

## Part I: Administrative Legislation

### Chapter 1. General Provisions

[HISTORY: Adopted by the Village Board of the Village of Neshkoro as indicated in article histories. Amendments noted where applicable.]

#### Article I. Construction and Penalties

[Adopted 4-5-1999 as Title 1, Ch. 1, of the 1999 Code]

##### § 1-1. Principles of construction.

The following rules or meanings shall be applied in the construction and interpretation of ordinances codified in this Code of Ordinances unless such application would be clearly inconsistent with the plain meaning or intent of the ordinances:

- A. Acts by agents. When an ordinance requires an act be done by a person which may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agents.
- B. Code and Code of Ordinances. The words "Code," "Code of Ordinances" and "Municipal Code" when used in any section of this Code shall refer to this Code of Ordinances of the Village of Neshkoro unless the context of the section clearly indicates otherwise.
- C. Computation of time. In computing any period of time prescribed or allowed by these ordinances, the day of the act or event from which the period of time begins to run shall not be included, but the last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday. If the period of time prescribed or allowed is less than seven days, Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this section, "legal holiday" means any statewide legal holiday specified by state law.
- D. Fine. The term "fine" shall be the equivalent of the word "forfeiture," and vice versa.
- E. Gender. Use has been made of masculine pronouns in these ordinances solely for the sake of brevity. Unless specifically stated to the contrary, this Code of Ordinances is gender neutral and words in these ordinances referring to the masculine gender shall also be construed to apply to females, and vice versa.
- F. General rule. All words and phrases shall be construed according to their plain meaning in common usage. However, words or phrases with a technical or special meaning shall be understood and construed according to that technical or special meaning if such is the intent of the ordinances.
- G. Joint authority. All words purporting to give a joint authority to three or more Village officers or employees shall be construed as giving such authority to a majority of such officers or other persons.
- H. Officers. The term "officers" shall refer solely to local offices created by state statute.

- I. Officials. The term "officials" shall mean all Village officers and employees.
- J. Person. The word "person" shall mean any of the following entities: natural persons, corporations, partnerships, associations, bodies politic or any other entity of any kind which is capable of being sued.
- K. Repeal. When any ordinance having the effect of repealing a prior ordinance is itself repealed, such repeal shall not be construed to revive the prior ordinance or any part thereof, unless expressly so provided.
- L. Singular and plural. Every word in these ordinances referring to the singular number only shall also be construed to apply to several persons or things, and every word in these ordinances referring to a plural number shall also be construed to apply to one person or thing.
- M. Tense. The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.
- N. Wisconsin Statutes. The term "Wisconsin Statutes" and its abbreviation as "Wis. Stats." shall mean, in these Ordinances, the Wisconsin Statutes as of the adoption of this Code, as amended or renumbered from time to time.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- O. Wisconsin Administrative Code. The term "Wisconsin Administrative Code" and its abbreviation as "Wis. Adm. Code" shall mean the Wisconsin Administrative Code as of the adoption of this Code, as amended or renumbered from time to time.
- P. Village. The term "Village" shall mean the Village of Neshkoro, Marquette County, Wisconsin.

## § 1-2. Conflict of provisions.

- A. If the provisions of different chapters conflict with each other, the provisions of each individual chapter shall control all issues arising out of the events and persons intended to be governed by that chapter.
- B. If the provisions of different sections of the same chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

## § 1-3. Effective date of ordinances.

- A. Code. The Code of Ordinances, Village of Neshkoro, Wisconsin shall take effect as provided by state law.
- B. Subsequent ordinances. All ordinances passed by the Village Board subsequent to the adoption of the Code of Ordinances, except when otherwise specifically provided, shall take effect from and after their publication.

## § 1-4. General penalty.

- A. General penalty. Except where a penalty is provided elsewhere in this Code, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:
  - (1) First offense penalty. Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$25 nor more than \$1,000, together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be

imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding 90 days.

(2) Second offense penalty. Any person found guilty of violating any ordinance or part of an ordinance of this Code who shall previously have been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than \$50 nor more than \$1,000 for each such offense, together with costs of prosecution and, in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six months.

B. Continued violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

C. Other remedies. The Village shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.<sup>[1]</sup>

[1] *Editor's Note: Original subsections (d) through (g), relating to juvenile dispositions and sanctions, which immediately followed this subsection, were moved to § 326-5 at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 1-5. Village Clerk-Treasurer to maintain copies of documents incorporated by reference.

Whenever any standard code, rule, regulation, statute or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein, and the Village Clerk-Treasurer shall maintain in his/her office a copy of any such material as adopted and as amended from time to time. Materials on file at the Village Clerk-Treasurer's office shall be considered public records open to reasonable examination by any person during the office hours of the Village Clerk-Treasurer, subject to such restrictions on examination as the Clerk-Treasurer imposes for the preservation of the material.

## Article II. Adoption of Code

[Adopted 10-4-2010]

### § 1-6. Adoption of Code.

Pursuant to § 66.0103, Wis. Stats., the ordinances of the Village of Neshkoro of a general and permanent nature adopted by the Village Board of the Village of Neshkoro, as revised, codified and consolidated into chapters and sections by General Code, and consisting of Chapters 1 through 500, together with an Appendix, are hereby approved, adopted, ordained and enacted as the "Code of the Village of Neshkoro," hereinafter referred to as the "Code."

### § 1-7. Code supersedes prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

### § 1-8. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances.

## § 1-9. Copy of Code on file.

A copy of the Code has been filed in the office of the Village Clerk-Treasurer and shall remain there for use and examination by the public for at least two weeks, in accordance with § 66.0103, Wis. Stats., and until final action is taken on this ordinance, and, if this ordinance shall be adopted, such copy shall be certified to by the Village Clerk-Treasurer, and such certified copy shall remain on file in the office of said Village Clerk-Treasurer to be made available to persons desiring to examine the same during all times while said Code is in effect.

## § 1-10. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the Village Board to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Village of Neshkoro" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be inserted in the Code as amendments and supplements thereto.

## § 1-11. Publication; filing.

The Clerk-Treasurer of the Village of Neshkoro, pursuant to law, shall cause to be published, in the manner required by law, a notice of the adoption of this ordinance. Sufficient copies of the Code shall be maintained in the office of the Clerk-Treasurer for inspection by the public at all times during regular office hours. The publication of notice of the enactment of this ordinance, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

## § 1-12. Code to be kept up-to-date.

It shall be the duty of the Village Clerk-Treasurer, or someone authorized and directed by the Clerk-Treasurer, to keep up-to-date the certified copy of the Code required to be filed in the Clerk-Treasurer's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are included as supplements to said Code book.

## § 1-13. Sale of Code.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk-Treasurer or an authorized agent of the Clerk-Treasurer upon the payment of a fee to be set by the Village Board. The Clerk-Treasurer may also arrange for procedures for the periodic supplementation of the Code.

## § 1-14. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Village of Neshkoro to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to a penalty as provided in § 1-4 of the Code.

## § 1-15. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof. If any provision of this Code or the application thereof to any person or circumstances is held invalid, the remainder of this Code and the application of such provision to other persons or circumstances shall not be affected thereby.

## § 1-16. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

## § 1-17. Repealer.

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this Adoption Ordinance, except as hereinafter provided.

## § 1-18. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-17 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to February 4, 2008.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the Village's indebtedness.

- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. Ordinances providing for local improvements or assessing taxes or special assessments therefor.
- L. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- M. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- N. Any ordinances adopting or amending the Zoning Map or otherwise rezoning property.
- O. Any charter ordinances.
- P. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the Village.

## § 1-19. Changes in previously adopted ordinances; new ordinances.

- A. In compiling and preparing the ordinances for publication as the Code of the Village of Neshkoro, no changes in the meaning or intent of such ordinances have been made, except as provided for in Subsection **E** hereof. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Village Board that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.
- B. Statutory references have been updated and the following general nomenclature changes have been applied to the Code: "Zoning Board of Appeals" to "Board of Appeals"; "Chairman" to "Chairperson"; "Clerk" to "Clerk-Treasurer"; "Soil Conservation Service" to "Natural Resources Conservation Service"; "State Board of Health" to "Department of Health Services"; and "Comprehensive Development Plan" and "master plan" to "Comprehensive Plan."
- C. Fees have been removed and replaced with language that indicates the fee is "as set by the Village Board" in the following sections of the Code: §§ **50-9**; 50-15A; 118-4F; 165-5F; 165-16; 165-18B; 165-20B; 165-23D; 165-33C(1); 173-6B(3)(a); 173-20B; 200-3; 219-2; 312-5; 312-19D; 379-4B(2); 385-26D; 420-13A; 420-55; 438-11; 450-18B(1); 450-19E, F and G; 500-96C; 500-98C.
- D. The adoption of the Code includes the adoption of the following new ordinances, as set forth in the copy of the Code on file in the office of the Village Clerk-Treasurer: Chapter **200**, Building Construction, Article **I**, Codes Adopted; Construction Standards, and Chapter **424**, Sex Offenders Residency Restrictions.
- E. The amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance.<sup>[1]</sup> (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)

[1] *Editor's Note: In accordance with § 1-19E, the chapters, parts and sections which were added, amended, adopted or deleted by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article II. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 10-4-2010." Schedule A, which contains a complete description of all changes, is on file in the Township offices.*

## § 1-20. When effective.

This ordinance shall take effect upon passage and publication as required by law.

## Chapter 7. Administrative Review

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 4, Ch. 1, of the 1999 Code. Amendments noted where applicable.]

### § 7-1. Review of administrative determinations.

Any person aggrieved by an administrative determination of the Village Board or a board, commission, committee, agency, officer or employee of the Village of Neshkoro or agent acting on its behalf may have such determination reviewed as provided in this chapter. The remedies under this chapter shall not be exclusive, but an election to proceed hereunder shall be an election of remedies.

### § 7-2. Determinations reviewable.

The following determinations are reviewable under this chapter:

- A. The grant or denial in whole or in part after application of an initial permit, license, right, privilege or authority, except a fermented malt beverage or intoxicating liquor license.
- B. The suspension, revocation or nonrenewal of an existing permit, license, right, privilege or authority, except as provided in § **7-3D**.
- C. The denial of a grant of money or other thing of value under a statute or ordinance prescribing conditions of eligibility for such grant.
- D. The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.
- E. The suspension or removal of a Village officer or employee except as provided in § **7-3B** and **G**.

### § 7-3. Determinations not subject to review.

The following determinations are not reviewable under this chapter:

- A. A legislative enactment. (A legislative enactment is an ordinance, resolution or adopted motion of the Village Board.)
- B. Any action subject to administrative or judicial review procedures under state statutes or other provisions of this Code.
- C. The denial of a tort or contract claim for money required to be filed with the Village under § 62.25, Wis. Stats.
- D. The grant, denial, suspension or revocation of a fermented malt beverage license or intoxicating liquor license under Ch. 125, Wis. Stats.
- E. Judgments and orders of a court.
- F. Determinations made during municipal labor negotiations.

- G. Determinations subject to grievance, arbitration or other procedures provided in collective bargaining agreements.

## § 7-4. Municipal authority defined.

"Municipal authority" includes the Village Board, commission, committee, agency, officer, employee or agent of the Village making a determination under § 7-1, and every person, committee or agency of the Village to make an independent review under § 7-8B.

## § 7-5. Persons aggrieved.

A "person aggrieved" includes any individual, partnership, corporation, association, public or private organization, officer, department, board, commission or agency of the Village, whose rights, duties or privileges are adversely affected by a determination of a municipal authority. A department, board, commission, agency, officer or employee of the Village who is aggrieved may not initiate review under this chapter of a determination of any other department, board, commission, agency, officer or employee of the Village, but may respond or intervene in a review proceeding under this chapter initiated by another.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 7-6. Reducing determination to writing.

If a determination subject to this chapter is made orally or, if in writing, does not state the reasons therefor, the municipal authority making such determination shall, upon written request of any person aggrieved by such determination made within 10 days of notice of such determination, reduce the determination and the reasons therefor to writing and mail or deliver such determination and reasons to the person making the request. The determination shall be dated and shall advise such person of his/her right to have such determination reviewed, that such review may be obtained within 30 days, and the officer or person to whom a request for review shall be addressed.

## § 7-7. Request for review of determination.

Any person allegedly aggrieved may have a written or oral determination reviewed by written request mailed or delivered to the municipal authority which made such determination within 30 days of notice to such person of such determination. The request for review shall state the grounds upon which the person allegedly aggrieved contends that the determination should be modified or reversed. A request for review shall be made to the officer, employee, agent, agency, committee, board, commission or body who made the determination, but failure to make such request to the proper party shall not preclude the person aggrieved from review unless such failure has caused prejudice to the municipal authority.

## § 7-8. Review of determination.

- A. Initial determination. If a request for review is made under § 7-7, the determination to be reviewed shall be termed "an initial determination."
- B. Who shall make review. A review under this section may be made by the officer, employee, agent, agency, committee, board, commission or body who made the initial determination. However, an independent review of such determination by another person, committee or agency of the Village appointed by the Village President without confirmation shall be provided if practicable.

- C. When to make review. The municipal authority shall review the initial determination within 15 days of receipt of a request for review. The time for review may be extended by agreement with the person allegedly aggrieved.
- D. Right to present evidence and argument. The person aggrieved may file with his/her request for review, or within the time agreed with the municipal authority, written evidence and argument in support of his/her position with respect to the initial determination.
- E. Decisions on review. The municipal authority may affirm, reverse or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the municipal authority's decision on review which shall state the reasons for such decision. The decision shall advise the person aggrieved of his/her right to appeal the decision, that appeal may be taken within 30 days, and the office or person with whom notice of appeal shall be filed.

## § 7-9. Administrative appeal.

- A. From initial determination or decision on review.
  - (1) If the person aggrieved had a hearing substantially in compliance with § 7-10 when the initial determination was made, he/she may elect to follow §§ 7-6 through 7-8 but is not entitled to a further hearing under § 7-10 unless granted by the municipal authority. He/she may, however, seek judicial review under § 7-12.
  - (2) If the person aggrieved did not have a hearing substantially in compliance with § 7-10 when the initial determination was made, he/she shall follow § 7-6 through 7-8 and may appeal under this section from the decision made under § 7-8.
- B. Time within which appeal may be taken. Appeal from a decision on review under § 7-8 may be taken within 30 days of notice of such decision.
- C. How appeal may be taken. An appeal under this section may be taken by filing with or mailing to the office or person designated in the municipal authority's decision on review written notice of appeal.

## § 7-10. Hearing of administrative appeal.

- A. Time of hearing. The Village shall provide the appellant a hearing on an appeal under § 7-9 within 15 days of receipt of the notice of appeal and shall serve the appellant with notice of such hearing by mail or personal service at least 10 days before such hearing. The office or person with whom a notice of appeal is filed shall immediately notify the Village Attorney, who shall forthwith advise the Village President of such appeal.
- B. Conduct of hearing. At the hearing, the appellant and the municipal authority may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the person conducting the hearing. The Village President shall appoint, without confirmation, an impartial decisionmaker who may be an officer, committee, board or commission of the Village or the Village Board who did not participate in making or reviewing the initial determination, who shall make the decision on administrative appeal. The decision maker may issue subpoenas. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the Village President to conduct the hearing and report to the decisionmaker.
- C. Record of hearing. The person conducting the hearing or a person employed for that purpose shall take notes of the testimony and shall mark and preserve all exhibits. The person conducting the hearing may, and upon request of the appellant shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the Village.

- D. Hearing on initial determination. Where substantial existing rights are affected by an initial determination, the municipal authority making such determination shall, when practicable, give any person directly affected an opportunity to be heard in accordance with this section before making such determination.

## § 7-11. Final determination.

- A. Within 20 days of completion of the hearing conducted under § 7-10 and the filing of briefs, if any, the decisionmaker shall mail or deliver to the appellant its written determination stating the reasons therefor. Such determination shall be a final determination.
- B. A determination following a hearing substantially meeting the requirements of § 7-10 or a decision on review under § 7-8 following such hearing shall be a final determination, judicial review of which may be obtained under § 7-12.

## § 7-12. Judicial review.

- A. Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within 30 days of receipt of the final determination.
- B. The record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same, at his/her expense. If the person seeking review establishes indigence to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the Village, and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.

## § 7-13. Legislative review.

- A. Seeking review pursuant to this chapter does not preclude a person aggrieved from seeking relief from the Village Board or any of its boards, commissions, committees or agencies which may have jurisdiction.
- B. If in the course of legislative review under this section a determination is modified, such modification and any evidence adduced before the Village Board, board, commission, committee or agency shall be made part of the record on review under § 7-12.
- C. The Village Board, board, commission, committee or agency conducting a legislative review under this section need not conduct the type of hearing required under § 7-10.

# Chapter 15. Boards, Commissions and Committees

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 2, Ch. 4, of the 1999 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Administrative review — See Ch. 7.

Ethics — See Ch. 41.

Officers and employees — See Ch. 93.

Village Board — See Ch. 140.

## § 15-1. Board of Review.

- A. Composition. The Board of Review shall be composed of the Village President, the Village Clerk-Treasurer and all Village Trustees. The Village Clerk-Treasurer shall serve as Clerk of the Board of Review. The Assessor shall attend all meetings of the Board of Review but shall not vote.
- B. Compensation. The members of the Board of Review shall receive compensation as determined by resolution of the Village Board.
- C. Duties. The duties and functions of the Board of Review shall be as prescribed in §§ 70.46 and 70.47, Wis. Stats.
- D. Meetings. In accordance with § 70.47(3)b, Wis. Stats., the Village Board does hereby exercise its right to designate hours for the annual Board of Review proceedings other than those set forth in § 70.47(3)a and shall designate the hours of the annual Board of Review. The Board may adjourn from day to day or from time to time until such time as its business is completed, providing that adequate notice of each adjournment is so given.
- E. Objections to valuations to be written. No person shall be permitted to appear and make objection before the Board of Review of the Village of Neshkoro to the amount of valuation of any property unless objection thereto shall first have been made in writing and filed with the Clerk of the Board of Review.

## § 15-2. Board of Appeals.

- A. Establishment. A Board of Appeals shall be appointed and governed by the state zoning enabling law as contained in § 62.23, Wis. Stats., the Village Zoning Code<sup>[1]</sup> and ordinances and this section. The laws of the state or Village and local ordinances shall prevail, in that order. The Board of Appeals shall consist of five citizen members and two alternate members, appointed by the Village President subject to confirmation by the Village Board for a three-year term of office. The members shall be removable by the Village Board for cause upon written charges and upon public hearing. The Village President shall designate one of the members as Chairperson.  
*[1] Editor's Note: See Ch. 500, Zoning.*
- B. Powers. The Board of Appeals shall have the following powers:
  - (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of any Village Zoning Code or any ordinance adopted under § 62.23, 61.35 or 62.231 (wetlands), 87.30 or 281.31 (floodplains) or Ch. 91 (farmland preservation), Wis. Stats.
  - (2) To hear and decide special exceptions to the terms of the Village zoning and floodplain zoning regulations upon which the Board of Appeals is required to pass.
  - (3) To authorize, upon appeal in specific cases, such variance from the terms of the Village zoning regulations as will not be contrary to the public interest, where owing to special conditions a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the Zoning Code shall be observed, public safety and welfare secured and substantial justice done; provided, however, that no such action shall have the effect of establishing in any district a use or uses not permitted in such district. The Board of Appeals shall not grant use variances in floodplain or wetland and conservancy districts. In all other districts, no use variance shall be granted unless the applicant has first petitioned for a zoning amendment or a conditional use permit, if applicable, and upon a showing that no lawful and feasible use of the subject property can be made in the absence of such variance. Any use variance granted shall be limited to the specific use described in the Board's decision and shall not permit variances in yard, area or other requirements of the district in which located.
  - (4) To permit the erection and use of a building or premises in any location, subject to appropriate conditions and safeguards in harmony with the general purposes of the Zoning Code, for such purposes which are reasonably necessary for public convenience and welfare.

- (5) The Board of Appeals may reverse or affirm, wholly or in part, or may modify any order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as in its opinion ought to be made. If a quorum is present, the Board of Appeals may take action by a majority of the members present. The grounds of every such determination shall be stated and recorded. No order of the Board of Appeals granting a variance shall be valid for a period longer than six months from the date of such order unless the land use permit is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

#### C. Meeting and rules.

- (1) All meetings and hearings of the Board of Appeals shall be open to the public, except that the Board may go into executive session to deliberate after a hearing or an appeal. The final vote on an appeal shall be taken in open session by roll call vote, recorded and open for public inspection in the Board's office. Public notice of all regular and special meetings shall be given to the public and news media as required by the Wisconsin Open Meeting Law.

- (2) Special meetings may be called by the Chairperson or by the Clerk at the request of two members. Notice of a special meeting shall be mailed to each member at least 48 hours prior to the time set for the meeting, or announcement of the meeting shall be made at any meeting at which all members are present.<sup>[3]</sup>

[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (3) Hearings may be held at any regular or special meeting at the time set by the Chairperson.

- (4) A quorum for any meeting or hearing shall consist of four members, but a lesser number may meet and adjourn to a specified time.

- (5) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. The Board shall adopt its own rules of procedure not in conflict with this Code or with the applicable Wisconsin Statutes.<sup>[4]</sup>

[4] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (6) No Board member shall participate in the decision of or vote upon any case in which the member is financially interested, directly or indirectly, but the Chairperson shall direct an alternate member to act instead. Disqualification of a member for interest shall not decrease the number of votes required for acting upon any matter, but such member may be counted in determining whether a quorum is present for the transaction of business.

#### D. Offices. The Village Board shall provide suitable offices for holding hearings and the preservation of records, documents and accounts.<sup>[5]</sup>

[5] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 15-3. Library Board.

#### A. Organization.

- (1) Pursuant to §§ 43.54 and 43.58, Wis. Stats., there is hereby created a Library Board for the Village consisting of five members. Membership shall consist of one Village Trustee and four citizens appointed by the Village President, subject to confirmation by the Village Board. Pursuant to § 43.54(1), Wis. Stats., up to two members of the Library Board may be residents of towns adjacent to the Village.

- (2) Terms of such members shall be from May 1 in the year of their appointment, and thereafter each regular appointment shall be for a term of three years. Not more than one member of

the Village Board shall at any one time be a member of the Library Board. Citizen members shall be appointed by the Village President, subject to confirmation by the Village Board. The Trustee member shall be appointed annually by the Village President, subject to confirmation by the Village Board. The Village President shall appoint as one of the Library Board members the school district administrator or his representative to represent the public school district or districts in which the library is located.

- (3) A majority of the membership of the Board shall constitute a quorum.
- (4) As soon as practicable after the first appointments, at a date and place fixed by the appointing officer, and annually thereafter within 30 days after the time designated in this section for the beginning of terms, the members of the Library Board shall organize by election from among their number a President and such other officers that they deem necessary to prescribe and adopt rules and regulations for the operation of the library.

B. Duties and powers. The Library Board shall have the duties and powers as prescribed by Chapter 43 and more particularly set forth in § 43.58, Wis. Stats.

## § 15-4. General provisions regarding meetings and public notice.

A. Regular meetings; public notice. Every board, committee and commission created by or existing under the ordinances of the Village shall:

- (1) Schedule a date, time and place for its meetings;
- (2) Post or, when necessary, publish notice in or notify the official Village newspaper in advance of each such regular meeting of the date, time and place thereof, in compliance with state law; and/or
- (3) Post an agenda of the matters to be taken up at such meeting.

B. Form of notice. Such notice shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session which may be authorized by law.<sup>[1]</sup>

[1] *Editor's Note: The sample notice form which immediately followed in this subsection was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

C. Notice to members. Every member of any board, commission or committee of the Village of Neshkoro shall be notified by the secretary thereof that a meeting is to be held and the time and place of such meeting and the subject to be considered thereat. No member shall be intentionally excluded from any meeting by a failure to give proper notice or a reasonable attempt to give proper notice to such member.

D. Minutes to be kept. Every board, commission and committee shall keep a record of the minutes of its proceedings and shall cause a signed copy thereof to be filed by its secretary with the Village Clerk-Treasurer within one week of the meeting date. The Village Clerk-Treasurer shall furnish a copy of all minutes filed with her to each member of the Village Board. All such minutes shall be public records.

E. Special meetings. Nothing in Subsection A shall preclude the calling of a special meeting or dispensing with the publication of notice or such posting of the agenda for good cause, but such special meetings shall nonetheless comply in all respects with the provisions of §§ 19.81 and 19.89, Wis. Stats.

