record.

**70.522 Basis of decision**

To approve a temporary use permit for 30 days or less, the zoning administrator must determine that the proposed temporary use complies with all applicable sections of this code and does not have the potential to create a general nuisance or a nuisance for those properties in the general area of the proposed use.

**70.523 Conditions of approval**

- A. **Generally.** In approving a temporary use permit for 30 days or less, the zoning administrator may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions may address such matters as parking, access, signage, lighting, security, solid waste disposal, potable water and sanitary facilities, screening, noise, traffic control, hours and days of duration and operation, financial guarantees or warranties to ensure compliance and/or against defects or damage to public property, and other items which may be required to protect the health, safety, and welfare of the public.
- B. **Effect on contracts with another party.** The zoning administrator shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

**Editorial notes:**

- [1] See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

**70.524 Application form and content**

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F.

**70.525 Expiration of an approval**

A temporary use permit shall automatically expire 30 days after the first day of the temporary use or an earlier date as may be specified in the approval.

**70.526 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an administrative appeal with the Zoning Board of Appeals within 30 calendar days of the final decision.

**70.527 to 70.539 Reserved****DIVISION 12****TEMPORARY USE – MORE THAN 30 DAYS BUT LESS THAN 90 DAYS****70.540 Generally**

Temporary uses that would operate for more than 30 days but less than 90 days, or, which have the potential of being detrimental to and/or incompatible with adjoining properties or the community at large are reviewed by the Plan Commission as set forth in this division.

**70.541 Review procedure**

The general steps outlined below shall be used in the review of an application for a temporary use, for more than 30 days but less than 90 days.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. If the application is deemed incomplete or if additional information is requested, the zoning administrator will take no further steps to process the application until the deficiencies are remedied or the information is provided. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
4. **Staff report preparation and distribution.** The zoning administrator prepares may prepare a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and the applicant prior to the meeting at which the matter will be considered. The zoning administrator will also provide a copy to interested people upon request.
5. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
6. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
7. **Decision.** After considering all of the information submitted by the applicant and the staff report, if any, the Plan Commission makes a decision based on the decision criteria contained in this division to (i) approve the permit, (ii) approve the permit with conditions, or (iii) deny the application.
8. **Preparation of final decision document.** Based on the action of the Plan Commission, the zoning administrator prepares a final decision document consistent with this division subject to the direction given by the Plan Commission.
9. **Applicant notification.** Within a reasonable time following the Plan Commission's decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
10. **Public record copy.** A copy of the decision document is retained as a public record.

**70.542 Basis of decision**

To approve a temporary use permit for more than 30 days but less than 90 days, the Plan Commission must determine that the proposed temporary use complies with all applicable sections of this code and does not have the potential to create an unacceptable negative effect on adjoining properties or the community at large.

**70.543 Conditions of approval**

- A. **Generally.** In approving a temporary use permit for 30 days or less, the zoning administrator may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions may address such matters as parking, access, signage, lighting, security, solid waste disposal, potable water and sanitary facilities, screening, noise, traffic control, hours and days of duration and operation, financial guarantees or warranties to ensure compliance and/or against defects or damage to public property, and other items which may be required to protect the health, safety, and welfare of the public.
- B. **Effect on contracts with another party.** The Plan Commission shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

**Editorial notes:**

- [1] See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

**70.544 Application form and content**

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F.

**70.545 Expiration of an approval**

A temporary use permit shall automatically expire 90 days after the first day of the temporary use or an earlier date as may be specified in the approval.

**70.546 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

**70.547 to 70.559 Reserved****DIVISION 13  
TERMINATION OF APPROVAL****70.560 Generally**

There are certain situations when the approval for a land use may be terminated. This division describes the procedures for terminating an approved use.

**70.561 Initiation**

- A. **Voluntary termination of a conditional use.** The property owner is authorized to submit an application to terminate a conditional use approval for his or her property.
- B. **Involuntary termination of conditional use approval due to cessation.** The zoning administrator is authorized to submit an application to terminate a conditional use approval when he or she determines the land use authorized by such approval has ceased to operate for more than 12 months.
- C. **Involuntary termination of a conditional use approval due to violation.** The zoning administrator is authorized to submit an application to terminate a conditional use approval when he or she determines that the property owner has violated one or more conditions of approval and satisfactory action has not been taken to correct the violation.

- D. **Involuntary termination of a specified land use due to cessation.** The zoning administrator is authorized to submit an application to terminate an approved land use when he or she determines that such use is no longer in use for the time period specified for such use.
- E. **Involuntary termination of a nonconforming use.** The zoning administrator is authorized to submit an application to terminate a nonconforming use when he or she determines that such use is having a significant harmful effect on the public health, safety, and welfare or the nonconforming use has ceased to operate for the period of time required by this chapter to retain designation as a nonconforming use.

#### 70.562 Review procedure for voluntary termination

The general steps outlined below shall be used in the review of an application to voluntarily terminate an approval of a land use authorized under this chapter.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
4. **Meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
5. **Decision.** The Village Board makes a decision to (i) approve the termination, (ii) approve the termination with conditions, or (iii) deny the termination. ~~The Village Board may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.~~
6. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division, subject to the direction provided by the Village Board.
7. **Applicant notification.** Within a reasonable time following the Village Board's decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
8. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.
9. **Administrative steps.** If the application is approved, the zoning administrator updates any village records to indicate that the use as specified in the application has been terminated.

#### 70.563 Review procedure for involuntary termination

The general steps outlined below shall be used in the review of an application to involuntarily terminate an approval of a land use authorized under this chapter.

1. **Submittal of application materials.** The zoning administrator shall complete an application and other required materials.
2. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the

- Draft March 16, 2020 -

deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.

3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Village Board and the Plan Commission consistent with its adopted calendar.
4. **Special notice to property owner.** The zoning administrator sends a written notice to the property owner by regular and certified mail at least 30 calendar days prior to the date of the public hearing. Such notice should state (i) the reasons why the zoning administrator has submitted an application to terminate the specified use; (ii) the date and time of the public hearing; (iii) contact information for the zoning administrator, including telephone number; and (iv) other information deemed appropriate by the zoning administrator. If the action is intended to terminate a conditional use for a violation, the notice shall state the alleged violation along with supporting evidence. If the action is intended to terminate an inactive land use, the notice shall state the time period when the land use was not in use along with any supporting evidence.
5. **General public notice.** Consistent with Division 2 of Article 4, the zoning administrator provides for a class 2 public notice, property owner notice, and meeting agenda notice.
6. **Public hearing.** Allowing for proper notice, the Village Board and the Plan Commission conduct a joint public hearing consistent with Division 3 of Article 4, with the Plan Commission chair serving as the presiding officer. Prior to the close of the public hearing, the applicant, the Village Board, or the Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Village Board or the Plan Commission may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research. In addition, the Plan Commission may direct the zoning administrator to prepare such documents it deems necessary, including a preliminary decision document.
7. **Plan Commission recommendationRecommendation.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the Plan Commission, no more than 40 calendar days after the public hearing, makes a recommendation to the Village Board based on the decision criteria ~~contained~~ in this division to (i) approve the termination, (ii) approve the termination with conditions, or (iii) deny the termination.
8. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
9. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
10. **Decision.** After considering all of the information submitted by the applicant, public comments received at the public hearing, and the Plan Commission's recommendation, the Village Board makes a decision based on the decision criteria ~~contained~~ in this division to (i) approve the termination, (ii) approve the termination with conditions, or (iii) deny the termination.
11. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a final decision document consistent with this division, subject to the direction given by the Village Board.
12. **Applicant notification.** Within a reasonable time following the Village Board's decision, but not more than 10 days, the zoning administrator sends the decision document to the property owner by regular mail and/or email.
13. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.
14. **Administrative steps.** If the application is approved, the zoning administrator updates any village records to indicate that the use as specified in the application has been terminated.

#### 70.564 Basis of decision

The Plan Commission in making its recommendation and the Village Board in making its decision shall consider the following factors:

- (1) the nature of those buildings or other structures, if any, on the subject property that relate to the use and the extent to which they are or are not otherwise permitted in the district in which the subject property is located;
- (2) effects of the existing use on surrounding properties, including detriment to the full and complete use of such properties and potential for concerns related to possible nuisances;
- (3) effects of the existing use on the normal and orderly development and improvement of the surrounding property for those uses permitted in the zoning district in which they are located; and
- (4) any other factor that relates to the purposes of this chapter as set forth in s. 70.05 or as allowed by state law.

#### **70.565 Application form and content**

The application submittal shall include an application form as may be used by the Village. The application form shall request the following information:

- (1) the subject property location;
- (2) a description of the original approval, including conditions of approval, if any;
- (3) verification that the property owner is voluntarily seeking termination of a conditional use approval or evidence supporting the assertion that the use may be involuntarily terminated consistent with this division;
- (4) a description of those buildings or other structures, if any, on the subject property that relate to the use and the extent to which they are or are not otherwise permitted in the district in which the subject property is located; and
- (5) other information deemed necessary.

#### **70.566 Content of decision document**

- A. **Approval.** If the application to terminate an approval is approved, the decision document should include the following:
  - (1) a statement that the specified use is terminated;
  - (2) a description of the land use being terminated;
  - (3) reasons for the decision based on the criteria listed in this division;
  - (4) requirements for the removal of any building or other structure, if any, on the subject property that are related to the terminated use and that are not otherwise permitted in the zoning district in which the subject property is located;
  - (5) a statement that the decision may be appealed as provided for in this division;
  - (6) other information the Village Board or zoning administrator deems appropriate;
  - (7) the signature of the zoning administrator on behalf of the Village Board; and
  - (8) the date of the decision.
- B. **Denial.** If the application to terminate an approval is denied, the decision document should include the following:
  - (1) a statement that the specified use continues to be an approved use,
  - (2) a description of the land use,
  - (3) reasons for the decision based on the criteria listed in this division,
  - (4) a statement that the decision may be appealed as provided for in this division,
  - (5) other information the Village Board or zoning administrator deems appropriate,
  - (6) the signature of the zoning administrator on behalf of the Village Board, and
  - (7) the date of the decision.

**70.567 Compliance with requirements of zoning district**

If the Village Board terminates an approval under this division, the property owner shall bring the subject property into conformity with the permitted use regulations of the zoning district in which the property is located. The Village Board shall establish a timeframe it determines appropriate to bring the property into compliance. In making such determination, the Village Board should consider the type of actions the property owner will need to take to bring the property into compliance and weather conditions. In no event, shall the compliance period be less than 30 calendar days or more than 9 months.

**70.568 Appeal**

The property owner or other person having a development interest in the terminated use may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

**70.569 to 70.579 Reserved**

**DIVISION 14  
REGISTRATION OF A NONCONFORMING USE**

**70.580 Generally**

There may be now or in the future certain uses of land that are not in compliance with this chapter, but which were legally established. These uses are referred to as "nonconforming uses," and consistent with the provisions of Article 15 are allowed to continue to operate within certain parameters. For this reason, it is necessary to document those uses that are considered nonconforming. Registration of a use as a nonconforming use provides documentary evidence establishing (1) when the use was first established; (2) that the use was established consistent with the rules and regulations in effect at the time, if any; (3) that the use has operated continuously, without cessation of more than 12 continuous months; and (4) the nature of the use. Failure to register a nonconforming use does not result in prohibition of the use, but in any future situation where the owner asserts the use is a nonconforming use, the property owner shall have the burden of so proving.

**70.581 Initiation**

Any of the following may submit an application to determine whether a use should be registered as a nonconforming use:

- (1) a person having a financial interest in the property or in the use occurring on the property;
- (2) the zoning administrator;
- (3) the Plan Commission, or any member thereof; and
- (4) the Village Board, or any member thereof.

**70.582 Review procedure**

The general steps outlined below shall be used to determine if an existing use should be registered as a nonconforming use.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
3. **Special notice to property owner.** If the application process is not initiated by the property owner, the zoning administrator sends a written notice to the property owner by regular and certified mail at least 60 calendar days prior to the date of the Plan Commission meeting. Such notice shall invite the property owner to submit evidence relating to the pending determination. In addition, the notice should state (i) the reasons why the application has been submitted; (ii) the date and time of the meeting; (iii) contact information for the zoning administrator; and (iv) other information deemed appropriate by the zoning administrator.

4. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
5. **Plan Commission Recommendation.** The Plan Commission determines whether it has sufficient evidence to make a recommendation, and if so whether the use should or should not be classified as a nonconforming use. ~~The Plan Commission may render its recommendation at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.~~
6. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
7. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
8. **Decision.** After considering the Plan Commission's recommendation, the Village Board determines whether it has sufficient evidence to make a final decision, and if so whether the use should or should not be classified as a nonconforming use.
9. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator ~~within 15 calendar days of such decision~~ prepares a decision document consistent with this division, subject to the direction provided by the Village Board.
10. **Applicant notification.** Within a reasonable time following the Village Board's decision, but not more than 10 days, the zoning administrator sends the decision document to the property owner by regular mail and/or email.
11. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.
12. **Inclusion in registry.** If the use is determined to be a nonconforming use, the zoning administrator shall include the nonconforming use in the registry authorized in Article 6.

#### 70.583 Basis of decision

In making its decision, the review authority shall determine whether there is sufficient evidence to show that (1) the use in question was legally established; (2) such use does not now comply with one or more of the requirements of this chapter; and (3) such use has continued from the date, or approximate date, of establishment to the current date without an interruption of more than 12 continuous months.

#### 70.584 Application form and content

The application submittal shall include an application form as may be used by the Village and scaled drawing of the property and the location of the land use on the property. At a minimum, the application shall request the following information:

- (1) the date, or approximate date, the use was first established or believed to be first established;
- (2) evidence showing that the use at the time of establishment was legally established;
- (3) the date, or approximate date, when the use became nonconforming;
- (4) the section of the zoning regulation causing the use to be nonconforming;
- (5) evidence showing that the use has continued from the date, or approximate date, of establishment to the current date without an interruption of more than 12 continuous months; and
- (6) the nature of the use and location on the property.

Sources of such information may be derived from any of the following:

- (1) written document (e.g., business license, meeting minutes, reports, planning documents, or a permit or other authorization) maintained by a local, state, or federal governmental body;
- (2) a newspaper article;
- (3) a dated photograph;
- (4) an aerial photograph;
- (5) a sworn affidavit supplied by the applicant or any other person; and

- (6) any other authoritative source as approved by the zoning administrator.

**70.585 Content of decision document**

- A. **Approval.** If the application for registering a nonconforming use is approved, the decision document should include the following:
- (1) a statement that the application is approved,
  - (2) a description of the use,
  - (3) reasons for the decision based on the criteria listed in this division,
  - (4) a statement that the applicant may appeal the decision as provided for in this division,
  - (5) other information the Plan Commission or the zoning administrator deems appropriate,
  - (6) the signature of the zoning administrator on behalf of the Plan Commission, and
  - (7) the date of the decision.
- B. **Denial.** If the application for registering a nonconforming use is denied, the decision document should include the following:
- (1) a statement that the application is denied,
  - (2) a description of the use,
  - (3) reasons for the decision based on the criteria listed in this division,
  - (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
  - (5) a statement that the applicant may appeal the decision as provided for in this division,
  - (6) other information the Plan Commission or the zoning administrator deems appropriate,
  - (7) the signature of the zoning administrator on behalf of the Plan Commission, and
  - (8) the date of the decision.

**70.586 Effect of decision**

If the Plan Commission determines that a land use meets the criteria for a nonconforming use, such decision constitutes documentary evidence establishing the legitimacy and nature of the use as a nonconforming use.

**70.587 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision

**70.588 to 70.599**

**Reserved**

**DIVISION 15  
CONVERSION OF A NONCONFORMING USE**

**70.600 Generally**

An existing nonconforming use (e.g., a tavern in a residential district) may be converted to another nonconforming use provided the new use is less nonconforming (e.g., from a tavern to a restaurant).

**70.601 Initiation**

The owner of the subject property may submit an application for a conversion of a nonconforming use, but only when the nonconforming use has been registered as a nonconforming use pursuant to Division 14 of this article.

**70.602 Review procedure**

The general steps outlined below shall be used in the review of an application for a conversion of a nonconforming use.

1. **Pre-submittal meeting with staff.** Before submitting an application, the applicant or the applicant's agent shall meet with the zoning administrator to review (i) applicable regulations and procedures, (ii) applicable sections of the Village's comprehensive plan, and (iii) the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the Village's zoning requirements.
2. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
3. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
4. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
5. **Staff report preparation and distribution.** The zoning administrator ~~prepares~~ may prepare a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
6. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator provides for (i) a class 2 public notice, (ii) property owner notice, and (iii) meeting agenda notice.
7. **Public hearing.** Allowing for proper notice, the Village Board and Plan Commission conduct a joint public hearing consistent with Division 3 of Article 4, with the Plan Commission chair serving as the presiding officer. Prior to the close of the public hearing, the applicant, Village Board, or Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Village Board or Plan Commission may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research and to prepare such documents it deems necessary, including a preliminary decision document.
8. **~~Plan Commission recommendation~~ Recommendation.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the Plan Commission, ~~no more than 40 calendar days after the public hearing,~~ makes a recommendation to the Village Board based on the decision criteria ~~contained~~ in this division to (i) approve the conversion, (ii) approve the conversion with conditions, or (iii) deny the conversion.
9. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
10. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
11. **Decision.** After considering all of the information submitted by the applicant, public comments received at the public hearing, and the Plan Commission's recommendation, the Village Board makes a decision based on the decision criteria ~~contained~~ in this division to (i) approve the conversion, (ii) approve the conversion with conditions, or (iii) deny the conversion.
12. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a final decision document consistent with this division, subject to the direction given by the Village Board. If approved, the zoning administrator shall also prepare and a conversion order ~~if approved.~~

13. **Applicant notification.** If the application is denied, the zoning administrator, within a reasonable time following the Village Board 's decision, but not more than 10 days, sends the decision document to the applicant by regular mail and/or email.
14. **Acceptance by property owner.** If the application is approved, the property owner must sign the conversion order to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the Village at the expiration of such time limit. The conversion order shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
15. **Public record copy.** A duplicate copy of the decision document is retained as a public record.
16. **Recordation.** If the property owner signs the approved conversion order, the zoning administrator records the conversion order in the office of the Washington County register of deeds.

#### 70.603 Basis of decision

The Plan Commission and Village Board shall compare the known and anticipated impacts of the existing nonconforming use on properties in the area and those of the proposed nonconforming use. The Plan Commission shall not recommend and the Village Board shall not approve a conversion when the new nonconforming use would be more of a nonconformity than the existing nonconforming use.

#### 70.604 Imposition of conditions

- A. **Generally.** In approving a conversion, the Village Board may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping and screening, outdoor lighting, and hours of operation.
- B. **Effect on contracts with another party.** The Village Board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

#### Editorial notes:

- [1] See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

#### 70.605 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F.

#### 70.606 Staff report content

The staff report should include ~~contain~~ the following:

- (1) a description of the requested conversion;
- (2) preliminary findings for the decision criteria listed in this division;
- (3) a recommendation to approve the application, approve the application with conditions, or deny the application;
- (4) a preliminary list of conditions whether the staff recommendation is for approval or denial; and
- (5) other information deemed necessary.

#### 70.607 Content of decision document

- A. **Approval.** If the application for a conversion is approved, the decision document should include the following:
  - (1) a statement that the conversion is approved;

- (2) a description of the new nonconforming use;
- (3) a statement indicating that the property owner must sign the conversion order and return it to the zoning administrator;
- (4) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- (5) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (6) other information the review authority or zoning administrator deems appropriate;
- (7) the signature of the zoning administrator on behalf of the review authority;
- (8) the date of the decision; and
- (9) the copy of the conversion order described in s. 70.608.

B. **Denial.** If the application for a conversion is denied, the decision document should include the following:

- (1) a statement that the application is denied,
- (2) a description of the proposed conversion,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the Village Board or zoning administrator deems appropriate,
- (7) the signature of the zoning administrator on behalf of the Village Board, and
- (8) the date of the decision.

#### **70.608 Content of conversion order**

If the conversion is approved, a conversion order shall be prepared and adopted that ~~contains~~includes (1) a description of the subject property's location (e.g., address, parcel number, reference to a parcel in a certified survey map or subdivision plat); (2) a description of the existing and of the new nonconforming use; (3) conditions of approval, if any; and (4) other provisions deemed necessary given the nature of the approval.

#### **70.609 Effect of approval**

If the Village Board approves the conversion, such approval shall run with the land and is binding on all subsequent property owners.

#### **70.610 Expiration of an approval**

If the zoning administrator determines that substantial work as authorized by a conversion approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 6 months.

#### **70.611 Amendment of an approval**

Following approval of a conversion, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

**70.612 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

**70.613 to 70.619 Reserved**

**DIVISION 16  
EXPANSION OF A NONCONFORMING BUILDING**

**70.620 Generally**

A nonconforming building (i.e., a building built too close to a lot line) with a conforming use may be expanded in compliance with all requirements of the zoning code and with the procedures and requirements of this division.

**70.621 Initiation**

The owner of the subject property may submit an application to expand a nonconforming building with a conforming use.

**70.622 Review procedure**

The general steps outlined below shall be used in the review of an application to expand a nonconforming building.

1. **Pre-submittal meeting with staff.** Before submitting an application, the applicant or the applicant's agent may meet with the zoning administrator to review applicable regulations and procedures and the proposal.
2. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
3. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
4. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
5. **Staff report preparation and distribution.** The zoning administrator ~~prepares~~ may prepare a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and the applicant prior to the meeting at which the matter will be considered. The zoning administrator will also provide a copy to interested people upon request.
6. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
7. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
8. **Plan Commission rRecommendation.** The Plan Commission makes a recommendation to (i) approve the expansion, (ii) approve the expansion with conditions, or (iii) deny the expansion. ~~The Plan Commission may render its recommendation at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the public meeting unless the applicant agrees to an extension of a specified duration.~~
9. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.

10. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
11. **Decision.** The Village Board makes a decision to (i) approve the expansion, (ii) approve the expansion with conditions, or (iii) deny the expansion.
12. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division.
13. **Applicant notification.** Within a reasonable time following the Village Board's decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
14. **Acceptance by property owner.** If the application is approved, the property owner must sign the decision document to acknowledge the terms of the approval ~~imposition of such condition or conditions~~ and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the Village at the expiration of such time limit. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
15. **Recording of decision document.** The decision document is recorded in the Washington County register of deeds office when approval is granted.
16. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.

#### 70.623 Basis of decision

The review authority shall consider the following factors:

- (1) the degree of the existing nonconformity (i.e., 1 foot into the setback or 1 foot from the property boundary line),
- (2) the size and configuration of the lot,
- (3) whether the lot conforms to the dimensional standards of the zoning district in which it is located,
- (4) the size and location of the existing nonconforming building,
- (5) the size and location of other existing structures and those structures reasonably anticipated on the lot,
- (6) the impact, if any, that the expansion may have on adjoining properties,
- (7) whether the proposed expansion would violate the intent of this chapter, and
- (8) any other factor that relates to the purposes of this chapter set forth in s. **70.05** or as allowed by state law.

#### 70.624 Imposition of conditions

- A. **Generally.** In approving an expansion of a nonconforming building, the Village Board may impose one or more conditions of approval deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping, screening, and the maximum size of the building(s), or impose limitations on additional buildings otherwise allowed on the subject property under the applicable zoning district regulations.
- B. **Effect on contracts with another party.** The Village Board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

#### Editorial notes:

[1] See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

**70.625 Application form and content**

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in **Appendix F**.

**70.626 Content of decision document**

- A. **Approval.** If the application for an expansion of a nonconforming building is approved, the decision document should include the following:
- (1) a statement that the building expansion is approved;
  - (2) a description of the building project;
  - (3) reasons for the decision based on the criteria listed in this division;
  - (4) conditions of approval, if any;
  - (5) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
  - (6) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
  - (7) other information the Village Board or zoning administrator deems appropriate;
  - (8) the signature of the zoning administrator on behalf of the Village Board; and
  - (9) the date of the decision.
- B. **Denial.** If the application for expansion of a nonconforming building is denied, the decision document should include the following:
- (1) a statement that the building expansion is denied,
  - (2) reasons for the decision based on the criteria listed in this division,
  - (3) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
  - (4) a statement that the applicant may appeal the decision to a court of competent jurisdiction,
  - (5) other information the Village Board or zoning administrator deems appropriate,
  - (6) the signature of the zoning administrator on behalf of the Village Board, and
  - (7) the date of the decision.

**70.627 Effect of decision**

If the review authority approves the expansion of a nonconforming building, the approval runs with the land and is binding on all subsequent property owners.

**70.628 Expiration of an approval**

An approval to expand a nonconforming building shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

**70.629 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

**70.630 to 70.639****Reserved****DIVISION 17****RURAL ACCESSORY BUILDING DETERMINATION****70.640 Generally**

As more fully described in this division, the Plan Commission is authorized to designate certain existing accessory buildings as a "rural accessory building" in those zoning districts listed in Appendix A. If a building is so designated, it is not counted towards the allowable number of accessory buildings permitted on a lot or towards the allowable building square footage permitted on a lot. This division describes the procedures and requirements for a rural accessory building determination.

**70.641 Initiation**

The owner of the subject property may submit an application to designate an existing building as a rural accessory building.

**70.642 Review procedure**

The general steps outlined below shall be used in the review of an application to a rural accessory building determination.