## § 15-5. Plan Commission.

- A. Composition. The Plan Commission for the Village of Neshkoro shall consist of the Village President, one Board member who shall be designated annually by the Village President, and five regular citizens, all of whom shall have one vote in all matters brought before the Commission.<sup>[1]</sup>  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. Appointments of citizen members. The Village President, subject to confirmation of the Village Board, shall appoint the five regular citizen members of the Commission. The citizen members shall be appointed upon creation of the Commission and shall hold office as follows: one member for one year, two members for two years and two members for three years; each expired term shall be appointed for a term of three years. All vacancies shall be filled for the unexpired term in the same number as appointed for the full term.<sup>[2]</sup>  
[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Organization and duties. The Plan Commission shall be organized pursuant to and shall discharge the duties set forth in § 62.23, Wis. Stats., as amended, together with such other duties as shall be determined by resolution or ordinance by the Neshkoro Village Board.

## Chapter 22. Citations

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 1, Ch. 2, of the 1999 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

General penalty — See § 1-4.

### § 22-1. Authorization for use of citation.

The Village of Neshkoro hereby elects to use the citation method of enforcement of ordinances. All Village officers and other Village personnel charged with responsibility of enforcing the provisions of this Code are hereby authorized pursuant to § 66.0113(1)(a), Wis. Stats., to issue citations for violations of this Code, including ordinances for which a statutory counterpart exists.

### § 22-2. Officials authorized to issue citation.

Citations authorized in § 22-1 above may be issued by law enforcement officers and by the following designated Village officials with respect to sections of the Code which are directly related to the official's area of responsibility. The officials granted authority to issue citations under this section may delegate the authority to other Village employees within the designated official's department with the approval of the Village Board:

- A. Building inspectors.
- B. Weed Committee.
- C. Zoning Administrator.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 22-3. Form of citation.

The form of the citation to be issued by Village police officers or other designated Village officials is incorporated herein by reference and shall provide for the information required in § 66.0113(1)(b), Wis. Stats.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 22-4. Deposits; receipts.

Deposits shall be made in cash, money order, personal checks or certified check to the Clerk of Court. Receipts shall be given for all deposits received.

## § 22-5. Procedure.

Section 66.0113(3), Wis. Stats., relating to violators' options and procedure on default, is hereby adopted and incorporated herein by reference.

## § 22-6. Nonexclusivity of chapter.

- A. Adoption of this chapter does not preclude the Village Board from adopting any other ordinance providing for the enforcement of any other law or ordinance relating to the same or other matters.
- B. The issuance of a citation hereunder shall not preclude the Village or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

# Chapter 25. Court, Joint Municipal

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 9-8-2014 by Ord. No. 15-6. Amendments noted where applicable.]

## § 25-1. Creation of Court.

Pursuant to Ch. 755, Wis. Stats., there is hereby created and established a Municipal Court designated "Joint Municipal Court for the City of Montello, Village of Oxford, Village of Westfield and Village of Neshkoro" (hereinafter a.k.a. "Joint Municipal Court" or "Marquette County Joint Municipal Court"), presided over by a Municipal Judge.

## § 25-2. Municipal Court Committee.

- A. Composition. The Municipal Court Committee shall be comprised of one representative of each member municipality, who shall be appointed by the Mayor, President or Chairman of the member municipality, subject to confirmation by the respective governing body. In order to assure participation and continuity of representation, each member municipality may appoint an alternate representative who shall act on Committee matters in the absence of the representative.

## § 25-3. Creation and qualification of the position of Municipal Judge.

Pursuant to Ch. 755, Wis. Stats., the office of Municipal Judge is hereby created. Eligibility for the office of Municipal Judge shall be as follows: To be eligible for the office of Municipal Judge, a person must be a qualified elector in the City of Montello, Village of Oxford, Village of Westfield, or the Village of Neshkoro.

## § 25-4. Election and term of Municipal Judge.

The appointed Judge must run for the election at large the following spring election, for a four-year term, commencing on May 1 succeeding his or her election. Electors of the City of Montello, the Village of Oxford, the Village of Westfield and the Village of Neshkoro shall be eligible to vote for the Municipal Judge of the Joint Municipal Court.

## § 25-5. Creation of the position of Clerk of the Municipal Court.

Pursuant to Ch. 755, Wis. Stats., the office of the Clerk of the Municipal Court is hereby created. Said Clerk shall take the position upon hire by the Municipal Court Committee and written appointment by the Judge. Training and compensation of said Clerk shall be as determined by the governing bodies of member municipalities.

## § 25-6. Salary of Municipal Judge.

The Municipal Judge shall receive a fixed salary and Municipal Judge's training pursuant to § 755.18, Wis. Stats., the salary to be determined by the governing bodies of member municipalities, subject to § 755.04, Wis. Stats., which shall be in lieu of fees and costs. The salary shall be paid quarterly. No salary shall be paid to the Municipal Judge for any time during his or her term for which he or she has not executed and filed the official bond and oath as required by § 25-7.

## § 25-7. Bond and oath of Municipal Judge.

The Municipal Judge shall, after election or appointment to fill a vacancy, take and file the official oath as prescribed in § 757.02(1), Wis. Stats., pursuant to § 755.03, Wis. Stats., with the Clerk of the Circuit Court for Marquette County and at the same time shall execute and file an official bond.

## § 25-8. Bond and oath of Municipal Court Clerk.

The Municipal Court Clerk shall, before entering upon the duties of the office, take and file the official oath as prescribed in § 19.01, Wis. Stats., with the City Clerk of the City of Montello and at the same time shall execute and file an official bond. The City of Montello Clerk will provide file copies to the other two communities.

## § 25-9. Jurisdiction of Municipal Judge.

The Municipal Judge shall have jurisdiction as provided by statutes and laws of the State of Wisconsin and pursuant to § 755.045, Wis. Stats.

## § 25-10. Procedures of Joint Municipal Court.

- A. The Joint Municipal Court's location and time shall be determined by order of the Municipal Judge.
- B. The procedure in Joint Municipal Court shall be provided by the statutes and laws of Wisconsin.
- C. The Court Clerk or his/her designee shall make daily deposits of all forfeitures, fees, penalties, assessments and costs collected in any action or proceeding before the Joint Municipal Court. These deposits will be made to a designated bank account as determined by the Joint Municipal Court Committee.

## § 25-11. Contempt in Joint Municipal Court.

The Municipal Judge may impose a sanction as authorized under § 800.12(2), Wis. Stats., for contempt of court as defined in § 785.01(1), Wis. Stats., in accordance with the procedures under § 785.03, Wis. Stats.

## Chapter 34. Elections

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Secs. 2-1-2 to 2-1-4 of the 1999 Code. Amendments noted where applicable.]

### § 34-1. Election poll hours.

The voting polls in the Village of Neshkoro, Marquette County, Wisconsin shall be open as prescribed in § 6.78, Wis. Stats., for all elections.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 34-2. Election officials.

- A. Pursuant to the Wisconsin Statutes, there is hereby established one set of election officials to conduct all elections of the Village which shall consist of seven election inspectors. However, the Village Clerk-Treasurer shall have the power to limit the number of election officials. The Clerk-Treasurer shall determine in advance of each election whether the number of election officials for such election should be reduced from the number prescribed by the Wisconsin Statutes, and if such a reduction is so determined, the Clerk-Treasurer shall further redistribute duties among the remaining officials.
- B. Because § 7.30(1), Wis. Stats., allows for the creation of alternate or two sets of election officials to work at different times on election day, the Village Board authorizes the selection of alternate and/or two sets of election officials to staff the polls on election day.

### § 34-3. Election by caucus.

Pursuant to § 8.05, Wis. Stats., all interested candidates for public office in the Village of Neshkoro are to be nominated by caucus. The Village Board shall, between December 1 and January 1, decide the date of the caucus. The date of the caucus shall be established between the first Tuesday in January and the last Tuesday in January. The Village Clerk-Treasurer shall give notice of the time and date of the caucus by posting same in his office and by one publication in a newspaper under Ch. 985, Wis. Stats., at least five days before the date of the caucus. The Village President, together with the Village Clerk-Treasurer, shall serve as caucus officials. If the President is a candidate, he/she shall call for election of officials to conduct the caucus. The nomination of candidates for elective office shall be conducted according to § 8.05(1), Wis. Stats.

## Chapter 41. Ethics

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 2, Ch. 5, of the 1999 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Boards, commissions and committees — See Ch. **15**.

Officers and employees — See Ch. **93**.

Village Board — See Ch. **140**.

### § 41-1. Statement of purpose.

- A. The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established in this chapter a Code of Ethics for all Village of Neshkoro officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the Village, as well as any individuals who are candidates for elective office as soon as such individuals file nomination papers with the Village.
- B. The purpose of this ethics code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the Village of Neshkoro and by directing disclosure by such officials and employees of private, financial or other interests in matters affecting the Village. The Village Board believes that a Code of Ethics for the guidance of elected and appointed officials and employees will help them avoid conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the citizens of this Village in their elected and appointed officials and employees. The Village Board hereby reaffirms that each elected and appointed Village official and employee holds his or her position as a public trust, and any intentional effort to realize substantial personal gain through official conduct is a violation of that trust. The provisions and purpose of this ethics code and such rules and regulations as may be established are hereby declared to be in the best interests of the Village of Neshkoro.

## § 41-2. Definitions.

The following definitions shall be applicable in this chapter:

### **ANYTHING OF VALUE**

Any money or property, favor, service, payment, advance, forbearance, loan or promise of future employment, but does not include compensation and expenses paid by the Village, fees and expenses which are permitted and reported under § 19.56, Wis. Stats., political contributions which are reported under Ch. 11, or hospitality extended for a purpose unrelated to Village business by a person other than an organization, as defined in § 19.42(11).<sup>[1]</sup>

### **BUSINESS**

Any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages in profit-making activities.

### **FINANCIAL INTEREST**

Any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.

### **PERSONAL INTEREST**

Any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.

### **PUBLIC EMPLOYEE**

Any person excluded from the definition of a public official who is employed by the Village.

### **PUBLIC OFFICIAL**

Those persons serving in statutory elected or appointed offices provided for in Ch. 61, Wis. Stats., and all members appointed to boards, committees and commissions established or appointed by the Village President and/or Village Board pursuant to the Code of the Village, whether paid or unpaid.

## **SIGNIFICANT INTEREST**

Owning or controlling, directly or indirectly, at least 10% or \$5,000 of the outstanding stock or at least 10% or \$5,000 of any business.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## **§ 41-3. Statutory standards of conduct.**

There are certain provisions of the Wisconsin Statutes which should, while not set forth herein, be considered an integral part of any code of ethics. Accordingly, the provisions of the following sections of the Wisconsin Statutes, as from time to time amended, are made a part of this Code of Ethics and shall apply to public officials and employees whenever applicable:

- A. Section 946.10, Bribery of Public Officers and Employees.
- B. Section 946.11, Special Privileges from Public Utilities.
- C. Section 946.12, Misconduct in Public Office.
- D. Section 946.13, Private Interest in Public Contract Prohibited.

## **§ 41-4. Responsibility of public office.**

Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the constitution of this state and carry out impartially the laws of the nation, state and municipality, to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern.

## **§ 41-5. Dedicated service.**

- A. Officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.
- B. Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.
- C. Members of the Village staff are expected to follow their appropriate professional code of ethics. Staff members shall file a copy of such professional ethics codes with the Village Clerk-Treasurer. The Village Board shall notify the appropriate professional ethics board of any ethics violations involving Village employees covered by such professional standards.

## **§ 41-6. Fair and equal treatment.**

- A. Use of public property. No official or employee shall use or permit the unauthorized use of Village-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as Village policy for the use of such official or employee in the conduct of official business, as authorized by the Village Board or authorized board, commission or committee.
- B. Obligations to citizens. No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen. No official or employee shall use or attempt to use his or her position with the Village to secure any advantage,

preference or gain over and above his/her rightful remuneration and benefits for himself/herself or for a member of his or her immediate family.

- C. Political contributions. No official shall personally solicit from any Village employee, other than an elected official, a contribution to a political campaign committee for which the person subject to this chapter is a candidate or treasurer.

## § 41-7. Conflict of interest.

### A. Financial and personal interest prohibited.

- (1) No official or employee of the Village, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties in the public interest, contrary to the provisions of this chapter, or which would tend to impair independence of judgment or action in the performance of official duties.
- (2) Any member of the Village Board who has a financial interest or personal interest in any proposed legislation before the Village Board shall disclose on the records of the Village Board the nature and extent of such interest; such official shall not participate in debate or vote for adoption or defeat of such legislation. If the matter before the Village Board involves a member's personal interest with persons involved, the member may participate in debate or discussion and vote on the matter following disclosure, unless an ordinance or contract is involved; if an ordinance or contract is involved, such official shall not participate in debate or discussion and vote on the matter.
- (3) Any nonelected official, other than a Village employee, who has a financial interest or personal interest in any proposed legislative action of the Village Board or any board, commission or committee upon which the official has any influence or input or of which the official is a member that is to make a recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the Village Board or the appropriate board, commission or committee the nature and extent of such interest. Such official shall not participate in debate or discussion or vote for adoption or defeat of such legislation.
- (4) Any Village employee who has a financial interest or personal interest in any proposed legislative action of the Village Board or any board, commission or committee upon which the employee has any influence or input or of which the employee is a member that is to make a recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the Village Board or the appropriate board, commission or committee the nature and extent of such interest.

- B. Disclosure of confidential information. No official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the Village, nor shall such information be used to advance the financial or other private interests of the official or employee or others.

- C. Incompatible employment. No official or employee shall engage in or accept private employment or render service for private interest when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair such official's or employee's independence of judgment or action in the performance of his or her official duties, unless otherwise permitted by law and unless disclosure is made as herein provided.

### D. Gifts and favors.

- (1) No official or employee shall accept or offer to accept anything of value from any person who, to his or her knowledge, is interested, directly or indirectly, or is seeking an interest, directly or indirectly, in any manner whatsoever in business dealings with the Village or from any person

who conducts activities which are regulated by the Village or from any person who has interests which may be substantially affected by actions of the Village.

- (2) No official or employee shall accept or offer to accept anything of value that may tend to influence such official or employee in the discharge of his or her duties or grant in the discharge of his or her duties any improper favor, service or thing of value.
- (3) Gifts received under unusual circumstances should be referred to the Village Board within 10 days for recommended disposition.
- (4) An official or employee is not to accept hospitality if, after consideration of the surrounding circumstances, it could reasonably be concluded that such hospitality would not be extended were it not for the fact that the guest or a member of the guest's immediate family was a Village official or employee. Participation in celebrations, grand openings, open houses, informational meetings and similar events are excluded from this prohibition. This paragraph further shall not be construed to prevent candidates for elective office from accepting hospitality from citizens for the purpose of supporting the candidate's campaign.

E. Representing private interests before Village agencies or courts.

- (1) Nonelected Village officials and employees shall not appear on behalf of any private person (other than himself or herself, his or her spouse or minor children) before any Village agency, board, commission or the Village Board if the official or employee or any board, commission or committee of which the official or employee is a member has any jurisdiction, discretion or control over the matter which is the subject of such representation.
- (2) Elected Village officials may appear before Village agencies on behalf of constituents in the course of their duties as representatives of the electorate or in the performance of public or civic obligations. However, the disclosure requirements of Subsection **A** above shall be applicable to such appearances.

F. Ad hoc committee exceptions. No violation of the conflict of interest restrictions of this Section shall exist, however, where an individual serves on a special ad hoc committee charged with the narrow responsibility of addressing a specific issue or topic in which that individual, or the employer or a client of that individual, has an interest so long as the individual discloses to the Village Board that such interest exists.

G. Contracts with the Village. No official or employee who, in his or her capacity as such officer or employee, participates in the making of a contract in which such officer or employee has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on the part of such official or employee shall enter into any contract with the Village unless:

- (1) The contract is awarded through a process of public notice and competitive bidding;
- (2) The contract or activity is exempt from or otherwise deemed appropriate by § 946.13, Wis. Stats; or
- (3) The Village Board waives this requirement after determining that it is in the best interest of the Village to do so.<sup>[1]</sup>

[1] *Editor's Note: Original subsection (h), Disclosure of interest in legislation, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 41-8. Advisory opinions.

Any questions as to the interpretation of any provisions of this Code of Ethics shall be referred to the Village Board, which, if it deems necessary or appropriate, may request an advisory opinion from the Village Attorney.

## § 41-9. Employees covered by collective bargaining agreements.

In the event an employee covered under a collective bargaining agreement is allegedly involved in an ethics code violation, the terms and conditions set forth in the applicable collective bargaining agreement shall prevail in the administration and interpretation of §§ 41-1 through 41-10.

## § 41-10. Sanctions.

A determination that an employee's actions constitute improper conduct under the provisions of this chapter shall constitute a cause of suspension, removal from office or employment or other disciplinary action. Sanctions, including any disciplinary action, that may affect employees covered under a labor agreement will be consistent with the terms and conditions set forth in the applicable labor agreement.

## § 41-11. Violations and penalties.

Violation of this chapter shall be subject to a forfeiture of not more than \$1,000.

[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

# Chapter 50. Finance and Taxation

[HISTORY: Adopted by the Village Board of the Village of Neshkoro as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Boards, commissions and committees — See Ch. 15.

Officers and employees — See Ch. 93.

Village Board — See Ch. 140.

Licensing — See Ch. 337.

## Article I. General Regulations

[Adopted 4-5-1999 as Title 3, Ch. 1, of the 1999 Code]

### § 50-1. Preparation of tax roll and tax collection.

- A. Content of tax roll. Pursuant to § 70.65, Wis. Stats., the Clerk-Treasurer shall prepare a tax roll and include the required contents as described in § 70.65, Wis. Stats.
- B. Property tax collection. All provisions of Ch. 74, Wis. Stats., in regards to property tax collection are adopted and by reference made a part of this article with the same force and effect as though set out in full.

### § 50-2. Village liability for Treasurer's default.

Village liable for default of Treasurer. Pursuant to § 70.67(2), Wis. Stats., the Village shall be obligated to pay, in case the Village Clerk-Treasurer shall fail to do so, all state and county taxes required by law to be paid by such Clerk-Treasurer to the County Treasurer.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 50-3. Village budget.

- A. Departmental estimates. When requested by the Village Clerk-Treasurer, each officer, department and committee shall annually file with the Village Clerk-Treasurer an itemized statement of disbursements made to carry out the powers and duties of such officer, department or committee during the preceding fiscal year and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department or committee during such year and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the Village Clerk-Treasurer and shall be designated as "departmental estimates" and shall be as nearly uniform as possible for the main division of all departments.
- B. Consideration of estimates. The Village Board shall consider such departmental estimates in consultation with the department head and develop a budget amount for such department or activity.
- C. Form of proposed budget. The proposed budget shall include the following information:<sup>[1]</sup>
- (1) The actual expenditures of each department and activity for the expired portion of the current year and last preceding fiscal year and the estimated expense of conducting each department and activity of the Village for the remainder of the current year and ensuing fiscal year, with reasons for any proposed increase or decrease as compared with actual and estimated expenditures for the current year.
  - (2) An itemization of all anticipated income of the Village from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the Village from each of the same or similar sources for the last preceding and current fiscal year.
  - (3) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
  - (4) All existing indebtedness of the Village, including the amount of interest payable and principal to be redeemed on any outstanding general obligation bonds of the Village and any estimated deficiency in the sinking fund of any such bonds during the ensuing fiscal year.
  - (5) Such other information as may be required by the Board and by state law.
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- D. Copies of budget. The Village Clerk-Treasurer shall provide a reasonable number of copies of the budget summary thus prepared for distribution to citizens. The entire fiscal budget shall be available for public inspection in the office of the Village Clerk-Treasurer during regular office hours.
- E. Report and hearing.
- (1) The Village Board shall make a report no later than the Board's first November meeting. The report shall include the estimated cost of improvements as well as the estimated cost of operating the various departments and all other costs, including interest charges, for which money will have to be raised by taxation during the following year.
  - (2) A summary of such budget and notice of the time and place where such budget and detail is available for public inspection and notice of the time and place for holding the public hearing thereon shall be published in a newspaper of general circulation in the Village or legally posted at least 15 days prior to the time of such public hearing.
  - (3) Not less than 15 days after the publication of the proposed budget and the notice of hearing thereon, the public hearing shall be held at the time and place stipulated, at which time any resident or taxpayer of the Village shall have an opportunity to be heard on the proposed budget. The budget hearing may be adjourned from time to time. Following the public hearing,

the proposed appropriation ordinance may be changed or amended and shall take the same course in the Village Board as other ordinances.

## § 50-4. Changes in budget.

The amount of the tax to be levied or certified, the amounts of the various appropriations, and the purposes thereof shall not be changed after approval of the budget except upon the recommendation of the Village President and upon a 2/3 vote of the entire membership of the Village Board. Notice of such transfer shall be given by publication within 10 days thereafter in the official Village newspaper.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 50-5. Village funds to be spent in accordance with appropriation.

No money shall be drawn from the treasury of the Village, nor shall any obligation for the expenditure of money be incurred except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by § 50-4 of this article. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation, but appropriations may be made by the Board, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

## § 50-6. Fiscal year.

The calendar year shall be the fiscal year.<sup>[1]</sup>

[1] *Editor's Note: Original Sec. 3-1-7, Public depositories, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now § 50-16B.*

## § 50-7. Claims against Village.

- A. Village Board to audit accounts. Except as provided in Subsection C, no account or demand against the Village shall be paid until it has been audited by the Village Board and an order drawn on the Village Treasury therefor. Every such account shall be itemized. Every such account or demand allowed in whole or in part shall be filed by the Village Clerk-Treasurer, and those of each year shall be consecutively numbered and have endorsed thereon the number of the order issued in payment.
- B. Claims to be verified. All accounts, demands or claims against the Village shall be verified by the claimant or proper official.
- C. Payment of regular wages or salaries. Regular wages or salaries of Village officers and employees shall be paid by payroll, verified by the proper Village official, department head, board or commission and filed with the Village Clerk-Treasurer in time for payment on the regular payday.<sup>[1]</sup>

[1] *Editor's Note: Original Sec. 3-1-9, Temporary investments of funds not immediately needed, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now § 50-16C(1).*

## § 50-8. Receiving money; receipt for same.

- A. The Village Clerk-Treasurer and his/her deputies shall not receive any money into the treasury from any source except on account of taxes levied and collected during the fiscal year for which they may then be serving without giving a receipt therefor in the manner specified by the Village Board.
- B. Upon the payment of any money (except for taxes as herein provided), the Village Clerk-Treasurer or his/her designees shall make out a receipt in duplicate for the money so received. The Village Clerk-Treasurer, or his/her designees shall charge the amount thereof to the treasury and credit the proper account. The payment of the money to any receiving agent of the Village or to the Village or to the Village Clerk-Treasurer, or his/her designees shall be safeguarded in such manner as the Village Board shall direct.

## § 50-9. Statement of real property status.

The Village Clerk-Treasurer and his/her designees are authorized to prepare a statement of real property status form to be used to provide information often requested for transfers of real property, such as the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, outstanding water and sewer bills, current water and sewer bills, contemplated improvements, outstanding citations on Building Code violations and similar information. Any such information sought shall be provided to the person requesting it on said form. Requests for statements of real property status shall be made to the Village Clerk-Treasurer or his/her designees a minimum of one business day in advance. A fee as set by the Village Board shall be charged for compiling this information.<sup>[2]</sup> In providing this service, the Village of Neshkoro and its officials assume no liability for such service nor is any warranty intended or implied.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: The current Fee Schedule is on file in the Village office.*

## § 50-10. Bidding procedures.

- A. Adoption of city bidding procedures. Pursuant to § 61.56, Wis. Stats., the Village of Neshkoro does hereby provide that, as a complete alternative to the requirements of §§ 61.54, 61.55 and 66.0901, Wis. Stats., and in lieu thereof, the provisions of § 62.15, Wis. Stats., shall be applicable to all Village contracts for public construction. The authority vested in the Board of Public Works by § 62.15, Wis. Stats., shall be exercised by the Village Board or by a committee designated by the Village Board.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. Construction by the Village. Any class of public construction may be done directly by the Village without submitting the same for bids, provided that the same is authorized by a vote of 3/4 of all members of the Village Board.

## § 50-11. Bid solicitation procedures.

- A. Definitions.

- (1) Verbal quotation form. The Village solicits verbal quotations on items the Village purchases which are less than \$10,000. The results of the verbal quotations are recorded on a memorandum of verbal quotation form.
- (2) Informal quotation. An informal quotation is a written request for quotation sent to vendors. The informal quotation is used for the purchase of goods and services in an amount less than \$10,000.
- (3) Formal bid. The formal bid procedure is used for purchasing goods and services in an amount of \$10,000 and higher and in some instances in amounts less than this amount. The formal

bid procedure requires a legal public notice and contains detailed, written specifications regarding the goods and services to be purchased and a number of specific conditions associated with the purchase.

B. Bid solicitation.

- (1) Competitive bids or quotations may be obtained before contracting to purchase articles, goods, wares, material services or merchandise which amount in bulk to more than \$1,000. Purchases up to \$1,000 may be made by either telephone quotations, informal written quotations or formal bid. Purchases from \$1,000 to \$10,000 may be made by written quotation, telephone quotation or formal bid. Purchases of \$10,000 and over, pursuant to Subsection **A** above, shall be made by formal bid unless exempted from it by action of the Village Board.
- (2) Verbal quotations for goods and services should be secured from at least two qualified vendors, and the results of the quotations shall be recorded on the memorandum of verbal quotation form and signed by the person receiving the quotations.
- (3) Informal requests for written quotations should be solicited from at least three qualified bidders on the request for quotation form. All written requests for quotations shall be issued by the applicable department heads and returned to and analyzed by the applicable department heads. Informal requests for written quotations may also be solicited by telephone. Vendors shall be given a reasonable time to respond to the request for an informal, written quotation and shall be given clear, concise specifications and informal bidding instructions to facilitate competitive bidding.
- (4) When a formal bid is required or deemed to be in the best interests of the Village, the bidding procedure shall follow the legal requirements associated with a Class 1 notice under state statute and the procedures normally associated with the formal bid proposal.
- (5) The formal bid proposal will contain at least the following information:
  - (a) The bid number.
  - (b) A detailed description of the goods and services required, including enough information about the items or services required so that more than one vendor can meet the specifications.
  - (c) The time, date and place the bids will be opened.
  - (d) The address to which the bids shall be mailed or delivered. Instructions to bidders shall include such information as delivery dates, transportation charges, proposal prices, conditions for guaranteeing the proposal, payment terms, right of rejection of proposals, right to reject merchandise, insurance requirements, alternative proposal consideration, tax information, and other appropriate information regarding the awarding and execution of the contract and contract considerations.
  - (e) The bid proposal shall also include a section on special provisions, including guarantees and service considerations, trade-in considerations, and other information relating to special conditions.
- (6) Specifications for all items purchased shall be developed with the full involvement and participation of the using departments. However, the Village Clerk-Treasurer shall ensure that the specifications are sufficiently broad enough that competition in the bidding process is preserved.

## § 50-12. Accounts receivable billing procedures.

Billings by the Village may be paid within 30 days after billing without interest. Thereafter, interest may be charged at the rate of 1 1/2% per month or any fraction thereof until the following 15th day of November. Bills not paid on or before the 15th day of November shall have added to the total amount due 1 1/2% of said charges and shall be entered on the tax roll as a special charge and become a lien upon real estate.

## § 50-13. Annual audits.

A firm of certified public accountants shall be employed each year by the Village, subject to the confirmation of the Village Board, to conduct a detailed audit of the Village's financial transactions and its books and to assist the Village Clerk-Treasurer in the management of the Village's financial affairs, including the Village's public utilities. These auditors shall be employed on a calendar-year basis. The books audited may, in addition to the financial records of the office of the Village Clerk-Treasurer, include the Treasurer's books, the Village's public utilities, Police Department records, and any other books of any boards, commission, officers or employees of the Village handling Village monies.

## § 50-14. Liability of the Village for acts of agents.

No agent of the Village of Neshkoro having authority to employ labor or to purchase materials, supplies or any other commodities may bind the Village or incur any indebtedness for which the Village may become liable without approval of the Board. Each such employment or purchase order shall be drawn against a specific appropriation, the money for which shall be available in the Village treasury and not subject to any prior labor claims or material purchase orders at the time when such employment is negotiated or purchase order drawn. The Village Clerk-Treasurer shall keep a record of such employment and purchase orders and shall charge them against the proper appropriation.

## § 50-15. Fee for returning checks with insufficient funds; reimbursement of collection costs.

- A. There shall be a fee as set by the Village Board for processing checks made payable to the Village that are returned because of insufficient funds in the account in question.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. Collection costs and attorneys' fees shall be added to the principal amounts of unpaid bills owed to the Village that are placed with collection agencies.<sup>[2]</sup>

[2] *Editor's Note: Original Sec. 3-1-18, Delinquent personal property taxes, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 50-16. Policy for public deposits and investments.

- A. Purpose. Cash and investments generally represent the largest asset on the Village's balance sheet, and the Village frequently has cash available for short-term, intermediate and long-term investments. Therefore, it is important that the Village establish a policy to ensure continuous prudent investment of available Village funds. It is in the interest of the Village of Neshkoro to adopt a policy to ensure continuous prudent deposits and investments of available Village funds. The Village Board of the Village of Neshkoro establishes the following policies in the public interest for the deposit and investment of available Village funds.

- B. Public depositories.

- (1) Depositories. The Village Board shall, by ordinance or resolution, designate one or more public depositories, organized and doing business under the laws of this state or federal law and located in Wisconsin, in which the Village Clerk-Treasurer shall deposit all public monies received by her/him.
- (2) Limitations. The resolution or ordinance designating one or more public depositories shall specify whether the monies shall be maintained in time deposits subject to the limitations of § 66.0603(1m), Wis. Stats., demand deposits or savings deposits, and whether a surety bond or other security shall be required to be furnished under § 34.07, Wis. Stats., by the public depository to secure the repayment of such deposits. Not more than \$500,000 shall be deposited in any one public depository, unless specifically authorized by the Village Board.
- (3) Deposits. The Village Clerk-Treasurer shall deposit public monies in the name of the Village of Neshkoro in such public depositories designated by the Village Board and subject to the limitations hereinabove set forth.
- (4) Withdrawals. Withdrawals or disbursements by the Village Clerk-Treasurer of monies deposited in a public depository shall be made as provided by § 66.0607(1) to (5), Wis. Stats. The Village Clerk-Treasurer is authorized, at her/his discretion, to process periodic payments through the use of money-transfer techniques as set forth in § 66.0607(3m), Wis. Stats.

C. Investments.

- (1) Management. Subject to the provisions of this policy, the Village Clerk-Treasurer shall have control of and discretion in the investment of all Village funds that are not immediately needed and are available for investment.
- (2) Intent. It is the intent of the Village Board that the Village Clerk-Treasurer utilize a wise and prudent cash management system within the level of her/his expertise in such a manner to ensure maximum investment earnings while at the same time be able to respond promptly to authorized expenditures. Safety, liquidity and yield will be the prime requisites for the investment of Village funds.
- (3) Scope. This policy is limited in its application to funds which are not immediately needed and are available for investment. Other funds, the investment of which is subject to special federal and/or state laws and regulations, shall be invested in accordance with such laws and regulations to the extent they may be inconsistent with the provisions of this policy.
- (4) Responsibility. In exercising her/his investment responsibilities, the Village Clerk-Treasurer shall exercise the care, skill, prudence and diligence under the circumstances then prevailing as a prudent person acting in a similar capacity, having the same resources, and familiar with like matters in the management of a similar activity, with a like purpose.

D. Investment factors. The Village Clerk-Treasurer is authorized and directed to utilize investment options as set forth within these guidelines, and the Village Clerk-Treasurer shall take into consideration the following factors, which are listed in order of priority to the investment decision:

- (1) Certificates of deposit. Village funds may be invested in certificates of deposit maturing within one year or less from the date of investment, issued by any banks, savings and loan associations or credit unions which are authorized to transact business in the State of Wisconsin. The financial institutions must have been designated as a public depository of the Village by resolution or ordinance of the Village Board.
- (2) Government bonds and securities. Village funds may be invested in United States government bonds or securities which are direct obligations of or guaranteed as to principal and interest by the federal government and bonds or securities which are obligations of any agency, commission, board or other instrumentality of the federal government, where principal and interest are guaranteed by the federal government. The securities must be purchased through financial institutions authorized to conduct business in the State of Wisconsin and

placed in safekeeping in a segregated account in the Village's name at any designated public depository or approved financial institution.

- (3) Government investment pool. Village funds may be invested in the Wisconsin Local Government Pool Investment Fund without restriction as to the amount of deposit or collateralization.
- (4) Repurchase agreements. Village funds may be invested in repurchase agreements in financial institutions authorized to conduct business in the State of Wisconsin. Repurchase agreements can only be made in securities which are direct obligations of or guaranteed as to principal and interest by the federal government and securities which are obligations of an agency, commission, board or other instrumentality of the federal government, where principal and interest are guaranteed by the federal government. Securities purchased by a repurchase agreement must be placed in safekeeping in a segregated account in the Village's name at any designated public depository or approved financial institution.
- (5) Wisconsin investment trust. Village funds may be invested in the Wisconsin Investment Trust without restrictions as to the amount of deposit or collateralization.
- (6) Savings deposit. Village funds may be temporarily invested in savings deposits.
- (7) Securities. The Village Clerk-Treasurer may invest in private securities which are senior to, or on a parity with, a security of the same issuer which is rated highest or second highest by Moody's Investors Service, Standard & Poor's Corporation or other similar nationally recognized rating agency.

#### E. Safety.

- (1) In order to safeguard investments and deposits, the Village shall acquire of each public depository its annual financial statements and evaluate such statements as to the financial soundness of the depository. Also to be reviewed is other pertinent financial information filed with regulatory agencies.
- (2) The Village shall require, when investing in repurchase agreements, that collateral be pledged by the depository in an amount equal to or greater than the amount of the repurchase agreements the Village has with such depository. In excess of FDIC coverage, the collateral shall be direct obligations of the United States or of its agencies, if the payment of principal and interest is guaranteed by the federal government, or obligations of the State of Wisconsin or of the Village of Neshkoro. Evidence of such collateral shall be provided by the depository.
- (3) Consideration shall also be given to the total amount of existing Village funds which are already in such depository and/or the capacity of the depository to handle the size of the deposit or investment with consideration of federal depository insurance and State of Wisconsin Guarantee Fund requirements.

#### F. Liquidity.

- (1) The maturity of any investment shall be determined by analyzing the following factors:
  - (a) Immediate cash requirements.
  - (b) Projected expenditures.
  - (c) Available funds on hand.
  - (d) Maturing investments.
  - (e) Anticipated revenues.
- (2) Investments shall not extend beyond any recognized unfunded cash needs of the Village. Major consideration of maturity dates should be given to requirements of the payroll, debt service, and the bimonthly bills and claims.

G. Yield.

- (1) Yield shall be the final determining factor of the investment decision.
- (2) Bids shall be required of all investments that exceed both \$100,000 and a thirty-day or longer maturity date. A minimum of three bids from the Village's public depository list shall be acquired. Exceptions to the bid process include only the purchase of obligations of the U.S. Treasury and deposits in the Wisconsin Local Government Investment Pool, which shall be registered in the Village's name.

H. Miscellaneous.

- (1) Liability. Notwithstanding any other provision of law, the Village Clerk-Treasurer who deposits public monies in any public depository, in compliance with § 34.05, Wis. Stats., is, under the provisions of § 34.06, Wis. Stats., relieved of any liability for any loss of public monies which results from the failure of any public depository to repay to the public depositor the full amount of its deposits, thus causing a loss as defined in § 34.01(2), Wis. Stats.
- (2) Definitions. Words or phrases shall, insofar as applicable, have the meanings set forth in § 34.01, Wis. Stats., as amended.
- (3) Conflicts. This section is enacted in accordance with the provisions of Ch. 34 and §§ 66.0603 and 66.0607, Wis. Stats. In case of conflict, the state laws shall prevail.

## Article II. Special Assessments and Charges

[Adopted 4-5-1999 as Title 3, Ch. 2, of the 1999 Code]

### § 50-17. Village Board may levy special assessments.

- A. The Village of Neshkoro, by resolution of its Village Board, may levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work or improvement and may provide for the payment of all or any part of the cost of the work or improvement out of the proceeds of the special assessments.<sup>[1]</sup>  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the Village Board.

### § 50-18. Resolutions and report required.

- A. Prior to making any such special assessments, the Village Board shall declare by preliminary resolution its intention to exercise such powers for a stated municipal purpose. Such resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, the number of installments in which the special assessments may be paid or that the number of installments will be determined at the hearing required under § 50-21 of this article, and direct the proper municipal officer or employee to make a report thereon. Such resolution may limit the proportion of the cost to be assessed.
- B. The report required by Subsection A shall consist of:
  - (1) Preliminary or final plans and specifications.
  - (2) An estimate of the entire cost of the proposed work or improvement.

- (3) An estimate, as to each parcel of property affected, of:
    - (a) The assessment of benefits to be levied.
    - (b) The damages to be awarded for property taken or damaged.
    - (c) The net amount of such benefits over damages or the net amount of such damages over benefits.
  - (4) A statement that the property against which the assessments are proposed is benefitted, where the work or improvements constitute an exercise of the police power. In such case, the estimates required under Subsection **B(3)** shall be replaced by a schedule of the proposed assessments.
  - (5) A copy of the report when completed shall be filed with the Village Clerk-Treasurer for public inspection.
- C. When the Village Board determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or the rendering of the service, the report required by § 66.0703(5), Wis. Stats., and Subsections **A** and **B** above shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

## § 50-19. Costs that may be paid by special assessment.

The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the Village and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Village Board.

## § 50-20. Exemptions; deductions.

If any property deemed benefitted shall by reason of any provision of law be exempt from assessment therefor, such assessment shall be computed and shall be paid by the Village.

## § 50-21. Notice of proposed or approved project.

On the completion and filing of the report required in § **50-18B(5)** of this article, the Village Clerk-Treasurer shall give notice stating the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district, the place and time at which the report may be inspected, and the place and time at which all interested persons, their agents or attorneys may appear before the Village Board or committee thereof and be heard concerning the matters contained in the preliminary resolution and report. The notice shall be published as a Class 1 notice, under Ch. 985, Wis. Stats., in the Village, and a copy of the notice shall be mailed at least 10 days before the hearing or proceeding to every interested person whose post office address is known or can be ascertained with reasonable diligence. The hearing shall commence not less than 10 days and not more than 40 days after the publication of said notice.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 50-22. Board actions after hearing.

- A. After the hearing, the Village Board may approve, disapprove, modify or refer the report to the designated officer or employee with such directions as it deems necessary to change the plans and specifications so as to accomplish a fair and equitable assessment.
- B. If an assessment be made against any property and an award of compensation or damage be made in favor of the property, the Village Board shall assess only the difference between such assessment of benefits and the award of compensation or damage.
- C. If the work or improvement has not been previously authorized or approved, the Village Board shall approve the work or improvement and by resolution direct that the same be done and paid for in accordance with the report finally approved.
- D. If the work or improvement has been approved by the Village Board or work commenced or completed prior to the filing of the report or prior to the hearing, then the Village Board shall by resolution confirm the report as made or modified and provide for payment in whole or in part by assessment.
- E. The Village Clerk-Treasurer shall publish the final resolutions as required in § 50-21 of this article.
- F. After the publication of the final resolution, any work or improvement provided for and not yet authorized shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal by § 66.0703(12), Wis. Stats., or any other applicable provision of law.

## § 50-23. Board's power to amend, cancel or confirm special assessment.

If after completion or after the receipt of bids, the actual cost of any work or improvement is found to vary materially from the original estimate, or the assessment is void or invalid for any reason, or if the Village Board determines to reconsider an assessment, it is empowered, after giving notice as required in § 50-21, to amend, cancel or confirm any prior assessment, and notice of this amending, canceling or confirming be given by the Village Clerk-Treasurer as provided in § 50-22 of this article.

## § 50-24. Where cost of improvement is less than assessment.

If the cost of the work or improvement is less than the assessment levied, the Village Board, without notice or hearing, shall reduce each assessment proportionately. If the assessment has been paid either in part or in full, the Village shall refund the property owner such overpayment.

## § 50-25. Appealed assessments payable when due.

Pursuant to § 66.0703(12)(f), Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable, and upon default in payment any such appeal shall be dismissed.

## § 50-26. Special assessment a lien on property.

Pursuant to § 66.0703(13), Wis. Stats., any special assessment levied under this article shall be a lien on the property against which it is levied on behalf of the Village. The Village Board shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Village Board shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property, and all proceedings in relation to the collection of such delinquent taxes shall apply to such assessment, except as otherwise provided by statute.

## § 50-27. Special charges permissible.

- A. In addition to all other methods provided by law, special charges for current services may be imposed by the Village Board by allocating all or part of the cost of the service to the property served. Such service may include snow and ice removal, weed elimination, street sprinkling, oiling or tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, recycling, stormwater management, sewer service, and tree care or removal and disposition of dead animals. The Village Board may determine the manner of providing notice of a special charge. Before a special charge for street tarring or the repair of sidewalks, curbs or gutters may be imposed, the Village Board shall conduct a hearing on whether the service in question will be funded in whole or in part by a special charge. Notice of the hearing shall be given as provided in § 66.0627(3)(b), Wis. Stats. Amounts less than \$100 shall be paid in one installment.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. Such special charges shall not be payable in installments. If not paid within the period fixed by the Village Board, such delinquent charge shall become a lien as provided in § 50-26 of this article.
- C. Section 50-18A of this article shall not be applicable to proceedings under this section.

## § 50-28. Miscellaneous provisions.

- A. If any assessment or charge levied under this article is invalid because such statutes are found to be unconstitutional, the Village Board may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.
- B. The Village Board may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property benefited if notice and hearing is waived in writing by property owners affected.
- C. Notwithstanding any other provision of law, or this or other ordinance or resolution, it is specifically intended and provided by this article that the Village may levy special assessments for work or improvement against the property benefited either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.
- D. If any affected property owner objects to the Village performing or contracting the work or improvement, said property owner(s) shall be entitled to contract individually the required work or improvement as long as it is performed in a reasonable and workmanlike manner. Upon prior approval by the Village, the Village agrees to reimburse the property owner(s) for a portion of said bill at a rate to be determined by the Village Board, annually.

## § 50-29. Special assessment bonds.

As an alternative to any other financing method, the Village Board may provide for the payment of the initial cost of any public improvement from the proceeds of special assessment "B" bonds issued under § 66.0713(4) and (5), Wis. Stats. Special assessments to retire such bonds and pay the interest thereon shall be levied under § 66.0703, Wis. Stats., payable in such installments at a rate to be determined by the Board based upon borrowed money rates at the time of the special assessment.

## Article III. Room Tax

[Adopted 2-1-2004]

## § 50-30. Definitions and election to participate.

A. In this article, the following definitions shall apply:

**COMMISSION**

An entity created by one or more municipalities in a zone to coordinate tourism promotion and development for the zone.

**GROSS RECEIPTS**

Total revenue received from the retail furnishing of rooms, lodging or similar accommodations by a hotel or motel, as defined herein.

**GROSS REVENUES**

Has the meaning as defined in § 76.48(1g)(d), Wis. Stats., insofar as applicable.

**HOTEL or MOTEL**

A building or a group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, bed-and-breakfast establishments, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins, commercial indoor lodging facilities and any other building or group of building in which accommodations are available to the public, except accommodations rented for a continuous period of more than 30 consecutive days and accommodations furnished by any hospitals, sanitariums or nursing homes or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

**MUNICIPALITY**

The Village of Neshkoro, Marquette County, Wisconsin

**PAYOR**

The person or entity that owes the tax imposed by this article.

**ROOM TAX**

The tax imposed by this article.

**TOURISM**

Any travel for recreational, business or educational purposes.

**TOURISM ENTITY**

A nonprofit organization that came into existence before January 1, 1992, and provides staff, development or promotional services for the tourism industry in a municipality.

**TRANSIENT**

Any person residing for a continuous period of less than 30 consecutive days in a hotel, motel or other furnished accommodations available to the public.

**ZONE**

Shall have the meaning set forth in § 66.0615(1)(h), Wis. Stats., and shall cover the area of all municipalities in Marquette County, Wisconsin, that elect to be so included. For the purpose of this article, the Village of Neshkoro elects to be included in this zone and hereby agrees that the entirety of this zone is perceived to be a single destination by the traveling public.

B. The members of the zone and specifically the Village of Neshkoro elect hereby to create a Commission, as defined in § 66.0615(1)(a), Wis. Stats., to coordinate tourism promotion and development for the zone. Membership of the Commission shall include at least 1/2 of its members drawn from representatives of the Wisconsin lodging and tourism industry and shall also be established in accord with § 66.0615(1m)(c)2, Wis. Stats.

**§ 50-31. Imposition of tax.**

Pursuant to § 66.0615, Wis. Stats., a tax is hereby imposed on the privilege and services of furnishing, at retail, of rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public. Irrespective of whether membership is required for the use of the accommodations, such tax shall be at the rate of 4.5% of the gross receipts from such retail furnishing of rooms or lodgings. [Such tax shall not be subject to the selective sales tax imposed by § 77.52(2)(a)1, Wis. Stats., and may not be imposed upon sales to the federal government and persons listed under § 77.54(9a), Wis. Stats.]

## § 50-32. Distribution of room taxes collected.

- A. Upon receipt of the room taxes that are collected, the municipality shall distribute 75% of room taxes to the Commission and shall retain 25% in the municipality's general fund.
- B. Tracking and reporting room tax revenue expenditures. The tourism entity shall track and measure the impact of all room tax revenue expenditures and shall permit and allow inspections of its records pertaining to the use of the room tax funds upon request of the municipalities at reasonable times. The tourism entity shall report at least annually to the Commission the purposes for which the room tax revenues it received were spent and the impact of such expenditures as stated above, and the Commission in turn shall report back to the municipality the purposes for which the room tax revenues it received were spent. No room tax revenue may be used to construct or develop a lodging facility. The Commission shall permit and allow inspections of its records pertaining to the use of the room tax funds upon request of the municipality, at reasonable times.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 50-33. Collection of tax.

The Village Clerk-Treasurer shall administer the collection of the tax imposed by this article. The tax imposed is due and payable on the last day of the month next succeeding the calendar quarters for which imposed. A return shall be filed with the Village Clerk-Treasurer by those furnishing at retail such rooms and lodging on or before the same date on which the tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarters from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and other information as the Village Clerk-Treasurer deems necessary. Every person required to file such a quarterly return shall, with their first returns, elect to file an annual calendar- or fiscal-year return. Such annual return shall be filed within 90 days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain such additional information as the Village Clerk-Treasurer requires. Such annual returns shall be made on forms as prescribed by the Village Clerk-Treasurer. All such returns shall be signed by the person required to file a return or his/her duly authorized agent but need not be verified by oath. The Village Clerk-Treasurer may, for good cause, extend the time for filing any return but in no event longer than one month from the filing date. The correct amount of tax shall accompany each quarterly tax return and be made payable to the municipality. Any unpaid tax imposed by this article may, in addition to other penalties available herein, be deemed to be an assessment on any land owned by the payor inside the legal boundaries of the municipality.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 50-34. Sale or conveyance of business.

If any person liable for any amount of tax under this article sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Village Clerk-Treasurer that it has been paid or a certificate stating that no amount is due. If any persons subject to the tax imposed by this article fail to withhold such amount of tax from the purchase price as required, they shall become

personally liable for payment of the amount required to be withheld by them to the extent of the price of the accommodations valued in money.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 50-35. Determination of tax by audit.

- A. The Village Clerk-Treasurer may, by office audit, determine the tax required to be paid to the municipality or the refund due to any person under this article. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any other information within the Village Clerk-Treasurer's possession. One or more such office audit determinations may be made of the amount due for any one or for more than one period.
- B. The Village Clerk-Treasurer may, by field audit, determine the tax required to be paid to the municipality or the refund due to any person under this article. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the Village Clerk-Treasurer's possession. Whenever the Village Clerk-Treasurer has probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, the Village Clerk-Treasurer is authorized to examine and inspect the books, records, memoranda and property of any person in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the Village Clerk-Treasurer from making a determination of tax at any time.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 50-36. Failure to file return.

If any person fails to file a return by this article, the Village Clerk-Treasurer shall make an estimate of the amount of the gross receipts under § 50-35B. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the Village Clerk-Treasurer's possession or may come into his/her possession. On the basis of this estimate, the Village Clerk-Treasurer shall compute and determine the amount required to be paid to the municipality, adding to the sum thus arrived at a penalty equal to 10% thereof. One or more such determinations may be made for one or more than one period.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 50-37. Forfeiture relating to returns not filed timely.

A forfeiture of 25% of the tax imposed for the previous year or \$5,000, whichever is less, is hereby established and is due and owing in the event that the room tax is not paid within 30 days after the due date of the return. In addition to this forfeiture, all unpaid taxes under this article shall bear interest at the rate of 12% per annum from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the Village Clerk-Treasurer. All refunded taxes shall bear interest at 12% per annum from the due date of the return until the first day of the month following the month in which said taxes are refunded. An extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computation. If the Village Clerk-Treasurer determines that any overpayment of tax has been made intentionally or by reason of carelessness or neglect, or if the tax was not accompanied by a complete return, he shall not allow any interest thereon.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 50-38. Delinquent tax returns.