1. **Pre-submittal meeting with staff.** Before submitting an application, the applicant or the applicant's agent may meet with the zoning administrator to review applicable regulations and procedures and the proposal.
2. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
3. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
4. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
5. **Staff report preparation and distribution.** The zoning administrator ~~prepares~~ may prepare a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and the applicant prior to the meeting at which the matter will be considered. The zoning administrator will also provide a copy to interested people upon request.
6. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
7. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
8. **Plan Commission recommendation.** The Plan Commission makes a recommendation to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application. ~~The Plan Commission may render its recommendation at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the public meeting unless the applicant agrees to an extension of a specified duration.~~
9. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.

10. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
11. **Decision.** The Village Board makes a decision to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
12. **Preparation of decision document.** Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division.
13. **Applicant notification.** Within a reasonable time following the Village Board's decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
14. **Acceptance by property owner.** If the application is approved, the property owner must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the Village at the expiration of such time limit. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
15. **Recording of decision document.** The decision document is recorded in the Washington County register of deeds office when approval is granted.
16. **Public record copy.** A copy of the decision document is retained as a public record.

#### 70.643 Basis of decision

In making its decision, the Plan Commission shall initially determine whether the building meets at least one of the following criteria:

- (1) The building is set apart from other buildings as being distinct, due to its construction technique, construction materials, age, local historic significance, or design.
- (2) The building is characteristic of past agricultural practices or rural life, whether presently utilized or not for agricultural practice.
- (3) The building is associated with a person of historic significance or with important historical events.
- (4) The building represents a notable work of a master builder, designer, or architect who influenced their age.

If the Plan Commission determines that the building meets one of the above criteria, it shall then consider the following factors in making its final decision:

- (1) effects of the building on the natural environment,
- (2) effects of the building on surrounding properties,
- (3) the overall appearance of the building, and
- (4) any other factor that relates to the purposes of this chapter as set forth in s. 70.05 or as allowed by state law.

No building shall be designated a rural accessory building if it is not structurally sound to meet minimum safety requirements for the proposed use, as determined by the building inspector, provided that such determination shall not relieve the property owner of any responsibility or liability as to the building and shall not form a basis of liability against the building inspector or any other governmental official or entity.

#### 70.644 Imposition of conditions

- A. **Generally.** The Plan Commission may impose one or more conditions of approval as may be necessary to grant approval.
- B. **Effect on contracts with another party.** The Plan Commission shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.<sup>[1]</sup>

**Editorial notes:**

[1] See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

**70.645 Application form and content**

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F.

**70.646 Content of decision document**

- A. **Approval.** If the application for a rural accessory building determination is approved, the decision document should include the following:
- (1) a statement that the building expansion is approved;
  - (2) a description of the building or buildings;
  - (3) reasons for the decision based on the criteria listed in this division;
  - (4) conditions of approval, if any;
  - (5) a determination as to whether additional buildings are allowed and under what circumstances;
  - (6) a statement indicating that the property owner must sign the decision notice and return it to the zoning administrator to acknowledge any terms of the approval;
  - (7) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
  - (8) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
  - (9) other information the Plan Commission or zoning administrator deems appropriate;
  - (10) the signature of the zoning administrator on behalf of the Plan Commission; and
  - (11) the date of the decision.
- B. **Denial.** If the application for a rural accessory building determination is denied, the decision document should include the following:
- (1) a statement that the application is denied,
  - (2) a description of the building or buildings,
  - (3) reasons for the decision based on the criteria listed in this division,
  - (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
  - (5) a statement that the applicant may appeal the decision to a court of competent jurisdiction,
  - (6) other information the Plan Commission or zoning administrator deems appropriate,
  - (7) the signature of the zoning administrator on behalf of the Plan Commission, and
  - (8) the date of the decision.

**70.647 Effect of decision**

If the Plan Commission designates a building as a rural accessory building, the approval runs with the land and is binding on all subsequent property owners.

**70.648 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

**70.649 to 70.659****Reserved**

- Draft March 16, 2020 -

## DIVISION 18 CODE INTERPRETATION

### 70.660 Generally

~~When there is uncertainty or disagreement as to the intent or meaning of a provision in this chapter, a person can ask for a code interpretation. For example, the question may relate to (1) the zoning map, (2) a specific provision in the code, (3) how a specific provision in the code is applied in a specific instance, or (4) terms and conditions of an approval. From time to time, there may be instances where a person may have a question concerning a provision of this chapter or the application of a provision of this chapter. To ensure this chapter is consistently interpreted over time, a mechanism is needed to issue written interpretations.~~ This division describes the procedures and requirements to issue such interpretations.

### 70.661 Initiation

Any person, including the zoning administrator, may submit a question for interpretation.

### 70.662 Limitations on interpretations

The responsibility for issuing an interpretation shall not be construed as overriding the responsibilities specifically given to any commission, board, or official named in any other part of this chapter.

### 70.663 Review procedure

A. **Zoning administrator review.** The general steps outlined below shall be used to render an interpretation.

- (1) **Submittal of question.** The individual requesting the interpretation shall submit the question in writing to the zoning administrator and the application fee as may be established by the Village Board.
- (2) **Decision.** In consultation with the village attorney, if deemed necessary, the zoning administrator shall make a written decision within 60 calendar days of when the petition was submitted.
- (3) **Notification of decision.** Within a reasonable time following completion of the interpretation, the zoning administrator sends a ~~duplicate~~ copy of the interpretation by regular mail and/or email to the individual requesting the interpretation and provides a copy of the same to the Plan Commission, the village attorney, and those village employees and agents involved in the administration of this chapter, as appropriate.
- (4) **Public record copy.** A ~~duplicate~~ copy of the interpretation is retained as a public record.

B. **Plan Commission review on appeal.** If a final decision of the zoning administrator is appealed as provided for in this division, the general steps outlined below shall be used to render an interpretation.

- (1) **Submittal of application materials.** The zoning administrator forwards the application and other materials the applicant submitted to the Plan Commission along with the administrator's interpretation.
- (2) **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
- (3) **Meeting.** Allowing for proper notice, the Plan Commission considers the appeal at a regular or special meeting.
- (4) **Decision.** In consultation with the village attorney, the Plan Commission makes a written decision within 60 calendar days of when the zoning administrator's decision was appealed.
- (5) **Preparation of decision document.** Based on the action of the Plan Commission, the zoning administrator ~~within 15 calendar days of such decision~~ prepares a decision document consistent with this division.
- (6) **Applicant notification.** Within a reasonable time following the Plan Commission's decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- (7) **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.

**70.664 Basis of decision**

- A. **General.** In consultation with the village attorney and others as appropriate, the review authority shall (1) evaluate the section of this chapter in question and those that are related, (2) consider the purposes of this chapter set forth in s. 70.05 and other parts of the chapter along with applicable legislative findings ~~contained~~ in this chapter, and (3) consider other applicable interpretations that have previously been made and make a decision consistent with this division giving this chapter its most reasonable application. If the review authority cannot make a reasonable interpretation, a determination shall not be issued.
- B. **Floodplain zoning.** If an unclear provision relates to the floodplain regulations and is required by ch. NR 116, Wis. Admin. Code, the provision shall be interpreted in light of the standards in ch. NR 116 in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
- C. **Shoreland-wetland zoning.** If an unclear provision relates to the shoreland-wetland regulations and is required by ch. NR 117, Wis. Admin. Code, the provision shall be interpreted in light of the standards in ch. NR 117 in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
- D. **Similarity of land uses.** In making a determination as allowed under s. 70. with respect to similarity of land uses, the zoning administrator should consider (1) the nature of the requested use; (2) whether the requested use is consistent with the Village's comprehensive plan; and (3) whether the requested use is consistent with the purposes of each of the zoning districts where the similar use is allowed either by right or as a conditional use.

**70.665 Repeal or revision of an interpretation**

The review authority may rescind or modify an interpretation the review authority issued if such interpretation is deemed to be incorrect in whole or in part.

**70.666 Interpretation content**

An interpretation shall be in writing and ~~contain~~includes the following:

- (1) the name of the person posing the question,
- (2) the section number of this chapter in question,
- (3) the question or alleged ambiguity,
- (4) the factors that were considered in making the interpretation,
- (5) the interpretation,
- (6) other information the review authority deems appropriate,
- (7) the signature of the zoning administrator, and
- (8) the date of decision.

**70.667 Effect of interpretation**

An interpretation once rendered shall have full effect as if set forth in this chapter. Where appropriate, interpretations should be addressed through the amendment process. If the review authority determines that it is not possible to make a reasonable interpretation, such decision shall not affect the validity of any section of this chapter.

**70.668 Compilation of interpretations**

The zoning administrator shall keep a written record of all interpretations in effect and make them available for public inspection during normal office hours.

**70.669 Appeal**

An aggrieved person may, without time constraint, appeal an interpretation made pursuant to this division by filing an appeal with the Plan Commission. Following the final decision of the Plan Commission, an aggrieved person may appeal such decision to a court of competent jurisdiction without time constraint.

**70.670 to 70.679 Reserved****DIVISION 19  
ADMINISTRATIVE APPEAL****70.680 Generally**

Recognizing that there may be situations where a property owner or another party believes that the zoning administrator made an error in administering a zoning code, the state legislature established a mechanism to allow the Zoning Board of Appeals to review alleged administrative errors. This division describes the requirements and procedures for reviewing an alleged administrative error.

**70.681 Initiation**

Any person aggrieved by a final decision of the zoning administrator may file an appeal with the Zoning Board of Appeals consistent with this division.

**70.682 Review procedure**

The general steps outlined below shall be used in the review of an administrative appeal.

1. **Submittal of appeal.** The applicant submits a written appeal to the village clerk within 30 calendar days of the date of the administrative decision being appealed, unless a different timeframe is established.
2. **Notification of appeal.** The village clerk provides a ~~duplicate~~ copy of the appeal to the Zoning Board of Appeals and the zoning administrator.
3. **Compilation and submittal of record.** The zoning administrator compiles a complete and accurate record relating to the action being appealed and transmits it to the Zoning Board of Appeals in a timely manner.
4. **Special notice to Department of Natural Resources.** If the administrative appeal relates to a decision relating to the floodplain regulations or shoreland-wetland regulations in this chapter, the zoning administrator sends a copy of the application and public hearing notice to the regional office of the Wisconsin Department of Natural Resources by regular mail and/or email at least 10 calendar days before the date of the public hearing.
5. **Special notice to parties in interest.** The chairperson of the Zoning Board of Appeals gives notice for the public hearing to the parties in interest, including the applicant and the zoning administrator.
6. **General notice.** The chairperson of the Zoning Board of Appeals provides for (i) a class 2 public notice and (ii) meeting agenda notice consistent with Division 2 of Article 4.
7. **Public hearing.** Allowing for proper notice, the Zoning Board of Appeals conducts a public hearing consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant or the Zoning Board of Appeals may request a continuance consistent with Division 3 of Article 4.
8. **Decision.** After the public hearing has been closed, the Zoning Board of Appeals makes a decision to affirm the zoning administrator's decision, set aside the decision, or modify the decision. ~~The Zoning Board of Appeals may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.~~
9. **Notification of decision.** Within a reasonable time following the Zoning Board of Appeals' decision, the village clerk sends the decision document to the applicant by regular mail and/or email and provides a ~~duplicate~~ copy of the same to the zoning administrator and the Plan Commission.
10. **Notification to Department of Natural Resources.** If the administrative appeal relates to a decision relating to the floodplain regulations or shoreland-wetland regulations in this chapter, the village clerk sends a copy of the decision document to the regional office of the Wisconsin Department of Natural Resources by regular mail and/or email.
11. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.

**70.683 Basis of decision**

- A. **Generally.** The Zoning Board of Appeals shall determine if the zoning administrator made an error in judgment as applied to the instance being appealed.
- B. **Historic property.** In an action involves a historic property, as defined in s. 44.31(3), Wis. Stats., the Zoning Board of Appeals shall consider any suggested alternatives or recommendations submitted by the landmarks commission, if one has been established, or the Plan Commission.

**70.684 Effect of appeal**

An appeal shall stay all legal proceedings in furtherance of the action from which the appeal is made, unless the zoning administrator certifies in writing to the Zoning Board of Appeals that a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals or by a court of record on application, with notice to the zoning administrator from whom appeal is made.

**70.685 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

**70.686 to 70.699 Reserved**

**DIVISION 20  
VARIANCE**

**70.700 Generally**

Recognizing that there may be situations where a zoning regulation that if enforced would cause unnecessary hardship to individual landowners, the state legislature established a mechanism to allow a municipality to issue a variance in those instances where a minor deviation would be appropriate to alleviate such hardship without circumventing or undermining the intent of the municipality's zoning regulations. This division describes the requirements and procedures for reviewing variance applications for dimensional standards.

**70.701 Initiation**

The owner of the subject property may submit an application for a variance.

**70.702 Review procedure**

The general steps outlined below shall be used in the review of a variance application.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal ~~within 10 days of receiving the application and other required materials~~ to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Zoning Board of Appeals consistent with its adopted calendar.
4. **Special notice to Department of Natural Resources.** If the application relates to the floodplain regulations or shoreland-wetland regulations in this chapter, the zoning administrator sends a copy of the application

- Draft March 16, 2020 -

and public hearing notice to the regional office of the Wisconsin Department of Natural Resources via regular mail and/or email at least 10 calendar days before the date of the public hearing.

5. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator provides for (i) a class 2 public notice, (ii) property owner notification, and (iii) meeting agenda notice.
6. **Staff report preparation and distribution.** The zoning administrator ~~prepares~~ may prepare a written staff report as described in this division and provides a copy to each member of the Zoning Board of Appeals and the applicant. The zoning administrator provides a copy to interested people upon request.
7. **Public hearing.** Allowing for proper notice, the Zoning Board of Appeals holds a public hearing consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant or the board may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Zoning Board of Appeals may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research and to prepare such documents it deems necessary, including a preliminary decision document.
8. **Decision.** After the public hearing has been closed, the Zoning Board of Appeals after considering the comments and the staff report, if any, makes a decision based on the decision criteria ~~contained~~ in this division to (i) approve the variance, (ii) approve the variance with conditions, or (iii) deny the variance. The Zoning Board of Appeals may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, ~~but no later than 40 calendar days after the public hearing unless the applicant agrees to an extension of a specified duration.~~
9. **Preparation of decision document.** Based on the action of the Zoning Board of Appeals, the zoning administrator prepares a decision document consistent with this division.
10. **Applicant notification.** Within a reasonable time following the Zoning Board of Appeals' decision, but not more than 10 days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
11. **Notification to Department of Natural Resources.** If the application relates to the floodplain regulations or shoreland-wetland regulations in this chapter, the zoning administrator sends a copy of the decision document to the regional office of the Wisconsin Department of Natural Resources via regular mail and/or email.
12. **Acceptance by property owner.** If the Zoning Board of Appeals grants the variance with one or more condition of approval, the property owner must sign the decision document to acknowledge the terms of the approval ~~imposition of such condition or conditions~~ and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall automatically become null and void without any further action by the Village at the expiration of such time limit. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
13. **Public record copy.** A ~~duplicate~~ copy of the decision document is retained as a public record.
14. **Additional procedural steps.** If the Zoning Board of Appeals grants the variance, the applicant shall then follow other review procedures as may be required.

#### 70.703 Basis of decision

The Zoning Board of Appeals shall base its decision upon the standard for a variance described in s. 62.23(7)(e)(7), Wis. Stats., and applicable judicial interpretations of such statute.

#### 70.704 Limitations on issuing a variance

The following actions shall not be allowed by an area variance, and shall be deemed to be a use variance subject to the use variance standard in s. 62.23(7)(e)7.(d), Wis. Stats.:

- (1) expansion of a nonconforming use (e.g., expansion of area, increase in operational characteristics, etc.), or

- (2) modification to lot size requirements so as to increase the permitted density or intensity of use.

**70.705 Imposition of conditions**

In approving a variance, the Zoning Board of Appeals may impose such conditions and restriction as may be necessary to grant approval.

**70.706 Application form and content**

The application submittal shall include an application form as may be used by the Village and a project map prepared at an appropriate scale depicting the information listed in [Appendix F](#).

**70.707 Staff report content**

The staff report should ~~contain~~ include the following:

- (1) preliminary findings for the decision criteria listed in this division;
- (2) a preliminary recommendation to approve the application, approve the application with conditions, or deny the application;
- (3) a preliminary list of conditions for approval whether the staff recommendation is for approval or denial; and
- (4) other information deemed necessary.

**70.708 Content of decision document**

A. **Approval.** If an application for a variance is approved, the decision document should include the following:

- (1) a statement that the variance is approved;
- (2) a description of the variance;
- (3) reasons for the decision based on the criteria listed in this division;
- (4) conditions of approval, if any;
- (5) if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same;
- (6) a statement that the approval will automatically expire 12 months after the date of approval unless substantial work as authorized by the approval has commenced and continues in good faith to completion and that the Zoning Board of Appeals may, with cause, grant a one-time extension, not to exceed 6 months;
- (7) a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- (8) a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- (9) other information the Zoning Board of Appeals or zoning administrator deems appropriate;
- (10) the signature of the chairperson of the Zoning Board of Appeals; and
- (11) the date of the decision.

B. **Denial.** If the application for a variance is denied, the decision should include the following:

- (1) a statement that the variance request is denied,
- (2) a description of the proposed variance,
- (3) reasons for the decision based on the criteria listed in this division,
- (4) a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration provided there is a substantial change in the circumstances relating to the application,

- (5) a statement that the decision may be appealed as provided for in this division,
- (6) other information the Zoning Board of Appeals or zoning administrator deems appropriate,
- (7) the signature of the chairperson of the Zoning Board of Appeals, and
- (8) the date of the decision.

**70.709 Effect of approval**

- A. **Generally.** An approved variance merely sets aside the rule or regulation from which relief is sought. All other rules and regulations not part of the variance decision must be followed. The variance runs with the land.
- B. **Creation of nonconformity.** If a variance is granted and creates a nonconforming situation, the premises is subject to all applicable provisions relating to nonconformities set forth in Article 15.

**70.710 Effect of denial**

If the Zoning Board of Appeals denies a variance application, the board may not rehear the same, or essentially the same, application unless there has been substantial change in the circumstances relating to the application.

**Editorial notes:**

[1] See *Tateoka v City of Waukesha Bd. of Zoning Appeals*, 220 Wis.2d 656, 583 N.W. 2d 871 (Ct. App. 1998).

**70.711 Expiration of an approval**

A variance approval shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

**70.712 Appeal**

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

**70.713 to 70.799****Reserved**

**ARTICLE 6  
ZONING DISTRICTS AND LAND USE**

**Divisions**

- |  |                            |
|--|----------------------------|
| 1. General provisions                      | 6. General standards       |
| 2. Zoning districts and zoning map         | 7. Performance standards   |
| 3. Allowable land uses                     | 8. Site design standards   |
| 4. Dimensional and related standards       | 9. Architectural standards |
| 5. Environmental and engineering standards |                            |

**DIVISION 1  
GENERAL PROVISIONS**

**70.800 Legislative findings**

The Village Board makes the following legislative findings:

- (1) The use of land in the Village has a direct bearing on the public health, safety, and welfare.
- (2) Standards are needed to ensure that new development is done in a coordinated manner.
- (3) The provisions in this article are adopted consistent with state statutes.
- (4) Each parcel of land in the Village is intended to have a zoning designation.
- (5) In some instances, state and federal law limit the Village's ability to regulate certain land uses.

**70.801 Purpose**

This article promotes the public health, safety, and welfare and is intended to:

- (1) promote a sound development pattern by separating the Village into various districts where each has uniformly applicable development standards;
- (2) separate incompatible land uses to the greatest extent possible;
- (3) encourage the most appropriate use of land throughout the Village;
- (4) regulate and control the erection, construction, reconstruction, alteration, repair, and use of buildings, structures, and land;
- (5) provide for a variety of housing options;
- (6) allow different, but compatible land uses (i.e., mixed uses), to occur in specified areas of the Village;
- (7) avoid, or, as a less preferred alternate, minimize congestion;
- (8) avoid, or, as a less preferred alternate, minimize environmental degradation; and
- (9) preserve prime agricultural lands and stabilize the economic base of farming in the Village as well as to allow for needed urban expansion.

**70.803 to 70.819 Reserved**

**DIVISION 2  
ZONING DISTRICTS AND ZONING MAP**

**70.820 Generally**

The Village is divided into a number of base zoning districts so that each parcel of land is located in at least one district and potentially more than one district. For each of these districts, appropriate types of land uses are identified along with development standards when applicable.

- Draft April 17, 2020 -

**70.821 Base zoning districts**

- A. **Base zoning districts.** Recognizing that different areas of the village serve unique functions, the Village is divided into a number of zoning districts. Even though some of the districts may share similar characteristics, they possess one or more unique qualities that set them apart from the other districts. Although these districts may not now possess each of the attributes in these descriptions, it is intended that as land uses change over time they more closely reflect the intended uses. Uses are allowed in the various districts consistent with the development standards in this article and development limitations as described in s. 70.581 and other sections. Each of the land uses listed in the land use matrix (Appendix A) that are shown as being allowed in a zoning district are determined to be consistent with the purpose statements of such district.
- B. **Establishment.** The following base zoning districts are established:

**Residential Districts**

- (1) **Rural Residential (RR-1) district.** This district is intended to accommodate single-family residential uses, some agricultural uses, and other compatible land uses in areas planned for residential growth. As a general rule, the parcels in this district are 20 acres or larger.
- (2) **Rural Residential (RR-2) district.** This district is intended to accommodate single-family residential uses, some agricultural uses, and other compatible land uses in areas planned for residential growth. As a general rule, the parcels in this district are 5 acres or larger, but less than 20 acres.
- (3) **Country Estate (RS-1) district.** ~~This district is intended to provide for single-family residential and hobby farm development that is consistent with the maintenance of a rural character and lifestyle. The Rs-1 country estate district is intended to provide for single-family residential and hobby or minifarm development that is consistent with the maintenance of a rural country side character and lifestyle. This Rs-1 district serves as a transitional district between the farmland areas and the more intensely developed suburban areas in the Village.~~
- (4) **Country Estate/Remnant Parcel (RS-1R) district.** ~~This district is intended to provide for single-family residential development on "remnant parcels" as defined herein. The intent of this district is to permit a one-time only minor land division for development of single-family dwellings on remnant parcels. Why is there a limit on one-time? Do you track that? Clustered-oriented subdivision residential development is not allowed in this district. For the purpose of this part, a remnant parcel is a contiguous parcel of land that existed insert date that (i) is less than 20 acres in area; (ii) is recorded with the Register of Deeds of Washington County as a separate parcel with a separate tax key number; and (iii) is located in one or more of the following zoning districts: RR-1 and RR-2. The RS-1R country estate/remnant parcel district is intended to provide for single-family residential development on "remnant parcels" of land, as defined below. The RS-1R district serves as a transitional district between farmland areas and more intensely developed suburban areas of the Village. The intent of this district is to permit a one-time only minor land division for development of single-family dwellings on remnant parcels. Clustered-oriented subdivision residential development is prohibited in this district. Definition. A remnant parcel is a contiguous parcel of land by the date of enactment of this ordinance, meeting the following criteria: (i) is less than 20 acres in area; (ii) is recorded with the Register of Deeds of Washington County as a separate parcel with a separate tax key number.; and (iii) is located in one or more of the following zoning districts: A-1, A-1A, A-2, or UC.~~
- (5) **Single-Family Residential and Rural Preservation (RS-1A) district.** ~~This district is intended to provide for development of farm and natural open space areas into residential lots and subdivisions, wherein significant portions of such open spaces are preserved, either in the form of areas within large lots at an average gross density of 130,000 square feet (approximately three acres) per lot, or within special open space outlots, the creating of which is encouraged in this section by clustering portions of allowable lots into such outlots under a density incentive, pursuant to Wis. Stats. § 62.23(7)(b), special planned development districts, which this Rs-1A district is declared to be. This zoning classification is limited to those properties so designated on insert date. The Rs-1A single-family residential and rural preservation district is intended to provide for development of farm and natural open space areas into residential lots and subdivisions, wherein significant portions of such open spaces are preserved, either in the form of areas within large lots at an average gross density of 130,000 square feet (approximately three acres) per lot, or within special open space outlots, the creating of which is encouraged in this section by clustering portions of allowable lots into such outlots under a density incentive, pursuant to Wis. Stats. § 62.23(7)(b),~~

- Draft April 17, 2020 -

special planned development districts, which this Rs-1A district is declared to be. Further, this Rs-1A zoning classification is restricted solely to properties located within the Rs-1A single-family residential and rural-preservation district prior to the effective date of the ordinance from which this section is derived.