Delinquent tax returns shall be subject to a late filing fee of \$25. The tax imposed by this article shall become delinquent if not paid by the due date of the return.

## § 50-39. Filing of fraudulent returns.

If a person files a false or fraudulent return with the intent in either case to defeat or evade the tax imposed by this article, a penalty of 50% shall be added to the tax required to be paid, exclusive of interest and other penalties.

## § 50-40. Posting of security as requested.

In order to protect the revenue of the municipality, the Village Clerk-Treasurer may require any person liable for the tax imposed by this article to place with him or her such security, not in excess of \$5,000, as the Village Clerk-Treasurer determines. If any taxpayer is delinquent in the payment of taxes imposed by this article, the Village Clerk-Treasurer may, upon 10 days' notice, recover the taxes, interest and penalties from the security placed with the Village Clerk-Treasurer by such taxpayer. No interest shall be paid or allowed by the municipality to any person for the deposit of such security.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 50-41. Recordkeeping requirements.

Every person liable for the tax imposed by this article shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the Village Clerk-Treasurer requires.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 50-42. Confidentiality of tax returns.

All tax returns, schedules, exhibits, writings and audit reports relating to such returns on file with the Village Clerk-Treasurer shall be deemed to be confidential. The Village Clerk-Treasurer may only divulge the information contained therein to the following persons: the person who filed the return; the officers, employees, or agents of the Village Clerk-Treasurer; other persons for use in the discharge of their duties as imposed by law or in the discharge of the duties of their office (unless otherwise prohibited by law); or by an order of a court. No person in the administration of this article shall disclose the business affairs, operations or information obtained through an investigation of records from anyone upon whom a tax is imposed by this article. Neither shall the amount or source of income, profits, losses, expenditures nor any part thereof that is set forth or disclosed in any return be further disclosed. No such administrator shall permit any return or copy thereof to be seen nor examined by any person, except as provided in this section or by any subsequent ordinances or resolutions adopted by the municipality pertaining to the confidentiality of the information described in this section. Persons that violate this section may be required to forfeit not less than \$100 or more than \$500 for each such act committed.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 50-43. Violations and penalties.

Any person who is subject to the tax imposed by this article who fails or refuses to permit the inspection of records by the Village Clerk-Treasurer after such inspection has been duly requested by the Village Clerk-Treasurer, or who fails to file a return as provided in this article, or who fails to post security requested by the Village Clerk-Treasurer, or who violates any other provisions of this article, shall be subject to a forfeiture not to exceed \$250 for each day or portion thereof that such violation continues. Each day is hereby deemed to constitute a separate offense. The total forfeiture imposed shall not exceed 5% of the tax imposed by this article upon said person.

## § 50-44. Exemptions.

A. The effective date of this agreement shall be the date upon which the last listed municipality so enters.<sup>[1]</sup>

[1] *Editor's Note: Former Subsection A, which contained provisions that applied only to the 2004 Tax Year which have expired and which subsection immediately preceded this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

B. It is anticipated that from time to time the area that the public perceived to be a single destination will change and additional municipalities will recognize that they have become part of that geographic area; therefore, it is anticipated that additional municipalities may join this agreement in the future, by mutual agreement of all municipalities then involved.

## Chapter 55. Fire Department

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Sec. 5-2-1 of the 1999 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Fire Department officers — See § 93-7.

Fire prevention — See Ch. 260.

### § 55-1. Fire Department recognized.

The Neshkoro Fire Department is officially recognized as the fire department of the Neshkoro Area Fire Protection District (NAFPD) serving the Village of Neshkoro, and the duties of firefighting and fire prevention in the Village are delegated to such Department. The NAFPD shall be responsible for the program of fire defense for the citizens and property within the Village of Neshkoro.<sup>[2]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: Original Sec. 5-1-1(b), Appropriation, which immediately followed this section, was deleted time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 55-2. Goals of the fire defense program.

A. The primary objective of the fire defense program is to serve all citizens, without prejudice or favoritism, by safeguarding, collectively and individually, their lives against the effects of fires and explosions.

B. The second objective of the fire defense program is to safeguard the general economy and welfare of the community by preventing major conflagrations and the destruction by fire of industries and businesses.

C. The third objective of the fire defense program is to protect the property of all citizens against the effects of fire and explosions. All property deserves equal protection regardless of location or monetary value.

### § 55-3. Bylaws governance.

The Neshkoro Fire Department is organized and governed pursuant to its bylaws and the bylaws of the NAFPD.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 93. Officers and Employees

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 2, Ch. 3, of the 1999 Code. Amendments noted where applicable.]

## **GENERAL REFERENCES**

Administrative review — See Ch. 7.

Elections — See Ch. 34.

Ethics — See Ch. 41.

Records — See Ch. 118.

Village Board — See Ch. 140.

## **§ 93-1. General provisions.**

- A. General powers. Officers shall have generally the powers and duties prescribed for like officers of towns and villages, except as otherwise provided, and such powers and duties as are prescribed by law and, except as to the Village President, shall perform such duties as shall be required of him/her by the Village Board. Officers whose powers and duties are not enumerated in Ch. 61, Wis. Stats., shall have such powers and duties as are prescribed by law for like officers or as are directed by the Village Board.
- B. Rules. All officers and departments may make the necessary rules for the conduct of their duties and incidental proceedings, subject to prior approval by the Village Board.
- C. Applicability of ethics statutes. The general laws for the punishment of bribery, misdemeanors and corruption in office shall apply to Village officers.
- D. Legal representation. Whenever a Village official in his/her official capacity is proceeded against or obliged to proceed before any civil court, board or commission to defend or maintain his/her official position or because of some act arising out of the performance of his/her official duties, and he/she has prevailed in such proceedings or the Village Board has ordered the proceedings discontinued, the Board may provide for payment to such official such sum as it sees fit, to reimburse him/her for the expenses reasonably incurred for costs and attorneys' fees.

## **§ 93-2. Appointed officials.**

The Village officials hereinafter set forth shall be appointed:<sup>[1]</sup>

<b>Official</b>	<b>How Appointed</b>	<b>Term</b>
Assessor	Village President, subject to confirmation by the Village Board	By contract
Attorney	Village President, subject to confirmation by the Village Board	Pleasure of Board
Engineer (consulting)	Village President, subject to confirmation by the Village Board	Pleasure of Board
Chief of Police	Village Board	Indefinite
Director of Public Works	Village President, subject to confirmation by the Village Board	Indefinite
Clerk-Treasurer	Village President, subject to confirmation by the Village Board	Indefinite

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## **§ 93-3. Village Clerk-Treasurer.**

- A. Consolidated offices. Pursuant to §§ 61.195, 61.197 and 66.0101, Wis. Stats., the Village of Neshkoro hereby elects not to be governed by those portions of §§ 61.19, 61.25 and 61.26, Wis. Stats., which relate to the selection and tenure of the Clerk and Treasurer and which are in conflict with this section. The offices of Village Clerk and Village Treasurer are hereby consolidated, and the duties of both offices shall be performed by the person appointed as Village Clerk-Treasurer by the Village President, subject to confirmation by the Village Board.
- B. Term. The appointed Village Clerk-Treasurer shall hold office for an indefinite term, subject to removal as provided in § 17.13, Wis. Stats.
- C. Audits. Annual audits shall be made of the records of the Clerk-Treasurer, with the audit to be made by a certified public accountant.
- D. Duties as Clerk. In his/her capacity as Village Clerk, the Village Clerk-Treasurer shall be responsible for performing those duties required by the Wisconsin Statutes and for the following additional duties:
- (1) Perform all election duties as required by Wisconsin Statutes and keep and maintain all election records and all property used in conjunction with holding of elections;
  - (2) Publish all legal notices unless otherwise provided; file and preserve all contracts, bonds, oaths of office and other documents not required to be filed elsewhere;
  - (3) Issue all licenses required by ordinance or statute, except as otherwise provided;
  - (4) Attend meetings, take minutes and maintain files for the Village Board and such other official boards and commissions as may be directed;
  - (5) Maintain a file of all Village records, ordinances, resolutions and vouchers;
  - (6) Type and distribute reports for the Village Board and for federal and state agencies;
  - (7) Audit and obtain approval on claims charged against the Village;
  - (8) Assist the Assessor in maintaining property assessment records;
  - (9) Administer oaths and affirmations;
  - (10) Issue licenses to various vendors in the Village;<sup>[2]</sup>  
*[2] Editor's Note: Original Sec. 2-3-3(d)(11), which immediately followed this subsection and duplicated material elsewhere in the section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (11) Develop and implement improved internal control and financial reporting procedures as necessary or as directed;
  - (12) File financial and other reports with various state agencies;
  - (13) File insurance claims on behalf of the Village;
  - (14) Locate suppliers of goods or services and obtain quotes;
  - (15) Advertise for bids, receive them and summarize the results;
  - (16) Identify and evaluate ideas to achieve more efficient and effective operation;
  - (17) Coordinate, supervise and conduct elections;
  - (18) Confer with the Village President, department heads and Village Board committees about projects and problems; and
  - (19) Maintain personnel files.

- E. Duties as Treasurer. In his/her capacity as Village Treasurer, the Village Clerk-Treasurer shall be responsible for performing those duties required by the Wisconsin Statutes and for the following additional duties:
- (1) Prepare the tax roll and tax notices required by the State of Wisconsin;
  - (2) Prepare financial and bank statements;
  - (3) Maintain fiscal records for the Village;
  - (4) Make reports to the state on assessments;
  - (5) Prepare and send invoices for services provided by municipal utilities;
  - (6) Perform recordkeeping, billing, collections, banking, investments, accounting and financial reporting of all Village operations, including utilities;
  - (7) Collect all taxes for the Village and other taxing bodies;
  - (8) Invest idle funds for maximum interest earnings;
  - (9) Prepare monthly financial report;
  - (10) Maintain payroll records and prepare payroll checks from approved employee time sheets;
  - (11) Prepare check vouchers for payment of approved claims for signature; and
  - (12) Coordinate the preparation and compilation of the annual Village budget.
- F. Duties prescribed by law. The Clerk-Treasurer shall perform such other duties as are prescribed by state statutes and by order of the Village Board. The Clerk-Treasurer generally shall perform, under direction of the Village President or other presiding officer of the Board, all duties pertaining to his/her office as Clerk-Treasurer and shall be responsible for all the official acts of assistants.
- G. Liability. See § 50-2, Village liability for Treasurer's default, in this Code.<sup>[3]</sup>
- [3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [1] *Editor's Note: This section was originally adopted by charter ordinance.*

## § 93-4. Deputy Clerk-Treasurer.

The Clerk-Treasurer may appoint a Deputy Clerk-Treasurer(s), subject to confirmation by a majority of all the members of the Village Board. The Deputy Clerk-Treasurer(s) shall have an indefinite term of office. The Deputy Clerk-Treasurer(s) shall act under the Village Clerk-Treasurer's direction and, during the temporary absence or disability of the Village Clerk-Treasurer or during a vacancy in such office, shall perform the duties of Village Clerk-Treasurer. The acts of the deputy(ies) shall be covered by official bond as the Village Board shall direct.

## § 93-5. Village Attorney.

- A. Appointment. The Village Attorney is an appointed position. The Village Attorney shall be appointed pursuant to § 93-2, except the Village Attorney shall serve at the pleasure of the Board.
- B. Duties. The Village Attorney shall have the following duties. The Village Attorney:
- (1) Shall conduct all of the legal business in which the Village is interested.
  - (2) Shall, when requested by Village officers, give written legal opinions, which shall be filed with the Village.
  - (3) Shall draft ordinances, bonds and other instruments as may be required by Village officers.

- (4) May appoint an assistant, who shall have power to perform his/her duties and for whose acts he/she shall be responsible to the Village. Such assistant shall receive no compensation from the Village unless previously provided by ordinance.
  - (5) Shall perform such other duties as provided by state law and as designated by the Village Board.
- C. Special counsel. The Village Board may employ and compensate special counsel to assist in or take charge of any matter in which the Village is interested.

## § 93-6. Chief of Police.

- A. Appointment. The Chief of Police shall be appointed pursuant to § 93-2. The Chief shall exercise the powers and duties of village marshals and village constables and any other powers and duties as provided from time to time by the Village Board.
- B. General duties. The Chief of Police shall have the duties provided in § 102-4 of this Code.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 93-7. Fire Department officers.

Fire Department officers shall be selected by the Fire Chief.<sup>[2]</sup>

- [1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*  
*[2] Editor's Note: Original Sec. 2-3-8, Weed Commissioner, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now § 140-6, Weed Committee.*

## § 93-8. Director of Public Works.

- A. Appointment. The Director of Public Works shall be appointed pursuant to § 93-2. Generally, the Director of Public Works shall maintain, service, inspect and/or repair all Village public works equipment and property, including street equipment, streets and street rights-of-way, Village parks, Village buildings and other items, as determined by the Village Board.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. Duties and powers. The Director of Public Works shall have the following duties and powers:
- (1) General duties.
    - (a) He/she shall have general charge and supervision of certain public works in the Village.
    - (b) He/she shall be responsible for the maintenance, repair and construction of parks, streets, alleys, curbs and gutters, sidewalks, bridges, street signs, Village buildings and structures and all related machinery, equipment and property used in such activity.
    - (c) He/she shall have charge of certain public services, including snow and ice removal, street cleaning, flushing and street maintenance.
    - (d) He/she shall perform such other activities and duties as are imposed upon him/her from time to time by the Village Board, his/her job description or employment contract.
  - (2) Maintain, clean and repair streets and roads. The Director of Public Works shall:
    - (a) Plow and remove snow as needed.
    - (b) Clean and sweep streets.

- (c) Repair streets and roads with proper materials as needed.
  - (d) Mow grass as needed.
  - (e) Assess street repair and replacement needs as directed by the Board.
- (3) Maintain Village buildings and equipment. The Director of Public Works shall:
- (a) Clean, maintain, paint and service Village buildings, as needed and as directed by the Board.
  - (b) Keep buildings in safe condition to meet all state and local building and safety code requirements.
  - (c) Maintain and service all Village vehicles and machinery, as needed and as directed by the Board.

## § 93-9. Assessor.

- A. Pursuant to §§ 61.195, 61.197 and 66.0101, Wis. Stats., the Village hereby elects not to be governed by those portions of §§ 61.19 and 61.23, Wis. Stats., which relate to the selection and tenure of the Village Assessor and which are in conflict with this section.
- B. Hereafter, instead of being elected, the Assessor or assessing firm shall be appointed by the Village President, subject to confirmation by a majority vote of the members-elect of the Village Board. Said person so appointed to perform the duties of such office shall have an indefinite term and shall serve as determined by contract. A corporation or an independent contractor may be appointed as the Village Assessor. The corporation or independent contractor so appointed shall designate the person responsible for the assessment. The designee shall file the official oath under § 19.01, Wis. Stats., and sign the affidavit of the Assessor attached to the assessment roll under § 70.49, Wis. Stats. No person may be designated by any corporation or independent contractor unless he/she has been granted the appropriate certification under § 73.09, Wis. Stats. For purposes of this subsection, "independent contractor" means a person who either is under contract to furnish appraisal and assessment services or is customarily engaged in an independently established trade, business or profession in which the services are offered to the general public.
- C. Whenever the Assessor, in the performance of the Assessor's duties, requests or obtains income and expense information pursuant to § 70.47(7)(af), Wis. Stats., or any successor statute thereto, then such income and expense information that is provided to the Assessor shall be held by the Assessor on a confidential basis; except, however, that the information may be revealed to and used by persons in the discharge of duties imposed by law; in the discharge of duties imposed by office (including but not limited to use by the Assessor in performance of official duties of the Assessor's office and use by the Board of Review in performance of its official duties); or pursuant to order of a court. Income and expense information provided to the Assessor under § 70.47(7)(af), unless a court determines that it is inaccurate, is, per § 70.47(7)(af), not subject to the right of inspection and copying under § 19.35(1), Wis. Stats.<sup>[1]</sup>

[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 93-10. Building Inspector.

- A. Appointment. There is hereby created the position of Building Inspector, which position shall be filled by the Village entering into a contractual agreement with a certified Uniform Dwelling Code (UDC) inspection agency. The Building Inspector shall be certified by the Department of Commerce as specified in § 101.66(2), Wis. Stats., in the category of Uniform Dwelling Code Construction Inspector. In addition, the Building Inspector or other assistant inspectors shall possess certification in the categories of UDC HVAC, UDC Electrical and UDC Plumbing.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. Authority to enter premises; appeals.
- (1) In the discharge of his/her respective duties, each Inspector under this section or his/her authorized agent may enter any building, upon presentation of the proper credentials, during reasonable hours for the purpose of inspection and may require the production of any permit or license required hereunder. No person shall interfere with the Inspector or his/her authorized agent while in the performance of his duties, and any person so interfering shall be in violation of this section and subject to a penalty as provided by § 1-4 of the Code.
  - (2) If consent to entry to personal or real properties which are not public buildings or to portions of public buildings which are not open to the public for inspection purposes has been denied, the Inspector shall obtain a special inspection warrant under § 66.0119, Wis. Stats.
- C. Duties and authority. The Building Inspector shall have such responsibilities as are prescribed in this section and the following chapters of this Code: Chapter **107**, Article **I**, Grievance Procedure; Chapter **200**, Building Construction; Chapter **226**, Construction Site Erosion Control; Chapter **252**, Fair Housing; Chapter **300**, Historic Preservation; and Chapter **396**, Property Maintenance, Articles **I** and **II**.
- D. Stop-work orders and revocations. The Building Inspector may order construction, installation, alteration or repair work stopped when such work is being done in violation of this Code. Work so stopped shall not be resumed, except with written permission of the Inspector, provided that if the stop-work order is an oral one it shall be followed by a written order within a reasonable period of time.
- E. Conflict of interest. No Inspector shall inspect any construction work in the Village in which the Inspector has a personal or financial interest, either direct or indirect.

## § 93-11. Eligibility for office.

- A. No person shall be elected by the people to a Village office who is not at the time of his/her election a citizen of the United States and of this state and an elector of the Village and, in case of a ward office, of the ward, and actually residing therein.
- B. An appointee by the Village President required to be confirmed by the Village Board who shall be rejected by the Board shall be ineligible for appointment to the same office for one year thereafter.

## § 93-12. Oaths of office.

- A. Oath of office. Every officer of the Village, including members of Village boards and commissions, shall, before entering upon his/her duties and within five days after notice of his/her election or appointment, take the oath of office prescribed by law and file such oath in the office of the Village Clerk-Treasurer. Any person reelected or reappointed to the same office shall take and file an official oath for each term of service.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. Form; procedure. The form, filing and general procedure for the taking of oaths shall be governed by Ch. 19, Subch. I, Wis. Stats.

## § 93-13. Vacancies.

- A. How occurring. Except as provided in Subsection **C** below, vacancies in elective and appointive positions occur as provided in §§ 17.03 and 17.035, Wis. Stats.

- B. How filled. Vacancies in elective and appointive offices shall be filled as provided in § 17.24, Wis. Stats.
- C. Temporary incapacitation. If any officer be absent or temporarily incapacitated from any cause, the Board may appoint some person to discharge his/her duties until he/she returns or until such disability is removed.

## § 93-14. Removal from office.

- A. Elected officials. Elected officials may be removed by the Village Board as provided in §§ 17.13(2) and 17.16, Wis. Stats.
- B. Appointed officials. Appointed officials may be removed as provided in §§ 17.13(1) and 17.16, Wis. Stats.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 93-15. Custody of official property.

Village officers must observe the standards of care imposed by § 19.21. Wis. Stats., with respect to the care and custody of official property.

# Chapter 102. Police Department

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 5, Ch. 1, of the 1999 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Citations — See Ch. 22.

Police Chief — See § 93-6.

## § 102-1. Organization of Police Department.

The Village of Neshkoro Police Department shall consist of a Chief of Police and such other full- or part-time officers, assistants and patrol officers as from time to time may be appointed by the Village Board pursuant to the provisions of the Wisconsin Statutes.

## § 102-2. Records and reports.

- A. Monthly reports. The Chief of Police shall give a monthly oral or written general report to the Village Board of all activities of the Department during the preceding month.
- B. Police records. There shall be kept by the Department a suitable record in which shall be entered the name of every person arrested in the Village, the name of the person making the arrest, the date and cause of the arrest, the Court from which the warrant was issued, the disposition made of the case, the amount of fine and costs paid and to whom paid, bond posted, and all complaints in full.

## § 102-3. General powers of police officers.

Every member of the Police Department shall:

- A. Familiarize himself/herself with the ordinances of the Village and the statutes and attend to the enforcement of such ordinances by all lawful means.
- B. Help prevent crimes, misdemeanors and violations of Village ordinances and protect the health, safety, public peace and order of the Village and its inhabitants.
- C. Report all street and sidewalk obstructions, unlighted street lamps, unlawful street signs or signals, and defective or dangerous streets and sidewalks to the appropriate person or organization responsible for their repair or service.
- D. Maintain order at the scene of a fire or any other fire response within the Village.
- E. See that the necessary permits and licenses issued by the state or Village are in the possession of or properly displayed by any person engaged in an activity or business within the Village for which such permit or license is required and that the terms of such permits or licenses are complied with.
- F. Perform such other lawful duties as ordered by the Chief of Police or his/her authorized representative.

## § 102-4. Responsibilities of Chief of Police.

- A. Duties. In addition to the duties imposed upon him/her elsewhere in this Code, the Chief of Police shall:<sup>[1]</sup>
  - (1) Have command of the Police Department. The Chief of Police shall have general administration and control of the Department and shall be responsible for the Department's government, efficiency and general good conduct. The Chief of Police shall perform all duties prescribed to him/her by the laws of the state and the ordinances of the Village and shall obey all lawful written orders of the Village Board or appropriate committee thereof.
  - (2) Cause to be maintained accurate records of complaints, crimes, traffic accidents, ordinance violations, arrests, summons, incidents and calls for police service and shall provide a system of periodic summary and analysis to ensure the most efficient and effective deployment and use of the Department's resources. The Chief of Police shall submit or cause to be submitted to the various agencies such reports and summaries as are required by state statutes or ordinances and shall participate in voluntary programs designed to improve law enforcement and public safety.
  - (3) Submit such reports and comply with such administrative procedures as may be prescribed by the Village Board relative to fiscal and administrative matters.
  - (4) Submit such reports and/or information and comply with such policies as may be prescribed by Village Board.
  - (5) Have control of the assignment, hours of duty, and transfer of all members of the Department.
  - (6) Plan, organize, staff, direct and control all of the human and material resources of the Department for the most effective and efficient discharge of its duty to protect persons and property, preserve the peace, protect the rights of citizens and enforce the Wisconsin Statutes and the ordinances of the Village as are within its jurisdiction. The Chief of Police may adopt, subject to the approval of the Village Board, rules and regulations for the government, discipline, equipment and uniforms of the police officers. The Chief of Police shall be solely responsible for the care and condition of the equipment used by his/her Department. The Chief of Police shall supervise the preparation and presentation of annual reports and budgets for the Police Department. The Chief of Police shall be required to certify to the correctness of all bills incurred by the Department.
  - (7) Strive to maintain suitable, productive relationships with other Village departments and with other governmental agencies and private organizations concerned with law enforcement,

crime prevention, administration of justice and public safety. The Chief of Police shall cooperate and exchange information with other Village departments in matters relating to their various functions. The Chief shall cooperate with other law enforcement officers in the arrest or apprehension of persons charged with crime.

- (8) Plan and execute programs designed to prevent and repress crime, apprehend and prosecute offenders, recover property, and regulate noncriminal conduct, giving highest priority in the allocation of resources to crime and other offenses most hazardous to life and property.
- (9) Cause the public peace to be preserved and may arrest and with reasonable diligence take before the proper court every person found in the Village engaged in any disturbance of the peace or violating any law of the state or ordinance of the Village. The Chief of Police shall see that all laws and ordinances of the Village and state are enforced. Whenever any violation thereof shall come to his/her knowledge, he/she shall cause the requisite complaint to be made and see that the evidence is procured for the successful prosecution of the offender or offenders.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. Custody of Department equipment. The Chief of Police shall be the custodian of all Village property, equipment and supplies under the control of or used by the Police Department and shall be responsible for the care, maintenance, safeguarding and accurate records of such property, equipment and supplies.
- C. Custody of Department property. The Chief of Police shall be the custodian of all property and shall be responsible for the safekeeping, lawful disposition and accurate record of the same. The Chief of Police shall see that all property is returned to its lawful owner or otherwise disposed of according to the applicable statutes.