- (6) **Single-Family Cluster/~~Open Space Residential (RS-1B) district.~~** ~~This district is intended to provide for the development of parcels that are 20 acres or larger into single-family residential lots and subdivisions consistent with the density and open space calculations that are established for this district. The protected open space is designed to (i) maintain and protect the rural, countryside character of the Village; (ii) allow for the continuation of limited agricultural uses in those areas best suited for such activities and when the continuation of such activities would be practical and compatible with adjoining nonfarm uses; and (iii) preserve, protect and minimize disturbance of the natural resources and environmentally sensitive areas in the Village.~~ ~~The Rs-1B single-family cluster/open space residential district is intended to provide for the development of agricultural and other open space areas at least 20 acres in area or larger into single-family residential lots and subdivisions at a gross density that does not exceed one dwelling unit per 130,000 square feet (approximately 3.0 acres) where a minimum of 40% of such areas are required to be preserved as open space areas within and around the development of homesites designed to: (i) maintain and protect the rural character of the Village; (ii) allow for the continuation of limited agricultural uses in those areas best suited for such activities and when the continuation of such activities would be compatible with adjoining nonfarm uses; and (iii) preserve, protect and minimize disturbance of the natural resources and environmentally sensitive areas in the Village.~~
- (7) **Single-Family Residential (RS-2) district.** This district is intended to provide for single-family residential development at densities not exceeding 0.67 dwelling unit per net acre. This zoning classification is limited to those parcels so designated on January 1, 1994.
- (8) **Single-Family Residential (RS-3) district.** ~~This district is intended to accommodate single-family residential uses on lots that were smaller than 65,000 square feet on insert date. This district is intended to accommodate only single-family residential uses in existence on the effective date of the ordinance from which this chapter is derived, and their accessory uses in existence on the effective date of the ordinance from which this chapter is derived within the older, established areas of the Village where such uses are located on lots or parcels of land which are within predominantly residential areas, are smaller than 65,000 square feet in area, and were lots of record on the date of approval of this chapter.~~
- (9) **Single-Family Lake Lots (RS-4) district.** ~~This district is for comparatively small lake lots fronting on or in the immediate area of Amy Belle, Bark, Friess, Lake Five, and Little Friess lakes. This zoning classification is limited to those parcels so designated on insert date, 2020. This district is intended to provide for limited development of single-family residential housing, of parcels no more than 19.99 acres, with any new parcels maintaining a minimum of 100 feet of lake frontage, for lakeshore properties on Amy Belle, Bark, Friess, Lake Five, and Little Friess Lakes, including those portions of the Village of Richfield that are also regulated by the floodplain district of the Village of Richfield Code of Ordinances. All permitted principal uses and accessory uses under this section shall also be subject to applicable provisions of the Village of Richfield Code of Ordinances and regulations by the Department of Natural Resources as amended from time to time.~~
- (10) **Two-Family Cluster/~~Open Space Residential (RD-1) district.~~** ~~This district is intended to provide for two-family residential lots consistent with the density and open space calculations that are established for this district. The protected open space is designed to (i) maintain and protect the rural, countryside character of the Village; (ii) allow for the continuation of limited agricultural uses in those areas best suited for such activities and when the continuation of such activities would be practical and compatible with adjoining nonfarm uses; and (iii) preserve, protect, and minimize disturbance of the natural resources and environmentally sensitive areas in the Village. The minimum lot area of a proposed land division is limited to those parcels that are 10 acres or larger. The Rd-1 two-family cluster/open space residential district is intended to provide for the development of agricultural and other open space areas 10 acres in area or larger into two-family residential lots and subdivisions at a gross density that does not exceed one two-family structure per 3.0 gross acres or one individual dwelling unit per 1.5 gross acres where a minimum of 40% of such areas are required to be preserved as open space areas within and around the~~

- Draft April 17, 2020 -

~~development of homesties designed to: (i) maintain and protect the rural, countryside character of the Village; (ii) allow for the continuation of limited agricultural uses in those areas best suited for such activities and when the continuation of such activities would be practical and compatible with adjoining nonfarm uses; and (iii) preserve, protect and minimize disturbance of the natural resources and environmentally sensitive areas in the Village. It is further intended that this Rd-1 district serve as a transitional district between the farmland and rural residential areas and the more intensely developed commercial/industrial areas and major transportation corridors in the Village.~~

- (11) **Two-Family Residential (RD-2) district.** This district is intended to provide for two-family dwelling units at a density that is consistent with the overall rural character of the Village and that of the surrounding area. This district is intended to border a golf course and commercially zoned property within the STH 175 corridor. This district may only be applied to entire properties within 1,200 feet of STH 175. As an additional requirement, primary access to a residential development in this district ~~shall~~ **must** only be provided off STH 175.

~~(12) **Walkable Hamlet (WHD) district.** Temporary note: The one and only walkable hamlet district is going to be treated as a planned development district. (See Article 8, titled "Specific Planned Development Districts")~~

#### Business Districts

- (12) **Neighborhood Business (B-1) district.** This district is intended to provide for individual or small groups of retail and customer service retail establishments in a shopping center setting. This type of district is generally separated from other major commercial areas but near residential development and include such amenities as increased open space and ample off-street parking and loading areas and architectural or landscape screening from adjacent nonbusiness uses, making such retail uses or centers more compatible with the character of adjacent residential districts.
- (13) **Community Business (B-2) district.** This district is intended to provide for individual or large groups of retail and customer service retail establishments in a shopping center setting. This type of district is usually located at or near the intersections of two arterial streets or highways and designed for the convenience of weekly or monthly one-stop shopping and includes such amenities as increased open space and ample off-street parking and loading areas and architectural screening or landscaping.
- (14) **General Business (B-3) district.** This district is intended to provide for the orderly continuation and revitalization of the older established business areas of the Village where uses are not exclusively of one type but, rather, mixed and include retail sales shops, wholesale and warehousing outlets, and institutional, recreational, and even residential uses. Many of the existing businesses in this district may not meet the requirements of the B-1 or B-2 district. It is the intent of this district to provide minimum requirements for all new uses of land within the district and a guide for the redevelopment and revitalization of uses of land in existence on ~~insert date the effective date of the ordinance from which this chapter is derived.~~
- (15) **Highway Business (B-4) district.** This district is intended to provide for the orderly and attractive grouping at appropriate locations along principal highway routes of those businesses and customer service establishments which are logically related to and dependent upon highway traffic or which are specifically designed to serve the needs of such traffic.
- (16) **Downtown Business (B-5) district.** This district is intended to establish, enhance, and preserve the unique character of the Village's downtown area along STH 175, north of STH 167 and south of Pleasant Hill Road. The district, which is limited to those properties generally located along STH 175 or abutting properties with direct highway access, is intended to help act as a gateway to the community by enhancing the opportunities for commercial redevelopment, to establish and maintain small, neighborhood-scale mixed uses, while encouraging high-quality design and architectural standards befitting of a higher density commercial zoning district.
- (17) **Destination Business (B-6) district.** This district is intended to allow the continuation of existing restaurants and taverns that are located outside of the STH 175 commercial corridor and which draw patrons from the region.

#### Industrial Districts

- (18) **Light Industry (I-1) district.** This district is intended to accommodate industrial, manufacturing, and similar uses where most of the activities are conducted within an enclosed building. Compatible community and civic uses are also allowed.
- (19) **General Industry (I-2) district.** This district is intended to accommodate industrial, manufacturing, and similar uses where some or all the activities are conducted outside of an enclosed building. Compatible community and civic uses are also allowed.

#### Special Purpose Districts

- (20) **Institutional (INST) district.** ~~This district is intended to accommodate institutional uses, whether maintained by the Village, another governmental body, or a private business, that are deemed to be a permanent use. This district is located in and adjoining residential areas of the Village where such uses are consistent with existing and planned residential uses. The I-1 institutional district is intended to eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or quasipublic ownership and where the use for public or quasipublic purpose is anticipated to be permanent.~~
- (21) **Park and Recreation (P-1) district.** This district is intended to provide for areas where the recreational needs, both public and private, of the populace can be met without undue disturbance of natural resources and adjacent uses.
- (22) **Railroad (SP-1) district.** This district is intended to accommodate commercial railroad lines and spur lines.

#### Editorial notes:

The A-1, A-1A, A-2, M-1, M-2, M-3, M-4, M-5, LC UC, F-1, and Office/Light Industrial districts were removed as part of the 2020 rewrite of the zoning code, and the RR-1, RR-2, I-1, I-2, SP-1 and AR districts were added.

#### 70.822 Overlay zoning districts

- A. **Generally.** Overlay zoning districts, as the name would suggest, are applied on top of base zoning districts to account for unique conditions or requirements.
- B. **Establishment.** The following overlay zoning districts are established:
- (1) **Floodplain overlay district.** This district includes those lands within the 100-year floodplain, including any mapped subdistricts, as established by the Federal Emergency Management Agency. Additional details are set forth in Article 9.
  - (2) **Shoreland-wetland overlay district.** This district includes specified wetlands within the shoreland areas. Additional details are set forth in Article 10.
  - (3) **Shoreland overlay district.** This district includes land within the shoreland areas. Additional details are set forth in Article 11.
  - (4) **Environmental corridor.** This district includes those lands designated as primary and secondary environment corridor by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) in their mapping in 2015. Additional details are set forth in Article 12.

#### 70.823 Planned development districts (PDDs).

Planned development districts are a special type of zoning district and are established consistent with the procedures and requirements in Article 5. Each district is unique and therefore has its own set of development standards that are documented in the general development plan, and associated development agreement, if any. PDD districts are numbered sequentially (i.e., PDD-01, PDD-02, etc.).

#### 70.824 Relationship between base and overlay zoning districts

If a parcel is located in one or more overlay districts, the regulations that apply to the underlying base zoning district remain in effect, except as modified by the overlay district(s), and if there is any conflict between the overlay districts, the most restrictive controls.

**70.825 Necessity of zoning district designation**

It is the intent of this article that no land shall be without a zoning district designation, unless specifically noted on the zoning map. In the event a parcel of land is for any reason deemed to be without a designation, no land development shall occur until such time as the Village Board has assigned the parcel, or part thereof, an appropriate zoning classification.

**70.826 Effect of a land transfer on zoning designation**

Adjoining property owners are able to transfer land from one lot to another in certain circumstances pursuant to ch. 236, Wis. Stats. In those situations where the affected lots are in different zoning districts, a transfer does not alter the location of the zoning district boundary until such time as the zoning map has been amended as set forth in Article 5.

**70.827 Zoning map**

- A. **Title.** The map that depicts the location of the various zoning districts shall be titled "Village of Richfield."
- B. **Official zoning map.** The village clerk shall maintain one paper copy of the zoning map as the official map which shall be signed by the village president and attested by the village clerk. If there is a discrepancy between this zoning map and other maps as may be made available, the map maintained by the village clerk shall control in all instances.
- C. **Availability.** The zoning map maintained by the village clerk shall be available for public inspection upon request. The village clerk and zoning administrator may post the zoning map on the village's website and otherwise make and distribute copies in a manner deemed appropriate.
- D. **Preparation of a new official map.** In the event the zoning map maintained by the village clerk is damaged, lost, or destroyed, and after each amendment, the zoning administrator shall prepare a new zoning map and submit it to the village president and village clerk for signature.
- E. **History of amendment.** The zoning map maintained by the village clerk may contain a descriptive history of recent amendments that have been made, indicating the ordinance number and date of action.
- F. **Archive of superseded maps.** The village clerk shall maintain a permanent archive of superseded zoning maps that are created after July 1, 2020.
- G. **Amendment.** The procedure and requirements to amend the zoning map are set forth in Article 5.

70.828 to 70.839 Reserved

**DIVISION 3  
ALLOWABLE LAND USES**

**70.840 Land uses generally allowed within zoning districts**

- A. **General purpose zoning districts.** For the purposes of this chapter, land uses, as defined in Appendix B are classified as principal, accessory, or temporary. Appendix A lists principal land uses (Series 1 to 17), accessory uses (Series 18), and temporary uses (Series 19). Each of the land uses are designated as one of the following:
  - (1) "P" indicates that the use is permitted in the zoning district by right provided all other provisions of this chapter are met
  - (2) "C" indicates that the use is allowed in the zoning district as a conditional use provided all other provisions of this chapter are met
  - (3) "WT" indicates that the use is subject to the special review standards and procedures for wireless telecommunication facilities
  - (4) "-" indicates that the use is not permitted in the zoning district

- B. **Planned development districts.** Land uses that are permitted in a planned development district are enumerated in the general development plan for the district, along with development standards, if any. (verify)

#### 70.841 Similarity of land uses

Because the list of land uses cannot include every conceivable type of activity, those land uses that are listed shall be interpreted to include other land uses that are of a similar nature and have similar impacts to the listed use.

#### 70.842 Land uses not listed

A land use that is not listed, and which cannot be interpreted to be similar to any listed land use as provided for above, is prohibited.

#### 70.843 Project classified in more than one land use category

If a proposed project includes both an allowable land use and a prohibited land use, the prohibited portion of the project shall not occur in the zoning district.

#### 70.844 Wind energy

This chapter does not include any regulations relating to wind energy systems. The Village of Richfield may, however, enact an ordinance to regulate wind energy systems pursuant to the procedures and requirements set forth in s. 66.0401, Wis. Stats.

#### 70.845 Special standards for accessory land uses

- A. **Generally.** No accessory building shall be constructed until the principal building is completed or is under construction.
- B. **Exemption for a utility cabinet.** For the purpose of this chapter, a utility cabinet may be established on a vacant lot prior to the establishment of a principal use.
- C. **Removal of a principal building while retaining an accessory building.** Pursuant to the procedures and requirements in Article 5 of this chapter, the Plan Commission may approve a special exception to allow the removal of a principal building, while retaining the accessory building, when the commission determines that the principal building is dilapidated and the accessory building meets current building codes and serves a useful purpose. If the commission approves the special exception, the property owner must record a deed restriction, as approved by the commission, in the Washington County register of deeds office that controls the use of the accessory building and incorporates any requirement imposed by the commission as a condition of approval, such as time limitations (e.g., construction of a principal building). (New)

#### 70.846 Special provisions for community living arrangements

- A. **Limitations.** Under state law, a Village may not limit the number of community living arrangements so long as the total capacity of such facilities does not exceed 25 or one percent of the Village's population, whichever is greater. When that threshold is exceeded, the Village Board may prohibit additional community living arrangements from being located in the Village. Additionally, when the capacity of community living arrangements in a ward reaches 25 or one percent of the population, whichever is greater, the Village Board may prohibit additional community living arrangements from being located in the ward. A foster home or a foster treatment home that is the primary domicile of a foster parent or foster treatment parent and that is licensed under s. 48.62, Wis. Stats., and an adult family home certified under s. 50.032(lm)(b), Wis. Stats., are exempt from this provision. [1]
- B. **Periodic review of existing facilities.** Not less than 11 months but not more than 13 months after the first licensure of an adult family home under s. 50.033, Wis. Stats., or of a community living arrangement and every year thereafter, the Village Board may make a determination pursuant to s. 59.69(15)(j), Wis. Stats.,

- Draft April 17, 2020 -

as to the effect of such facility on the health, safety, or welfare of residents of the municipality. If the Village Board determines such facility poses a threat to the health, safety, or welfare of the residents of the municipality, the Village Board may order such facility to cease operation or obtain a conditional use permit to continue operation. Such facility shall cease operation within 90 days after date of the order, or the date of final judicial review of the order, or the date of the denial of a conditional use permit, whichever is later. The fact that an individual with acquired immunodeficiency syndrome or a positive test for the presences of HIV, as defined in s. 252.01(1M), Wis. Stats., antigen or nonantigenic products of HIV or an antibody to HIV resides in a community living arrangement with a capacity of 8 or fewer persons may not be used under this subsection to assert or prove that the existence of the community living arrangement in the community poses a threat to the health, safety, or welfare of the residents of the Village.<sup>[2]</sup>

**Editorial notes:**

[1] See s. 59.69(15)(b)(1) and also s. 59.69(15)(bm), Wis. Stats

[2] See ss. 59.69(15)(i), 59.69(15)(im), Wis. Stats

**70.847 Special provisions for specified foster homes and treatment foster homes**

Foster homes which are owned, operated, or contracted for by the state of Wisconsin or a county department, are not subject to this article.<sup>[1]</sup> All other foster homes and treatment foster homes must comply with this article.

**Editorial notes:**

[1] See 63 Atty. Gen. 34

**70.848 Map of conditional uses**

The zoning administrator is authorized to prepare a map showing those properties that have an active conditional use permit and to amend the same from time to time.

**70.849 to 70.859 Reserved**

#### DIVISION 4 DIMENSIONAL AND RELATED STANDARDS

**70.860 Generally**

- A. **Applicable standards.** Lots, buildings, and other structures not located within a planned development district must conform to the dimensional standards specified in Appendix C, except as may be otherwise allowed in this chapter. The standards for lots, buildings, and other structures in a planned development district are enumerated in the general development plan for the zoning district. (verify)
- B. **Change in lot.** The size and/or configuration of a lot shall not be modified by any means when such modification increases the degree of an existing nonconformity or makes a conforming lot or building nonconforming. This restriction does not however apply when a governmental body acquires land from a willing or unwilling seller for a road construction project or any other public project.

**70.861 Lot area**

- A. **Intent.** The size of buildable lots, along with other dimensional standards, are used to encourage mutually compatible uses as set forth in the Village's comprehensive plan.
- B. **Standard.** The minimum size of lots must comply with the standards specified in Appendix C, except when such lots are otherwise authorized herein.
- C. **Exemptions.** An outlot created by a land division that is authorized by the Village is exempt from the minimum lot size requirements if such parcel is dedicated to the public or used for stormwater facilities or other types of development-related infrastructure or common open space, including walking and recreation trails.
- D. **Measurement of lot area.** Lot area is measured on the horizontal plane and excludes the following:

- (1) the area, if any, between the front lot line and the base setback line so designated on Washington County's highway width map,
  - (2) that area of a flag lot that constitutes the stem, and
  - (3) 50 percent of the land below the ordinary high-water mark.
- E. **Use of a lot not meeting specified dimensional standards.** The use of a vacant nonconforming lot is governed by requirements in Article 15.
- F. **Change in lot with a conditional use.** The property boundary lines of a lot containing a conditional use shall not be modified in any manner without the express authorization of the Village Board upon recommendation of the Plan Commission. If the Plan Commission determines that the proposed reconfiguration or change in lot area is substantive, the proposed change may only occur if the Village Board grants a new approval with the proposed lot consistent with the review procedures and requirements for a conditional use in effect at the time.
- G. **Lot area in the context of land divisions.** Minimum lot area requirements are one of many factors that affect how many lots could potentially be created through the land division process.

#### 70.862 Lot configuration

- A. **Intent.** Standards controlling the configuration of lots are intended to avoid oddly shaped lots, multi-sided lots, and any other configuration that increases the likelihood a property owner might seek relief from a dimensional standard arising from a poorly designed lot.
- B. **Standard.** Side lot lines must be substantially at right angles or radial to street lines. Lot lines shall not cross municipal boundaries. As a general rule, lots must be rectangular in shape, and lots having more than 5 sides shall be avoided.
- C. **Depth and width.** The depth to width ratio of a lot must not exceed 2.5 to 1. Pursuant to the procedures and requirements in Article 5, the Plan Commission may approve a special exception to exceed this standard to account for special circumstances provided all other requirements can be met. A special exception shall not be granted when doing so will allow an increase in the number of lots that could be created through the land division process. (the ratio is 2:1 in land division code)

#### 70.863 Lot density

- A. **Intent.** The concept of residential density regulations is to control the intensity of land use in relationship to the natural, physical, and ecological characteristics of the area; the capacity for adequate sewerage disposal; the ability to provide appropriate municipal services; basic economic factors, and achieve the desired character as set forth in the Village's comprehensive plan.
- B. **Standard.** The maximum number of lots within a proposed development must comply with the standards specified in Appendix C. If the zoning district does not specify a density, the maximum lot density is presumed to be one principal building per the minimum required lot size.
- C. **Calculation.** The maximum number of lots that could potentially be created in a development project is calculated as follows:

$$(\text{gross area} - \text{deductions}) / \text{lot density} = \text{maximum lots}$$

For example, in a district with a maximum density of one building lot per 3 acres, no more than 10 lots would be allowed to be created from a parcel of 30 acres, assuming there are no deductions.

#### 70.864 Lot width

- A. **Intent.** Lot width requirements, along with other dimensional standards, establish minimum requirements to ensure compatibility of lots and that lots are buildable consistent with the character as set forth in the Village's comprehensive plan.
- B. **Standard.** The width of lots must comply with the standards specified in Appendix C, unless otherwise modified.

- Draft April 17, 2020 -

- C. **Exemptions.** A parcel created by a land division that is authorized by the Village is exempt from the lot width requirements if such parcel is to be dedicated to the public or used for stormwater facilities and other types of development-related infrastructure or common open space including walking and recreation trails.
- D. **Measurement of lot width.** Lot width is measured along an imaginary line generally parallel to the front lot line and at the front-yard building setback line.

#### 70.865 Lot frontage

- A. **Intent.** Each lot must have direct physical access to the road system.
- B. **Standard.** Each lot must have frontage on a public street for physical access to the lot in the location approved by the Village, Washington County, or state of Wisconsin for the distance specified in Appendix C.
- C. **Exemptions.** A parcel created by a land division that is authorized by the Village is exempt from the street frontage requirements if such parcel is dedicated to the public or used for stormwater facilities and other type of development-related infrastructure or common open space including walking and recreation trails.
- D. **Measurement of lot frontage.** Lot frontage is measured along the front lot line or the base setback line established by the Washington County highway width map, whichever is furthest from the center of the abutting roadway. Frontage on a public road where access is prohibited by the body with jurisdiction to control access does not constitute frontage for the purpose of this section

#### 70.866 Water frontage

- A. **Intent.** Lots fronting on a lake must have a sufficient width to provide for reasonable access to the water for use and enjoyment.
- B. **Standard.** A lot fronting on a lake must have at least 100 feet of frontage.
- C. **Measurement of water frontage.** Water frontage is measured perpendicular to one or both of the side lot lines at the ordinary high-water mark.

#### 70.867 Floor area

- A. **Intent.** Standards for controlling the minimum and maximum floor area of buildings are intended to ensure development is compatible with the size of the lot and the character of development as set forth in the Village's comprehensive plan.
- B. **Measurement of floor area.** Floor area is measured from exterior wall to exterior wall. In multi-unit buildings, floor area is measured from exterior wall to exterior wall and from the center of common walls between adjoining units.
- C. **Standard for residential living area.** A building intended in whole or part for residential purposes must provide a minimum floor area as specified in Appendix C. Such minimums are stated in terms of the minimum total floor area required for a building and that portion of the total which must be provided on the first-floor level. In a split level building the first-floor level shall include all areas which are not over another living area of the building. The following are specifically not included in such measurement:
  - (1) basements and crawlspace;
  - (2) attics not used for living purposes;
  - (3) attached garages;
  - (4) breezeways;
  - (5) unheated sunrooms;
  - (6) porches;
  - (7) balconies;

- (8) stoops;
  - (9) any space above the first floor, where the floor-to-ceiling height is less than 7 feet; and
  - (10) similar features.
- D. **Standard for residential garages.** The floor area of residential garages must comply with the standards in Appendix C.

#### 70.868 Building coverage

- A. **Intent.** Building coverage is a measure of how much of a lot is occupied by buildings and is used in conjunction with other standards such as building height to ensure buildings fit the character of each zoning district as generally set forth in the Village's comprehensive plan.
- B. **Standards.** Development on a lot must comply with the building coverage standards set forth in Appendix C.
- C. **Measurement and calculation of building coverage.** Building coverage is the ratio of the footprint of all buildings on a lot to the net lot area, expressed as a percent. It is calculated as follows:

$$(\text{total floor area} / \text{net lot area}) \times 100 = \text{building coverage}$$

For the purpose of this section, total floor area is the footprint of all buildings measured from the outside of exterior walls. The following are specifically not included in such measurement:

- (1) decks,
- (2) patios,
- (3) swimming pools, and
- (4) any building with a footprint of 50 square feet or less.

For the purpose of this subsection, net lot area is described in s. 70.861.

#### 70.869 Lot disturbance

- A. **Intent.** Standards to control the amount of disturbance on a lot, including grading, filling, digging, and construction of buildings and other structure, is intended to protect natural vegetation, land features, and the aesthetics of a lot for the benefit of the subject property and surrounding properties.
- B. **Standard.** The amount of land disturbance must comply with the standards specified in Appendix C.
- C. **Measurement and calculation of building coverage.** Lot disturbance is the ratio of total disturbance on a lot to the net lot area, expressed as a percent. It is calculated as follows:

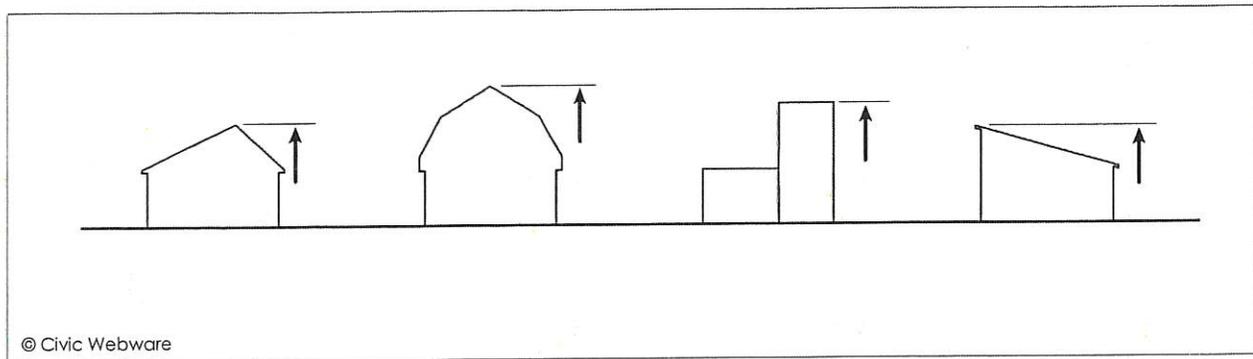
$$(\text{total land disturbance} / \text{net lot area}) \times 100 = \text{lot disturbance}$$

For the purpose of this section, net lot area is described in s. 70.861.

#### 70.870 Height of buildings and other structures

- A. **Intent.** Standards controlling the height of buildings and other structures, along with other dimensional standards, to ensure that structures fit the character of each zoning district as generally set forth in the Village's comprehensive plan.
- B. **Standard.** Except as specified in this section, the height of buildings and other structures must comply with the standards specified in Appendix C, except as modified.
- C. **Measurement of building height.** The height of a building is measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of the roof. (Exhibit 6-1). Where the building is on a lot which slopes from the rear down to the street, the height will be determined at a point equidistant from the back and front wall of the building.

- Draft April 17, 2020 -



D. **Modifications.** The height standards in Appendix C are modified as follows:

- (1) Essential services, such as utilities, water towers, transmission towers and lines, are exempt from the height limitation for the zoning district in which they are located.
- (2) The height of telecommunication towers is governed by the standards established under Appendix B.
- (3) Pursuant to the procedures and requirements in Article 5, the Plan Commission may approve a special exception for spires, steeples, copulas, and chimneys on institutional, commercial, and industrial buildings.

#### 70.871 Building setbacks

- A. **Intent.** Building setback standards, along with other dimensional standards, establish a pattern of development in each of the zoning districts. The established setback standards provide for a varying degree of (1) privacy between neighbors; (2) separation to mitigate noise and odor; (3) space for light and air circulation; (4) land for landscaping, recreational use, pleasure, and stormwater management; (5) land for maintaining the exterior of buildings and other structures; (6) room for the placement and maintenance of under-ground and above-ground utilities; and (7) room for emergency vehicles between and around buildings and other structures.
- B. **Generally.** Except as allowed in this section, buildings must comply with the setback requirements set forth in Appendix C.
- C. **Establishment of base setback line.** Base setback lines are established generally parallel to the center line of all public streets and ways, and shall be located on the street right-of-way line as shown on the Washington County highway width map as may be amended from time to time.
- D. **Setback standards.** No building shall be erected, structurally altered, or relocated so that any vertical wall/support, supporting a roofed or enclosed portion is closer to the base setback line than the setback distance specified in Appendix C, except as allowed in this section. For the purpose of this section, a roof overhang of 24 inches or less is not included in any setback measurement.
- E. **Setback averaging.** The following exceptions apply only where the setback requirements affect all properties identically:
  - (1) Where the nearest existing building on one side of the building is within 150 feet and has less than the required setback, the average between the existing setback and the required setback applies.
  - (2) Where the nearest existing buildings on both sides of a building are within 500 feet of the building, but not closer than 300 feet to each other, and have less than the required setback, the average of the existing setbacks and the required setback applies.
  - (3) Where the nearest buildings on both sides of a building are within 300 feet of each other and have less than the required setback, the average between the existing setbacks applies.
  - (4) In the case of a proposed addition to an existing building which has less than the required setback, such existing building may be considered the "nearest existing building" in order to apply these exceptions in determining the required setback for the proposed addition.

- Draft April 17, 2020 -

For the purpose of this subsection, the following rules apply when applying setback averaging:

- (1) Building projections which may extend into the setback area are not to be included.
  - (2) Setback reductions as allowed by a variance shall not be included.
- F. **Decks and porches.** Decks and porches are considered to be part of the building and therefore must comply with all applicable setback requirements or as allowed in subsection (H) below.
- G. **Wheelchair access ramps.** The building inspector may, upon written petition, allow the construction of an unenclosed wheelchair access ramp in a setback area, provided the proposed location for the ramp is the only reasonable location based on the existing configuration of the building and the ramp encroaches into the offset area no more than is necessary to provide access to the building. Also see Article 21 for additional provisions relating to reasonable accommodations.
- H. **Use of setback areas.** The only permanent structures permitted within the setback area include necessary public utility devices, fences, and those signs permitted in residential and agricultural zoning districts and in the P-1 district. Any required setback area shall be landscaped and kept clean and free from the accumulation of debris or refuse, and shall not be used for the storage or display of equipment, products, vehicles, or any other material.
- I. **Corner lots.** On corner lots of record, as of insert date, the effect of the setback regulations shall not reduce the buildable width of such corner lot to less than 30 feet. If setback regulations create a building envelope that is less than 30 feet wide, the Plan Commission may approve a lesser setback as a special exception consistent with the procedures and requirements in Article 5.
- J. **Exceptions.** The following may be located in a required setback, provided they do not extend into, or are located within, a utility easement or a required fire lane and meet all other requirements of this chapter:
- (1) landscaping;
  - (2) retaining walls;
  - (3) fences;
  - (4) freestanding mailboxes and newspaper boxes;
  - (5) play equipment, except not in a front yard;
  - (6) small objects easily moved by hand such as birdbaths, birdfeeders, and birdhouses;
  - (7) portable grills, picnic tables, and yard furniture but not when located on a patio or deck;
  - (8) gardens;
  - (9) flag poles;
  - (10) compost bins;
  - (11) clotheslines;
  - (12) sidewalks, but not closer than 5 feet to a lot line of a parcel;
  - (13) driveways, but not closer than 5 feet to a side lot line;
  - (14) specified building projections as described in Exhibit 6-2;
  - (15) components of a private on-site sewage system, including holding tanks (if allowed), leach fields, and septic tanks provided separation requirements in Chapter 16 of the general code of Washington County are met;
  - (16) wellheads not located in a building or other structure, provided separation requirements in state law are met;
  - (17) those structures and uses where applicable development standards in Appendix C either exempt the structure or use from setback requirements or establish alternate setbacks requirements; and
  - (18) other structures and land uses when exempted by the zoning administrator, provided such exemption is in keeping with the intent of this chapter.

**Exhibit 6-2. Allowable building projections into a required setback**

Feature	Maximum projection
Sills, belt courses, buttresses, cornices, ornamental features, and the like	8 inches into a required front, side, or rear yard
Eaves	24 inches into a required front, side, or rear yard
Chimneys	36 inches into a required front, side, or rear yard
Open or lattice enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers	5 feet into a required side or rear yard
Balconies	3 feet into a required front or side yard; 5 feet into a required rear yard
Steps, stoops, and porches, provided they are not higher than the ground floor elevation	8 feet into a required front yard; 3 feet into a required side or rear yard

**70.872 Separation requirements for on-site sewage systems and water wells**

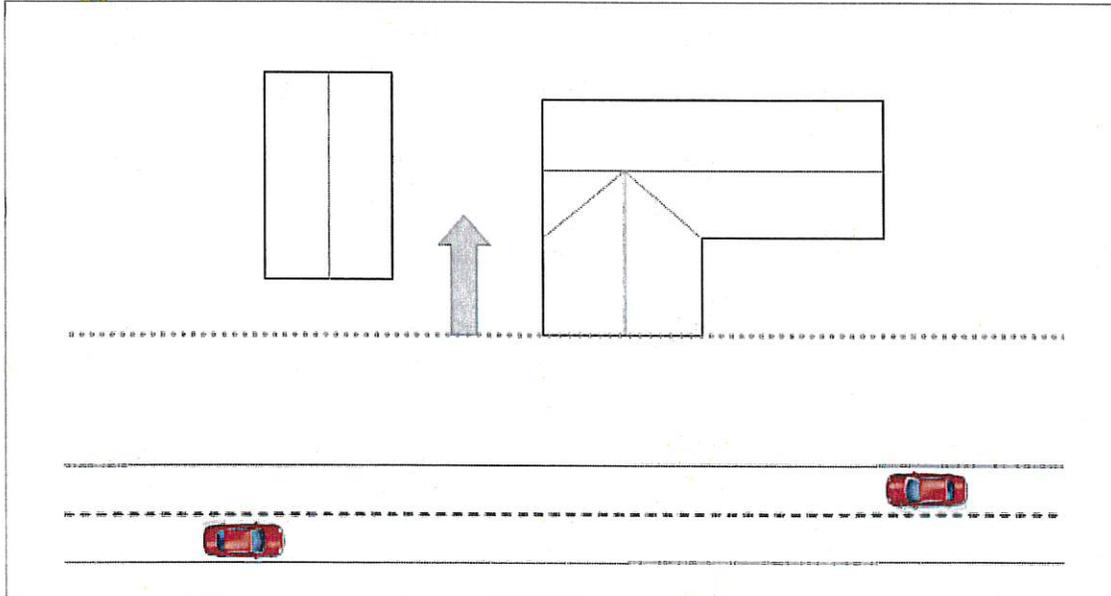
On-site sewage systems and water wells shall comply with all separation requirements as may be established by Washington County or the state of Wisconsin.

**70.873 Separation requirements for buildings**

No accessory building shall be erected, structurally altered, or relocated so that any roofed or enclosed portion thereof is closer than 10 feet to the principal building on the lot, without a firewall.

**70.874 Placement of detached accessory buildings on a lot**

Except as may be permitted in this section, a detached accessory building must be located behind the front face (i.e., face of the building closest to the street) of the principal building (Exhibit 6-3). In the case of a corner lot, the detached accessory building shall meet the minimum setback requirements from all streets. Only accessory buildings for agricultural uses are permitted in front of the principal building. Pursuant to the procedures and requirements in Article 5, the Plan Commission may approve a special exception to allow an accessory building in front of the principal building. In making such decision, the Plan Commission must consider (1) the size of the subject property, (2) the character of the area, (3) the size of the proposed accessory building, (4) the extent to which the proposed accessory building is visible from public and private streets and other properties in the area, (5) the practical difficulty in placing the proposed accessory building in the location described in this subsection, and (6) other factors related to relevant circumstances.

**Exhibit 6-3. Placement of accessory buildings****70.875 Number of principal buildings on a parcel**

- A. **Generally.** Every building hereafter erected, structurally altered, or relocated shall be located on a single lot. In no case, except in business districts, industrial districts, and planned development districts, shall there be more than one principal building on a lot, except as provided in this section. The principal residential building shall be built first in all districts.
- B. **Distinction between one building and multiple buildings.** In the administration of this section, a person may not claim that two or more buildings should be counted as one building by virtue of any of the following:
- (1) connection by a breezeway of any length;
  - (2) connection by a deck;
  - (3) connection by a porch;
  - (4) any underground connection of any type;
  - (5) any connection that is not heated, ventilated, or air conditioned in the same manner of the main building;
  - (6) any connection that serves no significant purpose other than a walkway;
  - (7) any connection that is significantly smaller in dimension than the connected parts; or
  - (8) any connection that allows motor vehicles to drive through the connection.

The above distinction is intended to require each building to have a single, integrated configuration of enclosed space and to prohibit the appearance of multiple buildings in excess of established limitations.

- C. **Exception.** The Village Board, upon recommendation of the Plan Commission, may approve the issuance of a new single-family residential home building permit, and allow the occupancy of an existing residential structure on a parcel, for a period of time not to exceed 2 years during the construction of the new residence. Such approval shall be subject to specifications and additional conditions as required by the Plan Commission and Village Board, in the interest of the health, safety, and welfare of the Village.

Prior to issuance of the building permit, the property owner must provide a cash deposit, approved by the building inspector and the Village Board, and a signed agreement, approved by the village attorney and the Village Board. The financial guarantee shall equal 110 percent of the cost of removing the existing residential building and restoring the site to an acceptable condition as determined by the building inspector. In setting the amount of the financial guarantee, the property owner may submit, and the building inspector may require the property owner to submit, bids from qualified contractors for all work related to the removal of the building and restoration of the site. The signed agreement must, at a minimum, include the following provisions:

- (1) The property owner will remove the existing residential building within 60 days from the issuance of the occupancy permit for the new residence.
- (2) The Village is authorized to access the property to remove the existing residential building if the property owner fails to do so within 60 days of issuance of an occupancy permit for the new residence.
- (3) The Village may assess a special charge against the subject property to the extent the financial guarantee is insufficient to remove the existing residential building and restore the site to an acceptable condition as determined by the building inspector.

- D. **Additional standards.** When this chapter allows more than one principal building on a lot, the Plan Commission or Village Board, as appropriate, may (1) require a greater setback than what is normally required for the zoning district in which it is located, (2) require additional landscaping, (3) establish a minimum separation between principal buildings, and (4) impose any other condition necessary to account for concerns related to the purposes of this chapter as set forth in s. 70.05 or in other sections of this chapter.

#### 70.876 Number of accessory buildings on a lot

- A. **Generally.** The number of accessory buildings on a lot must comply with the requirements set forth in Appendix C.
- B. **Distinction between one building and multiple buildings.** In the administration of this section, a person may not claim that two or more buildings should be counted as one building by virtue of any of the following:
  - (1) connection by a breezeway of any length;
  - (2) connection by a deck;
  - (3) connection by a porch;
  - (4) any underground connection of any type;
  - (5) any connection that is not heated, ventilated, or air conditioned in the same manner of the main building;
  - (6) any connection that serves no significant purpose other than a walkway;
  - (7) any connection that is significantly smaller in dimension than the connected parts; or
  - (8) any connection that allows motor vehicles to drive through the connection.

The above distinction is intended to require each building to have a single, integrated configuration of enclosed space and to prohibit the appearance of multiple buildings in excess of established limitations.

- C. **Rural accessory buildings.** Pursuant to the procedures and requirements in Article 5, the Plan Commission may allow more accessory buildings than what is specified when one or more of the accessory buildings on a lot are designated as a rural accessory building.

70.876 to 70.899 Reserved

**DIVISION 5  
ENVIRONMENTAL AND ENGINEERING STANDARDS**

**70.900 Establishment of building grades**

Every building hereafter erected, structurally altered, or relocated shall be at a grade approved by the building inspector as being in satisfactory relationship with the established street grades, or with the existing street grade where none is established, with particular consideration for proper drainage and safe vehicular access.

**70.901 Vision corner setbacks**

No obstruction such as structures, automobile parking or vegetation shall be permitted in any district between the heights of 2 1/2 feet and 10 feet above the mean curb grades within the triangular space formed by any two existing or proposed intersecting streets or alley right-of-way lines and a line joining points on such line located a minimum of 15 feet from their intersection. In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distance establishing the triangular vision clearance space shall be increased from 15 to 30 feet.

**70.902 Drainage**

- A. **Adequate drainage required.** No principal building shall be erected on or moved onto land where the building is subject to periodic flooding or where the land is not adequately drained at all times, or where the first-floor level is less than 2 feet above the highest anticipated floodwater level.
- B. **Obstruction to drainage prohibited.** The damming, filling, relocating, or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural water course is not allowed except with approval of the plan commission.

**70.903 Sanitation and water supply**

No principal building involving human use or occupancy shall be permitted on a lot unless provision is ensured for safe and adequate facilities for water supply and sewage disposal.

**70.904 Erosion control and stormwater management**

All land-disturbing activities authorized by this chapter must comply with the erosion control and stormwater management requirements in Chapter 167 of the municipal code as applicable.

**70.905 Groundwater protection**

All development projects authorized by this chapter must comply the groundwater protection standards in Chapter 167 of the municipal code, except for single-family dwelling units which are exempt.

**70.906 Traffic impact analysis**

- A. **When required.** A traffic impact analysis is required when the anticipated number of trips per day of the proposed development at build-out is 500 or more. When the number of trips is 300 or more but less than 500, the Village may in its sole discretion require a traffic impact report when circumstances warrant such review.
- B. **Purpose.** A traffic impact analysis evaluates the adequacy of the existing transportation system to serve the proposed development and determine the expected effects of the proposed development on the transportation system. The traffic impact analysis must provide adequate information for Village staff to evaluate the development proposal and to provide recommended conditions of approval in the event approval is recommended.

- C. **Preparation.** When a traffic impact report is required, the applicant must hire an engineer as approved by the zoning administrator to prepare the report. The approved engineer shall have expertise in transportation planning.
- D. **Trip generation rates.** Trip generation rates for various land uses shall be based on the manual entitled "Trip Generation" (latest edition) published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if it can be shown that the alternative source better reflects local conditions.
- E. **Form and content.** A traffic impact analysis must be completed consistent with the most current revision of the Traffic Impact Analysis Guidelines published by the Wisconsin Department of Transportation.

**70.907 to 70.919 Reserved****DIVISION 6  
GENERAL STANDARDS****70.920 Compliance with building codes**

A building must comply with all applicable building codes for the intended use.

**70.921 Licensing with the Village and county**

In addition to meeting the requirements in this chapter, all land uses shall also meet any requirements for licensing with the Village and the county, which may now exist or may be adopted.

**70.922 Licensing with state agencies**

If a land use or any related activity requires a license from the state, or its agent, to operate, such license shall be obtained prior to the establishment of such use and maintained for the life of the use or until the state, or its agent, no longer requires such license.

**70.923 Special provisions for residential land uses**

- A. **On-site storage of a recreational vehicle.** A recreational vehicle may be kept on a residential property provided it belongs to the occupant of the dwelling unit. Any such recreational vehicle that is not stored within a building shall be licensed by the state of Wisconsin or any other state.
- B. **Parking of a commercial vehicle as an ancillary use to a residential use.** In all zoning districts, except for business and industrial districts, the occupant of a dwelling unit may park no more than one panel truck or one pickup truck on the premises provided it is used for business purposes and/or personal use.
- C. **Residential parking.** Parking of vehicles accessory to a residential use shall be limited to those actually used by the residents, or for the temporary parking of guests.

**70.924 Driveways**

- A. This section applies to all driveways installed, altered, changed, replaced, or extended after July 1, 1995.
- B. The number of driveways serving an individual parcel of land or lot developed for residential uses shall be limited to one access driveway where said parcel or lot abuts a state, county, or Village section line highway. Two connected driveways serving an individual residential parcel or lot may be permitted for parcels or lots abutting local subdivision streets provided:
  - (1) The parcel or lot has not less than 200 feet of continuous frontage along the local street to which access is requested and a minimum spacing of not less than 100 feet between the two driveways is maintained;

- (2) The driveways serving the parcel or lot are not located less than 250 feet from an intersection of a local street with any other county, state, or Village section line highway; and
  - (3) The driveways serving the parcel or lot are not located less than 100 feet from an intersection of a local street with any other local street, such as within a residentially zoned single-family subdivision. Residential parcels or lots served by two driveways installed prior to July 1, 1995, that are not in conformance with the requirements of this section shall be allowed to remain and be used as installed until such time as either driveway is altered, replaced, or extended.
- C. No driveway serving a residential parcel or lot shall be placed less than 5 feet from the property line for an abutting parcel or lot; however, when two driveways serving a single residential parcel or lot are proposed pursuant to subsection [REDACTED] [(B) [(5)(a)]], no driveway shall be placed less than 20 feet from the property line for an abutting parcel or lot. When two driveways serving an individual residential parcel or lot are proposed pursuant to subsection [REDACTED] [(B) [(5)(a)]], a minimum spacing distance of 100 feet is required between the two driveways.
  - D. No driveway serving an individual parcel or lot developed for nonresidential uses, (e.g., industrial, commercial, etc.) shall be placed less than 10 feet from the property line for an abutting nonresidential parcel or lot.
  - E. Driveways shall meet county and state requirements where applicable but in no case shall exceed 24 feet at the right-of-way line and 30 feet at the roadway in residential districts or 30 feet at the right-of-way line and 40 feet at the roadway in other districts.
  - F. Driveways serving drive-in banks, motels, funeral homes and vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.
  - G. Driveways shall be graded to a maximum of 12 percent and have a minimum width of 12 feet.
  - H. Turnaround. Adequate area necessary to accommodate the turning of emergency vehicles shall be provided on site as part of any driveway exceeding 300 feet in length. Adequate on-site turnarounds shall be provided as part of driveways serving residential parcels or lots abutting county, state, or Village section line highways to preclude egressing vehicles from backing onto such highways.
  - I. Culvert endwalls, driveway approaches, and other landscaping treatments shall not be placed within street or highway right-of-way above the street or highway center line elevation.
  - J. Driveways surfaced with concrete shall be surfaced with concrete up to the gutter on a street with a curb and gutter, but only to the street right-of-way on a non-curb and gutter street. In the latter case, the driveway approach from the edge of the street pavement to the edge of the concrete driveway shall be paved with asphalt materials compatible with the street surface.
  - K. Temporary driveways installed and used during construction shall be removed prior to issuance of a building occupancy certificate or permit. Restoration of the public right-of-way shall be completed within six months after the abandonment of such temporary driveways. Failure to restore rights-of-way to the original condition may result in the Village action to restore the right-of-way and charge the property owner for such restoration.
  - L. Driveways serving all parcels or lots developed with commercial, industrial, institutional, recreational, and any other nonresidential uses shall be paved within six months after issuance of an occupancy permit. Further, public parking areas installed pursuant to the requirements of section 70.[REDACTED] [70.185(A)] shall be [REDACTED] 18 months after issuance of an occupancy permit.
  - M. Driveways may not connect to public streets on the perimeter of a temporary "T" turnaround, cul-de-sac, or dead-end street without authorization from the Plan Commission. If allowed, such permitted driveways shall be paved for a minimum distance of 40 feet from the edge of the street pavement.
  - N. Property owners requesting approval of the installation of a driveway and/or driveway culvert are responsible for obtaining all driveway/access permits required by the Village or other county or state agency having jurisdiction over the street or highway to which driveway access is being requested prior to issuance of a building permit.
  - O. The location of all driveways and culverts shall be approved by the building inspector or other county or state agency, where applicable, prior to installation. The costs associated with the installation of a

driveway culvert, including the cost of all materials and street restoration, if required, shall be the responsibility of the property owner requesting the driveway culvert.

- P. The address of all occupied or improved properties shall be clearly displayed near the driveway entrance for safety and emergency purposes. Such address shall be located in such a manner that it will not be damaged or obliterated by vegetation or plowed snow.

#### 70.925 Shared driveways

The joint use of a single driveway by not more than two separate parcels or lots created on or after July 1, 1995, may be allowed or required by the Village Board upon a favorable recommendation by the Plan Commission if such joint use is necessary to protect the public safety and/or maintain the function of the county or state highway, Village section line highway, or local street to which access is requested. Joint use of a single driveway shall not be granted based solely on the basis of economic gain or loss or self-imposed or created hardship. The installation and/or use of a joint use or shared driveway shall be allowed after a joint use agreement has been reviewed and approved by the Village and subsequently recorded with the county register of deeds for the affected properties. Such agreement shall, at a minimum, assign maintenance responsibility for the driveway.

**Question** – Need to determine if the reference to “village section line highways” make any sense or not. I can guess which road they are but their significance or relevance to the subject matter is not clear.

#### 70.926 Highway access

- A. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways or freeways, nor to any controlled access arterial street, without permission of the highway agency that has access control jurisdiction.
- B. No direct public or private access shall be permitted to the existing or proposed right-of-way of freeways, interstate highways, and their interchanges or turning lanes, nor to intersections or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes.
- C. No direct public or private access shall be permitted to existing or proposed rights-of-way within 150 feet of the intersection of the right-of-way lines of arterial streets intersecting another arterial street.
- D. Access barriers such as curbing, fencing, ditching, landscaping, or other topographic barriers may be required by the Plan Commission to prevent unauthorized vehicular ingress or egress to the above-specified streets or highways.
- E. Temporary access to the above rights-of-way may be granted by the Village Board 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 exceeding 12 months.

#### 70.927 Parking of abandoned or junked motor vehicles

A motor vehicle that is no longer in use as a mode of transportation, or is no longer licensed shall not be stored anywhere on any premises unless it is completely enclosed in a structure, or located in an authorized salvage yard, if the use is permitted. (Verify with Jim. Is this addressed in other parts of the municipal code?)

#### 70.928 to 70.939 Reserved

### DIVISION 7 PERFORMANCE STANDARDS

#### 70.940 Generally

The performance standards in this division are established to promote the health, safety, and general welfare of the public by creating an objective and equitable basis to control potentially hazardous and nuisance-like

effects of various land uses and to ensure that the community is adequately protected. These performance standards may have the effect of limiting, restricting, and prohibiting the ways in which otherwise permissible land uses may operate. In addition to these established standards, there may be other applicable local, state, and federal codes and standards that also apply.

#### 70.941 Odors

- A. **Applicability.** The odor control standards established in this section apply to all land uses and activities, except where the odor is created by food cooking; the construction of a principal use on the subject property; the application of fertilizers; or incidental traffic, parking, loading, or maintenance operations. Public utilities and services that are otherwise allowed under this code are essential public services and are therefore also exempt.
- B. **Standards.** No odors shall be created for periods exceeding a total of 15 minutes per any day that are detectable (by a healthy observer such as the zoning administrator who is unaffected by background odors such as tobacco or food) at the boundary of the subject property, where such property is located in a residential, institutional, or business zoning district or the light industrial (LI) district.

#### 70.942 Air pollution

- A. **Applicability.** The air pollution standards established in this section apply to all land uses and activities, except where the air pollution is created during the construction of a principal use on the subject property, or by incidental traffic, parking, loading, or maintenance operations.
- B. **Standards.** (1) The emission of particulate matter containing a particle diameter larger than 44 microns is prohibited. (2) Emission of smoke or particulate matter of a density equal to or greater than Number 2 on the Ringelmann Chart (U.S. Bureau of Mines) is prohibited at all times. (3) Dust and other types of air pollution borne by the wind from such sources as storage areas, yards, and roads within the boundaries of any lot shall be controlled by appropriate landscaping, paving, oiling, or other acceptable means as determined by the reviewing authority.

#### 70.943 Fire and explosive hazards

- A. **Applicability.** The standards for fire and explosive hazards established in this section apply to all land uses and activities.
- B. **Standards.** (1) Any use involving materials which could decompose by detonation shall be located not less than 400 feet from any residential or business zoning district, except that this standard shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or business purposes. (2) Flammable and explosive materials at any point shall be provided with adequate safety and fire-fighting devices consistent with all fire prevention codes of the State of Wisconsin. (3) All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire extinguishing system. (4) The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the village fire department and in accord with their requirements to minimize fire and explosive hazards.

#### 70.944 Glare and heat

- A. **Applicability.** The standards for glare and heat established in this section apply to all land uses and activities, except where glare is created during the construction of a principal use on the subject property, or by incidental traffic, parking, loading, or maintenance operations.
- B. **Standards.** (1) No direct or sky-reflected glare shall be visible at the lot line of the subject property, whether from floodlights or from temperature processes, such as combustion, welding, or otherwise. (2) As determined by the zoning administrator, there shall be no discernible transmission of heat or heated air at the lot line.