## § 102-5. Rules and policies for the Police Department.

The Chief of Police shall establish and promulgate rules of conduct, directives and policies and procedures and prescribe such duties for individual members as he/she may deem necessary for the effective and efficient command and operation of the Department, provided no such rules of conduct, directive or policy procedure duties or assignment shall be in conflict with the statutes, ordinances and approved Village personnel rules and regulations.

## § 102-6. Maintenance of personnel records and performance evaluations.

The Chief of Police shall cause to be maintained adequate personnel records of employment, assignment, promotions, attendance, performance and training for all members of the Department. The Chief of Police shall also comply with all provisions of the Law Enforcement Standards Board in regard to background investigations. The Chief of Police shall keep himself/herself adequately informed of the activities of the Department and be assured that the duties of his/her subordinates are properly discharged. The Chief of Police shall formulate procedures for recognizing outstanding performance by Department members, for investigating complaints of misconduct by any Department member and for taking appropriate disciplinary action subject to the provisions of the applicable statutes, rules of the Department and the jurisdiction of the Village Board.

## § 102-7. Police Chief's responsibility for training.

The Chief of Police is responsible for the training of all members of the Department. The Chief of Police shall cause adequate and progressive programs of training to be organized and conducted to prepare Department members in the knowledge, procedures and techniques of their duties and

responsibilities. The Chief of Police will ensure that, within budgetary limitations, members of the Department attend training courses, seminars and conferences necessary to maintain and improve their job skills and professional knowledge. The Chief of Police shall encourage Department members to further their education in law enforcement through study, special courses, college attendance, extension programs, and independent readings.

## § 102-8. Civilians to assist.

All persons in the Village when called upon by any law enforcement officer shall promptly aid and assist him/her in the execution of his/her duties and whoever shall neglect or refuse to give such aid or assistance shall be subject to the general penalty as provided in § 1-4 of this Code.

# Chapter 107. Public Buildings, Programs, Services and Employment

[HISTORY: Adopted by the Village Board of the Village of Neshkoro as indicated in article histories. Amendments noted where applicable.]

## Article I. Grievance Procedure

[Adopted 4-5-1999 as Title 15, Ch. 6, of the 1999 Code]

### § 107-1. Statement of purpose.

- A. The Village of Neshkoro, in complying with the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, has developed a plan by which access to all Village programs, facilities, services and employment is guaranteed to all citizens. A transition plan has been adopted by the Village Board and is available from the Village Clerk-Treasurer. An ADA Coordinator has been appointed and an ADA Compliance Committee established. Concerns and/or complaints can be addressed to the ADA Coordinator, care of the Village Clerk-Treasurer.
- B. The ADA Coordinator and ADA Compliance Committee shall be annually appointed by the Village President, subject to confirmation by the Village Board, at the Board's organizational meeting. The ADA Compliance Committee should consist of five members and should, if possible, have a representative from each of the following fields:
  - (1) Business and/or nonprofit organization.
  - (2) Education.
  - (3) Disabled representative.
  - (4) Elected official.
  - (5) Health/medical.
- C. In the alternative, the duties of the ADA Compliance Committee may be delegated to a standing committee of the Village Board.
- D. Village letterhead and other applicable printed notices should contain the words "An equal opportunity/affirmative action employer."
- E. An ADA Committee meeting shall be treated as any other Village committee meeting, and notice shall be posted a minimum of 24 hours prior to the meeting.

## § 107-2. Complaint procedure.

- A. Complaints shall be filed with the ADA Coordinator, in care of the Village Clerk-Treasurer.
- B. A complaint shall be filed in writing, contain the name and address of the person filing it, and briefly describe the alleged violation or complaint.
- C. A complaint should be filed within 30 days after the complainant becomes aware of the alleged problem.
- D. An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation will be conducted by the ADA Coordinator.
- E. A written determination as to the validity of the complaint and description of the resolution, if any, shall be issued by the ADA Coordinator and a copy forwarded to the complainant no later than 20 days after its filing.
- F. The Village Clerk-Treasurer shall maintain the files and records of the Village relating to the complaints filed.

## § 107-3. Appeals.

- A. If unresolved, the complainant or ADA Coordinator may ask that the complaint be forwarded to the ADA Compliance Committee. The Committee may establish rules to review the complaint and will issue its written decision within 30 days. Review will be conducted in public with a minimum 24 hours' notice. All proceedings will be transcribed and maintained. The Committee will also review requests or suggestions from disabled persons regarding access to and participation in public facilities, services, activities and functions in the community.
- B. If unresolved, the complainant or ADA Coordinator may ask that the complaint be heard by the Village Board and that a determination be made within 30 days of the ADA Compliance Committee's hearing. The decision by the Board shall be final. An open, public meeting of the Village Board shall precede the vote.

## § 107-4. Other remedies.

The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other state or federal remedies. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies. However, the Village believes that resolution of the complaint will be more promptly achieved if the Village is able to provide a remedy before the complaint is brought to an external organization.

## § 107-5. Due process.

This article shall be construed to protect the substantive rights of interested persons and to meet appropriate due process standards.

## Chapter 118. Records

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 3, Ch. 3, of the 1999 Code. Amendments noted where applicable.]

## § 118-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

#### **ACTUAL COST**

The total cost of personnel including wages, fringe benefits and all other benefits and overhead related to the time spent in search of records.

#### **AUTHORITY**

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

#### **CUSTODIAN**

That officer, department head, division head, or employee of the Village designated under § **118-3** or otherwise responsible by law to keep and preserve any Village records, or to file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this chapter to respond to requests for access to such records.

#### **DIRECT COST**

The actual cost of personnel plus all expenses for paper, copier time, depreciation and supplies.

#### **RECORD**

Any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts, and optical disks. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale or which are available for inspection at a public library.

[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### **§ 118-2. Duty to maintain records.**

- A. Except as provided under §§ **118-7** and **118-8**, each officer and employee of the Village shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.
- B. Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody, and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the Village Clerk-Treasurer. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Village Clerk-Treasurer on behalf of the successor, to be delivered to such successor upon the latter's receipt.

### **§ 118-3. Legal custodian(s).**

- A. Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate the Village Clerk-Treasurer to act as the legal custodian.
- B. Unless otherwise provided in Subsection **C**, the Village Clerk-Treasurer or the Village Clerk-Treasurer's designee shall act as legal custodian for the Village and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the Village Board. The following offices or authorities shall have as a legal custodian of records the individual so named.<sup>[1]</sup>

<b>Authority</b>	<b>Designated Legal Custodian</b>
General Village records (including Board records)	Village Clerk-Treasurer
Department of Public Works	Director of Public Works
Police Department	Chief of Police

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- C. For every authority not specified in Subsections **A** and **B**, the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.
- D. Each legal custodian shall name a person to act as legal custodian in his or her absence or in the absence of his or her designee, and each legal custodian shall send notice of the designated deputy to the Village Clerk-Treasurer.
- E. The Village Clerk-Treasurer shall establish criteria for establishing the records system and shall cause the department/office records system to be reviewed on an annual basis.

## § 118-4. Public access to records.

- A. Except as provided in § **118-6**, any person has a right to inspect a record and to make or receive a copy of any record of provided in § 19.35(1), Wis. Stats.
- B. Records will be available for inspection and copying during all regular office hours.
- C. If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least 48 hours' advance notice of intent to inspect or copy.
- D. A requester shall be permitted to use facilities comparable to those available to Village employees to inspect, copy or abstract a record.
- E. The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.
- F. A requester shall be charged a fee as set by the Village Board to defray the cost of copying records.<sup>[1]</sup>
  - (1) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
  - (2) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audiotapes and videotapes, shall be charged.
  - (3) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
  - (4) There shall be no charge for locating a record unless the actual cost therefor exceeds \$50, in which case the actual cost shall be determined by the legal custodian and billed to the

requester.

- (5) The legal custodian shall estimate the cost of all applicable fees and shall require a cash deposit adequate to assure payment if such estimate exceeds \$5.
- (6) Elected and appointed officials of the Village shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
- (7) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). The current Fee Schedule is on file in the Village office.*

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

## § 118-5. Access procedures.

- A. A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under § 19.37, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under § **118-4F(5)**. A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.
- B. Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the Village Attorney, determines that a written request is so general as to be unduly time-consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.
- C. A request for a record may be denied as provided in § **118-6**. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that, if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under § 19.37(1), Wis. Stats., or upon application to the Attorney General or a district attorney.

## § 118-6. Limitations on right to access.

- A. As provided in § 19.36, Wis. Stats., the following records are exempt from inspection under this chapter.
  - (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;

- (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;
  - (3) Computer programs and files, although the material used as input for a computer program/file or the material produced as a product of the computer program is subject to inspection; and
  - (4) Pursuant to § 905.08, Wis. Stats., a record or any portion of a record containing information qualifying as a trade secret, as defined in § 134.90(1)(c), Wis. Stats.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. As provided by § 43.30, Wis. Stats., public library circulation records are exempt from inspection under this section.
- C. In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the Village Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:
- (1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
  - (2) Pursuant to § 19.85(1)(a), Wis. Stats., records of current deliberations after a quasi-judicial hearing.
  - (3) Pursuant to § 19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of any Village officer or employee, or the investigation of charges against a Village officer or employee, unless such officer or employee consents to such disclosure.
  - (4) Pursuant to § 19.85(1)(d), Wis. Stats., records concerning current strategy for crime detection or prevention.
  - (5) Pursuant to § 19.85(1)(e), Wis. Stats., records of current deliberations or negotiations on the purchase of Village property, investing of Village funds, or other Village business whenever competitive or bargaining reasons require nondisclosure.
  - (6) Pursuant to § 19.85(1)(f), Wis. Stats., financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
  - (7) Pursuant to § 19.85(1)(g), Wis. Stats., communications between legal counsel for the Village and any officer, agent or employee of the Village, when advice is being rendered concerning strategy with respect to current litigation in which the Village or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under § 905.03, Wis. Stats.
  - (8) Pursuant to § 19.85(1)(h), Wis. Stats., requests for confidential written advice from an ethics board, and records of advice given by such ethics board on such requests.
- D. If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the Village Attorney prior to releasing any such record and shall follow the guidance of the Village Attorney when separating out the exempt material. If, in the judgment of the custodian and the Village Attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

## § 118-7. Retention and destruction of records.

- A. Historical records. Under § 19.21(4)(a), Wis. Stats., municipalities must notify the State Historical Society of Wisconsin (SHSW) prior to destroying records. However, the SHSW has waived the required 60 days' notice for any record marked "W" (waived notice). SHSW must be notified prior to destruction of a record marked "N" (nonwaived). Notice is also required for any record not listed in this section.
- B. Microfilming or optical imaging of records. Local units of government may keep and preserve public records through the use of microfilm, providing the microfilm or optical imaging meets the applicable standards in § 16.612, Wis. Stats. Retention periods and estimated costs and benefits of converting records between media should be considered. After verification, paper records converted to microfilm or optical imaging should be destroyed. The retention periods identified in this section apply to records in any media.
- C. Destruction after request for inspection. No requested records may be destroyed until after the request is granted or 60 days after the request is denied. If an action is commenced under § 19.37, Wis. Stats., the requested record may not be destroyed until after a court order is issued and all appeals have been completed. [See § 19.35(5), Wis. Stats.]
- D. Destruction pending litigation. No record subject to pending litigation shall be destroyed until the litigation is resolved.
- E. Review and approval by Public Records Board. This chapter and the retention periods of less than seven years have been reviewed and approved by the Public Records Board.<sup>[1]</sup>  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- F. Legend. The following terms shall be applicable in §§ 118-7 and 118-8:

### RECORDS DESCRIPTION

Provides a brief description of the records. Group specific items such as forms into logical groups that have the same function or purpose.

### PERIOD OF RETENTION

Refers to the time that the identified records must be kept until destruction.

- (1) **CR** stands for "creation" which usually refers to receipt or creation of the record.
- (2) **FIS** stands for "current fiscal year" and the additional amount of time as indicated.
- (3) **EVT** stands for "event" and refers to an occurrence that starts the retention clock ticking. Close of contract, termination of employees, and disposition of a case are common events.
- (4) **P** stands for "permanent" retention.

### TIME

Is expressed in years unless specifically identified as month or day.

### AUTHORITY

Refers to any specific statutory, administrative rule, or specific regulation that determines retention of the record. In most cases this will be blank because units of government have discretion to establish a time period.

### SHSW NOTIFY

Refers to whether or not the State Historical Society of Wisconsin has waived the required statutory notification prior to destruction of records.

- (1) **W** means records are not historical and the required notification is waived.

(2) **N** means the records may have secondary historical value and therefore SHSW notification is required on a case-by-case basis prior to destruction.

(3) **N/A** means "not applicable" and refers to those circumstances where a local unit of government is retaining a record permanently.

## § 118-8. Specific records retention provisions.

A. Accounting records. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Accounts Payable:			
Purchase invoices	FIS + 7 years		W
Vouchers	FIS + 7 years		W
Accounts Receivable:			
A/R invoices	FIS + 7 years		W
Receipts	FIS + 7 years		W
Collection blotters	EVT + 1 year (after audit)		W

B. Board of Review records. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Form of objection to property assessment and supporting documentation	EVT + 7 years (after final action by Board of Review or completion of appeal)		W
Minute book of Board of Review	CR + 7 years		N
Proceedings of the Board of Review on audiotapes or as stenographic notes including any transcriptions thereof	EVT + 7 years (after final action by Board of Review or completion of appeal)		W
Notice of determinations of the Board of Review	EVT + 7 years (after final action by the Board of Review or completion of appeal)		W

C. Budget and audit records. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Budget worksheets	FIS + 3 years		W
Minutes of the Board of Estimates	Permanent		N/A
Final budget	Permanent		N/A
Audit reports	Permanent		N/A

D. Building permits and inspection records. The following records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Applications and permits	EVT (life of structure)		W
Code compliance inspection reports	EVT (life of structure)		W
Inspection address file	EVT (life of structure)		W
Certificates of occupancy	EVT (until superseded)		W
Energy calculation worksheets	CR + 3 years		
State-approved commercial building plans	EVT + 4 years		W
Permit fee receipts	FIS + 7 years (provided record has been audited)		W
Permit ledger	CR + 7 years		W
Village Attorney's case file, copy	EVT + 1 year (after case has been closed)		W
Quarter section maps, copies	EVT (until superseded)		W
Records of the Zoning Board of Appeals (includes minutes of Board and supporting documents submitted to Board)	Permanent		N/A
Records of the Building Code — Mobile Home — Livestock Committee (includes minutes of meetings of the Committee and supporting documents submitted to the Committee)	Permanent		N/A

- E. Election records. All materials and supplies associated with an election may be destroyed according to the following schedule unless there is a recount or litigation pending with respect to the election:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Voter serial number slips	EVT + (14 days after a primary) (21 days after an election)		W
Applications for absentee ballots	EVT + (90 days after the election) (22 months after the election for federal offices)		W
Forms associated with election such as tally sheets, inspectors' statements and nomination papers	EVT + (90 days after the election) (22 months after the election for federal offices)		W
Official canvass statements	EVT + 10 years after the election		W
Registration and poll lists: nonpartisan primaries and elections	EVT + 2 years after the election for which they were created		W
Registration and poll lists: partisan primaries and general election	EVT + 4 years after the election for which they were created		
Cancelled registration cards	EVT + 4 years after cancellation		W

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Election notices	EVT + (1 year after the election) (22 months for federal elections)		W
Proofs of publication and correspondence relative to publications	EVT + (1 year after the election) (22 months for federal elections)		W
Campaign registration statements	EVT + 6 years after termination by the registrant		W
Campaign finance reports	EVT + 6 years after date of receipt		W

F. Engineering and Public Works records. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Field notes	Permanent		N/A
Bench mark books	Permanent		N/A
Section corner monument logs	Permanent		N/A
Aerial photographs	EVT (until superseded)		W
Village maps	Permanent		N/A
Water, storm, and sanitary sewer main maps	Permanent		N/A
Profile and grade books	Permanent		N/A
Excavation plans of private utilities	Permanent		N/A
Index to maps	Permanent		N/A
Preliminary subdivision plats	EVT (until superseded by final plat)		W
Final subdivision plats	Permanent		N/A
Annexation plats	Permanent		N/A
Assessor's plats	Permanent		N/A
Structure plans for Village buildings and bridges	EVT (life of the structure)		N
Annual reports	Permanent		N/A
Records of the Building Code — Mobile Home — Livestock Committee (includes minutes of meetings of the Committee and supporting documents submitted to the Committee)	Permanent		N/A
Records of the Zoning Board of Appeals (includes minutes of the meetings of the Board and supporting documents submitted to the Board)	Permanent		N/A
House number and address change file	Permanent		N/A
Street vacations and dedications, copies	EVT (retain for active reference life)		W

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Permits (includes permits for the excavation of streets by private utility companies)	EVT + 3 years		W
Petitions for street and sewer systems	EVT + 2 years		W
Special assessment calculations	EVT + 2 years		W
TV sewer inspection records	EVT (until superseded)		W
State highway aid program records	FIS + 7 years		W

G. Fidelity bond records. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Oath of office	EVT + 5 years (after the term of service covered by the oath has ended)		W

H. Insurance records and policies. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Policy	FIS + 7 years		W
Policy bids, unsuccessful	EVT + 1 year		W
Claims	EVT + 7 years		W

I. Journals, registers and ledger. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Receipts journal	FIS + 15 years		W
Voucher/order register	FIS + 15 years		W
General journal	FIS + 15 years		W
Journal voucher	FIS + 15 years		W
Appropriation journal	FIS + 15 years		W
Appropriation journal voucher	FIS + 15 years		W
General ledger	FIS + 15 years		W
Trial balance	EVT (until audited)		W

J. Legal opinions. Legal opinions rendered shall not be destroyed and shall be retained permanently.

K. Licenses and permits. The following public records may be destroyed after the expiration of the designated retention period.

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Liquor- and beer-related license applications	EVT + 4 years		W
Other license applications	EVT + 3 years		W

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Receipts	CR + 4 years		W
License stubs: all liquor- and beer-related	CR + 4 years		W
Other	CR + 3 years		W
Dog licenses monthly reports to County Clerk	CR + 3 years		W

- L. Municipal Court records. The legal custodian, as defined in § 19.33, Wis. Stats., of the following records concerning the Village of Neshkoro Municipal Court (if one is created) or his or her designee(s) may destroy the following public records after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Audiotape recordings of trials or juvenile matters	EVT (until expiration of statute of limitations to appeal to circuit court)		W
Municipal Court case files	EVT + 6 years (after entry of final judgment)		W
Municipal Court case files, Village Attorney's copies	EVT + 6 months (after entry of final judgment)		W
Municipal Court minutes record	EVT + 5 years (after entry of final judgment)		W
Municipal Court record	EVT + 5 years (after entry of final judgment)		W
Municipal Court judgment docket, a record of all money judgment	EVT + 20 years (after final docket entry)		W

- M. Payroll records. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Payroll support record	FIS + 2 years		W
Employee's withholding allowance certificate	EVT + 5 years (after being superseded)		W
Employee's Wisconsin withholding exemption certificate	EVT +5 years (after being superseded)		W
Employee enrollment and waiver cards	EVT + 2 years (after being superseded or terminated)		W
Employee earning records	FIS + 5 years		W
Payroll check register	FIS + 5 years		W
Payroll distribution record	FIS + 5 years		W
Payroll voucher	FIS + 5 years		W
Cancelled payroll checks	FIS + 5 years		W
Wage and tax Statement	FIS + 5 years		W
Report of Wisconsin income tax	FIS + 5 years		W

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Employer's annual reconciliation of Wisconsin income tax withheld from wages	FIS + 5 years		W
Federal deposit tax stub	FIS + 5 years		W
Quarterly report of federal income tax withheld	FIS + 5 years		W
Annual report of federal income tax withheld	FIS + 5 years		W
State's quarterly report of wages paid	FIS + 5 years		W
Monthly memorandum report	FIS + 5 years		W
Quarterly report, payroll summary	FIS + 5 years		W
Premium due notices	FIS + 5 years		W

N. Police Department records. The following public records may be destroyed after the expiration of the designated retention period:<sup>[1]</sup>

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Traffic citations (and accompanying documentation) sent through Village Municipal Court (if created)	EVT + 1 year (after closed)		W
Ordinance citations	EVT + 2 years (after closed)		W
All accounting records	CR + 7 years		W
Electronic recordings of court proceedings which were appealed	EVT + 7 years		W
Court statistical reports	CR + 7 years		N
Arrestment calendars	CR + 7 years		W
Warrant and commitment listings	CR + 7 years		W
Municipal Court correspondence	CR + 7 years		W
Electronic recordings of court proceedings which were not appealed	EVT + 6 months		W
Personnel records	EVT + 8 years		W
Property inventory records	EVT + 8 years		W
Citizen complaints against police officers	EVT + 8 years		W
Investigation and citation records:			
Arrest records	EVT + 8 years		W
Incident records	EVT + 10 years		W
Fingerprint cards	EVT + 8 years		W
Evidence cards	EVT + 10 years		W
Work schedules	CR + 7 years		W
Accident reports	EVT + 4 years		W
Investigation reports	EVT + 10 years (from date of closing investigation)		W
Audiotape and videotape recordings:			
Police dispatch audiotapes	CR + 120 days		W

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Police videotapes	CR + 120 days		W
Information teletype messages	CR + 30 days		W
Medical records, re: occupational	EVT + 30 years		W
Training records for exposure control	CR + 3 years		W

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- O. Public works projects and contracts. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Notice to contractors	EVT + 7 years (after completion of project)		W
	EVT + 2 years (for unsuccessful bidders)		W
Certified check	EVT (retain until contract has been signed and return to bidder)		W
Bid bond	EVT + 7 years (after completion of project)		W
	EVT + 2 years (for unsuccessful bidders)		W
Bidder's proof of responsibility	EVT + 7 years (after completion of project)		W
	EVT + 2 years (for unsuccessful bidders)		W
Bids	EVT + 7 years (after completion of project)		W
	EVT + 2 years (for unsuccessful bidders)		W
Affidavit of organization and authority	EVT + 7 years (after completion of project)		W
	EVT + 2 years (for unsuccessful bidders)		W
Bid tabulations	EVT + 2 years		W
Performance bond	EVT + 7 years (after completion of project)		W
Contract	EVT + 7 years (after completion of project)		W
Master project files	EVT + 20 years (after life of structure)		N
Blueprints	EVT (until superseded by the as-built tracings)		W
As-built tracings	EVT (life of the project)		N

- P. Purchasing records. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Purchase requisitions	EVT + 1 year (after PO issued)		W
Purchase orders	FIS + 7 years		W
Receiving report	FIS + 7 years		W
Bids, successful	EVT + 7 years (after contract has expired)		W
Bids, unsuccessful	EVT + 1 year (after PO issued)		W
Inventory of property	EVT (retain until superseded)		W

Q. Real property records. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Deeds	Permanent		N/A
Opinions of title	Permanent		N/A
Abstracts and certificates of title	Permanent		N/A
Title insurance policies	Permanent		N/A
Plats	Permanent		N/A
Easements	Permanent		N/A
Leases	EVT + 7 years (after termination of lease)		W
Vacation or alteration of plat	Permanent		N/A

R. Sewer and water utility records. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Water stubs	FIS + 2 years		W
Receipts of current billings	FIS + 2 years		W
Customer's ledgers of municipal utilities	FIS + 2 years		W
All other utility records	CR + 7 years		W
Water quality laboratory tests (deep well water analysis detail and summary reports; chemical and bacteriological analysis of municipal drinking water detail and summary reports; municipal drinking water fluoride analysis; and water quality control readings)	EVT + 5 years (if information has been transferred to a permanent test site file location) EVT + 1 year		W
Maps showing the location and physical characteristics of the utility plant	EVT (until map is superseded)		W
Engineering records in connection with construction projects	EVT (until record is superseded or six years after plant is retired, provided mortality data is retained)		W

Operating records:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Station pumpage records	CR + 15 years or EVT + 3 years (after the source is abandoned)		W
Interruption records	CR + 6 years		W
Meter test records	EVT (see PSC § 185.46, Wis. Adm. Code)		W
Meter history records	EVT (life of meter)		W
Annual meter accuracy summary	CR + 10 years		W
Pressure records	CR + 6 years		W
Customer records:			
Complaint records	CR + 3 years		W
Customer deposit	EVT + 6 years (after refund)		W
Meter reading			
Sheets or cards	CR + 6 years		W
Billing records	CR + 6 years		W
Filed rates and rules	Permanent		W
Analyses of any water samples taken from the water system	EVT + 10 years (pursuant to NR § 809.12, Wis. Adm. Code)		W

S. Special assessment records. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Preliminary resolution	CR + 2 years after created		W
Report on special assessment project	CR + 2 years after created		W
Waiver of special assessment notice and hearing	EVT + 1 year (after final resolution is approved)		W
Final resolution	Permanent		N/A
Certified special assessment roll	EVT (retain until all assessments are collected)		W
Statement of new special assessments	CR + 5 years		W
Special assessment payment register	EVT (retain until all assessments are collected)		W

T. Street and highway records. The following public records may be destroyed after the expiration of the designated retention period:

<b>Records</b>	<b>Period of Retention</b>	<b>Authority</b>	<b>SHSW Notice</b>
Street operations file	CR + 2 years after created		W
Street and sidewalk maintenance and repair	CR + 25 years		W
Tree planting, inspection, trimming and removal	CR + 25 years		W
Stock control records	CR + 2 years		W

	<b>Authority</b>	
<b>Records</b>	<b>Period of Retention</b>	<b>SHSW Notice</b>
Fuel usage reports	CR + 2 years	W
Heavy equipment and vehicle	EVT (life of equipment and/or vehicle inventory ledger or until inventory ledger is superseded)	W
Vehicle maintenance histories	EVT (life of vehicle)	W
Vehicle expense reports	EVT (life of vehicle)	W
Vehicle usage reports	CR + 2 years	W
Payroll support records	CR + 2 years	W
Purchasing records	CR + 7 years	W
Complaint ledger	CR + 2 years	W
Monthly reports	CR + 3 years	W
Annual reports	Permanent	N/A

- U. Tax calculation records. The following public records may be destroyed after the expiration of the designated retention period:

	<b>Authority</b>	
<b>Records</b>	<b>Period of Retention</b>	<b>SHSW Notice</b>
Escrow account list	EVT (retain until superseded)	W
Receipts	FIS + 7 years	W
Receipt stub book	FIS + 7 years	W
Tax collection blotters	EVT (until audited)	W
Statement of taxes remaining unpaid	EVT (retain with tax roll)	W
Tax settlement receipt	FIS + 5 years	W
Municipal Treasurer's settlement	FIS + 5 years	W
Personal property tax roll	FIS + 15 years	N

- V. Treasurer's records. The following public records may be destroyed after the expiration of the designated retention period:

	<b>Authority</b>	
<b>Records</b>	<b>Period of Retention</b>	<b>SHSW Notice</b>
Minute books	Permanent	N/A
Audiotapes	CR + 1 year; 90 days if made solely for the purpose of drafting the minutes	W
Ordinances	Permanent	N/A
Resolutions	Permanent	N/A
Ordinance book	Permanent	N/A
Affidavits of publication	CR + 3 years	W

## Chapter 140. Village Board

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Secs. 2-1-1 and 2-1-5 and Title 2, Ch. 2, of the 1999 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Boards, commissions and committees — See Ch. **15**.