**70.945 Water quality**

- A. **Applicability.** The standards for water quality established in this section apply to all land uses and activities.
- B. **Standards.** (1) No activity shall locate, store, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might runoff, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant, or aquatic life. (2) No activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward exceeding the minimum standards and those other standards and the application of those standards set forth in Wis. Adm. Code NR 102 or in other applicable chapters which regulate water quality.

**70.946 Noise**

No operation or activity shall transmit any noise beyond the boundaries of the property so that it becomes a nuisance.

**70.947 Vibration**

- A. **Applicability.** The requirements of this section apply to all uses and activities, except those vibrations created during the construction of the principal use on the subject property.
- B. **Requirements.** No physical vibration emanating on a property that is above the vibration perception threshold of an individual shall pass beyond the property line of such property. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

**70.948 to 70.959 Reserved**

**DIVISION 8  
SITE DESIGN STANDARDS**

**70.960 Applicability**

Those land uses designated as requiring site plan review in the land-use matrix (Appendix A) must comply with the requirements in this division along with the corresponding procedures in Article 5.

**70.961 Legislative findings**

The Village Board makes the following legislative findings regarding site design requirements:

- (1) The design and layout of a site, including principal and accessory buildings, parking areas and access drives, building service areas, docking and loading areas, and other elements, can have a substantial and long-lasting effect on the utility of the subject property and on surrounding properties and the overall character of the Village.
- (2) The standards in this division are intended to provide meaningful guidance to property owners, design professionals, and public officials.
- (3) The standards in this division are intended to promote the public health, safety, and welfare and are reasonably related to the public purpose of achieving an attractive, functional, and prosperous community.

**70.962 Minimum design standards**

Development subject to review under this division must adhere to the following design principles along with other requirements that may apply:

- (1) The location and orientation of all buildings shall meet the individual lot size, width, setback and yard requirements set forth in the applicable zoning district regulations.
- (2) Buildings and other improvements must be arranged on a site and in a configuration that does not impede traffic accessibility and circulation to/from adjacent streets and adjoining sites developed with similar nonresidential uses.
- (3) Individual building pads or parcels intended for freestanding uses separate from the primary building shall be arranged to provide and/or accommodate readily accessible cross- access from within and across parking areas to enhance onsite circulation.
- (4) Buildings shall be arranged to reduce visibility of service areas from public streets, customer parking areas, and adjacent properties.
- (5) Service yards and facilities, including storage areas (if permitted) and docking and loading facilities, shall be easily accessible by service vehicles, separated from the primary parking access and circulation functions, centrally located to serve multiple establishments and tenants (if any), and integrated into the overall design of the buildings and landscaping features so the visual and acoustic impacts of these functions are located out of view from public streets and adjacent agricultural and residential-zoned areas through the use of architectural extensions of buildings, walls, fences, landscaping features and plantings, or a combination thereof.
- (6) Existing natural resources and topographic features of a site should be preserved where such features contribute to the beauty and utility of a development site.
- (7) Buildings and other improvements should be located to take advantage of a site's natural topography and drainage, existing vegetation and other natural features. Modifications to such features may be permitted when required for safety purposes, or, where modification contributes to and further visual appearance function and utility of the site.
- (8) No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty and aesthetics of the area, particularly insofar as it would adversely affect values incident to ownership of land in the area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
- (9) Utility services shall be underground to reduce visual clutter.
- (10) A building shall be arranged on the site so as to not impede traffic accessibility and circulation to or from adjacent streets and adjoining sites. (proposed)
- (11) The front of the building shall be generally parallel to the street or a public area, such as a courtyard, plaza, or the like. (proposed)
- (12) A docking or loading area or a service area for a commercial, institutional, or industrial building shall be easily accessible to service vehicles, separated from the on-site parking area, and designed to serve multiple establishments and tenants, when possible. Such docking or loading area shall not be readily visible from a public street, an on-site customer parking area, or an abutting property in a business or residential district or in an agricultural zoning district that is designated for future commercial or residential development in an adopted comprehensive plan. Screening from view may be accomplished by (i) integrating such area into the overall design of the building (e.g., inside of the building or use of architectural extension of a building wall) or (ii) using a fence; a berm; landscaping, above what is otherwise required in this chapter; other suitable feature; or any combination thereof.
- (13) Existing natural resources and topographic features on the site shall be preserved to the greatest extent possible while affording a reasonable use of the property. (proposed)
- (14) The project shall not create any hazard. (proposed)
- (15) The project shall be designed to avoid existing hazards, whether manmade or natural, and if avoidance is not possible, to mitigate the effects of the hazard to a satisfactory level necessary to protect the public health, safety, and welfare. (proposed)

- (16) Parking areas and pedestrian accessways located on the site shall be designed to promote safety and efficient traffic flow. (proposed)

#### **70.963 Signage**

Ground-mounted signs that require approval must be depicted on an approved site plan consistent with Chapter 309 of the municipal code.

#### **70.964 Outdoor lighting**

All development projects authorized by this chapter must comply with the outdoor lighting standards in Chapter 234 of the municipal code.

#### **70.965 Landscaping and buffers**

Landscaping and buffers must be depicted on an approved site plan consistent with Article 13.

#### **70.966 Parking and loading**

On-site parking and loading must be depicted on an approved site plan consistent with Article 14.

#### **70.967 Cross-access connections**

Cross-access connections must be provided between adjoining commercial parcels whenever it is feasible to do so, as determined by the review authority. (proposed)

#### **70.968 Outdoor storage areas**

- A. Outdoor storage areas, when allowed, shall be located behind the front face of the building.
- B. Outdoor storage areas adjoining residential districts must be screened with a wall, a non-metallic fence, a berm, landscaping, or any combination, as approved by the Plan Commission.
- C. Materials kept out of doors shall not exceed the height of required screening.
- D. Outdoor storage areas shall consist of concrete or asphaltic concrete. The Plan Commission may approve the use of gravel in low-traffic areas, provided such area is smaller than the remaining surfaced area. If gravel is allowed, the control of fugitive dust must be addressed to the satisfaction of the Plan Commission.

#### **70.969 Refuse storage**

- A. **General requirement.** When garbage and/or recyclable materials are stored out-of-doors, such materials shall be stored in a container which is concealed or suitably screened from public view.
- B. **Dumpster enclosure.** When a dumpster is used for garbage and/or recyclables and it is not fully screened by the overall building envelope, a solid wall or fence must totally enclose the dumper(s) consistent with the following:
  - (1) The height of the enclosure must be at least 18 inches above the highest point of the dumpster.
  - (2) The access gate must face away from street view or adjacent residential areas.
  - (3) The design of the enclosure must be compatible in design with the architectural style of the principal building in terms of its scale, exterior materials used, and color.

The location of the dumpster enclosure must (1) not impair vehicular access or snow removal operations, (2) not be located within a bufferyard or a drainage or stormwater easement, (3) be in an area approved by the waste hauler, and (4) encourage sharing or consolidation of refuse containers for multiple users.

- C. **Site plan.** Refuse containers and dumpster enclosures must be depicted on an approved site plan.
- D. **Location.** Dumpster enclosures must and be located (1) to not impair vehicular access or snow removal operations, (2) outside of any bufferyard or a drainage or stormwater easement, (3) to encourage sharing or consolidation of refuse containers for multiple users; and (4) in an area approved by the waste hauler.

#### 70.970 Snow storage areas

- A. **General requirement.** Development projects with outdoor storage areas and/or parking lots exceeding a cumulative total of 10,000 square feet or more must provide for onsite storage of snow.<sup>[1]</sup>
- B. **Site plan.** Snow storage areas must be depicted on an approved site plan.
- C. **Location.** Snow storage areas must (1) be free of shrubs, trees, fences, retaining walls, and similar obstructions; (2) not located within a wetland, stormwater or drainage easement, or waterbody; and (3) be located within 20 feet of the edge of the pavement area to be served.

**Editorial notes:**

- [1] For the sake of comparison, a parking lot with 40 parking spaces is about 10,000 square feet.

#### 70.964 to 70.979 Reserved

### DIVISION 9 ARCHITECTURAL STANDARDS

#### 70.980 Applicability

Those land uses designated as requiring architectural plan review in the land-use matrix (Appendix A) must comply with the requirements in this division along with the corresponding procedures in Article 5.

#### 70.981 Legislative findings

The Village Board makes the following legislative findings regarding architectural requirements in this division:

- (1) The exterior design of a building has a substantial and long-lasting effect on surrounding properties and the overall character of the Village.
- (2) Buildings and especially those within a largely developed area should fit into the context in which they occur.
- (3) Architectural design standards should allow for a variety architectural styles and be flexible to the greatest extent possible.
- (4) The standards in this division are intended to provide meaningful guidance to property owners, design professionals, and public officials.
- (5) The standards in this division are intended to promote the public health, safety, and welfare and are reasonably related to the public purpose of achieving an attractive, functional, and prosperous community.

#### 70.982 Massing and scale

- A. **Description.** The massing of a building refers to the overall size, bulk or volume of space which a building encloses. Scale is conveyed by elements or parts of the building facade where doorways, windows, and details enable people to gauge its relative size and character in relationship to the size of the human form.
- B. **Standards.** The massing and scale of buildings must comply with the following requirements:
  - (1) The scale of the buildings must be compatible with the overall massing and the individual parts of adjacent buildings, especially adjacent to residential areas.

- (2) Building heights of new construction must not be more than 10 percent above the height of adjacent or future-designated residential buildings based on the maximum building height of each residential district, when the building is to be located within 200 feet of a residential building.
- (3) A gradual transition to the maximum building height is permitted. (Building heights shall be measured from the highest ridge height.)
- (4) The relationship between facade height and width must be maintained.
- (5) Transitions between adjacent residential structures and new nonresidential structures to be constructed must also be achieved by the incorporation of horizontal human-scale features in rooflines and building elevations.
- (6) Avoid vast blank building walls in areas visible from the street or adjacent residential areas. Design facades must convey human-scale through fenestration, building articulation, or detailing.

**70.983 Form and proportion**

- A. **Description.** The form and proportion of a building's elevation and roof are basic form-giving characteristics that are important in relating a new building to other buildings and to its setting.
- B. **Standards.** The form and proportion of buildings must comply with the following requirements:
  - (1) Elements of a building must be emphasized to clearly show the division of roof and walls. Color, materials and/or details must be utilized to express this division.
  - (2) Building components and appurtenances, including doors, windows, canopies and trim, must maintain this proportion to each other and to the building as a whole.

**70.984 Fenestration and entrances**

- A. **Description.** The fenestration of building facades is the orderly arrangement of openings within the elevations of the building.
- B. **Standards.** Fenestration and entrances on buildings must comply with the following requirements:
  - (1) Design openings must form a unified composition in proportion to the building elevation.
  - (2) Large blank walls which are exposed to view must be avoided by creating horizontal and vertical interest. Utilize fenestration, related detailing, and articulation to provide scale and relief to the building facade. These architectural characteristics shall be easily identified by the viewer.
  - (3) Oversized fenestration elements which tend to create a monumental scale shall be avoided unless specifically required by the type of building or relationship to its surroundings.
  - (4) Building entrances must be designed to be clearly identifiable and easily recognizable from parking lots and pedestrian circulation routes.
  - (5) Design, quality of material, scale and character of a building, especially the location of the entryway, must help identify its importance and be compatible with entrances of adjacent buildings.
  - (6) Hierarchy of entrances through scale, detailing, and design features must be clearly expressed.
  - (7) Entrances of freestanding buildings must be located and be clearly identifiable from the adjacent street or service drive.

**70.985 Materials and details**

- A. **General standards.** Exterior building materials must comply with the following requirements:
  - (1) Materials must achieve a cohesive and consistent architectural character in new construction through the use of exterior building materials and details that are similar to or compatible with adjacent buildings.

- Draft April 17, 2020 -

- (2) Materials must be selected to adequately suit the type of building and style in which it is intended to serve.
  - (3) Buildings must have the same materials, or those which are architecturally harmonious, used for all building elevations and other exterior building components such as dumpster facilities or other accessory structures, such as signage.
  - (4) In any building in which the structural frame is exposed to public view, the structural materials must also meet these standards.
  - (5) A primary facade material must be used consistently on all building elevations to limit the number of compatible secondary facade materials.
  - (6) The sides and rear of buildings shall be as visually attractive as the front through the design of roof lines, use of similar architectural detailing, and building materials.
  - (7) For an expandable building in a manufacturing zoning classifications one side may have a different building material than the rest of the building, provided the different material is integrated and coordinated with the overall building design. The different material must be one of the appropriate facade materials and the site and building plans must show the feasibility of the proposed future building expansion. The different material may only be located on a side of the building, which is not visible from the street.
- B. **Appropriate exterior building materials.** The following are examples of appropriate exterior building materials for new buildings and additions:
- (1) brick;
  - (2) non-reflective glass curtain walls;
  - (3) solid wood, such as cedar, redwood, etc.;
  - (4) stucco;
  - (5) decorative architectural tile;
  - (6) integrally colored and/or exposed aggregate and/or textured precast or cast in place textured concrete;
  - (7) natural or cultured stone;
  - (8) architectural block;
  - (9) architectural metals, such as copper, titanium, zinc, etc.;
  - (10) hard coat exterior insulation finish systems;
  - (11) architectural metal panels, defined as flush non-profiled face with concealed anchorage; and
  - (12) cementitious siding (hardiplank).
- C. **Prohibited exterior building materials** The following are examples of prohibited exterior building materials for new buildings and additions:
- (1) particle board;
  - (2) shingle siding (roof applications only), except for cedar shake siding;
  - (3) vinyl siding;
  - (4) wood siding, i.e., plywood paneling and T-111;
  - (5) highly reflective or glare-producing glass with a 0.25 or greater reflective factor;
  - (6) industrial metal panels with or without exposed fasteners (defined as any panel that is corrugated or profiled);
  - (7) concrete masonry units; and
  - (8) soft coat exterior insulation finish systems.

Pursuant to the procedures and requirements in Article 5, the Architectural Review Board may recommend and the Plan Commission may approve a special exception to allow the use of a

prohibited material on a building addition when the existing building is constructed of the same prohibited material. If the special exception is approved, the Architectural Review Board may require enhancements to the facade, additional landscaping, or other means to improve the aesthetics of the building. The Architectural Review Board in making its recommendation and the Plan Commission in making its decision must consider the following factors:

- (1) The prevailing material(s) used on buildings in the same area.
- (2) The extent to which the building is visible from any public road and adjoining properties.

Pursuant to the procedures and requirements in Article 5, the Architectural Review Board may recommend and the Plan Commission may approve a special exception to allow the use of a prohibited material when the building incorporates exceptional design.

#### **70.986 General architectural requirements**

Building materials are critical in establishing the character and aesthetic for the area. Buildings require appropriate and respectful attention in the materials selected for facades. The following uses shall be consistent with the following standards for all buildings and building complexes:

- (1) Building designs shall minimize the effects of size and scale by highlighting individual dwelling units using separate entrances and integrating garages (for multifamily buildings), use of variable rooflines, door and window openings, facade protrusions or recesses, and use of porticos, overhangs, arcades, arches and outdoor patios.
- (2) Accessory structures must be compatible with the primary building in terms of its character, roof shapes, building materials, colors and architectural details.
- (3) Building facades must incorporate unified and complimentary finished materials, and to promote longevity and durability. Materials that are appropriate or prohibited are listed in s. 70.985.
- (4) Colors shall be compatible, coherent, and harmonious with existing materials in the immediate area. Color schemes shall be used consistently throughout the property, including on both the upper and lower portions of the buildings, and on all facades of a building or structure. The following provisions must be adhered to unless the review of the Plan Commission states otherwise:
  - (i) Primary building facade colors on all four sides, including building accents, fixtures and signage, must be non-reflective and subtle.
  - (ii) Fluorescent, day-glow and/or neon colors and light tubing shall not be permitted.
  - (iii) Colors must be selected relative to the chosen exterior building materials since it is a critical design element in relating adjacent buildings and to create a compatible visual environment within an area. In general, colors must be integral to a selected material rather than applied on (painted) exterior building materials.
  - (iv) Colors for secondary facade materials shall be compatible with the predominant colors, including accent colors. When such contrasting colors are utilized, the colors must not dominate the visual character of the setting.
- (5) Variation in architectural detail, mass and proportion of individual buildings may be used to provide visual interest where more than one building is located on a single parcel.
- (6) Roofs are elements of buildings which significantly affect the architectural character. The roof is vital to the overall design theme of a building since it is related to its mass, scale, form, and proportion. For all visible roofs, roofing materials and construction must be high quality, such as but not limited to, standing-seam metal, slate, cedar, or architectural shingles. Roofing materials and shape must be compatible with the architectural style of the building and with surrounding buildings and roofs.
- (7) All buildings, or groupings or nodes of buildings and structures, shall be designed to be sensitive to existing views, or view corridors, and the contexts of the surrounding natural and built environment.

**70.987 Service and utility areas**

- A. **Generally.** Buildings require mechanical equipment and service areas which are normally unsightly and noisy. These areas include, but are not limited to, loading docks, exterior storage areas, dumpsters and mechanical equipment such as plumbing vent stacks, transformers, fans and cooling towers.
- B. **Standards.** The following standards address the treatment of service and utility areas in order to reduce the negative visual impact of such areas:
- (1) All service and utility areas shall be located away from the street and concealed from building entrances, pedestrian areas, and adjacent residential buildings.
  - (2) Service areas and related mechanical equipment shall be fully screened (100 percent) with materials to match the primary exterior materials. Trash compactors and dumpsters shall be located adjacent to truck loading areas and fully screened (100 percent) with the primary exterior materials.
  - (3) All above grade utility connections, vents, and other projections must be located along exterior walls away from high visibility areas, such as front facades or pedestrian areas. These vents also include, but are not limited to, air conditioning units, air exchangers and underground utility vaults.
  - (4) Rooftop mechanical equipment shall not be mounted on buildings unless the roof parapet (cornice) fully screens such equipment (100 percent) from public view, as measured from grade elevation, from a minimum distance of 500 feet from the building.
    - (a) The roof parapet shall be integrated as part of the building's overall design.
    - (b) Each plan (including remodeling existing buildings) must be reviewed individually based on location, finished grade elevation and the surrounding terrain to determine the view of rooftop mechanical equipment.

**70.988 to 70.999 Reserved**

**ARTICLE 9  
FLOODPLAIN OVERLAY DISTRICT**

**DIVISION 1  
GENERAL PROVISIONS**

**70.1200 Authorization**

This article is adopted under authority granted by ss. 61.35 and 62.23, Wis. Stats., and the requirements in s. 87.30, Wis. Stats.

**70.1201 Legislative findings**

The Village Board makes the following legislative findings:

- (1) Uncontrolled development and use of the floodplains and rivers in the village would impair the public health, safety, convenience, general welfare, and tax base.
- (2) The requirements in this chapter relating to floodplain use and development are intended to comply with the minimum regulatory standards required in ch. NR 116, Wis. Admin. Code and s. 44 CFR 59-72 which relates to the National Flood Insurance Program.

**70.1202 Purpose**

This article promotes the public health, safety, and welfare and is intended to regulate floodplain development to:

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

**70.1203 Areas to be regulated**

- A. **Generally.** This article regulates all areas within the village that would be covered by the regional flood or base flood as shown on the flood insurance rate map (FIRM) or other maps approved by the Wisconsin Department of Natural Resources. Base flood elevations (BFEs) are derived from the flood profiles in the flood insurance study (FIS) and are shown as AE, A1-30, and AH Zones on the flood insurance rate maps. Other regulatory zones are displayed as A and AO zones. Regional flood elevations (RFEs) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.
- B. **Annexed areas.** The Washington County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the village adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

**70.1204 Municipalities and state agencies regulated**

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if s. 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 s. 30.2022, Wis. Stats., applies.

**70.1205 to 70.1209 Reserved**

**DIVISION 2  
MAPS AND DISTRICTS**

**70.1210 Official floodplain maps**

- A. **Generally.** The boundaries of all floodplain districts are designated as A, AE, AH, AO, or A1-30 on the maps based on the flood insurance study listed below. Any change to the base flood elevations or any change to the boundaries of the floodplain or floodway in the flood insurance study or on the flood insurance rate map must be reviewed and approved by the Wisconsin Department of Natural Resources and the Federal Emergency Management Agency through the letter of map change process (see s. 70.1271 [847]) before it is effective. No changes to regional flood elevations on non-FEMA maps shall be effective until approved by the Wisconsin Department of Natural Resources. These maps and revisions are on file in the office of the zoning administrator. If more than one map or revision is referenced, the most restrictive information shall apply.
- B. **Official floodplain maps.** The following are adopted for the purpose of this article:
- (1) Flood insurance rate map (FIRM) panel number 550518, dated October 16, 2015; with corresponding profiles that are based on the flood insurance study dated October 16, 2015: 55131CV001B, 55131CV002B; and 55131CV003B.  
  
55131C0241E, 55131C0242E, 55131C0243E, 55131C0244E, 55131C0262D (not printed), 55131C0263E, 55131C0264D, 55131C0266D, 55131C0268D, 55131C0331E, 55131C0332E, 55131C0333E, 55131C0334E, 55131C0351E, 55131C0352E, 55131C0353E, 55131C0354E, 55131C0356E, and 55131C0358E (approved by the DNR and FEMA)
  - (2) Flood storage maps: Panel 5, 6, 7, and 8, dated April 16, 2015, as approved by the Wisconsin Department of Natural Resources.
  - (3) If land is annexed and is not included in any of the above-mentioned flood insurance rate map panels, such panel is included in this article upon the date of annexation.

**70.1211 Establishment of floodplain zoning districts**

The floodplain overlay district is divided into four districts as follows:

- (1) The Floodway District includes the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the flood insurance rate maps.
- (2) The Floodfringe District includes that portion between the regional flood limits and the floodway and displayed as AE Zones on the flood insurance rate maps.
- (3) The General Floodplain District includes those areas that may be covered by floodwater during the regional flood and does not have a base flood elevation or floodway boundary determined, including A, AH, and AO zones on the flood insurance rate maps.
- (4) The Flood Storage District is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

**70.1212 Locating floodplain boundaries**

- A. **Generally.** Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in this section. If a significant difference exists, the map shall be

amended according to s. 70.1271[847]. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section.

- B. **Criteria.** If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. Regional flood elevations or base flood elevations shall govern if there are any discrepancies. If flood profiles do not exist, the location of the boundary shall be determined by the map scale.
- C. **Disputes.** If an applicant does not agree with the boundary determination made by the zoning administrator, he or she shall file an administrative appeal as provided for in Article 5. If the Zoning Board of Appeals determines, based on the criteria in this section, that the boundary location is incorrectly mapped, the board should inform the Plan Commission or the person contesting the boundary location to submit an application for a map amendment pursuant to the requirements and procedures in s. 70.1271[847].

### 70.1213 Removal of lands from floodplain

Compliance with the provisions of this division shall not be grounds for removing land from the floodplain unless (1) it is filled at least 2 feet above the regional flood elevation or base flood elevation, (2) the fill is contiguous to land outside of the floodplain, and (3) the map is amended pursuant to s. 70.1271[847].

70.1214 to 70.1219 Reserved

## DIVISION 3 GENERAL PROVISIONS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

### 70.1220 General standards

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

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this chapter and all other requirements in s. 70.1272[848]. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

### 70.1221 Hydraulic and hydrologic analyses

No floodplain development shall obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or cause any increase in the regional flood height due to floodplain storage area lost. The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted flood insurance rate map or other adopted map.

### 70.1222 Watercourse alterations

No floodplain permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the zoning administrator has notified in writing all adjacent municipalities, the regional office of the Wisconsin Department of Natural Resources, and the regional office of the Federal Emergency Management Agency, and required the applicant to secure all necessary state and federal permits. The standards in s. 70.1221[814] must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than 6 months after the date of the watercourse alteration or relocation and pursuant to s. 70.1271 [847], the village shall apply for a letter of map revision (LOMR) from the Federal Emergency Management Agency. Any such alterations must be reviewed and approved by the Federal Emergency Management Agency and the Wisconsin Department of Natural Resources through the letter of map correction (LOMC) process.

#### **70.1223 Docks, piers, wharves, bridges, and similar structures**

Any development that requires a permit from the Wisconsin Department of Natural Resources under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams, and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning regulations are made according to s. 70.1271 [847].

#### **70.1224 Floodproofing standards**

- A. No permit or variance shall be issued for a nonresidential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA floodproofing certificate.
- B. For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan prepared by a certified by a registered professional engineer or architect or that meets or exceeds the following standards:
  - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - (2) the bottom of all openings shall be no higher than one foot above grade; and
  - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- C. Floodproofing measures shall be designed, as appropriate, to (1) withstand flood pressures, depths, velocities, uplift and impact forces, and other regional flood factors; (2) protect structures to the flood protection elevation; (3) anchor structures to foundations to resist flotation and lateral movement; (4) minimize or eliminate infiltration of flood waters; and (5) minimize or eliminate discharges into flood waters.

#### **70.1225 Public or private campgrounds**

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (1) The campground is approved by the Wisconsin Department of Health Services;
- (2) A land use permit for the campground is issued by the zoning administrator;
- (3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in subsection (4) above - to remain in compliance with all applicable regulations, including those of the Wisconsin Department of Health Services and all other applicable regulations;
- (6) Only camping units that are fully licensed, if required, and ready for highway use are allowed;

- (7) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Division 4, 6, or 7 for the floodplain district in which the structure is located;
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and
- (12) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

**70.1226 to 70.1229 Reserved**

#### DIVISION 4 FLOODWAY DISTRICT

##### **70.1230 Applicability**

This division applies to all floodway areas on the floodplain zoning maps and those delineated pursuant to s. 70.1253[837].

##### **70.1231 Permitted uses**

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district if they are not prohibited in the underlying zoning district, meet the development standards in this division; and the zoning administrator has issued a floodplain permit:

- (1) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.
- (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas, and airport landing strips.
- (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas, and hiking and horseback riding trails, subject to the fill limitations of s. 70.1232(D)[823(D)].
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 70.1232[823] and 70.1233[824].
- (5) Extraction of sand, gravel, or other materials that comply with s. 70.1232(D)[823(D)].
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Wis. Stats.
- (7) Public utilities, streets, and bridges that comply with s. 70.1232(C)[823(C)].

##### **70.1232 Development standards**

- A. **General standards.** Development shall have a low flood damage potential and shall not cause an obstruction or raise the flood elevations upstream and downstream as more fully described in s.

**70.1220[813]**. An applicant shall provide the following data to determine the effects of the proposal according to s. **70.1221[814]**:

- (1) A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
  - (2) An analysis calculating the effects of this proposal on regional flood height.
- B. Structures.** Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
- (1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
  - (2) Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - (3) Must be anchored to resist flotation, collapse, and lateral movement;
  - (4) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
  - (5) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- C. Public utilities, streets and bridges.** Public utilities, streets and bridges may be allowed by permit, if adequate floodproofing measures are provided to the flood protection elevation, and construction meets the development standards of s. **70.1221[814]**.
- D. Fills or deposition of materials.** Fills or deposition of materials may be allowed by permit, if (1) the requirements of s. **70.1221[814]** are met; (2) no material is deposited in navigable waters unless a permit is issued by the Wisconsin Department of Natural Resources pursuant to ch. 30, Wis. Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met; (3) the fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling, or bulkheading; and (4) the fill is not classified as a solid or hazardous material.

### **70.1233 Prohibited uses**

Any use that is not listed in s. **70.1231[822]** is prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Admin. Code;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Admin. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Admin. Code; and
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

70.1234 to 70.1239

Reserved

**DIVISION 5  
FLOODFRINGE DISTRICT****70.1240 Applicability**

This division applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 70.1253[837].

**70.1241 Permitted uses**

Any structure, land use, or development is allowed in the floodfringe district if the standards in s. 70.1242[829] are met, the use is not prohibited by the underlying zoning regulations, and the zoning administrator has issued a floodplain permit.

**70.1242 Development standards**

- A. **General standards.** Development shall not cause an obstruction or raise the flood elevations upstream or downstream as more fully described in s. 70.1221[814].
- B. **Residential structures.** Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards.
  - (1) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of s. 70.1242(B)(2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
  - (2) The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation.
  - (3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except that in developments where existing street or sewer line elevations make compliance impractical, the zoning administrator may permit new development and substantial improvements where streets are below the regional flood elevation, if the municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or the municipality has an emergency evacuation plan as approved by the Wisconsin Department of Natural Resources.
- C. **Accessory structures or uses.** Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- D. **Commercial structures.** Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of s. 70.1242(B). Subject to the requirements of s. 70.1242(F), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- E. **Manufacturing and industrial uses.** Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s. 70.1224[817]. Subject to the requirements of s. 70.1242(F), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- F. **Storage of materials.** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 70.1224[817]. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- G. **Public utilities, streets and bridges.** Utilities, streets, and bridges shall be designed to be compatible with comprehensive floodplain development plans. When failure of public utilities, streets, and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of

such facilities shall only be permitted if they are designed to comply with s. 70.1224[817]. Minor streets or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

- H. **Sewage systems.** Sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 70.1224(C), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Admin. Code.
- I. **Wells.** Wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 70.1224(C), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Admin. Code.
- J. **Deposition of materials.** Any deposited material must meet all the provisions of this article.
- K. **Manufactured homes.** Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities. In an existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall have the lowest floor elevated to the flood protection elevation and be anchored so they do not float, collapse or move laterally during a flood. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 70.1242(B).
- L. **Mobile recreational vehicles.** All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 70.1242(K). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

#### 70.1243 Solid waste disposal

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

70.1244 to 70.1249

Reserved

### DIVISION 6 GENERAL FLOODPLAIN DISTRICT

#### 70.1250 Applicability

This division applies to those floodplains mapped as A, AO, or AH zones.

#### 70.1251 Permitted uses

Pursuant to s. 70.1253[837], it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses listed in s. 70.1231[822] are permitted in the floodway and those uses listed in s. 70.1241[828] are allowed in the floodfringe within the general floodplain district, according to the standards of s. 70.1252[836], provided the zoning administrator has issued a floodplain permit consistent with this division.

#### 70.1252 Development standards

- A. The development standards in Division 4 apply to floodway areas and the standards in Division 5 apply to floodfringe areas. The rest of this article applies to either district.
- B. In AO and AH zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:
  - (1) at or above the flood protection elevation; or
  - (2) 2 feet above the highest adjacent grade around the structure; or

- (3) the depth as shown on the flood insurance rate map.
- C. In AO and AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

**70.1253 Determining the extent of the floodway and floodfringe**

- A. **Request for determination.** Upon receiving an application for development within the general floodplain district, the zoning administrator shall require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the flood insurance rate map and require the applicant to furnish any of the following information deemed necessary by the Wisconsin Department of Natural Resources to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
- (1) A hydrologic and hydraulic study as specified in s. 70.1272[848].
  - (2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information; and
  - (3) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- B. **Determination.** The extent of the floodway and floodfringe shall be as determined by the Wisconsin Department of Natural Resources.

**70.1254 to 70.1259**

**Reserved**

**DIVISION 7  
FLOOD STORAGE DISTRICT**

**70.1260 Flood storage district**

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

**70.1261 Applicability**

The provisions of this section apply to all areas within the Flood Storage District as shown on the official floodplain zoning maps.

**70.1262 Permitted uses**

Any use or development which occurs in a flood storage district must meet the applicable requirements in s. 70.1242.

**70.1263 Standards for development in flood storage districts**

- A. Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
- B. No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in

the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.

- C. If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as set forth in s. 70.1271.
- D. No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

70.1264 to 70.1269

Reserved

## DIVISION 8 ADMINISTRATION

### 70.1270 Certificate of compliance

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt, or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (2) Application for such certificate shall be concurrent with the application for a permit;
- (3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (4) The applicant shall submit a certificate signed by a registered professional engineer, architect, or land surveyor that the fill, lowest floor, and floodproofing elevations are in compliance with the permit issued.
- (5) If the project involves floodproofing measures, the applicant shall submit a certificate signed by a registered professional engineer or architect stating that the requirements of s. 70.1224[817] are met.

### 70.1271 Amendments

- A. **Obstructions or increases.** Obstructions or increases may only be permitted if amendments are made to this chapter, the official floodplain zoning maps, floodway lines, and water surface profiles consistent with this section.

In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a conditional letter of map revision from the Federal Emergency Management Agency and amendments are made to this chapter, the official floodplain zoning maps, floodway lines, and water surface profiles, consistent with this section. Any such alterations must be reviewed and approved by the Federal Emergency Management Agency and the Wisconsin Department of Natural Resources.

In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a conditional letter of map revision from the Federal Emergency Management Agency and amendments are made to this chapter, the official floodplain maps, floodway lines, and water surface profiles, consistent with this section.

- B. **Generally.** The Common Council may change the floodplain overlay district boundaries and the text of this article pursuant to the requirements and procedures in Article 5. Actions requiring an amendment include, but are not limited to, the following:
  - (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;

- (2) Any change to the floodplain boundaries and/or watercourse alterations on the flood insurance rate map;
  - (3) Any changes to any other officially adopted floodplain maps listed in s. 70.1210[807];
  - (4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
  - (5) Correction of discrepancies between the water surface profiles and floodplain maps;
  - (6) Any upgrade to floodplain zoning regulations required by s. NR 116.05, Wis. Admin. Code, or otherwise required by law, or for changes by the municipality; and
  - (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a flood insurance rate map requires prior approval by the Federal Emergency Management Agency.
- C. **Flood easements.** A person petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

#### 70.1272 Hydraulic and hydrologic studies

- A. **Generally.** All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the state of Wisconsin. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Wisconsin Department of Natural Resources.
- B. **Zone A floodplains.** For projects located in a Zone A floodplain, the following provisions apply:
- (1) **Hydrology.** The appropriate method shall be based on the standards in s. NR 116.07(3), Wis. Admin. Code, entitled *Hydrologic Analysis: Determination of Regional Flood Discharge*.
  - (2) **Hydraulic modeling.** The regional flood elevation shall be based on the standards in s. NR 116.07(4), Wis. Admin. Code, entitled *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
    - (i) Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
    - (ii) Channel sections must be surveyed.
    - (iii) Minimum 4-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
    - (iv) A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
    - (v) The most current version of HEC-RAS shall be used.
    - (vi) A survey of bridge and culvert openings and the top of street is required at each structure.
    - (vii) Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
    - (viii) Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.

- (ix) The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
- (3) **Mapping.** A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
- (i) If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
  - (ii) If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.
- C. **Zone AE Floodplains.** For projects located in a Zone AE floodplain, the following provisions apply:
- (1) **Hydrology.** If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on s. NR 116.07(3), Wis. Admin. Code, entitled *Hydrologic Analysis: Determination of Regional Flood Discharge*.
  - (2) **Hydraulic model.** The regional flood elevation shall be based on the standards in s. NR 116.07(4), Wis. Admin. Code, entitled *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
    - (i) **Duplicate Effective Model.** The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous flood insurance study model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the flood insurance study profiles and the elevations shown in the floodway data table in the flood insurance study report to within 0.1 foot.
    - (ii) **Corrected Effective Model.** The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Wisconsin Department of Natural Resources review.
    - (iii) **Existing (Pre-Project Conditions) Model.** The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
    - (iv) **Revised (Post-Project Conditions) Model.** The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
    - (v) All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans, and survey notes.
    - (vi) Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
  - (3) **Mapping.** Maps and associated engineering data shall be submitted to the Wisconsin Department of Natural Resources for review which meet the following conditions:
    - (i) Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or flood boundary floodway maps, construction plans, bridge plans.
    - (ii) Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the flood insurance rate map may be more easily revised.
    - (iii) Annotated flood insurance rate map panel showing the revised 1 percent and 0.2 percent annual chance floodplains and floodway boundaries.

- (iv) If an annotated flood insurance rate map and/or flood boundary floodway maps and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System consistent with mapping specifications established by the Federal Emergency Management Agency.
- (v) The revised floodplain boundaries shall tie into the effective floodplain boundaries.
- (vi) All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
- (vii) Both the current and proposed floodways shall be shown on the map.
- (viii) The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

#### 70.1273 Record of nonconforming uses and structures

- A. **Nonconforming uses.** The zoning administrator shall maintain a list of those properties that contain a nonconforming use.
- B. **Nonconforming structures.** The zoning administrator shall maintain a list of those properties that have a nonconforming structure. For every such structure, the following information shall be recorded:
  - (1) present assessed value,
  - (2) cost of all modifications or additions which have been permitted, and
  - (3) percentage of the structure's total current value those modifications represent.

#### 70.1274 Public information

- A. The zoning administrator shall place marks on structures to show the depth of inundation during the regional flood.
- B. All maps, engineering data, and regulations shall be available and widely distributed.
- C. Real estate transfers should show what floodplain district any real property is in.

#### 70.1275 to 70.1279 Reserved

### DIVISION 8 NONCONFORMITIES

#### 70.1280 General

- A. **Generally.** As used in this division, the words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding, or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling, and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.  
  
The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification, or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
- B. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this chapter.

- C. The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
- D. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50 percent of its present 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 in Article 19. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 70.1242(B)(3). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this section.
- E. No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50 percent of its present assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 70.1242(B)(3).
- F. If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50 percent of the present assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 70.1242(B)(3).
- G. Except as provided in subsection (H), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed, or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present assessed value.
- H. For nonconforming buildings that are substantially damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.
- (1) Residential.
- a. The lowest floor, including basement, is elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s. 70.1224(817).
  - b. The structure is anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
  - c. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - d. In A Zones, obtain, review, and utilize any flood data available from a federal, state, or other source.
  - e. In AO Zones with no elevations specified, the lowest floor, including basement, meets the standards in s. 70.1252(B)(836(B)).
  - f. In AO Zones, adequate drainage paths around structures are provided on slopes to guide floodwaters around and away from the structure.
- (2) Nonresidential structures.
- a. Shall meet the requirements of subsection (H)(1)a-f.
  - b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 70.1224(A) or (B)(817)(A) or (B).

- DRAFT March 16, 2020 -

- c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 70.1252(B)[836(B)].
- (3) Historic structures. A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 70.1232(A)[823(A)], flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 70.1224[817] are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 70.1280(H)(1) if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

#### 70.1281 Nonconformities in the floodway district

- A. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the floodway district, unless such modification or addition:
  - (1) has been granted a permit or variance which meets all ordinance requirements;
  - (2) meets the requirements of s. 70.1280[853];
  - (3) shall not increase the obstruction to flood flows or regional flood height;
  - (4) any addition to the existing structure shall be floodproofed, pursuant to s. 70.1224[817], by means other than the use of fill, to the flood protection elevation; and
  - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
    - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
    - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
    - d. The use must be limited to parking, building access, or limited storage.
- B. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the floodway district. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 70.1224[817] and ch. SPS 383, Wis. Admin. Code.
- C. No new well or modification to an existing well used to obtain potable water shall be allowed in the floodway district. Any replacement, repair or maintenance of an existing well in the floodway district shall meet the applicable requirements of all municipal ordinances, s. 70.1224(C) and chs. NR 811 and NR 812, Wis. Admin. Code.

#### 70.1282 Nonconformities in the floodfringe district

- A. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of s. 70.1242[829] except where subsection (B) is applicable.
- B. Where compliance with the provisions of subsection (A) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Zoning Board of Appeals, using the procedures established in Article 5, 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 (i) no floor is allowed below the regional flood elevation for residential or commercial

structures; (ii) human lives are not endangered; (iii) public facilities, such as water or sewer, shall not be installed; (iv) flood depths shall not exceed 2 feet; (v) flood velocities shall not exceed 2 feet per second; and (vi) the structure shall not be used for storage of materials as described in s. 70.1242(G).

- C. 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, s. 70.1224(C), and ch. SPS 383, Wis. Admin. Code.
- D. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, s. 70.1224(C), and ch. NR 811 and NR 812, Wis. Admin. Code.

#### **70.1283 Nonconformities in the flood storage district**

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in s. 70.1263[843] are met.

**70.1284 to 70.1299 Reserved**

**ARTICLE 10**  
**SHORELAND-WETLAND OVERLAY DISTRICT**

**70.1300 Legislative findings**

The Village Board makes the following legislative findings relating to the shoreland-wetland overlay district:

- (1) Villages are required by s. 61.351, Wis. Stats., to adopt shoreland-wetland zoning regulations within 6 months after receipt of final wetland inventory maps prepared by the Wisconsin Department of Natural Resources.
- (2) The village incorporated as a village on February 18, 2008.
- (3) The village adopted zoning regulations on November 12, 1985 which included shoreland-wetland regulations and the wetland inventory maps with a date of November 12, 1985.
- (4) Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the municipality would adversely affect the public health, safety, and general welfare and impair the tax base.

**70.1301 Purpose**

This article promotes the public health, safety, and welfare and is intended to:

- (1) maintain the storm and flood water storage capacity of wetlands;
- (2) 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;
- (3) protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- (4) prohibit certain uses detrimental to the shoreland-wetland area; and
- (5) 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.

**70.1302 Wetland functions**

In the context of this article, wetlands serve the following important functions:

- (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 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.

**70.1303 Boundary of district**

The shoreland-wetland overlay district includes those areas designated as a wetland on the wetland inventory map with a date of November 12, 1985 that (1) are 5 acres or more; (2) are located within 1,000 feet of the ordinary high-water mark of a navigable lake, pond, or flowage, or are located within 300 feet of the ordinary high-water mark of a navigable river or stream, or to the landward side of the 100-year floodplain, whichever distance is greater; (3) were not legally filled before November 12, 1985 and cannot be classified as a wetland;

and (4) are not located between the original ordinary high-water mark and a bulkhead line established prior to May 7, 1982 under s. 30.11, Wis. Stats.

Any feature designated as a lake or as a stream on the zoning map has been determined to be navigable for the purpose of this section. The flood insurance rate maps adopted under Article 8 are used in determining the extent of the 100-year floodplain.

#### **70.1304 Discrepancies between delineated wetlands and field conditions**

If the zoning administrator believes there is a discrepancy between the wetland inventory map and actual field conditions at the time the map was adopted, he or she shall contact the district office of the Wisconsin Department of Natural Resources and request a determination. If the Department determines that the area in question was incorrectly mapped as a wetland, this article shall not apply to such area. As soon as is practical after such determination, the zoning administrator shall submit an application to amend the zoning map consistent with the procedures and requirements in this chapter.

#### **70.1305 Permitted activities without a permit**

The following uses are allowed without issuance of a zoning permit, provided there is no wetland alteration:

- (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.

The following uses, which may involve wetland alterations, are allowed without issuance of a zoning permit, provided any wetland alterations comply with the following terms:

- (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 systems 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, 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 adverse impacts upon the natural functions of the shoreland-wetland listed in s. 70.1302; 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.

#### **70.1306 Permitted activities with a permit**

Upon issuance of a zoning permit, the following uses are allowed, which may involve wetland alterations but only to the extent specifically allowed:

- (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 (i) the road cannot, as a practical matter, be located outside the wetland; (ii) the road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in s. 70.1302; (iii) the road is designed and constructed with the minimum cross-sectional area practical to serve the intended use; (iv) road construction activities are carried out in the immediate area of the roadbed only; and (v) any wetland alteration must be necessary for the construction or maintenance of the road.
- (2) The construction and maintenance of nonresidential buildings provided (i) 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; (ii) the building cannot, as a practical matter, be located outside the wetland; (iii) the building does not exceed 500 square feet in floor area; and (iv) 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 (i) any private development allowed under this paragraph shall be used exclusively for the permitted purpose; (ii) 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; (iii) 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 (1) above; and (iv) wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and 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, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines provided (i) the utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland; (ii) only limited filling or excavating necessary for such construction or maintenance is allowed; and (iii) such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in s. 70.1302.

#### **70.1307 Prohibited uses**

Any use not listed in this article as being permitted, is prohibited. 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 strictly prohibited.

#### **70.1308 Rezoning of lands in the shoreland wetland district**

For all proposed text and map amendments to the shoreland-wetland provisions of this chapter, the regional office of the Wisconsin Department of Natural Resources shall be provided with the following:

- (1) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within five days of the filing of such petition with the village clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;
- (2) Written notice of the public hearing to be held on the proposed amendment at least 10 days prior to such hearing;
- (3) A copy of the village zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the Village Board; and
- (4) Written notice of the Village Board's decision on the proposed amendment within 10 days after it is issued.

A wetland, or a portion thereof, in the shoreland-wetland overlay district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

- (1) storm and flood water storage capacity;
- (2) maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
- (3) filtering or storage of sediments, nutrients, heavy metals or organic compounds that would 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.

If the Department notifies the village that a proposed text or map amendment to the shoreland-wetland provisions of this chapter may have a significant adverse impact upon any of the criteria listed in this section, that amendment, if approved by the Village Board, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed after written notice of the Village Board's approval of this amendment is mailed to the Department of Natural Resources. During that thirty-day period the Department of Natural Resources may notify the Village Board that it will adopt a superseding shoreland ordinance for the village under s. 59.971(6), Wis. Stats. If the Department does so notify the Village Board, the effect of this amendment shall be stayed until the s. 59.971(6) adoption procedure is completed or otherwise terminated."

#### **70.1309 Nonconforming uses and structures**

- A. A legal nonconforming structure or an environmental control facility related to a legal nonconforming structure, in existence on the effective date of this article may be repaired, reconstructed, renovated, remodeled, or expanded.
- B. If a nonconforming use or the use of a nonconforming structure is discontinued for a period of 12 consecutive months, any future use of the property or structure shall conform to the requirements of this section.
- C. Any legal nonconforming use of property which does not involve the use of a structure may be continued although such use does not conform with this article, provided such nonconforming use may not be extended.
- D. The maintenance and repair of a nonconforming boathouse that extends beyond the ordinary high-water mark of a navigable waterway shall comply with s. 30.121, Wis. Stats.

**70.1310 to 70.1399 Reserved**

## ARTICLE 11 SHORELAND OVERLAY DISTRICT

### 70.1400 Legislative findings

The Village Board makes the following legislative findings relating to the shoreland overlay district:

- (1) Villages are required by s. 62.353, Wis. Stats., to adopt shoreland zoning regulations meeting the minimum standards set forth in that section by July 1, 2014.
- (2) The Village Board adopted such regulations on May 15, 2014.
- (3) Uncontrolled use of the shorelands and pollution of the navigable waters of the municipality would adversely affect the public health, safety, and general welfare and impair the tax base.

### 70.1401 Purpose

This article promotes the public health, safety, and welfare and is intended to:

- (1) further the maintenance of safe and healthful conditions and prevent and control water pollution;
- (2) protect spawning grounds, fish, and aquatic life by controlling the removal of shoreline vegetation;
- (3) control the placement of principal buildings by establishing setbacks from waterways; and
- (4) preserve shore cover and natural beauty by (i) restricting the removal of natural shoreland cover; (ii) preventing shoreline encroachment by structures; (iii) controlling shoreland excavation and other earth moving activities; and (iv) regulating the use and placement of boathouses and other structures.

### 70.1402 Boundary of district

The shoreland overlay district includes land located within 1,000 feet of the ordinary high-water mark of a navigable lake, pond, or flowage, or within 300 feet of the ordinary high-water mark of a navigable river or stream, or to the landward side of the 100-year floodplain, whichever distance is greater.

Any feature designated as a lake or as a stream on the zoning map has been determined to be navigable for the purpose of this section. The flood insurance rate maps adopted under Article 9 are used in determining the extent of the 100-year floodplain.

### 70.1403 Vegetation management within shoreline buffer zone

- A. **Generally.** Woody vegetation not located in a wetland and woody and non-woody vegetation in a wetland located in the shoreline buffer zone (i.e., 35 feet landward from the ordinary high-water mark) shall not be removed, except as described in this section.
- B. **Removal of invasive species.** Vegetation in the shoreline buffer zone that is listed by the Wisconsin Department of Natural Resources as an invasive species under ch. NR 40, Wis. Admin. Code may be removed provided the property owner reestablishes vegetation within the shoreline buffer zone consistent with a management plan approved by the Plan Commission.
- C. **Viewing/access corridor.** The property owner may remove vegetation in the shoreline buffer zone to create and maintain a viewing/access corridor no more than 30 feet wide for every 100 feet of shoreline frontage.

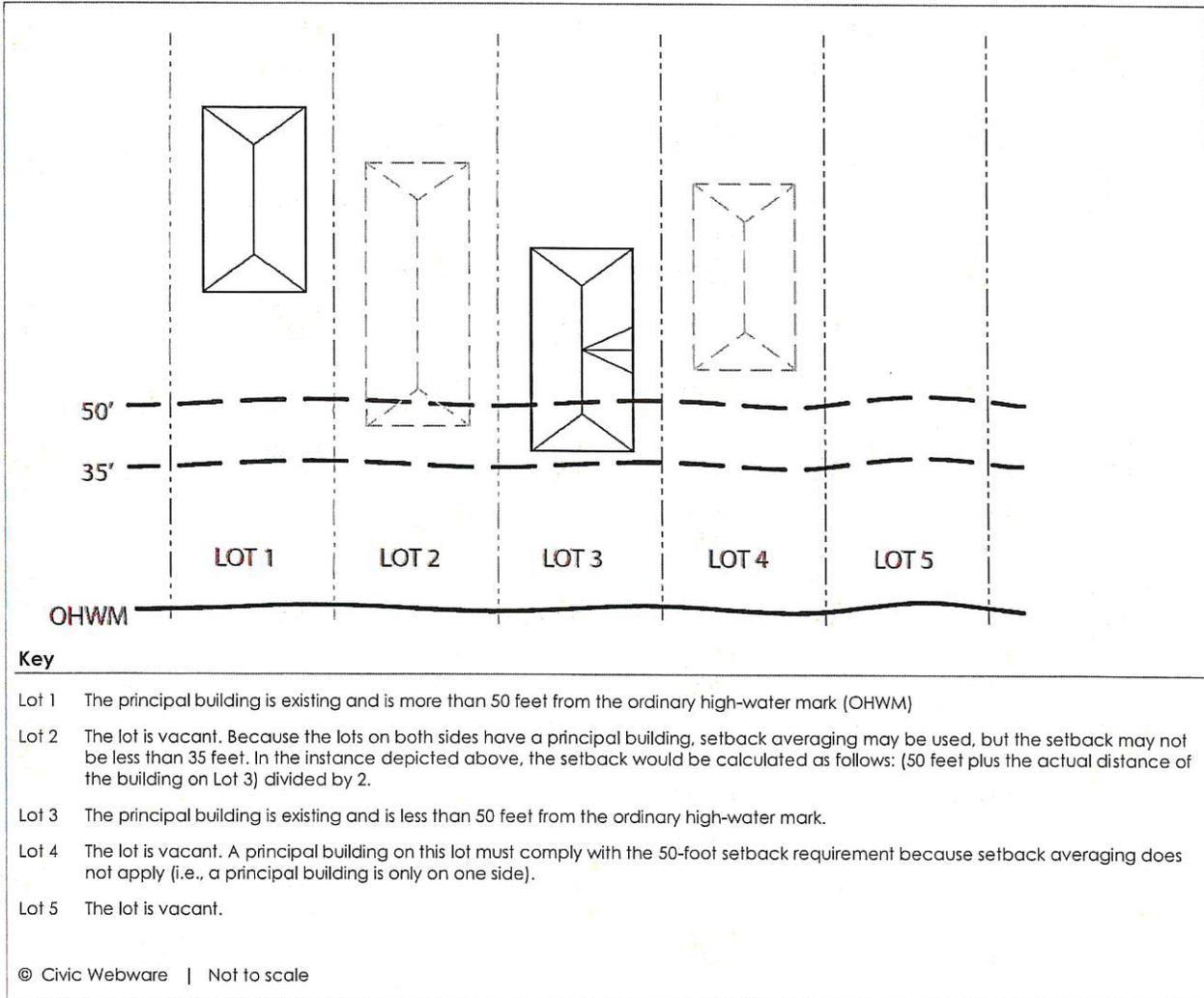
### 70.1404 Shoreline setback

- A. **Principal buildings.** Principal buildings shall be no closer than 50 feet to the ordinary high-water mark, except that a lesser setback is allowed if all of the following apply:
  - (1) The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building.