Officers and employees — See Ch. **93**.

Records — See Ch. **118**.

## **§ 140-1. Village government.**

The Village of Neshkoro is a body corporate and politic with the powers of a municipality at common law and governed by the provisions of Chs. 61 and 66, Wis. Stats., laws amending those chapters, other acts of the legislature and the Constitution of the State of Wisconsin.

## **§ 140-2. Official newspaper; legal posting.**

- A. Publication. When publication is used instead of legal posting, the official newspaper of the Village of Neshkoro shall be the Marquette County Tribune.
- B. Legal posting. When legal posting is used instead of publication, the Village shall post notices in three designated posting locations:
  - (1) U.S. Post Office.
  - (2) Neshkoro Village Hall.
  - (3) Village events board.  
[Amended 10-4-2010]

## **§ 140-3. Board membership and powers.**

The Trustees of the Village of Neshkoro shall constitute the Village Board. The Village Board shall be vested with all the powers of the Village not specifically given some other officer, as well as those powers set forth elsewhere throughout this Code.

## **§ 140-4. Trustees.**

- A. Election, term, number. The Village of Neshkoro shall have four Trustees in addition to the President, who is a Trustee by virtue of his/her office as President. The four Trustees shall constitute the Village board. Two Trustees shall be elected at each annual spring election for a term of two years, commencing on the third Tuesday of April in the year of their election.  
[Amended 1-14-2019]
- B. Appointment as President. A Village Trustee shall be eligible for appointment as Village President to fill an unexpired term.
- C. Members of the Village Board shall be residents of the Village at the time of their election and during their terms of office.  
[Added 10-4-2010]

## **§ 140-5. Village President.**

- A. Election. The Village President shall be elected at the annual spring election in odd-numbered years for a term of two years, commencing on the third Tuesday of April in the year of his/her

election.

- B. Duties. The Village President shall, by virtue of his/her office, be a Trustee and preside at all meetings of the Board, have a vote as Trustee, and sign all ordinances, rules, bylaws, regulations and commissions adopted or authorized by the Board and all orders drawn on the treasury. The Village President shall maintain peace and good order, see that the Village ordinances are faithfully obeyed, and in case of disturbance, riot or other apparent necessity appoint as many special marshals as he/she shall deem necessary, who for the time being shall possess all the powers and rights of constables.
- C. Participation in debate. The Village President shall vote on all matters in the same way that other Trustees vote. The President has the same power to make motions, and to introduce ordinances, resolutions and the like as any other Trustee.  
[Amended 10-4-2010]
- D. Appointments.
  - (1) Wherever in this Code the Village President is required to appoint citizens to committees, commissions and/or boards, in the event the Village Board rejects a Village President's appointment the same name may not be submitted for the same job for a period of 12 months after the refusal of such appointment.
  - (2) In the event a vacancy occurs in any committee, board or commission requiring the appointment of a citizen member and the Village President does not nominate a successor thereof for a period of 60 days after the vacancy occurs, the Village Board may then nominate an appointee to such position, subject to the approval of the Village President.
  - (3) In the event the Village Board, by parliamentary practice, tables an appointment by the Village President, such tabling action shall be effective for that meeting, but at the next regular meeting of the Village Board such appointment shall be on the meeting agenda for further consideration, and the particular appointment involved may not be tabled a second time.

## § 140-6. Committees.

- A. Committee appointments. At the first special or the first regular Board meeting following the third Tuesday in April, the Village President shall nominate Trustees to all committees, subject to confirmation by majority vote of the Board. Trustees and/or the Village President shall be appointed to each of the following standing committees:  
[Amended 10-4-2010; 11-3-2014]
  - (1) Properties and Weeds Committee. This committee shall be responsible that all lawns and grasses are maintained in accordance with Village ordinances. This committee shall be responsible for identifying noxious weeds and informing residents of the need for removal.
  - (2) Road Committee. It shall be the duty of this committee to check the condition of the Village roads and establish a plan of action for their needs. The Road Committee shall also check the condition of the sidewalks and make recommendations to the Village Board on courses of action to keep Village roads and sidewalks dependable and safe.
  - (3) Law Enforcement Committee. It shall be the duty of the Law Enforcement Committee to meet with the Chief of Police to determine his/her work schedules. The committee shall also meet with the Chief to report complaints and property and buildings that may not meet minimum ordinance standards.
  - (4) Parks – Grounds Committee. It shall be the duty of this committee to oversee the Village parks.
  - (5) Sewer – Sanitation Committee. This committee shall monitor the conditions of the sanitary sewer by working with the sewer maintenance department and the Road Committee to

ascertain the need for storm sewer updates to stop unnecessary flooding in the Village.

- (6) Finance Committee.
  - (7) (Reserved).
  - (8) Library Committee. This committee shall attend Library Board meetings and report back to the Village Board. This committee shall maintain the best interests of the Village.
  - (9) Neshkoro Area Fire Protection District. This committee shall have the responsibility of attending all Fire Board meetings and reporting back to the Village Board.
- B. Appointment of chairpersons. The Village President shall designate the chairperson of all standing committees. He/she shall appoint all special committees and designate the chairperson of each. All committee appointments except designation of chairperson shall be subject to confirmation by a majority vote of the Village Board.
- C. Committees-of-the-whole; special committees.
- (1) The Village President shall be an ex officio member of each standing committee or may be appointed to serve as a member of a specific committee.
  - (2) The Village President may declare the entire Board a committee of the whole for informal discussion at any meeting or for any other purpose and shall, ex officio, be chairperson of the same.
  - (3) The Village President may, from time to time, appoint such special committee or committees as he/she deems advisable or as provided for by motion or resolution by the Board stating the number of members and object thereof to perform such duties as may be assigned to them.
- D. Committee reports.
- (1) All committees are subunits of the Village Board and perform no executive or administrative Village function other than as specifically authorized by ordinance or policy adopted by the Village Board.
  - (2) Each committee shall give the full Board at the next regular Board meeting a verbal or written report on all matters referred to it. Such report shall recommend a definite action on each item and shall be approved by a majority of the committee. Each committee report shall include the date, time and place of the meeting and the members attending. Each such committee report, verbal or written, is deemed to be the product of the entire committee, whether any item therein is approved unanimously or not. Each such report should provide all necessary historical background to familiarize the Board with the issue.
  - (3) If a committee member in a particular committee disagrees with the position taken by the committee on an issue, such member may address the Board with the minority position. The Board shall permit one committee member supporting the majority position equal time to address the Board on such issue.
- E. Ambiguity of committee authority. In case of ambiguity or apparent conflict between the preceding definition of committee authority and a definition in these ordinances of the authority of a Village officer, employee, board or association, the latter shall prevail.
- F. Cooperation of Village officers. All Village officers shall, upon request of the chairperson of any committee, confer with the committee and supply such information as the committee may request upon any pending matter. A committee shall not assume responsibility for the administration of any Village Department.

## § 140-7. General powers of the Village Board.

- A. General. The Village Board shall be vested with all the powers of the Village not specifically given some other officer. Except as otherwise provided by law, the Village Board shall have the management and control of the Village property, finances, highways, streets, navigable waters and the public service, and shall have the power to act for the government and good order of the Village, for its commercial benefit and for the health, safety, welfare and convenience of the public, and may carry its powers into effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, fine, imprisonment and other necessary or convenient means. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.
- B. Acquisition and disposal of property. The Village Board may acquire property, real or personal, within or without the Village, for parks, libraries, historic places, recreation, beautification, streets, waterworks, sewage or waste disposal, harbors, improvement of watercourses, public grounds, vehicle parking areas and for any other public purpose; may acquire real property within or contiguous to the Village, by means other than condemnation, for industrial sites; may improve and beautify the same; may construct, own, lease and maintain buildings on such property for instruction, recreation, amusement and other public purposes; and may sell and convey such property. Condemnation shall be as provided by the Wisconsin Statutes.
- C. Acquisition of easements and property rights. Confirming all powers granted to the Village Board and in furtherance thereof, the Board is expressly authorized to acquire by gift, purchase or condemnation under the Wisconsin Statutes any and all property rights in lands or waters, including rights of access and use, negative or positive easements, restrictive covenants, covenants running with land, scenic easements and any rights for use of property of any nature whatsoever, however denominated, which may be lawfully acquired for the benefit of the public or for any public purpose, including the exercise of powers granted under §§ 61.35 and 62.23, Wis. Stats.; and may sell and convey such easements or property rights when no longer needed for public use or protection.
- D. Village finances. The Village Board may levy and provide for the collection of taxes and special assessments; may refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; and generally may manage the Village finances. The Village Board may loan money to any school district located within the Village or within which the Village is wholly or partially located in such sums as are needed by such district to meet the immediate expenses of operating the schools thereof, and the board of the district may borrow money from such Village accordingly and give its note therefor. No such loan shall be made to extend beyond August 30 next following the making thereof or in an amount exceeding 1/2 of the estimated receipts for such district as certified by the State Superintendent of Public Instruction and the local school clerk. The rate of interest on any such loan shall be determined by the Village Board.
- E. Construction of powers. Consistent with the purpose of giving to villages the largest measure of self-government in accordance with the spirit of the Home Rule Amendment to the Constitution, the grants of power to the Village Board in this section and throughout this Code shall be liberally construed in favor of the rights, powers and privileges of villages to promote the general welfare, peace, good order and prosperity of the Village and its inhabitants.

## § 140-8. Cooperation with other municipalities.

The Village Board, on behalf of the Village, may join with other counties, villages, cities, towns or other governmental entities in a cooperative arrangement for executing any power or duty in order to attain greater economy or efficiency, including joint employment of appointive officers and employees.<sup>[1]</sup>

[1] *Editor's Note: Original Sec. 2-2-7, Internal Powers of the Board, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II); see now §§ 140-20 and 140-4C, respectively, for those provisions.*

## § 140-9. Salaries.

The Village President and other Trustees who make up the Village Board, whether operating under general or special law, may by majority vote of all the members of the Village Board determine that a salary be paid the President, Trustees, and other Village officials. Salaries heretofore established shall so remain until changed by ordinance and shall not be increased or diminished during their terms of office.

## § 140-10. Meetings.

- A. Regular meetings. Regular meetings of the Village Board shall be held on such date and at such times as the Village Board shall designate. Any regular meeting falling on a legal holiday shall be held the next following day at the same hour and place. When the Village Board designates a date and time for the regular Board meeting, notice thereof shall be posted at the Neshkoro Village Hall in the Village of Neshkoro prior to such scheduled meeting date. All meetings of the Board shall be held at the Neshkoro Village Hall, unless specified otherwise in the minutes of the preceding meeting or by written notice posted at the regular meeting place at least three hours prior to any meeting. In any event, all Board meetings shall be held within the boundaries of the Village.  
[Amended 10-4-2010]
- B. Annual organizational meeting. The Village Board shall hold an annual organizational meeting on the third Tuesday in April or on the first regular meeting in May following the spring election.
- C. Board minutes. The Village Clerk-Treasurer shall keep a record of all Board proceedings.  
[Amended 11-3-2014]

## § 140-11. Special meetings.

- A. Special meetings of the Board may be called by the Village President or by two Trustees filing a request with the Village Clerk-Treasurer at least 24 hours prior to the time specified for such meeting. The Village Clerk-Treasurer shall select the day for the special meeting and immediately notify each Trustee of the time and purpose of such meeting. The notice shall be delivered or mailed to each Trustee personally or left at his/her usual place of abode a minimum of 24 hours prior to the meeting time. However, an emergency meeting may be called with notice of a minimum of two hours. The Village Clerk-Treasurer shall cause a record of such notice to be filed in his office prior to the time fixed for such special meeting. No business shall be transacted at a special meeting except for the purpose stated in the notice thereof. Notice to the public of special meetings shall conform to the open meeting requirements of § 61.32 and Ch. 19, Subch. V, Wis. Stats. The Village Clerk-Treasurer shall give notice immediately upon the call for such meeting being filed with him/her.
- B. The request for any special meeting shall state the purpose for which the meeting is to be called, and no business shall be transacted but that for which the meeting has been called. Nongovernmental parties requesting a special meeting of the Village Board shall be required to pay the cost of Village Board and staff needed to attend.

## § 140-12. Open meetings; adjournment of meetings.

- A. Open meeting law compliance. All meetings of the Village Board and subunits thereof shall be open to the public as provided in Subch. V of Ch. 19, §§ 19.81 through 19.89, Wis. Stats. Public notice of all such meetings shall be given as provided in § 19.84, Wis. Stats.
- B. Adjournment of meetings. An adjournment to a closed session may be only for a permitted purpose as enumerated in § 19.85, Wis. Stats., and must meet the other requirements of said § 19.85, Wis. Stats.

- C. Meetings to be open. During the holding of any open session in the regular meeting room or in the substituted meeting room, said room and said meeting shall at all times be open and remain open to all citizens.
- D. Closed meetings. The provisions of this Code do not prohibit the Board or any committee thereof from having a closed meeting which is legally convened and legally held in a room in said building other than the official meeting room or in some other building in the Village.
- E. Photographs, motion pictures, videotape; permission required for artificial illumination. No photographs, motion pictures, or videotapes that require the use of flash bulbs, electronic flashes, floodlights, or similar artificial illumination shall be made at Village Board meetings without the consent of the presiding officer.

## § 140-13. Quorum.

[Amended 10-4-2010<sup>[1]</sup>]

Four Trustees, including the Village President, shall constitute a quorum, but a lesser number may adjourn or compel attendance of absent members if a majority is not present. The Village President shall be counted in computing a quorum.

[1] *Editor's Note: This ordinance also deleted original Sec. 2-2-12(b), which pertained to roll call votes, from this section.*

## § 140-14. Presiding officers.

- A. Village President shall preside. The Village President shall preside over meetings of the Village Board. In the absence of the Village President, the President Pro Tem shall preside over meetings of the Village Board. In case of absence of the Village President and President Pro Tem, the Village Clerk-Treasurer shall call the meeting to order and the Trustees present shall elect one of their number Acting President.
- B. President Pro Tem. Annually at the Board's organizational meeting, the Board shall elect from among its membership a President Pro Tem, who shall preside over meetings of the Village Board in the absence of the Village President.
- C. Duties. The presiding officer shall preserve order and decorum, decide all questions of order, and conduct the proceedings of the meeting. In the event of a dispute regarding Board procedures, the matter shall be decided in accordance with the parliamentary rules contained in Robert's Rules of Order, unless otherwise provided by statute or by these rules. Any member shall have the right to appeal from a decision of the presiding officer. Such appeal is not debatable and must be sustained by a majority vote of the members present excluding the presiding officer.

## § 140-15. Meeting agendas; order of business.

- A. Agenda.
  - (1) The order of business at all regular or special meetings shall be according to the agenda prepared by the Clerk-Treasurer. All matters to be presented at a Board meeting shall be filed with the Clerk-Treasurer, or his/her deputy, no later than 12:00 noon on the Friday preceding the scheduled regular Board meeting to enable the Clerk-Treasurer to prepare the agenda and all attachments and distribute the same to the Village Board. Matters filed after 12:00 noon on the Friday preceding the Board meeting will not be placed upon the agenda. The President may waive the filing deadline for emergency cause shown.
  - (2) A submitting department shall include copies of all material necessary to consider the agenda item.

- (3) The Village President shall advise the Clerk-Treasurer whether to include an item on the agenda, except that the Trustees calling a special meeting shall decide which items shall be first considered at such special meeting.
  - (4) The Clerk-Treasurer shall afford the Trustees maximum reasonable notice of agenda items as each situation allows.
- B. Order of business. Generally, the following order shall be observed in the conduct of all regular Board meetings:
- (1) Call to order by presiding officer.
  - (2) Roll call.
  - (3) Discussion, correction and approval of the minutes of the previous meetings.
  - (4) Audit bills and discuss finances.
  - (5) Unfinished business from previous meetings.
  - (6) New business, including introduction of ordinances and resolutions.
  - (7) Committee reports.
  - (8) Reports of Village officers.
  - (9) Miscellaneous business permitted by law.
  - (10) Adjournment.
- C. Order to be followed. No business shall be taken up out of order unless authorized by the Village President or by majority consent of all Trustees and in the absence of any debate whatsoever.
- D. Recognition of visitors. In order to maintain and hold meetings in an orderly fashion, the following procedure will be followed regarding visitors unless having previously made a request to be placed on the agenda for a specific item:
- (1) No discussion allowed from visitors during the course of the meeting unless requested by the Board.
  - (2) At the appropriate time, each visitor can be recognized and allowed to speak for no more than five minutes.
- E. Procedure at public hearings.
- (1) After opening the public hearing, the presiding officer shall then call on those persons who wish to speak for the proposition. Each person wishing to speak for the proposition shall give his or her name and address.
  - (2) Each person speaking on behalf of the proposition shall be limited in time to not more than five minutes. The presiding officer may allow for additional time.
  - (3) The presiding officer shall then call on those persons who wish to oppose the proposition.
  - (4) Each such person wishing to speak in opposition to the proposition shall give his or her name and address and shall also be limited to five minutes.
  - (5) Any person wishing to speak in rebuttal to any statements made may, with the permission of the presiding officer, do so; provided, however, such rebuttal statement shall be limited to three minutes by any one individual.
  - (6) When the presiding officer, in his/her discretion, is satisfied that the proposition has been heard, he/she shall announce the fact that the hearing is concluded.

## § 140-16. Introduction of business; resolutions and ordinances; disposition of communications.

### A. Definitions: motions, ordinances and resolutions.

#### **MOTION**

A form of action taken by the Board to direct that a specific action be taken on behalf of the municipality. A motion, once approved and entered into the record, is the equivalent of a resolution in those instances where a resolution is not required by law.

#### **ORDINANCE**

A legislative act prescribing general, uniform and permanent rules of conduct relating to the corporate affairs of the municipality. Board action shall be taken by ordinance when required by law or to prescribe permanent rules of conduct which continue in force until repealed or where such conduct is enforced by penalty.

#### **RESOLUTION**

An internal legislative act which is a formal statement of policy concerning matters of a special or temporary nature. Board action shall be taken by resolution where required by law and in those instances where an expression of policy more formal than a motion is desired.

### B. Ordinances. All ordinances and resolutions shall be prepared as follows:

- (1) Each ordinance or resolution shall include a note stating the purpose thereof prepared by the sponsor. All ordinances submitted to the Board shall be in writing and shall include at the outset a descriptive or brief statement of the subject matter and a title.
- (2) The sponsor of an ordinance or resolution may be the President, one or more Trustees, a department head or a committee, board or commission.
- (3) No ordinance, resolution or bylaw shall be considered unless presented in writing by a Trustee or by a committee. Unless requested by a Trustee before final vote is taken, no ordinance, resolution or bylaw need be read in full.
- (4) On ordinances or resolutions that require special handling, the Clerk-Treasurer shall assure that an editorial note is prepared showing compliance with such special handling.
- (5) The Clerk-Treasurer may reject any ordinance or resolution from placement on the agenda which fails to comply with this section.
- (6) Resolutions shall be in writing at the request of one Trustee; such request shall be nondebatable. Resolutions may be referred to an appropriate standing committee for an advisory recommendation.

### C. Subject and numbering of ordinances. Each ordinance shall be related to no more than one subject. Amendment or repeal of ordinances shall only be accomplished if the amending or repealing ordinance contains the number and title of the ordinance to be amended or repealed, and the title of amending and repealing ordinances shall reflect their purpose to amend or repeal.

### D. Notice. The Village Board may take action on an ordinance only if it appears on the written agenda for the meeting at which action is requested.

### E. Effective date. Unless otherwise provided, all ordinances shall take effect and be in force from and after passage and publication, and published copies thereof shall have appended the date of first publication.

### F. Disposition of petitions, communication, etc. Every petition or other correspondence from citizens addressed to the Village Board or to the Village Clerk-Treasurer or other Village officer for reference to the Village Board shall be delivered by such other Village officer to the Village

President or to the presiding officer of the Board as soon as convenient after receipt of same and, in any event, prior to or at the opening of the next meeting of the Village Board following the receipt of same. Every such petition or other writing and every paper, communication or other proceeding which shall come before the Board for action may be referred by the Village President or presiding officer to the appropriate committee or commission, unless objected to by some member of the Board.

- G. Reference and reports. The presiding officer may refer new business coming to the Board to the appropriate Board committee unless otherwise referred or acted upon by the Village Board. All referrals, unless otherwise provided for in the referral, shall be reported on at the next regular Board meeting. Village Board motions based upon committee or commission action is permissible only on items specifically on the agenda.

## § 140-17. Publication and effect of ordinances.

- A. All ordinances adopted by the Village Board shall, at the discretion and direction of the Village Board, be published in the official newspaper for the Village of Neshkoro either in its entirety, as a Class 1 notice under Ch. 985, Wis. Stats., or as a notice as described in § 61.50(3)(b), Wis. Stats., or posted in three public places within the Village.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. Notwithstanding any provision herein, if any ordinance adopted by the Village Board for the Village of Neshkoro contains any penalty or forfeiture, said ordinance shall be published either in its entirety, as a Class 1 notice under Ch. 985, Wis. Stats., or as a notice as described in § 61.50(3)(b), Wis. Stats.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- C. If an ordinance, resolution, motion or other action is legally posted under this section, the Clerk-Treasurer shall sign an affidavit attesting that the item was posted as required by this section and stating the date and place of posting. The affidavit shall be filed with other records under the jurisdiction of the Clerk-Treasurer.
- D. All ordinances shall take effect and be in force from and after passage and publication/posting thereof, unless otherwise provided.

## § 140-18. Conduct of deliberations.

- A. Attendance roll call. When the presiding officer shall have called the members to order, the Clerk-Treasurer shall proceed to call the roll in rotating order, noting who is present and who is absent. If, after having gone through the call, it shall appear that a quorum is not present, the fact shall be entered in the minutes, and the members present may adjourn to a later date in the month. If they do not, the Board shall stand adjourned to the time appointed for the next regular meeting unless a special meeting is called sooner.
- B. Roll call votes. A roll call shall not be necessary on any questions or motions except as follows:
  - (1) When the ayes and nays are requested by any member.
  - (2) When required by the state statutes of Wisconsin.
- C. Record of votes. All aye and nay votes shall be recorded in the official minutes. The ayes and nays shall be ordered upon any question at the request of any member of the Village Board. Any Trustee may demand a vote on any matter. The Clerk-Treasurer shall call for the ayes and nays on roll call votes in continuous rotation, beginning each roll call one name further down the roster of Trustees. The Clerk-Treasurer shall record the ayes and nays on each vote.