(2) The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.

B. **Accessory buildings.** Accessory buildings shall comply with the setback standards for principal buildings described in this subsection, except that a boathouse may be constructed within 35 feet of the ordinary high-water mark as set forth in s. 70.1405.

Exhibit 11-1. Shoreline setback requirements



**70.1405 Boathouses**

A boathouse if otherwise allowed may be constructed in the viewing/access corridor as allowed in s. 70.1403.

**70.1406 to 70.1499 Reserved**

- DRAFT April 14, 2020 -

## ARTICLE 13 LANDSCAPING AND BUFFERS

### 70.1600 Legislative findings

The Village Board makes the following legislative findings:

- (1) A healthy environment is an indication of a healthy community.
- (2) Landscaping helps to maintain and increase property values, which helps to protect public and private investment in a community.
- (3) Landscaping provides lasting social, economic, environmental, and aesthetic benefits to the community.
- (4) Landscaping helps to reduce the heat-island effect by shading parking lots, streets, and other hard-surfaced areas.
- (5) Flexible standards allow alternative design options that may better fit the needs of the landowner and that may be needed to address unique site characteristics.
- (6) Landscaped buffers are needed between parcels of incompatible land uses, and as the degree of incompatibility increases, the amount of buffering (width and landscaping) should increase.
- (7) Xeriscape planting techniques help promote water and energy conservation.
- (8) A variety of landscape plants is needed to ensure that the effect of a single disease (e.g., Dutch elm disease) or pest (e.g., emerald ash borer) on landscape plants is minimized.

### 70.1601 Purpose

This article is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

- (1) make the village more attractive and aesthetically pleasing;
- (2) provide flexible standards where possible, rather than overly prescriptive requirements;
- (3) promote and improve public health and safety through the abatement of noise, the glare of lights, dust, and air pollution;
- (4) improve the aesthetic appearance of the built environment;
- (5) ensure that land uses of different intensity have sufficient buffering between them to minimize negative effects;
- ~~(6) create aesthetically pleasing tree-lined streetscapes;~~
- (6) promote economic development by providing a high quality of life;
- (7) enhance ambient environmental conditions by providing shade, air purification, oxygen regeneration, groundwater recharge, storm water runoff retardation, and noise, glare, and heat abatement; and
- (8) encourage the preservation, expansion, protection, and proper maintenance of the community forest.

### 70.1602 Landscape plan

The landscape plan shall include preparer's name, date of preparation, a base site plan that matches the site plan submitted for approval, showing planting locations and existing plantings to be preserved, the landscape surface ratio percentage, a planting schedule of common name, botanical name, planting size, and calculations showing how the plan exceeds the minimum quantity. Landscape plans with the information below shall be submitted with initial application and for building permit.

- (1) The proposed name of the development, project, certified survey map, subdivision plat, planned unit development (PUD) or walkable hamlet district (WHD).
- (2) The location of the proposed development, project, certified survey map, subdivision plat, PUD, or WHD.

- DRAFT April 14, 2020 -

- (3) The names, addresses, and telephone numbers of the owners, subdividers, lessee and/or developer(s) of the property, landscape architect (if any), and of the designer of the plan.
- (4) Date of the landscape plan submittal and all applicable revision dates.
- (5) The boundary line of the site with dimensions and bearings, indicated by a solid line, and the total land area shall be encompassed on the plan.
- (6) All proposed landscape bufferyard easements and/or areas of natural resource mitigation clearly delineated and dimensioned and graphically shown in relation to all proposed lot lines and lots upon which said landscape bufferyard easements or mitigation areas are located. A bufferyard is an area of transition along the property line setback or within the green space periphery of a residentially zoned district development. The intent of the buffer is to screen the abutting land use next to the adjoining property with an additional amount of landscaping as specified in this section.
- (7) Location, extent, type (i.e., common name and scientific name in the case of plant materials), and sizes of all existing trees and natural resource features in all areas of the proposed development, subdivision, certified survey map, PUD or WHD such as woods, wetlands, streams, ponds, kames, kettles and other glacial features which are designated in a landscape bufferyard easement and/or mitigation area shall be indicated on the landscape plan. If any existing vegetation or other natural resource features are to be demolished or mitigated, the extent of such demolition or area to be mitigated shall be clearly delineated and so noted on the landscape plan. The 75-foot buffer from all waterbodies may be part of a wetland, floodway fringe or floodway area bufferyard.
- (8) Location, extent, type (common name and scientific name in case of plant materials), and sizes of proposed landscaping and landscape plantings in all areas of the proposed development, subdivision, certified survey map, PUD or WHD which are designated as a landscape bufferyard easement or for areas which are to serve as landscaped entrances or other special landscaped features of the development, subdivision, certified survey map, PUD, or WHD.
- (9) If any natural resource feature is to be mitigated, either on-site or off-site, the plan for such mitigation in adequate detail, as required by the Plan Commission, shall be submitted with the landscape plan.
- (10) Areas of a development, subdivision, certified survey map, WHD or PUD designated as landscape easement areas shall be maintained by the property owner and kept free of all debris, rubbish, weeds, and tall grass by the property owner or homeowner's association (whichever is applicable).
- (11) A sketch plan is required and shall be based upon a survey by a registered land surveyor. The sketch plan shall be prepared at a map scale of not more than 100 feet to the inch and shall show the information set forth in this article as applicable.

#### 70.1603 Landscaping required

- A. **Generally.** Landscaping is required for on-lot landscaping, street bufferyards, peripheral bufferyards, and in off-street parking areas and in areas where vegetative mitigation is required. The area and/or length of each, as required herein must be measured in order to determine the amount of landscaping required.
- B. **Additions to buildings which increase overall building area up to 50 percent.** Additions to buildings which increase their overall building area up to 50 percent shall conform to the landscaping standards set forth in this division reduced by 25 percent.
- ~~C. **Floodplain and wetland areas.** Areas located within the F-1 S-O and LC districts are exempt from the landscaping requirements set forth in this division. Vegetation that is indigenous to the environmental district is exempt from this section.~~
- C. **Snow storage areas.** Areas landscaped with shrubs and/or trees shall not be used as snow storage areas.
- D. **Bufferyards to resolve nuisances between adjacent zoning districts.** The amount of land, the type of planting, and the amount of planting specified for each bufferyard requirement of this section are designed to resolve nuisances between adjacent zoning districts. Bufferyards are also designed to ensure a desired character along public streets and roads.
- E. **Bufferyards.** Required to separate different zoning districts. Bufferyards shall be required to separate different zoning districts from each other. Bufferyards function to eliminate or minimize potential nuisances

such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions.

**70.1604 Minimum landscape standards**

*Standard plant units.* The type, plantings, sizes, and minimum quantities of landscaping, in terms of the number of standard plant units required is stated below. This section defines the standard plant unit and its definitions of this section. Table 13-1 states these plant unit requirements.

**Table 13-1. Minimum Number of Standard Plant Units**

<b>Single Family and Two-Family Landscaped Outlots</b>		
<b>Type</b>	<b>Minimum Planting Size</b>	<b>Minimum Quantity</b>
Canopy/Shade Tree	2.5-inch caliper	1.5 per dwelling unit
Evergreen Trees	4 ft. tall	1 per dwelling unit
Decorative Trees	1.5-inch caliper or multi-stem	1 per dwelling unit
Shrubs (flowering or evergreen)	5-gallon	3 per dwelling unit
<b>Business, Industrial, Institutional, and Park and Recreation <sup>[1]</sup></b>		
<b>Type</b>	<b>Minimum Planting Size</b>	<b>Minimum Quantity</b>
Canopy/Shade Trees	2.5-inch caliper	1 per 3 parking spaces
OR		
Evergreen Trees	4 feet tall	1 per 3 parking spaces
**Must contain a combination of the 2 types- See [redacted] [(d),(i),(7)] of this section Jim – this reference doesn't make sense		
Decorative Trees	1.5-inch caliper or multi-stem	1 per 10 parking spaces
Shrubs (flowering or evergreen)	5-gallon	1 per 1 parking spaces

[1] Park & ride lots are exempt from the minimum number of standard plant units. The minimum landscaping requirements shall be determined during the site plan review process by the Plan Commission, taking into consideration screening of the public way and adjacent properties with the intent of providing a comparable level of aesthetic character of the adjoining properties.

The following definitions and conditions shall apply to the application of Table 13-1.

1. All landscape standard requirements are based on the amount of parking spaces required for each property as set forth in Article 14, unless otherwise stated in this section.
2. Canopy/shade trees are deciduous trees, evergreens are coniferous trees, and decorative trees are flowering and/or fruit bearing trees, normally growing to a shorter height as compared to a shade tree. A decorative tree may be considered as a standard or multi-stem related decorative tree, depending on the geography of the property and areas that require landscape decorative plantings.
3. The number of plantings required per parking space shall be rounded to the next highest range. For example, 52 spaces in a commercial development shall require six decorative trees, not five.
4. The minimum number of plantings shall be five per property, for each type of specie.
5. In the event a use does not provide an amount of parking commensurate with the use (i.e., service station), then the minimum amount of landscaping shall be four canopy/shade or evergreen trees per acre, one decorative tree per acre, and five shrubs per acre. Each acre shall be divisible, rounded to the next number of plantings (i.e., 1.68 acres would require seven canopy/shade or evergreen trees - 6.72 rounded to 7).
6. In the event decorative trees and/or shrubs are not appropriate for a development, then those types may be replaced by one shade tree for every one required decorative tree and one shade tree or evergreen for every two required shrubs.
7. In the event evergreens are not appropriate for a non-multi-family development, then each required evergreen may be replaced by a shade tree, but not greater than 70 percent replacement.

8. Upright growing evergreens (i.e., junipers or arborvitae) may be used as an evergreen tree, given the same minimum planting size.
9. Shrub-type evergreens (i.e., arborvitae or Japanese Yew) may be used as shrub, given the same minimum planting size.
10. Additional plantings are required to fully screen on all exposed sides, such as but not limited to refuse enclosures, utility boxes and buildings, underground utility vaults and outdoor areas of activity (i.e., a kennel-running operation, or outdoor dining facility). The additional amount of landscaping shall include a diversity of plantings, to include at least 1/4 of all plantings as evergreen trees, with the remaining portion as shrub and shade trees, in accordance with the minimum plant size requirements as stated in Table 13-1.
11. Properties zoned walkable hamlet district shall also meet all landscaping standards for such district.
12. All outlot related landscaping for single-family subdivisions, manufacturing or business parks, or mixed-use related developments must receive Plan Commission approval through a site, building and operation plan review prior to final plat approval.

#### **70.1605 Bufferyard**

A bufferyard consists of a line of trees and shrubs that provide a buffer from one lot or zoning district to the next. When development abuts or is across the street from a residential zoning or use, or a less intensity use, such as a church or school, a bufferyard shall be required, the following shall apply:

- (1) The minimum quantity of plantings required in Table 13-1 increases by 20 percent.
- (2) Emphasis shall be placed on the increased amount of plantings within the bufferyard, except where preservation of existing plant material does not allow additional plantings.
- (3) Evergreens and arborvitae are required within the bufferyard with a minimum planting height of six feet.

#### **70.1606 Credit for preserved existing plant materials**

Every attempt shall be made to preserve existing plant materials, especially around wetlands and groundwater recharge areas, in which case the following shall apply:

- (1) In a non-bufferyard, existing healthy, high quality landscape shade trees, evergreens, and decorative trees over six feet in height shall replace one equivalent type of required planting.
- (2) In a bufferyard, existing healthy, high quality landscape shade trees, evergreens and decorative trees over six feet in height shall replace one-half equivalent type of required planting.
- (3) In both a non-buffer and bufferyard; existing healthy, high quality landscape shrubs over five feet in height shall replace one required shrub planting.
- (4) Plantings to be preserved shall be shown on the submitted landscape plan, including exact location, size and type.

#### **70.1607 Alternative minimum landscape surface ratio**

- A. **Alternative No. 1 minimum landscape surface ratio.** Use of the alternative minimum landscape surface ratio shall require a minimum caliper of three-inch shade trees, a minimum caliper greater than one and one-half-inch decorative trees and a minimum size of six-foot evergreens, along with an increase by 20 percent of the minimum quantity of plantings required by Table A. If a bufferyard is present, then the required quantity increases by 30 percent. This alternate plan shall be used to buffer significant changes in land use, to screen arterial or collector roadways or residential development, or for conditional uses, PUD's or WHD's that shall require additional landscaping, buffering or screening.
- B. **Alternative No. 2 minimum landscape surface ratio.** If the development is within ten percent of the maximum amount of impervious surface for the district an additional amount of landscaping is required to meet or exceed a 40 percent increase in landscaping, based on the minimum quantity of plantings required in Table A. The minimum caliper size of species shall be consistent with the requirements of the

Alternative No. 1 landscape surface ratio. The intent of this section is to create additional landscaping around all buildings, in parking lot islands and around all parking lot perimeters.

**70.1608 Species of plantings**

To encourage a variety of year-round colors and planting of native vegetation, and to prevent destruction of the landscaping through disease, the following species mix is required for each planting type (Table 13-2).

No one species shall exceed 35 percent of species planted within a planting type, with three or more species required.

At least two species of shade trees must be native to the village, such as ash, elm, sugar maple, red oak, basswood, or black walnut.

**Table 13-2. Plant Mix**

Provided Plantings	Minimum Number of Different Species	Minimum Number of Each Species Planted
5 to 11	2	2
12 to 20	3	4
21 to 30	4	5
31 to 40	4	6
41 to 50	4	8
51 and above	4	10

**70.1609 Ground cover**

- A. All areas not covered by buildings or paving shall be covered with landscaping, grass or prairie grasses, or other organic ground materials.
- B. Open areas not covered by plantings shall be covered with grass, low growing ground cover, or other landscape materials, except where existing natural vegetation of the site makes the growing of grass impossible. The use of trees to reduce water consumption is necessary, and the use of grass and prairie grass as ground cover on flat open areas is suggested. The use of growing, low maintenance ground cover on slopes is encouraged. The landscape plan shall indicate which areas are designated, or best suited, for manicured lawns, prairie grasses, or reforestation such as within residential open spaces.
- C. All parking lot landscaped islands shall be covered by grass, hardwood mulch, decorative stone, or other perennial-related ground cover.
- D. The type of ground cover to be used shall be shown on the landscape plan, and ~~the cost of the ground cover~~ shall be included with the submitted estimated landscape costs.
- E. The use of invasive species, such as buckthorn, garlic mustard, and purple loosestrife, is not be permitted in the village.

**70.1610 Placement**

Generally, placement of all types of plantings shall be dispersed across the entire site at discretion of the developer, with the following minimum guidelines:

- (1) Hardest species of plantings (including those engineered for high traffic areas) in the highest vehicular and pedestrian traffic areas.
- (2) The native species of shade trees away from the highest vehicular and pedestrian traffic areas.
- (3) Located to not obscure vehicle sight distances.
- (4) Located so future growth is not over or inhibiting a sidewalk or parking/drive area.
- (5) Located to soften and accentuate tall and elongated building walls.
- (6) Emphasis of trees and plantings within bufferyards.
- (7) Any fruit bearing trees located away from parking/drive areas.

**70.1611 Protection of existing trees and flora**

The subdivider or developer (as applicable) shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites,

private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, including the preservation of trees by well islands or retaining walls whenever abutting grades are altered.

Towards that end, the following minimum procedures shall be followed during construction:

- (1) **Generally.** The subdivider's or developer's (as applicable) proposed method for preserving trees shall be reviewed by the Plan Commission or its staff during the preliminary plat, certified survey map, PUD or WHD approval phase of application to the Village. If, in the opinion of the Plan Commission, the subdivider or developer (as applicable) has not taken the necessary precaution in preserving existing trees as required by this section, no zoning compliance permit or conditional use permit shall be issued, or plat approved, until such time as the subdivider or developer (as applicable), amends the plans for the preservation of such existing trees.
- (2) **Snow fence required.** During grading and construction, a snow fence shall be installed at the periphery of the tree's drip line. All construction equipment and vehicles shall be kept away from the perimeter of the trees at all times.
- (3) **Limitation on encroachment of grading and construction equipment.** All grading and construction equipment shall be forbidden from encroaching within the tree's drip line.
- (4) **Material dumping prohibited within tree drip line.** Materials detrimental to the tree shall not be dumped or placed within a tree's drip line or near the base of the tree where drainage toward the tree could adversely affect the health of the tree. Said materials shall include, but not necessarily be limited to, excess soil, stone or rock, additional fill, equipment, liquids, or construction debris.
- (5) **Attachments to trees prohibited.** No attachments or wires, other than those of a protective or non-damaging nature, shall be attached to trees to be preserved during construction.
- (6) **Tree destruction and replacement.** In the event that a tree designated on the approved preliminary plat, certified survey map, PUD, WHD or Natural Resources Protection Plan for preservation should be destroyed or razed during the construction process, the subdivider or developer (as applicable) shall replace such tree of a species approved by the Plan Commission and having a diameter of not less than the tree so destroyed or razed. No one replacement, however, shall exceed three inches in diameter as measured at 12 inches above the ground level. However, several smaller diameter trees having a combined diameter equal to the tree razed or destroyed shall be planted for trees larger than three inches at the ratios set forth in Table 13-3. Said replacement trees shall be placed in the approximate location of the tree, or trees, so destroyed. Said replacement trees shall not be counted toward any mitigation measures which may be required of the subdivider or developer (as applicable) as specified elsewhere in this section.

**Table 13-3. Minimum Tree Replacement Requirements**

Size of Tree Destroyed or Razed (in DBH)	Replacement Tree Requirements	
	Number of Trees Required	Maximum Size of Each Tree Required (in caliper)
8 to 10 inches	1	3 inches
10 to 16 inches	2	3 inches
16 to 24 inches	3	3 inches
24 to 30 inches	4	3 inches
30 to 36 inches	5	3 inches
36 inches or greater	6	3 inches

**70.1612 Requirements for installation and maintenance of landscape plants**

- A. All landscaping and bufferyard material shall be installed on the property within one year after the building permit has been issued.
- B. Maintenance of the landscaping is the responsibility of the property owner or homeowner's association. Landscaping shall be maintained in substantial conformity with the approved landscape plan.

- DRAFT April 14, 2020 -

Maintenance of the landscaping may include watering, mowing, pruning, fertilizing, and/or replacement of irrigation systems.

**70.1613 Review of plans and specifications by the zoning administrator**

The zoning administrator shall review the plans and specifications for conformance with the requirements of this section and other pertinent village ordinances and design standards. If the zoning administrator rejects the plans and specifications, the zoning administrator shall notify the subdivider or developer (as applicable), who shall cause the modification of the plans or specifications or both accordingly. When the plans and specifications are corrected, the zoning administrator shall approve the plans and specifications.

**70.1614 Authorization to start construction**

Prior to starting the work covered by the approved plans and specifications, a pre-construction meeting shall be held with the zoning administrator before work begins and written authorization to start said work shall be obtained from the zoning administrator upon receipt of all necessary and required permits and in accordance with the construction methods prescribed by this section and subdivision development agreement. Building permits shall not be issued until all improvements required by this section and subdivision development agreement are satisfactorily completed.

**70.1615 Landscape guarantee**

The property owner must provide a financial guarantee to ensure the required landscaping survives the first two growing seasons. The amount of the guarantee must be 110 percent of the cost of the required plant materials.

**70.1616 to 70.1699 Reserved**

**ARTICLE 14**  
**PARKING AND LOADING FACILITIES**

**70.1700 Legislative findings**

The Village Board makes the following legislative findings:

- (1) The design of parking areas is critically important to the economic viability of commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability.
- (2) Standards are needed to establish the minimum and maximum number of parking spaces that are needed to serve various land uses.
- (3) Excessively large parking lots reduce density, increase the cost of development, create an unhealthy built environment, contribute to the heat island effect associated with urban areas, and decrease the infiltration of storm water into the ground.
- (4) Special standards are needed to accommodate the needs of the disabled.
- (5) Shared parking can reduce parking facility costs (including aesthetic and environmental impacts), allows greater flexibility in facility location and site design, and encourages more efficient land use.
- (6) Parking lots and their access represent a vital connection between the local transportation network and land uses.
- (7) Incorrectly designed parking lots and site access can have negative impacts on the site itself, the adjacent and nearby public roadways, and the image of the business community.

**70.1701 Purpose**

This article promotes the public health, safety, and general welfare and is intended to:

- (1) increase the safety and capacity of public streets by requiring off-street parking and off-street loading facilities,
- (2) minimize adverse effects of off-street parking and off-street loading facilities on adjacent properties and surrounding neighborhoods,
- (3) lessen congestion and prevent the overtaxing of public roads by regulating the location and capacity of off-street parking and off-street loading facilities,
- (4) maintain and enhance a safe and efficient transportation system,
- (5) minimize the occurrences of motor vehicles backing into public roads,
- (6) encourage bicycle use by providing adequate and safe facilities for the storage of bicycles, and
- (7) minimize impervious surfaces.

**70.1702 Off-street parking**

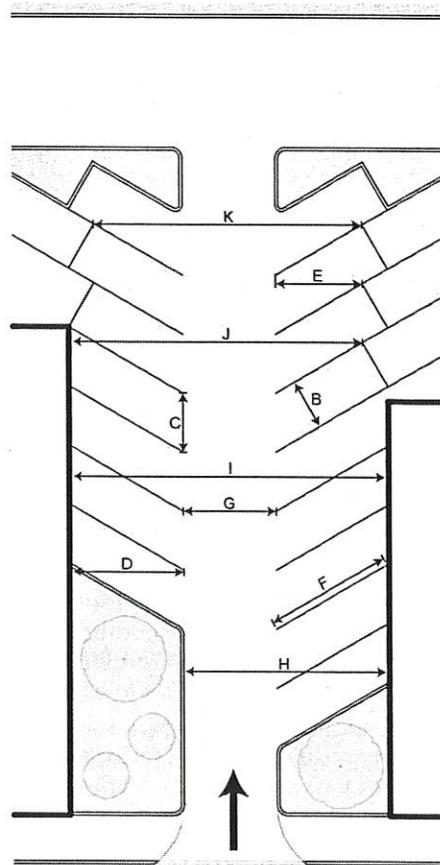
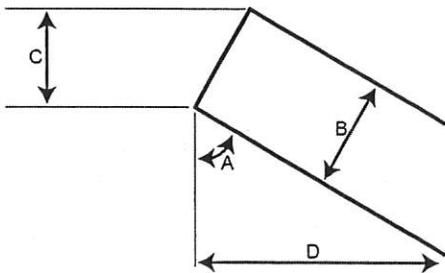
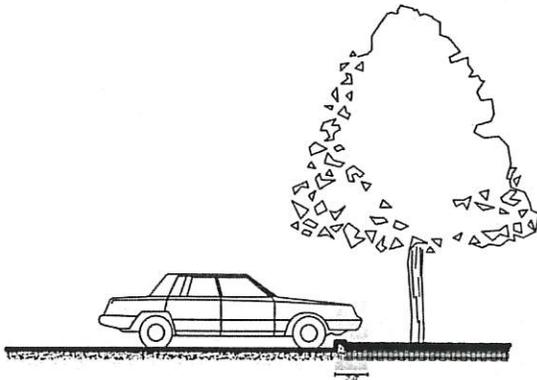
- A. **Applicability.** The off-street parking requirements in this article apply to all new development, including expansions.
- B. **General design principles.** Parking areas shall be designed based on the following principles:
  - (1) Provide continuous flow of traffic through the parking area.
  - (2) Allow safe movement of pedestrians from parking to buildings.
  - (3) Allow for appropriate landscaping of parking areas without conflicting with outdoor lighting.
  - (4) Ensure that emergency service vehicles are able to travel through parking areas, including fire trucks (having a curb-to-curb turning radius of 40 feet) and tow trucks (having a curb-to-curb turning radius of 47 feet with a car in tow).
  - (5) Minimize impervious surfaces.

- (6) Allow for the logical expansion of parking areas to accommodate different land uses or an expansion of an existing use.
- (7) Ensure that the stormwater generated on the site is accommodated consistent with village requirements.
- C. **Proximity of parking to principal use.** Parking spaces required by this article shall be located on the same lot with the principal use, except as provided in this subsection. When required parking spaces cannot be located on the same lot, as determined by the Plan Commission, parking spaces may be located on a different lot provided the parking spaces are located in the same zoning district. Parking for nonresidential uses shall not be located more than 500 feet from the lot with the principal use. Parking for residential uses shall not be located more than 200 feet from the principal entrance of the residential building. If required off-street parking is to be provided off-site, the use of such site shall be secured with a permanent agreement acceptable to the village attorney and recorded in the office of the Washington County register of deeds. The Village of Richfield shall be named in that agreement as a party having the right of enforcement.
- D. **Location of parking on a lot.** In commercial and industrial zoning districts, parking may be located in any yard provided such spaces and aisles are located (1) at least 5 feet from another property in a commercial or industrial zoning district, except when such lots are developed with a joint parking lot and there is a cross-access easement in place, (2) at least 15 feet from the side lot line or rear lot line of a property in a residential zoning district, and (3) at least 5 feet from the front lot line. In a residential zoning district, parking for a multi-family building with three or more dwelling units may be located in the side or rear yards provided such spaces and aisles are located at least 5 feet from any property boundary line. Parking is only allowed in the front yard for single-family dwellings and duplex units when on a driveway.
- E. **Accessibility.** Parking spaces shall be accessible at all times from a street, an alley, or a driveway intended to serve such parking. No parking area consisting of 2 or more parking spaces shall be designed as to require a motor vehicle to back into a public street, except for single-family dwellings and duplex units.
- F. **Use of parking spaces.** Off-street parking areas shall be for occupants, employees, visitors, and patrons. The storage of merchandise, supplies, motor vehicles for sale, or the repair of vehicles in a parking area is prohibited, unless otherwise allowed in this chapter. In addition, the use of an off-street parking area for overnight camping, including recreational vehicle camping, is prohibited.
- G. **Surfacing.** An off-street parking area (i.e., spaces and aisles) shall be hard surfaced (e.g., pervious concrete, asphaltic concrete, pavers, or similar product), except for those land uses listed as agriculture or resource-based in Appendix A which may be surfaced with crushed gravel. If it is not possible to hard surface the parking area between November 1 and April 1, the village building inspector may issue an occupancy permit provided the property owner and zoning administrator enter into a written agreement that requires completion no later than June 1.
- H. **Marking of parking spaces.** Parking spaces within an off-street parking area shall be clearly marked, except for single-family dwellings, two-family dwellings, twin homes, and townhouses.
- I. **Drainage.** An off-street parking area shall be properly graded for drainage.
- J. **Snow storage.** Required parking spaces and access aisles shall not be used for snow storage. Areas used for snow storage shall be clearly depicted on the site plan if snow will be stored on site.
- K. **Landscaping.** Landscaping for an off-street parking area must be provided consistent with the requirements set forth in Article 13.
- L. **Signage.** Signage related to off-street parking and on-site traffic circulation must comply with the requirements set forth in Chapter 309 of the municipal code.
- M. **Outdoor lighting.** Outdoor lighting within a parking area must be provided consistent with the requirements set forth in Chapter 234 of the municipal code.
- N. **Screening.** When a parking area with 5 or more parking spaces adjoins a property in a residential zoning district, a 4-foot screen (e.g., landscaping, berm, fence, or any combination) shall be installed and maintained.
- O. **Dimensional standards.** Parking spaces, except for handicapped parking; access aisles; and other features in a parking area shall conform to the dimensions in Exhibit 14-1.

Exhibit 14-1. Parking area dimensional standards

	Parking angle - A				
	0°	45°	60°	75°	90°
B Stall width at parking angle	9.0 ft.	9.0 ft.	9.0 ft.	9.0 ft.	9.0 ft.
C Stall width parallel to access aisle	17.0 ft.	12.7 ft.	10.4 ft.	9.3 ft.	9.0 ft.
D Stall depth to wall	9.0 ft.	17.5 ft.	19.0 ft.	19.5 ft.	18.5 ft.
E Stall depth to interlock	–	15.3 ft.	17.5 ft.	18.8 ft.	–
F Stall length	18.0 ft.	18.0 ft.	18.0 ft.	18.0 ft.	18.0 ft.
G Aisle width one-way	12.0 ft.	12.0 ft.	16.0 ft.	17.2 ft.	24.0 ft.
H Module width – wall to wall (single-loaded)	21.0 ft.	29.5 ft.	35.0 ft.	42.5 ft.	44.5 ft.
I Module width – wall to wall (double-loaded)	30.0 ft.	47.0 ft.	54.0 ft.	62.0 ft.	63.0 ft.
J Module width – wall to interlock (double-loaded)	–	44.8 ft.	52.5 ft.	61.3 ft.	–
K Module width – interlock to interlock (double-loaded)	–	42.6 ft.	51.0 ft.	60.6 ft.	–

**Stall reduction for landscaped areas.** When a parking space abuts a landscape island or planter, the front 2 feet of the required parking space length may overhang the planter, provided that wheel stops or curbing are provided.



- P. **Minimum number of spaces.** Off-street parking spaces shall be provided in the number specified in Appendix B, except as follows:
  - (1) Land uses located in the downtown zoning district are not required to provide off-street parking.
  - (2) When bicycle parking is provided consistent with this article, bicycle parking spaces may be used to satisfy the number of required parking spaces up to a maximum of 4 percent provided the number of required parking spaces is 25 or more. For example, if the parking standards as applied to a project call for 100 vehicle parking spaces, no more than 4 bicycle parking spaces may be substituted (96 vehicle parking spaces and 4 bicycle parking spaces).
  - (3) Pursuant to the procedures and requirements in Article 5, the Plan Commission may authorize the use of a lesser parking standard for a particular land use as a special exception provided sufficient evidence is provided that shows actual off-street parking demand for that use is less than the standard set forth in Appendix B.
- Q. **Maximum number of spaces.** For land uses located in a business, mixed-use, or industrial zoning district, the number of parking spaces provided in a ground surface parking lot shall not exceed the number of minimum parking spaces by more than 15 percent, except that the Plan Commission may allow more parking spaces above that threshold as a special exception pursuant to the procedures and requirements in Article 5 provided the commission determines that additional spaces are needed for that particular use or location. There shall be no limitation on the number of parking spaces when located in a parking garage or similar structure.
- R. **Mixed-use requirements.** For mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various land uses. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use except when considered shared parking as allowed in this article.
- S. **Compact cars.** Up to 10 percent of the required number of parking spaces may be sized for compact cars. A compact vehicle parking space shall be so designated by a sign or other means approved by the village building inspector.

**70.1703 Off-street loading berths**

- A. **Generally.** Off-street loading berths are required for new buildings and building expansions with any use that receives deliveries or makes shipments from large trucks including retail stores, manufacturing, warehousing, processing, offices, health care centers, and schools.
- B. **Minimum number of loading berths.** Those buildings subject to this section shall provide one or more loading berths as specified in Exhibit 14-2.
- C. **Dimensional standards.** A loading berth shall comply with the dimensional standards in Exhibit 14-3. The minimum vertical clearance also applies to all areas providing access to the loading berth.
- D. **Location.** A loading berth shall not be located on the front of the building, except when entirely located within the building and the access door is integrated into the overall design of the building. A loading berth shall not be located within a required side yard setback area. A loading berth shall not be located within a public road right-of-way or interfere with the intended use of a public road right-of-way. A loading berth or access to a loading berth shall not interfere with onsite traffic or pedestrian circulation or on-site parking.

**Exhibit 14-2. Minimum number of loading berths**

Floor area	Minimum number of loading berths
6,000 to 12,499 square feet	1 small berth
12,500 to 24,999 square feet	2 small berths
25,000 to 39,999 square feet	1 large berth
40,000 to 99,999 square feet	2 large berths
100,000 square feet or more	2 large berths plus 1 large berth for each additional 80,000 square feet over 100,000 square feet

**Exhibit 14-3. Dimensions of loading berths by type**

Type	Minimum width	Minimum length	Minimum overhead clearance
Small berth	10 feet	25 feet	14 feet
Large berth	12 feet	50 feet	14 feet

- E. **Surfacing.** A loading berth shall be hard surfaced (e.g., pervious concrete, asphaltic concrete, pavers, or similar product). If it is not possible to hard surface a loading berth between November 1 and April 1, the village building inspector may issue an occupancy permit provided the property owner and zoning administrator enter into a written agreement that requires completion no later than June 1.
- F. **Marking.** A loading berth shall be clearly marked.
- G. **Use.** A loading berth shall only be used for loading and unloading of vehicles.
- H. **Drainage.** A loading berth shall be graded for proper drainage.
- I. **Outdoor lighting.** Outdoor lighting for a loading berth shall comply with the requirements set forth in Chapter 234 of the municipal code.
- J. **Screening.** The reviewing authority may require screening (e.g., landscaping, berm, fence, or any combination) when the use of the loading berth has the potential of negatively impacting adjoining residential uses.

70.1704 to 70.1799 Reserved

## ARTICLE 15 NONCONFORMITIES

### 70.1800 Legislative findings

The Village Board makes the following legislative findings relating to nonconformities:

- (1) There may exist lots, structures, uses, and signs in the village that were lawfully established but that do not now comply with one or more provisions of the zoning district in which they are located.
- (2) It is not the intent of this chapter to perpetuate and/or encourage the long-term continuance of nonconformities because they are inconsistent with the requirements and character of the zoning districts involved, or to permit nonconformities to be generally enlarged upon, expanded, or extended except as provided for herein.
- (3) State law permits the reconstruction of nonconforming structures under certain circumstances.

### 70.1801 Official registry of nonconforming lots, buildings and land uses

- A. **Content of registry.** The zoning administrator ~~is authorized to~~ may develop and maintain a registry of (1) lots known by him or her to be considered nonconforming, (2) buildings known by him or her to be considered nonconforming, and (3) land uses known by him or her to be considered nonconforming and those which have registered as a nonconforming use consistent with the requirements in Article 5.
- B. **Form of registry.** At the discretion of the zoning administrator, the registry may consist of either a written list or digital records.
- C. **Disclaimer.** Given the nature of the registry, the village does not warrant that such information is complete and/or accurate in all respects.

### 70.1802 Nonconforming lots

- A. **Generally.** A legal nonconforming lot may be used for an allowable use, provided such use complies with all other development standards of the zoning district in which the lot is located.
- B. **Alteration of property boundary lines.** The location of a property boundary line of a nonconforming lot shall not be modified by any means, except when the new property boundary line location will make the nonconforming lot to be conforming or lessen the degree of the nonconformity. Any such change in a property boundary location shall be reviewed and approved by the Plan Commission.

### 70.1803 Nonconforming buildings

- A. **Generally.** A legal nonconforming building may be used for any conforming use.
- B. **Enlargement.** A nonconforming building that is used for a conforming use may be enlarged provided the Plan Commission authorizes such enlargement pursuant to the requirements in Article 5.
- C. **New foundation/basement.** The placement of a new foundation or basement under an existing nonconforming building that is not located in the 100-year floodplain is permitted provided the foundation or basement does not extend beyond the vertical extent of the existing exterior wall.
- D. **Unsafe conditions.** Nothing in this article shall preclude the building inspector or any other city official from initiating remedial or enforcement actions when a nonconforming building is declared unsafe or presents a danger to the public health, safety, or welfare; constitutes a public nuisance; or is in violation of any licensing regulation.
- E. **Ordinary repair and maintenance, and remodeling.** Nothing in this article shall be deemed to prohibit or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming building.
- F. **Reconstruction following damage.** A nonconforming building that is damaged by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation on or after March 2, 2006, may be restored to its condition (e.g., size, location, and use) prior to the damage, except the building may be larger when necessary to comply with state or federal requirements.<sup>[1]</sup>

- G. **Relocation.** A nonconforming building shall not be moved or relocated to any other location on the lot unless such building is made to conform to all regulations of the zoning district in which it is located.

**Editorial notes:**

[1] See s. 62.23(7)(h), Wis. Stats.

**70.1804 Nonconforming uses**

- A. **Generally.** A legal nonconforming use may continue to exist so long as it remains otherwise lawful, subject to the provisions in this section.
- B. **Conditional use.** Any conditional use approval granted pursuant to conditional use authority that has since been repealed and that was in effect, and the use was in operation on the date of such repeal, that is no longer an allowed use of the property, shall be allowed to continue as a conditional use subject to all conditions stated in the conditional use approval. Any such conditional use approval that requires compliance with a section of the town's zoning regulations that has since been repealed, shall continue to require compliance with the referenced code section as it existed immediately prior to such repeal and the repeal of such provision is stayed solely for such existing conditional use permit(s). These continuation provisions are intended to preserve the status quo for all rights and responsibilities incurred or accrued prior to the adoption of any ordinance that changes a conditional use to a prohibited use. Nothing herein shall be interpreted to prevent existing conditional use permit holders from applying to amend their conditional use pursuant to all laws in effect at the time of the application, or as set forth in the conditional use permit including those amendments requiring a public hearing.
- C. **Cessation of use.** If a nonconforming use ceases for any reason, whether intentional or otherwise, for more than 12 continuous months, such use shall not thereafter be reestablished.<sup>[1]</sup> A business of a seasonal nature shall not be deemed to be discontinued during periods in which it is normally inactive (e.g., marinas, summer camps). If the zoning administrator determines that a nonconforming use has ceased to operate for more than the aforementioned time period, he or she shall initiate the process established under Article 5 to terminate the nonconforming use. However, if a temporary structure houses a nonconforming use, such use shall terminate when the temporary structure is removed.
- D. **Change in extent.** Except as may be provided in this article or in state law, a nonconforming use shall not be enlarged, increased, or expanded and shall not occupy a greater area than what existed on the effective date of this chapter or any amendment thereto that created the nonconforming use.
- E. **Limitation on structural alterations to building housing nonconforming use.** Structural alterations to a building housing a nonconforming use shall not exceed, on an accumulative percentage basis, 50 percent of the equalized assessed value of such structure.<sup>[2]</sup> For example, if a property owner makes structural alterations, the cost of which equals 40 percent of the current equalized assessed value of the building, any additional structural alterations are limited to 10 percent of the equalized assessed value at the time of the work.
- F. **Damage to structure housing nonconforming use.** If a building housing a nonconforming use is damaged beyond 50 percent of its present equalized assessed value, such nonconforming use shall not be reestablished.
- G. **Change of location.** A nonconforming use shall not be moved in whole or in part to any other portion of the lot or to another structure than what was occupied on the effective date of this chapter or any amendment thereto that created the nonconforming use.
- H. **Casual, occasional, accessory, or incidental use.** Casual, occasional, accessory, or incidental use after the primary nonconforming use has terminated, shall not be deemed to perpetuate a nonconforming use.<sup>[3]</sup>
- I. **Change of production.** A change in the method or quantity of production and the incorporation of new technology into a nonconforming use is permitted provided the original character of the use remains the same.<sup>[4]</sup>
- J. **Termination due to effects on public health, safety, and welfare.** In the event the zoning administrator determines that a nonconforming use, regardless of its duration, is harmful to the public health, safety, or welfare, he or she shall follow the procedure outlined in Article 5 relating to termination of a use.<sup>[5]</sup>
- K. **Unsafe conditions.** Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, provided that such work conforms to the provisions in this chapter.

- L. **Licensing.** The operator of a nonconforming use shall obtain such licenses as may be required by the state of Wisconsin, or its designated agent; Washington County; or the Village of Richfield, and maintain such licenses for the life of the use or until the entity no longer requires such license.
- M. **Conversion to another nonconforming use.** Subject to the requirements in Article 5, a nonconforming use may be converted to a different nonconforming use provided the new use is less nonconforming. Any nonconforming use that has been converted shall continue to be subject to all applicable provisions related to nonconforming uses and to the conversion order as approved by the Village Board.
- N. **Permissible accessory residential uses.** If an existing single-family dwelling unit is classified as a nonconforming use, the establishment of accessory residential uses normally incidental to a single-family dwelling is not considered to be an expansion of a nonconforming use and is permitted provided the accessory use is otherwise allowed by the zoning code and all accessory buildings exceeding 600 square feet must be approved by the Plan Commission upon a determination that the accessory building is otherwise allowed in the zoning district in which it is located.

**Editorial notes:**

[1] See s. 62.23(7)(h), Wis. Stats

[2] See s. 62.23(7)(h), Wis. Stats

[3] See *Village of Menominee Falls v. Veirstahler*, 183 Wis. 2d 96, 515 N.W.2d 290 (Ct. App. 1994)

[4] See *Racine County v. Cape*, 2002 WI App 19, 250 Wis. 2d 44, 639 N.W.2d 782, 01-0740

[5] See s. 62.23(7)(h), Wis. Stats.

**70.1805 Special provisions for manufactured home communities**

A mobile home or a manufactured home not located in a mobile home park is considered a nonconforming use.

**70.1806 Special provisions for nonconforming bathhouses**

The ordinary maintenance and repair of a nonconforming bathhouse that extends beyond the ordinary high-water mark shall comply with s. 30.121, Wis. Stats.

**70.1807 Special provisions related to the shoreland-wetland overlay district**

The shoreland-wetland provisions of this chapter authorized by s. 62.231, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling, or expansion of a nonconforming structure in existence on the effective date of the shoreland wetland provisions, or of any environmental control facility in existence on May 7, 1982 related to such a structure. All other modifications to nonconforming structures are subject to s. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to 50 percent of current fair market value.

**70.1808 Special provisions related to the floodplain overlay district**

Special provisions relating to nonconformities in the floodplain overlay district are included in Article 9.

**70.1809 to 70.1899 Reserved**

## ARTICLE 16 REASONABLE ACCOMMODATIONS

### 70.1900 Legislative findings

The Village Board makes the following legislative findings relating to reasonable accommodations for persons with disabilities:

- (1) The federal government has adopted laws with respect to various rights afforded persons with disabilities.
- (2) Some of these laws, most notably the Fair Housing Act and the Americans with Disabilities Act, affect how local zoning rules and regulations are administered by municipalities.
- (3) Under the Fair Housing Act, reasonable accommodations must be made with respect to local zoning laws so that a person with a disability has an equal opportunity to use and enjoy a dwelling unit.
- (4) Under Title II of the Americans with Disabilities Act, reasonable accommodations must be made with respect to local zoning laws to avoid discrimination as provided in the act.
- (5) If a local municipality can demonstrate that a requested modification would fundamentally alter the nature of its service, program, or activity (in this instance zoning requirements) it is not required to grant the modification.
- (6) Requests for wheelchair ramps in setback and offset areas as authorized in this section do not fundamentally alter the nature of this zoning code.
- (7) Requests for all other types of reasonable accommodations will be reviewed individually to determine if the requested accommodation fundamentally alters the nature of this zoning code.

### 70.1901 Reviews

- A. **Wheelchair ramps in setback and offset areas.** The building inspector is authorized to approve the construction of wheelchair access ramps in setback areas pursuant to s. 70.871.
- B. **Other reasonable accommodations.** All other requests for reasonable accommodations under the above-mentioned federal laws shall be accomplished through the variance process described in Article 5.

### 70.1902 General requirements

If a person's disability is not obvious or otherwise known, the reviewing authority may request information that (1) is necessary to verify that the person meets the federal government's definition of disability (i.e., has a physical or mental impairment that substantially limits one or more major life activities), (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation.

### 70.1903 Confidentiality of applicant information

In reviewing petitions for reasonable accommodations, the reviewing authority will attempt to balance the privacy rights and reasonable request of an applicant for confidentiality, with normal procedural requirements relating to public notice, public hearings, written decision documents that may include findings of fact and conclusions of law, and maintaining adequate records. Any document identifying the disability or medical condition of any specific person shall be treated as confidential and shall not be subject to disclosure by the village for any reason, including Wisconsin's Open Records law, unless ordered to do so by a court of competent jurisdiction and notice is given to the person who provided the document to the village. Specifically, any medical records regardless of source, including statements of medical providers, shall not be subject to disclosure. For any other type of document, such as an application or determination, the document may be subject to disclosure, but only after the nature or description of the person's disability or medical condition has been redacted by the village attorney. A statement regarding the village's handling of information subject to this provision should be included in the decision document.

**70.1904 Nature of approval**

Any accommodation approved under this chapter is considered a personal accommodation for the individual applicant and does not run with the land.

**70.1905 Imposition of conditions**

The reviewing authority may impose conditions of approval deemed necessary to uphold the overall intent of this chapter. Typical conditions of approval include, but are not limited to, the following:

- (1) periodic inspection of the property to verify compliance with this section and any conditions of approval;
- (2) removal of the improvements, where removal would not constitute an unreasonable financial burden, when the need for which the accommodation was granted no longer exists;
- (3) time limits and/or expiration of the approval if the need for which the accommodation was granted no longer exists;
- (4) recordation of a deed restriction requiring removal of the accommodating feature once the need for it no longer exists;
- (5) measures to reduce the impact on surrounding properties and uses;
- (6) measures in consideration of the physical attributes of the property and structures; and
- (7) other conditions necessary to protect the public health, safety,

**70.1906 to 70.1999 Reserved**

## ARTICLE 17 ENFORCEMENT

### 70.2000 Authority for enforcement

The village has the authority under s. 62.23(7)(f), Wis. Stats., to enforce the provisions of this chapter and establish penalties.

### 70.2001 Actions constituting a violation

Each action that is not in full compliance with this chapter and/or with a condition or requirement of an approval issued pursuant to this chapter shall constitute a separate and distinct violation. Each day that a violation continues is considered a separate offense.

### 70.2002 General procedure

- A. **General steps.** After observing or receiving a complaint of an alleged violation, the zoning administrator shall investigate to determine if a violation does exist. If the property owner does not allow the zoning administrator the right to enter the subject property for the purpose of determining whether a violation exists or not, he or she may request a special inspection warrant from the court pursuant to s. 66.0119, Wis. Stats. If the zoning administrator determines that a violation does not exist, he or she shall notify the complainant and the property owner explaining his or her determination.

If the administrator determines that a violation does exist and the violation does not constitute an immediate threat to public health, safety, or welfare, the following general steps shall be followed.

- (1) **Notification of violation.** The zoning administrator shall send a violation notice, as described in this article, to the property owner by regular mail and certified mail.
- (2) **Stop work order.** If the violation involves construction and/or any land-disturbing activity, the zoning administrator shall prepare a stop work order and send a copy of the order to the property owner by regular mail. The stop work order shall be posted on the property in a prominent location.
- (3) **Issuance of a citation.** If the property owner does not bring the property into compliance as set forth in the notice and the property owner has not obtained an extension, the zoning administrator or other authorized agent employed by the village shall send a citation to the property owner consistent the municipal code.

If the violation is an immediate threat to the public health, and/or safety, the village may pursue all remedies, penalties, and enforcement powers available under this article and state law without any prior notice as described in this section. If a stop work order is issued and work continues in violation of that order, the village may then pursue all remedies, penalties, and enforcement powers available under this article and state law without any prior notice as described in this section.

- B. **Extension to compliance period.** Upon request, the zoning administrator may grant an extension to the compliance period if the property owner has demonstrated a good faith effort to comply and additional time is needed because of the weather and practical difficulties in meeting the timeline. Any forbearance on the part of the zoning administrator in this regard shall not be construed as waiving any provision of this chapter.
- C. **Stay of enforcement proceedings.** If the property owner submits an administrative appeal application or variance application to the village consistent with the procedures and requirements set forth in Article 5 and the appeal or variance relates specifically to the enforcement action, all legal proceedings relating to the enforcement action may be stayed, unless the zoning administrator certifies to the Zoning Board of Appeals that such stay in his or her opinion, would cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning 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.<sup>[1]</sup>
- D. **Reoccurring violation.** If the zoning administrator determines that the property owner has violated this chapter a second time for the same offense within 12 months of bringing the property into compliance, the zoning administrator or other authorized agent employed by the village shall send a citation to the property owner consistent with the procedures and requirements set forth in the municipal code.

**Editorial notes:**

[1] See s. 62.23(7)(e)5, Wis. Stats.

**70.2003 Violation notice**

A. **Content.** A violation notice shall include the following:

- (1) a description of the violation,
- (2) the section(s) of this chapter being violated,
- (3) a statement describing the measures that would remedy the violation,
- (4) a statement that the property owner has 30 days from the date of the violation notice to comply (or 15 days for the second notice),
- (5) information about how the property owner may request an extension to the compliance period,
- (6) information about the appeal process, and
- (7) information concerning penalties for continued non-compliance.

B. **Effect of violation notice.** Once a violation notice has been issued all construction or any land development activity related to the violation, except that which is done to ensure compliance, shall cease. In addition, if a property remains in violation the village shall not issue any other permits or approvals for any development on the premises.

**70.2004 Stop work order**

- A. **Content.** A stop work order shall state the section of this chapter that is being violated, the name of an individual who should be contacted along with his or her work telephone number, a statement that all work on the premises must cease immediately until the zoning administrator rescinds the stop work order, and that removal of the stop work order constitutes a violation of this chapter.
- B. **Effect of stop work order.** Once a stop work order has been issued pursuant to this article all work on the property shall cease until such time as it is lifted by the zoning administrator.
- C. **Unauthorized removal of stop work order.** No person, other than the zoning administrator, shall remove a stop work order from the location it was posted. The removal of a stop work order by a person without authority to do so constitutes a violation of this chapter.

**70.2005 Other remedies**

The village or any aggrieved person may seek an injunction, restraining order, or other equitable relief in court to stop any violation of this chapter and/or an order requiring the property owner to restore the property to the condition that existed prior to the violation.

**70.2006 Continuation**

Nothing in this chapter shall prohibit the continuation of previous enforcement actions undertaken by the village pursuant to previous and valid ordinances and laws.

**70.2007 Penalties**

Any person that violates this chapter shall be subject to a penalty as provided in the municipal code.