- D. Parliamentary procedure. Except as provided below, the presiding officer, in the event of a dispute regarding procedure, shall in all other respects determine the rules of its procedure, which shall be governed by Robert's Rules of Order, Revised, which is hereby incorporated by reference, unless otherwise provided by ordinance or statute.
- E. Motions stated. Prior to any debate on a matter, the members of the Village Board shall be entitled to a clear understanding of the motion before the Village Board. The person making the motion shall clearly state the motion. There shall be a second to any motion prior to any debate or discussion of the motion. The presiding officer may, if felt necessary, restate the motion prior to any debate and discussion. Any member of the Village Board, prior to a vote on the motion, may request that the motion and any adopted amendments to the motion be reduced to writing and submitted in writing to the members of the Village Board prior to the final vote on the matter.
- F. Change of vote. No member of the Village Board may change his or her vote on any action item, business item, motion or question after the final result has been announced.
- G. Motions with preference. During any meeting of the Village Board certain motions will have preference. In order of precedence, they are;
  - (1) Motion to adjourn. This motion can be made at any time and has first precedence. This is a nondebatable motion.
  - (2) Motion to lay on the table. This motion may be made when the subject matter appropriate for tabling is to be debated or discussed. This motion is a nondebatable motion.
  - (3) Motion to call previous question. This motion may be made at any time after the debate or discussion commences related to an action item, business item, motion or question that is properly before the Village Board. This motion is a nondebatable motion. This motion, if adopted, ends the debate and discussion at the meeting on the action item, business item, motion or question. The motion, if adopted, brings the Village Board to a direct vote with the first vote on any amendments, if any, and then to the main action item, business item, motion or question.
  - (4) Motion to postpone to a date certain. This motion may be made at any time after the debate and discussion commences on an action item, business item, motion or question that is properly before the Village Board. This motion is debatable. This motion, if adopted, ends the debate and discussion at the meeting on the action item, business item, motion or question. This motion must establish a date and time certain when the debate and discussion before the Village Board will continue. The date and time established must be on a date and time for a regularly scheduled or special meeting of the Village Board.
  - (5) Motion to a committee. This motion may be made at any time after the debate and discussion commences on an action item, business item, motion or question that is properly before the Village Board. The motion is debatable. This motion, if adopted, ends the debate and discussion at the meeting on the action item, business item, motion or question. This motion, if adopted, forwards the action item, business item, motion or question to a committee for further review and discussion. The committee must be a committee of the Village Board.
  - (6) Motion to amend or divide the question. This motion may be made at any time after debate and discussion commences on the action item, business item, motion or question properly before the Village Board. The motion is debatable. This motion, if adopted, divides the main action item, main business item, main motion or main question pursuant to the method described and adopted in the motion to divide.
  - (7) Motion to postpone indefinitely. This motion may be made at any time after debate and discussion commences on the action item, business item, motion or question properly before the Village Board. This motion is debatable. This motion, if adopted, ends the debate and discussion at the meeting on the action item, business item, motion or question.

- (8) Motion to introduce a matter related to the action item, business item, motion or question. This motion may be made at any time after the debate and discussion properly before the Village Board. This motion is debatable. This motion, if adopted, expands or adds to the debate and discussion new items related to the main action item, main business item, main motion or main question pursuant to the method described and approved in the motion to introduce a matter related.
- H. Public directory votes. No member of the Village Board shall request, at a meeting of the Village Board, a vote from the general public unless the proposed vote of the general public is so noted by the presiding officer of the meeting as strictly an advisory vote to the Board. Any vote taken by the general public at a meeting of the Village Board shall be considered by the Board only as an advisory vote and shall not be considered as a directory vote.
- I. Compelling votes. No member may be compelled to vote. When a member abstains from voting, the effect is the same as if the member voted on the prevailing side. The "prevailing side" is defined as the votes accumulated which resulted in carrying or defeating a question. In case of a tie vote not including the abstention, the abstaining vote is considered a "nay." In case of a vote requiring approval by more than a simple majority, an abstaining vote is considered an "aye." (See also § 41-7 of this Code.)
- J. Majority vote. Unless a larger number is required by statute, ordinance or bylaw, a majority vote of those present at a legally constituted meeting is necessary to carry a question.

## § 140-19. Reconsideration of questions.

Any member voting on the prevailing side may move for reconsideration of the vote on any question at that meeting or the next succeeding regular meeting, except those which cannot be reconsidered pursuant to Robert's Rules of Order, Revised. A Trustee may not change his vote on any question after the result has been announced.

## § 140-20. Disturbances and disorderly conduct.

The Village Board has the power to preserve order at its meetings. Whenever any disturbance or disorderly conduct shall occur in any of the meetings of the Board, the President may cause the room to be cleared of all persons causing such disorderly conduct.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II); this ordinance added the first sentence of original Sec. 2-2-7 as the first sentence in this section.*

## § 140-21. Amendment of rules.

The rules of §§ 140-18 through 140-20 shall not be rescinded or amended unless the proposed amendment or motion to rescind has laid over from a regular meeting, and then it shall require a vote of 2/3 of all the members of the Board.

## § 140-22. Suspension of rules.

These rules shall not be suspended except by a 2/3 vote of all the members of the Board.

# Part II: General Legislation

## Chapter 165. Adult Uses and Massage Establishments

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 11, Ch. 7, of the 1999 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Administrative review — See Ch. 7.

Peace and good order — See Ch. 385.

Zoning — See Ch. 500.

## **Article I. Introduction**

### **§ 165-1. General findings.**

- A. It is a lawful purpose of the Village Board to enact rules and regulations as are necessary for the preservation of health and to prevent the spread of AIDS and other communicable or sexually transmitted diseases in the Village of Neshkoro. It has been found by localities through the State of Wisconsin, particularly Milwaukee, Racine, Waukesha, Delafield, Kenosha and West Allis, as well as communities around the country, including Indianapolis, Indiana; Boston, Texas; Chattanooga, Tennessee; Newport News, Virginia; Marion County, Indiana; Detroit, Michigan; and Seattle, Washington, as well as other communities around the country, that sexually oriented adult entertainment establishments are predisposed to the creation of unsafe and unsanitary conditions; that operators and employees of such businesses tend to participate in sex-related offenses on the premises, creating substantial law enforcement problems; and that the operational characteristics of such businesses have a deleterious effect on surrounding areas, resulting in neighborhood blight and reduced property values, especially when such businesses are concentrated in one area. Many of such establishments install movie viewing booths with doors in which patrons view videotapes, movies, films and other forms of entertainment characterized by their emphasis on depicting, describing or relating to specified sexual activities or specified anatomical areas, and that such booths have been and are being used by patrons to engage in sexual acts resulting in unsanitary, unhealthy and unsafe conditions in said booths and establishments. This chapter is intended to establish standards in order to prevent the spread of AIDS and other communicable or sexually transmitted diseases and to eliminate the deleterious effects described above in the Village of Neshkoro.
- B. The Village Board finds that there is an increasing likelihood of commercial exploitation of human sexuality by owners of premises holding "Class B" alcohol beverage licenses in the State of Wisconsin. Such exploitation takes place in the form of employing or permitting persons to perform or exhibit their nude or seminude bodies to other persons as an inducement for other persons to purchase alcohol beverages. The direct result of such exploitation is criminal activity, moral degradation and disturbance of the peace and good order of the community. In addition, this commercial exploitation of such nude and seminude acts is adverse to the public's interest in the quality of life, commercial activity and total community environment in the Village of Neshkoro.

### **§ 165-2. Definitions.**

The following definitions are applicable in this chapter:

#### **ADULT BATH HOUSE**

An establishment or business which provides the service of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the State of Wisconsin, and which establishment provides to its patrons an opportunity for engaging in specified sexual activities as defined in this article.

#### **ADULT BODY PAINTING STUDIO**

An establishment or business wherein patrons are afforded an opportunity to paint images on a body which is wholly or partially nude. For purposes of this chapter, an "adult body painting studio"

shall not be deemed to include a tattoo parlor.

### **ADULT BOOKSTORE**

An establishment having as a substantial or significant portion of its stock and trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein. This includes an establishment having as its stock-in-trade, for sale, rent, trade, lease, inspection or viewing, books, films, videocassettes, motion pictures, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas, and in conjunction therewith have facilities for the presentation of adult entertainment, including adult-oriented videotapes, films, motion pictures or other offered entertainment, for observation by patrons therein.

### **ADULT CABARET**

A cabaret which features male or female impersonators or similar entertainers.

### **ADULT ENTERTAINMENT**

Any exhibition of any motion picture, live performance, display or dance of any type which has a significant or substantial portion of such performance or is distinguished or characterized by an emphasis on any actual or simulated performance of specified sexual activities; or exhibition and viewing of specified anatomical areas, as defined herein; appearing unclothed; or the removal of articles of clothing to reveal specified anatomical areas.

### **ADULT MINI MOTION-PICTURE THEATER**

An enclosed building with a capacity for less than 50 patrons, including establishments that have coin-operated video or motion-picture booths, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by patrons therein.

### **ADULT MODELING STUDIO**

An establishment or business which provides the services of modeling for the purpose of reproducing the human body, wholly or partially nude, by means of photography, painting, sketching, drawing or otherwise.

### **ADULT MOTEL**

A hotel, motel or similar commercial establishment, which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and which may have a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- B. Offers a sleeping room for rent for a period of time that is less than 10 hours; or
- C. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

### **ADULT MOTION-PICTURE THEATER**

An enclosed building with a capacity of 50 or more persons at which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by patrons therein.

### **ADULT MOTION-PICTURE THEATER (OUTDOOR)**

A parcel of land from which individuals may view a motion picture presented out of doors which presents material distinguished or characterized by an emphasis on matter depicting, describing

or relating to specified sexual activity or specified anatomical areas, as defined herein, for observation by patrons.

### **ADULT NOVELTY SHOP**

An establishment or business having as a substantial or significant portion of its stock-in-trade in novelty or other items which are distinguished or characterized by their emphasis on, or designed for, specified sexual activities or specified anatomical areas, as defined herein, or simulating such activity.

### **ADULT-ORIENTED ESTABLISHMENT**

An establishment which includes, but is not limited to, adult bookstores, adult motion-picture theaters, adult mini motion picture theaters, adult bath houses, adult body painting studios, adult motels, adult novelty shops or adult cabarets, and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An adult-oriented establishment further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

### **BOOTH, ROOM or CUBICLE**

Such enclosures as are specifically offered to the public or members of an adult-oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure, which shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee but a fee is not charged for mere access to the enclosure. However, "booth," "room" or "cubicle" does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee and are not open to any persons other than employees, nor shall this definition apply to hotels, motels or other similar establishments licensed by the State of Wisconsin pursuant to Ch. 50, Wis. Stats.

### **CHURCH**

A building whether situated within the Village or not, in which persons regularly assemble for religious worship, intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

### **COMMUNITY**

The Village of Neshkoro.<sup>[1]</sup>

### **CUSTOMER**

Any person who:

- A. Is allowed to enter an adult-oriented establishment in return for the payment of an admission fee or any other form of consideration or gratuity;
- B. Enters an adult-oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
- C. Is a member of and on the premises of an adult-oriented establishment operating as a private club.

### **DAY-CARE CENTER**

A facility licensed by the State of Wisconsin pursuant to § 48.65, Wis. Stats., whether situated within the Village or not.

#### **DOOR, CURTAIN or PORTAL PARTITION**

A nontransparent closure device which prevents activity taking place within a booth, room or cubicle from being seen or viewed from outside the booth, room or cubicle.

#### **EMPLOYEE**

Any and all persons, including independent contractors, who work in or at or render any services directly or indirectly related to the operation of an adult-oriented establishment.

#### **ENTERTAINER**

Any person who provides entertainment within an adult-oriented establishment, as defined in this chapter, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or independent contractor.

#### **HARMFUL TO MINORS**

That quality of any description or representation, in whatever form, of nudity, specified sexual activities or specified anatomical areas, which taken as a whole appeals to the prurient interest in sex; which taken as a whole portrays sexual conduct in a patently offensive way; and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient interest and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.

#### **KNOWINGLY**

Having general knowledge of or reason to know or a belief or ground for belief which warrants further inspection or inquiry of both:

- A. The character and content of any material described herein which is reasonably suspect under this section; and
- B. The age of a minor; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

#### **KNOWLEDGE OF MINOR'S AGE**

- A. Knowledge or information that the person is a minor; and
- B. Reason to know or a belief or grounds for belief which warrants further inspection or inquiry of the age of the minor.

#### **MANAGER**

The operator or agent licensed under this chapter, who shall not be licensed as a massage technician.

#### **MASSAGE**

Any process or procedure consisting of rubbing, stroking, kneading or tapping, by physical or mechanical means, upon the external parts or tissues of the body of another for consideration.

#### **MASSAGE ESTABLISHMENT**

A place of business wherein private massage is practiced, used or made available as a principal use of the premises.

#### **MASSAGE ROOM**

The area where private massage is performed.

**MASSAGE TECHNICIAN**

A person who practices, administers or uses massage for a consideration, and who holds a valid license under this chapter.

**MINOR**

Any person under the age of 18 years.

**NUDITY**

The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernible turgid state.

**OPERATOR**

Any person operating, conducting, maintaining or owning any adult-oriented establishment or massage establishment.

**PATRON**

Any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any consideration therefor.

**RESIDENTIAL**

Pertaining to the use of land, whether situated within the Village or not, for premises such as homes, townhouses, duplexes, condominiums, apartments and mobile homes which contain habitable rooms for nontransient occupancy and which are designed primarily for living, sleeping, cooking and eating therein. A premises which is designed primarily for living, sleeping, working and eating therein shall be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, motels, boardinghouses, nursing homes and hospitals shall not be considered to be residential.

**SADOMASOCHISTIC ABUSE**

Flagellation or torture by a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

**SCHOOL**

A building, whether situated within the Village or not, where persons regularly assemble for the purpose of instruction or education, together with playgrounds, stadia and other structures or grounds used in conjunction therewith. The term is limited to:

- A. Public and private schools used for primary or secondary education in which any regular kindergarten or grades one through 12 classes are taught; and
- B. Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one through 12.

**SEXUAL CONDUCT**

The commission of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of human genitals.

**SEXUAL INTERCOURSE**

Physical sexual contact between individuals that involves the genitalia of at least one person, including, but not limited to, heterosexual intercourse, sodomy, fellatio or cunnilingus.

**SPECIFIED ANATOMICAL AREAS**

Less than completely and opaquely covered:

- A. Human genitals, pubic region;

- B. Buttock; or
- C. Female breast below a point immediately above the top of the areola.
- D. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

#### **SPECIFIED SEXUAL ACTIVITIES**

Simulated or actual:

- A. Showing of human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus.
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.

#### **SUBSTANTIAL**

As used in various definitions, shall mean 50% or more of a business's stock-in-trade, display space, floor space or retail sales in any one month during the license year.

#### **WAITING AREA**

An area adjacent to the main entrance that is separate from any area where massages are given.

[2]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: Original Secs. 11-7-3, Public indecency prohibited, and 11-7-4, Exposing minors to harmful materials, which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## **Article II. Entertainment Featuring Live Sexually Explicit Performances**

### **§ 165-3. Prohibitions applicable to premises holding alcohol beverage licenses.**

- A. It shall be unlawful for any owner or operator of premises holding a Class "A," "Class A," Class "B," or "Class B," or "Class C" alcohol beverage license to permit any person to expose to public view on the licensed premises any specified anatomical area as defined in this chapter or to employ any device which is intended to give the appearance of or simulate such specified anatomical areas or publicly display or perform any specified sexual activities on the licensed premises.
- B. Any licensee who permits a violation of Subsection **A** above shall be subject to revocation of all alcohol beverage licenses issued by the Village to the licensee.

### **§ 165-4. Sexually explicit live adult entertainment.**

- A. This section applies only to premises offering live performances by persons appearing in a state displaying some portions of specified anatomical areas not covered by fully opaque coverings.

Appearance in public in a state of nudity is prohibited by § 385-1.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. No person shall open premises to the public offering live performances by persons appearing in a state displaying some portions of specified anatomical areas not covered by fully opaque coverings, whether such persons are paid for such performance or not, unless the person opening the premises has obtained a license from the Village Clerk-Treasurer.

## § 165-5. Annual adult entertainment license.

- A. Application. Applications for an annual adult entertainment license shall be made to the Village Clerk-Treasurer. The Village Clerk-Treasurer shall notify the Police Department, Building Inspector and Fire Inspector of the license application, publish a Class 1 notice of such application and have the license application submitted to the Village Board within 30 days of application. Investigating officials shall submit written reports and recommendations to the Village Board. A public hearing shall be held on the application, preceded by a Class 2 notice. The Village Board may take any testimony regarding the granting or denial of such license.
- B. Action. The Village Board shall either approve, modify or reject the application; the reasons for the action taken shall be specified in the written record of the Village Board.
- C. Probationary period. If license issuance is approved by a majority of the Village Board, an initial applicant shall be granted a probationary license by the Village Clerk-Treasurer. An annual license shall be granted if, upon the expiration of the six-month probationary period, no violations under this article occur and the applicant corrects any deficiencies or problems that the applicant is directed to correct. If, however, for any reason the application is denied by the Village Board, the Village Board shall specify the findings made that support that denial.
- D. License term. The license granted under this article shall expire on June 30 of each year, and each license shall be subject to revocation as hereinafter provided.
- E. Form of license. The Village Clerk-Treasurer shall be responsible for, following Village Board action, issuing all licenses under this section. All such licenses shall specify the nature of the holder and the license and the date for which it is applicable as well as any conditions that may be imposed by the Village. All such licenses shall be open to public inspection and posted in public view on the premises for which issued.
- F. Fee. All such license applications shall be accompanied by a fee as set by the Village Board. If for any reason the license is denied, 1/2 of the license fee shall be returned to the applicant. If the license is granted, the entire fee will be kept by the Village.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). The current Fee Schedule is on file in the Village office.*
- G. Number of licenses limited. No more than two annual adult entertainment licenses, issued under this article, shall be issued to license holders within the Village of Neshkoro at one time.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 165-6. Renewals.

The holder of an annual license granted under this article shall submit an application for renewal at least 60 days before the expiration of the license. Such license may be renewed pursuant to the provisions of § 165-5 as that section applies to notice being given by the Village Clerk-Treasurer and provisions for publication and action by the Village Board.

## § 165-7. Regulations.

Any license holder governed by this article shall comply with the following regulations:

- A. No dancing shall be permitted by any performers under the auspices of the management, whether paid or not, within six feet from any location from which patrons are directly served, while so entertaining the patrons.

- B. No dancer, performer or any individual who is performing, singing or dancing, shall have either direct or indirect physical contact with any patron or solicit drinks from any patron in violation of § 944.36, Wis. Stats.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. While dancing is in progress, the establishment shall be adequately illuminated so as to permit safe ingress and egress from the premises.
- D. Good order shall be maintained at all times. Without limitation due to enumeration, a lack of "good order" for purposes of this article shall be deemed to include persistent loud noises to the annoyance or detriment of surrounding property owners, patrons urinating in public, profane language and/or fighting.
- E. The premises shall close and all patrons shall vacate the premises between midnight and 10:00 a.m. Sunday through Friday, and midnight to noon on Saturday.
- F. The license holder shall ensure that building capacity limits, as set by the Fire Department and/or Building Code, are complied with at all times.
- G. The license holder shall comply with all applicable state statutes and regulations and all county and Village ordinances.
- H. The management, license holder and employees shall obey all reasonable orders or directions of any law enforcement officer.
- I. The performance of any dance by performers under the auspices of the management shall be given only on a raised portion of the floor separated by a railing or other device from the patrons so as to deter patrons from participating in the dance.
- J. No license holder, personally or through an agent or employee, shall advertise, allow or produce nude entertainment or performances in violation of this section or in violation of any Village ordinance or state statute.
- K. The license holder shall not permit any person to publicly perform specified sexual activities on the licensed premises.
- L. The licensee shall not permit any person to touch any performer's specified anatomical areas during a public performance.
- M. The use of simulated sexual organs during dances or performances is prohibited.
- N. No license holder shall permit any amateur dancing, entertainment or performances on the license holder's premises in violation of this section or any applicable state or federal laws.
- O. Pursuant to § 125.10(1), Wis. Stats., no intoxicating liquor or fermented malt beverage may be sold, purchased, served or consumed on the premises of the adult-oriented establishment.<sup>[2]</sup>  
*[2] Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 165-8. Location.

- A. No establishment licensed under this article shall permit any performance or entertainment governed by this article to occur within 100 feet of any area zoned for residential, church, school, nursing home, public park, or day-care center uses, or other establishment licensed under this article. No establishment licensed under this article shall be located within 500 feet of any other establishment licensed under this article or within 500 feet of any business holding an alcohol beverage license.
- B. For purposes of this section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult-oriented establishment to the

nearest property line of another adult-oriented establishment, school, place of worship, residential district or business holding an alcohol beverage license.

## § 165-9. Violations and penalties.

In addition to any other actions allowed by law or taken by the Village Board, including the action of license revocation or nonrenewal, anyone who violates any of the provisions of this article shall forfeit not less than \$250 but not more than \$1,000 for each and every offense, together with the costs of prosecution. If such forfeiture and costs are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law.

## § 165-10. License suspension, revocation or nonrenewal.

- A. In general. Any adult entertainment license granted herein may be revoked, suspended or not be renewed by the Village Board as follows:
- (1) If the applicant has made or recorded any statement required by this article knowing it to be false or fraudulent or intentionally deceptive.
  - (2) For the violation of any provision of this article, except for establishment license matters involving a violation of building codes; in such case the license shall be revoked after the second conviction thereof in any license year.
  - (3) After one conviction of any establishment personnel of an offense under Ch. 944, Wis. Stats., or of an offense against the person or property of a patron of the property or of an offense involving a substance included in Subch. II of Ch. 961, Wis. Stats., where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.
- B. Notice of hearing. No license shall be revoked, suspended or not renewed by the Village Board except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Village Board. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least 15 days prior to the date of the hearing and shall state the time and place thereof.
- C. Hearing. The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on his or her own behalf under subpoena by the Village Board if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Village Board shall prepare findings of fact and conclusions of law as to what, if any, action the Village Board will take with respect to the license. The Board shall provide the complainant and licensee with a copy of the report.

## § 165-11. License transfer.

Any license granted under the provisions of this article shall be transferable in accordance with the procedure set forth in § 165-20.

# Article III. Adult-Oriented Establishments

## § 165-12. Intent.

It is the purpose of this article to regulate adult-oriented establishment businesses (hereinafter referred to as "adult-oriented establishments"); to promote the health, safety, morals and the general welfare of the citizens of the Village of Neshkoro; to aid in the alleviation and prevention of the adverse and deleterious effects of criminal activity and disruption of the public peace associated with such establishments; and to establish reasonable and uniform regulations to prevent the serious health hazards associated with unsafe and unsanitary conditions known to exist in those establishments and to alleviate the spread of sexually transmitted diseases and other contagious diseases in those establishments.

## § 165-13. Adult-oriented establishment license required.

- A. Except as provided in Subsection **D** below, no adult-oriented establishment shall be operated or maintained within the corporate limits of the Village of Neshkoro without first obtaining a license to operate issued by the Village of Neshkoro.
- B. A license may be issued only for one adult-oriented establishment located at a fixed and certain place per filed application. Any person, partnership or corporation which desires to operate more than one adult-oriented establishment must have a license for each.
- C. No license or interest in a license may be transferred to any person, partnership or corporation except as set forth in § **165-20**.
- D. All adult-oriented establishments existing at the time of the original passage of this chapter must submit an application for a license within 90 days of the passage of this chapter. If an application is not received within said ninety-day period, then such existing adult-oriented establishment shall cease operations.

## § 165-14. Application for license.

- A. License procedure. Any person, partnership or corporation desiring to secure an adult-oriented establishment license shall make application to the Village Clerk-Treasurer. The application shall be filed in triplicate with and dated by the Village Clerk-Treasurer. A copy of the application shall be distributed within 10 days of receipt thereof to the Police Department, Fire Inspector, Building Inspector, and to the applicant. The procedures prescribed in § **165-5A** through **C** shall be applicable to adult entertainment licenses under this article.
- B. Required information. The application for a license shall be upon a form provided by the Village Clerk-Treasurer. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, all officers or directors of a corporate applicant, all members of any limited liability company applicant, and any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:
  - (1) Name, including all aliases, address and date of birth of applicant;
  - (2) Written proof that the individual is at least 18 years of age;
  - (3) All residential addresses of the applicant for the past 10 years;
  - (4) The business, occupation or employment of the applicant for 10 years immediately preceding the date of application;
  - (5) The exact nature of the adult entertainment to be conducted;
  - (6) Whether the applicant previously operated in this or any other state, county or municipality under an adult-oriented establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation;

- (7) All criminal convictions, whether federal or state, or municipal ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except traffic offenses;
  - (8) Fingerprints and two portrait photographs at least two inches by two inches of the applicant;
  - (9) The address of the adult-oriented establishment to be operated by the applicant;
  - (10) Proof of right to occupy under § **165-15D**; and
  - (11) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, and the name and address of the registered agent of the corporation.
- C. Failure to provide information. Failure or refusal of the applicant to provide any information for the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or refusal to submit to or cooperate with any investigation required by this section, shall constitute an admission by the applicant of ineligibility for such license and shall be grounds for denial thereof.

## § 165-15. Standards for issuance of a license.

- A. General requirements. To receive a license to operate an adult establishment, an applicant must meet the following standards.
- (1) If the applicant is an individual:
    - (a) The applicant shall be at least 18 years of age;
    - (b) Subject to Ch. 111, Wis. Stats., the applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application; and
    - (c) The applicant shall not have been found to have previously violated this article within five years immediately preceding the date of the application.
  - (2) If the applicant is a corporation:
    - (a) All officers, directors and others required to be named under § **165-14B** shall be at least 18 years of age;
    - (b) Subject to Ch. 111, Wis. Stats., no officer, director, or other person required to be named under § **165-14B** shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application; and
    - (c) No officer, director or other person required to be named under § **165-14B** shall have been found to have previously violated this article within five years immediately preceding the date of the application.
  - (3) If the applicant is a partnership, joint venture, limited liability company or any other type of organization where two or more persons have a financial interest:
    - (a) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least 18 years of age;
    - (b) Subject to Ch. 111, Wis. Stats., no person having a financial interest in the partnership, joint venture, or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application; and

- (c) No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this article within five years immediately preceding the date of the application.
- B. Investigation. No license shall be issued unless the Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the Village Clerk-Treasurer no later than 14 days after the application.
- C. Inspection. The Building Inspector, Fire Inspector, and/or Police Department shall inspect the premises proposed to be licensed to verify compliance with their respective codes and shall report compliance findings to the Village Clerk-Treasurer within 14 days of the date of application.
- D. Proof. No license shall be issued unless the applicant provides proof of one of the following:
  - (1) Ownership of a properly zoned building or parcel of real property upon which a building can be constructed. Proper zoning includes permissible nonconforming use status.
  - (2) A lease on a building which is properly zoned to house a venture. Proper zoning includes permissible nonconforming use status.
  - (3) An option to purchase property which is properly zoned for the venture.
  - (4) An option to lease property which is properly zoned for the venture. Proper zoning includes permissible nonconforming use status.

## § 165-16. License fee.

A nonrefundable adult-oriented establishment license application fee, as set by the Village Board, shall be submitted with the application for a license.<sup>[2]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: The current Fee Schedule is on file in the Village office.*

## § 165-17. Display of license.

The adult-oriented establishment license shall be displayed in a conspicuous public place in the adult-oriented establishment.

## § 165-18. Renewal of license.

A. Every license issued pursuant to this article will terminate on June 30 of the year it is issued, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the Village Clerk-Treasurer. The application for renewal must be filed not later than 60 days before the license expires. The application for renewal shall be filed in triplicate with and dated by the Village Clerk-Treasurer. A copy of the application for renewal shall be distributed by the Village Clerk-Treasurer to the Police Department, Building Inspector, Fire Inspector and the applicant. The application for renewal shall be upon a form provided by the Village Clerk-Treasurer and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

B. A license renewal fee, as set by the Village Board, shall be submitted with the application for renewal.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). The current Fee Schedule is on file in the Village office.*

C. If the Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Village Clerk-Treasurer.

## § 165-19. Denial of application.

- A. Whenever an initial application is denied, the Village Clerk-Treasurer shall, within 14 days of the denial, advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within 10 days of receipt of notification of denial, a public hearing shall be held at the next regularly scheduled meeting of the Village Board.
- B. Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this article shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Village Clerk-Treasurer.

## § 165-20. Transfer of license.

- A. A license is personal to the owner(s) and operator(s) designated in the application, provided it may be transferred pursuant to this section. A transfer application must be filed no less than 10 days before any change of the owner(s) or operator(s) designated on the application. In the event that a transfer application is not timely filed, then the license shall be invalid for any purpose relating to the operation of the adult-oriented business, and any transfer shall require the filing of an original application and be subject to the regulations applicable thereto.
- B. The Village Clerk-Treasurer shall prescribe a form on which license transfer applications shall be made. The form shall include a statement under oath that the original application remains correct as previously submitted in all respects except those that are amended by the transfer application. The transfer application shall contain a statement under oath that the individual signing the transfer application has personal knowledge of the information contained therein and that the information is true and correct and shall not be complete unless accompanied by a nonrefundable transfer fee as set by the Village Board. Transfer applications shall be filed in the same place and at the same time as original applications, and the fee shall be payable in the same manner as for original applications.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). The current Fee Schedule is on file in the Village office.*
- C. Transfer applications shall be reviewed, issued and subject to appeal in the same manner as original applications, and they shall be issued for the remaining term of the license to be transferred.
- D. Any transfer of an adult-oriented establishment, other than as provided in this section, from the licensed premises to any other premises shall cause such license to lapse and become void. A license which has lapsed and become void shall be subject to revocation under § 165-26.

## § 165-21. Physical layout.

Any adult-oriented establishment having available for customers, patrons or members any booth, room or cubicle for the private viewing of any motion picture, videotape or compact disc in which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas must comply with the following requirements:

- A. Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment and shall be unobstructed by any door, lock or other control-type devices.

- B. Construction. Every booth, room or cubicle shall meet the following construction requirements:
- (1) Each booth, room or cubicle shall be separated from adjacent booths, rooms, cubicles and any nonpublic areas by a wall.
  - (2) Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.
  - (3) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet, and be light-colored, nonabsorbent, smooth-textured and easily cleanable.
  - (4) The floor must be light-colored, nonabsorbent, smooth-textured and easily cleanable.
  - (5) The lighting level of each booth, room or cubicle when not in use shall be a minimum of 10 footcandles at all times, as measured from the floor.
- C. Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of specified sexual activity, cause any bodily discharge or litter while in the booth. No person shall alter, damage or deface any portion of any such booth, room or cubicle in such a manner that it no longer complies with the provisions of this section.

## § 165-22. Responsibilities of operators.

- A. An operator licensed under this article shall maintain a register of all employees, showing the name and aliases used by the employee, home address, birth date, sex, telephone numbers, social security number, and date of employment and termination. The above information on each employee shall be maintained in the register on the premises for a period of three years following termination.
- B. The operator shall make the register of employees available immediately for inspection by law enforcement officers upon demand of a member of a law enforcement agency at all reasonable times.
- C. Every act or omission by an employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- D. Any act or omission of any employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- E. No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view sexually explicit live adult entertainment or materials containing depictions of specified sexual activities or specified anatomical areas as defined herein.
- F. The operator shall maintain the premises in a clean and sanitary manner at all times.
- G. The operator shall ensure compliance of the establishment and its patrons with the provisions of this article.
- H. The operator shall ensure there is conspicuously posted inside each booth, room or cubicle an unutilized and undefaced sign or poster supplied by the Village which contains information regarding sexually transmitted diseases and the telephone numbers from which additional information can be sought.
- I. The operator shall ensure there is conspicuously displayed at a place near the main entrance of the establishment, or portion thereof, any information, brochures or pamphlets supplied by the

Village pertaining to sexually transmitted diseases.

- J. The operator shall ensure there are posted regulations concerning booth occupancy on signs, with lettering at least one-inch high, that are placed in conspicuous areas of the establishment and in each of the booths, rooms or cubicles.
- K. The Village shall charge its reasonable costs for supplying such posters, brochures, pamphlets and other information required under this article.

## § 165-23. Registration of employees.

- A. All operators, employees and independent contractors working in any adult-oriented establishment hereunder shall, prior to beginning employment or contracted duties, register with the Village Clerk-Treasurer. Such registration shall include the following:
  - (1) Name, address, birthdate, any aliases used, telephone numbers, date of employment and name of employer; and
  - (2) Photographs and fingerprinting.
- B. Upon registration, the Village will provide to each registered employee an identification card containing the employee's photograph, identifying the employee as such, which shall be kept available for production upon request of all inspecting officers while on duty at such adult-oriented establishment.
- C. All registrations hereunder are valid for a period of one year.
- D. A registration fee, as set by the Village Board, shall be paid per registration, which shall be paid to the Village to cover costs of the identification card.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). The current Fee Schedule is on file in the Village office.*

## § 165-24. Exclusions.

All private schools and public schools, as defined in Ch. 115, Wis. Stats., located within the Village are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

## § 165-25. Violations and penalties.

In addition to any other actions allowed by law or taken by the Village Board, including the action of license revocation, suspension or nonrenewal, anyone who violates any of the provisions of this article shall forfeit not less than \$250, but not more than \$1,000, for each and every offense, together with the costs of prosecution. If such forfeiture and costs are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law.

## § 165-26. License suspension, revocation or nonrenewal of licenses.

- A. In general. Any license granted herein may be revoked, suspended or not renewed by the Village Board as follows:
  - (1) If the applicant has made or recorded any statement required by this article knowing it to be false or fraudulent or intentionally deceptive.

- (2) For the violation of any provision of this article, except for establishment license matters involving a violation of building codes; in such case the license shall be revoked after the second conviction thereof in any license year.
  - (3) After one conviction of any establishment personnel of an offense under Ch. 944, Wis. Stats., or of an offense against the person or property of a patron of the property or of an offense involving substances in Subch. II of Ch. 961, Wis. Stats., where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.
  - (4) If the licensee, operator or employer becomes ineligible to obtain a license.
  - (5) If an operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without being registered with the Village Clerk-Treasurer.
  - (6) If any cost or fee required to be paid by this article is not paid.
  - (7) If any intoxicating liquor or fermented malt beverage, narcotic or controlled substance is served or consumed on the premises of the adult-oriented establishment.
  - (8) If any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any material depicting specified sexual activities or specified anatomical areas.
- B. Notice of hearing. No license shall be revoked, suspended or not renewed by the Village Board except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Village Board. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least 15 days prior to the date of the hearing and shall state the time and place thereof.
- C. Hearing. The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on his or her own behalf, under subpoena by the Village Board if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Village Board shall prepare findings of fact and conclusions as to what, if any, action the Village Board will take with respect to the license. The Village Board shall provide the complainant and licensee with a copy of the report.

## Article IV. Public Nudity

### § 165-27. Prohibiting nudity in public place.

[Added 6-7-2004]

- A. A person may not knowingly or intentionally, in a public place, appear in a live state of nudity, and any owner or operator of a public place may not knowingly or intentionally permit the appearance of any person in a live state of nudity on the public premises.
- B. As used in this article, the following terms shall have the meanings indicated:

#### **NUDITY**

The showing of the human male or female genitals, pubic hair, or buttocks with less than fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft; perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of

the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.

#### **PUBLIC PLACE**

Includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.

- C. The prohibition set forth above shall not apply to:
- (1) Any child then under 10 years of age; or
  - (2) Any individual exposing a breast in the process of breastfeeding an infant under two years of age.
- D. Exemptions. The provisions of this article do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, dinner theaters, and any establishments where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.
- E. Penalties. Any person, partnership, or corporation who violates any of the provisions of this article shall be subject to a forfeiture of not less than \$250 and not more than \$1,000 per violation. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this article constitutes sufficient grounds for suspending, revoking or not renewing a business's and/or operator's license for any violation of this article.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- F. Any person in violation of this article will be entitled to exercise the municipal appeal process outlined pursuant to Chapter 7 of the Village's Code.<sup>[2]</sup>
- [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## **Article V. Houses of Prostitution**

### **§ 165-28. Owners and keepers.**

No person shall keep or maintain or in any way be connected with or contribute to the support of any prostitution house or house of ill fame or shall knowingly own or be interested therein as proprietor or landlord thereof.

### **§ 165-29. Inmate or frequenter.**

Any person engaging in prostitution or found at or frequenting either of the places described in this article shall be deemed a disorderly person and shall be subject to the penalty hereinafter provided.

### **§ 165-30. Prostitution.**

It shall be unlawful for any person to commit or offer or agree to commit a lewd act or an act of prostitution.

## § 165-31. Violations and penalties.

Any person violating this article shall be subject to any available criminal penalties and also to a forfeiture of not less than \$250 nor more than \$1,000, together with the costs of prosecution.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article VI. Massage Establishments, Massage Technicians and Employees

### § 165-32. In general.

It is unlawful for a person, corporation or other legal entity to suffer, cause or permit the operation of a massage establishment or for a person to operate as a massage technician, agent, manager or employee, except in strict compliance with this article.

### § 165-33. Massage establishment license.

- A. No person, corporation or other legal entity shall suffer, cause or permit the conduct of a massage establishment without having first obtained a license therefor from the Village Board. A separate license shall be acquired for each such establishment.
- B. Applications shall be made in writing on forms supplied by the Village Clerk-Treasurer.
- C. All applications shall include:
  - (1) A nonrefundable fee as set by the Village Board.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).  
The current Fee Schedule is on file in the Village office.*
  - (2) The location and mailing address of the proposed establishment.
  - (3) For an individual or for each member of a partnership, limited liability company, joint venture or agent of a corporation:
    - (a) Name and present address;
    - (b) The two immediately previous addresses, and dates of residence at each;
    - (c) Height, weight, color of hair and eyes, social security number, written proof of age, full set of fingerprints and two photographs not less than 30 days old, and at least two inches by two inches;
    - (d) The business or occupation for the two years immediately preceding the date of application;
    - (e) Whether a similar license has been revoked or suspended and, if so, the reason therefor and the location thereof; and
    - (f) Whether convicted of any crime or ordinance violation other than traffic offenses within the past three years and, if so, a listing of the same and the locations thereof.
  - (4) If the applicant is a corporation, the names and addresses of each officer and director and of the stockholders of such corporation, together with the extent of the ownership of each and a statement whether such officer, director or stockholder holds office or stock in any other corporation conducting a similar business in the State of Wisconsin. Such application shall be

made by an agent registered as such who shall have been a resident of the Village of Neshkoro for at least 90 days.

- (5) All phone numbers of the proposed establishment.
  - (6) The names, addresses and phone numbers of all persons employed by the applicant at the proposed establishment at the time of application.
  - (7) Certification of compliance of the proposed premises with the Building Code and Fire Code or, in the alternative, applicant shall file a bond assuring that any work required to be done to bring the premises into compliance therewith shall be accomplished prior to the opening of business. Compliance with such codes and with the standards contained herein for health and sanitary operation and the acquisition of a health permit shall be conditions precedent to the opening of business.
  - (8) The application shall contain a statement signed by the applicant and each individual of a partnership or joint venture that all information contained therein is true and correct.
- D. The issuance of this license shall allow for the licensing of up to three additional managers for each establishment, in accordance with § 165-34.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 165-34. Massage technician's and manager's permit.

No person shall act or operate for a consideration as a massage technician or manager without certification as required by Ch. 460, Wis. Stats.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 165-35. Granting of license.

- A. Licenses may be granted by the Village Board after a hearing at which the applicant may be heard, at the applicant's option. The procedures prescribed in § 165-5A through C shall be applicable to licenses under this article.
- B. The Village Board shall grant a license within 30 days of application unless it is shown, for a massage establishment license, that the operation as proposed by the applicant does not comply with all applicable state laws and Village ordinances and, for all licenses, that the applicant or any partner or any officer, director or stockholder of a corporate applicant has been convicted of an offense under Ch. 994, Wis. Stats., or involving substances included in Subch. II of Ch. 961, Wis. Stats., or of an offense against the person or property of another within the past three years; that the information required on the application is incomplete or that any applicant has knowingly or with the intent to deceive made any false, misleading or fraudulent statement of fact in the application or any other document required by the Village in conjunction therewith; or that the applicant has not resided in the Village for at least 90 days prior to the date of application.
- C. In the event of denial, the applicant shall receive written notification thereof setting forth the reasons of the denial within 10 days after such denial.
- D. Licenses granted by the Village Board shall expire one year from the date of granting. Reapplication therefor shall be not less than 60 days prior to such expiration date and shall be the sole responsibility of the applicant.
- E. No license shall be transferred between locations or persons, and no massage establishment license shall be sold or be subject to transfer of corporate assets or change of corporate officers or directors.

- F. The massage technician's license does not entitle the holder to operate or manage a massage establishment.

## § 165-36. Regulation of licensed operators.

- A. Establishment regulations. Each establishment shall at all times maintain and comply with the following regulations:
- (1) The establishment shall comply with all Village codes;
  - (2) Only one nonflashing business sign clearly identifying the establishment as a massage establishment shall be posted at the main entrance. No description of services shall be permitted on such sign;
  - (3) No establishment shall be open for business between the hours of 10:00 p.m. and 8:00 a.m.;
  - (4) Only massage technicians licensed pursuant to this section shall be employed as massage technicians by the establishment;
  - (5) The practice of all massage technicians employed by the establishment shall be limited to the licensed premises;
  - (6) No person under the age of 18 years shall be permitted on the premises;
  - (7) No intoxicating beverages or substance included in Subch. II of Ch. 961, Wis. Stats., shall be permitted in the licensed establishment. Food shall be permitted only when there is no charge therefor and when a food preparation area, including sink with hot and cold running water, is a part of the establishment.
  - (8) The establishment shall provide a waiting area for patrons separate from any area wherein massages are given. There shall be direct access to this area from the main entrance or from the hallway connected only to the main entrance;
  - (9) The operator or a licensed manager shall be present on the premises at all times during hours of operation and shall be responsible for the operation of the establishment;
  - (10) The establishment shall permit inspections of the premises at any time during business hours by Building Inspectors, Fire Inspectors, or personnel of any law enforcement agency;
  - (11) The establishment shall keep current records of the names and addresses of its massage technicians, agents, managers and employees and the date of employment and termination of each. Such records shall be open to inspection by any of the personnel listed in Subsection **A(10)**;
  - (12) The establishment shall report any change of fact required on the application form and all personnel changes to the Village Clerk-Treasurer within 10 days after such change;
  - (13) Massage establishments shall keep a record of the date and hour of each massage, the name and address of the patron receiving the massage and the name of the masseur practicing or administering the massage. Such records shall be kept for the limited purpose of tracing any communicable disease which may have been contracted by any patron in such massage establishment and shall be made available to the inspecting officials and shall be used only for the purpose of tracing communicable diseases and to prevent any further contamination.
  - (14) Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens. Towels have first been laundered and disinfected. Disposable coverings and towels shall not be used on more than one patron. Soiled linens and paper towels shall be deposited in approved receptacles.

(15) Instruments utilized in performing massage shall not be used on more than one patron unless they have first been sterilized, using disinfecting agents or sterilizing equipment approved by the Village of Neshkoro and appropriate health officials. Massage table pads and reusable table coverings shall be disinfected between each massage with approved chemicals. Chemicals used during massage shall be stored separately in containers clearly labeled as to contents. All chemical containers shall be stored in cabinets reserved solely for such purpose.

B. Technician regulations. Each technician shall at all times comply with the following regulations:

- (1) The technician shall practice only on the premises of a licensed massage establishment.
- (2) The technician shall administer massages only to patrons over the age of 18 years.
- (3) No technician shall administer a massage:
  - (a) If said technician believes, knows or should know that he or she is not free of any contagious or communicable disease or infection; or
  - (b) To any massage patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption.
- (4) The technician shall report any change of fact required in the application form to the Village Clerk-Treasurer within 10 days after such change.
- (5) Prohibitions:
  - (a) It shall be unlawful for any person in a massage parlor to place his or her hand upon or to touch with any part of his or her body or to fondle or massage a specified anatomical area of any other person;
  - (b) It shall be unlawful for any person in a massage parlor to offer for a consideration to place his or her hand upon or to touch with any part of his or her body or to fondle or massage a specified anatomical area of any other person;
  - (c) It shall be unlawful for any person in a massage parlor to expose his or her specified anatomical areas, or any portion thereof, to any other person. It shall also be unlawful for any person in a massage parlor to expose the specified anatomical areas, or any portion thereof, of any other person;
  - (d) It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering the specified anatomical areas of his or her body; and
  - (e) It shall be unlawful for any person owning, operating or managing a massage parlor knowingly to cause, allow or permit in or about such massage parlor any agent, employee or any other person under his control or supervision to perform such acts prohibited in Subsection **B(1)** through **(3)**.

## § 165-37. Revocation or suspension of licenses.

A. In general. Any license granted herein may be revoked, suspended or not renewed by the Village Board as follows:

- (1) If the applicant has made or recorded any statement required by this article knowing it to be false or fraudulent or intentionally deceptive;
- (2) For the violation of any provision of this article, except for establishment license matters involving a violation of building codes; in such case the license shall be revoked after the second conviction thereof in any license year; and

- (3) After one conviction of any establishment personnel of an offense under Ch. 944, Wis. Stats., or of an offense against the person or property of a patron of the property or of an offense involving a substance in Subch. II of Ch. 961, Wis. Stats., where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.
- B. Notice of hearing. No license shall be revoked, suspended or not renewed by the Village Board except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Village Board. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least 15 days prior to the date of the hearing and shall state the time and place thereof.
  - C. Hearing. The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on his or her own behalf, under subpoena by the Village Board if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Village Board shall prepare findings of fact and conclusions as to what, if any, action the Village Board should take with respect to the license. The Village Board shall provide the complainant and licensee with a copy of the report.

## § 165-38. Exceptions.

This article shall not apply to the following classes of individuals while engaged in the duties of their respective professions:

- A. Physicians, surgeons, chiropractors, osteopaths, masseurs or physical therapists licensed or registered to practice their respective professions under the laws of the State of Wisconsin or nurses registered under the laws of the State of Wisconsin acting under their direction and control;
- B. Barbershops and beauty parlors, barbers and beauticians licensed under the laws of the State of Wisconsin, provided that such massage as is practiced is limited to the head and scalp; or
- C. Accredited high schools and colleges and coaches or trainers therein while acting within the scope of their employment.

## § 165-39. Operation without license; public nuisance.

The operation of a massage establishment without a license or the activity of an individual as a massage technician without a license is deemed a public nuisance and may be enjoined by the Village.

## § 165-40. Violations and penalties.

Any person violating this article shall be subject to a forfeiture of not less than \$250 nor more than \$1,000. Each day of violation or violation incident shall constitute a separate offense.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 173. Animals

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 7, Ch. 1, of the 1999 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Nuisances — See Ch. **368**.

Peace and good order — See Ch. **385**.

Zoning — See Ch. **500**.

## § 173-1. Definitions.

- A. <sup>[1]</sup>Definitions. In this chapter, unless the context or subject matter otherwise requires, the following words shall have the meanings indicated:

### **ANIMAL**

Mammals, reptiles and birds.

### **AT LARGE**

To be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog or cat within an automobile of its owner or in an automobile of any other person with the consent of the owner of said dog or cat shall be deemed to be upon the owner's premises.

### **CAT**

Any feline, regardless of age or sex.

### **CRUEL**

Causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

### **DOG**

Any canine, regardless of age or sex.

### **FARM ANIMAL**

Any warm-blooded animal normally raised on farms in the United States and used for food or fiber.

### **LAW ENFORCEMENT OFFICER**

Has that meaning as appears in § 967.02(5), Wis. Stats., and includes a humane officer under § 173.03, Wis. Stats., but does not include a conservation warden appointed under § 23.10, Wis. Stats.

### **NEUTERED**

As used herein as describing a dog or cat shall mean a dog or cat having nonfunctional reproductive organs.

### **OWNER**

Any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of 10 days; such person is presumed to be harboring or keeping the dog or cat within the meaning of this section.

### **PET**

An animal kept and treated as a pet.

### **RESIDENTIAL LOT**

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

### **RESTRAIN**

Includes notifying the dog's or cat's owner or an officer and requesting either the owner or officer to capture and restrain the dog or cat, or capturing and restraining the dog or cat, and killing the dog or cat if the circumstances require immediate action.

### **UNTAGGED**

Not having a valid license tag attached to a collar kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.

[1] *Editor's Note: Original Sec. 7-1-1-(a), License required, which immediately preceded this subsection, was deleted 10-4-2010.*

## § 173-2. Rabies vaccination required for license.

- A. Rabies vaccination. The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within 30 days after the dog reaches five months of age and revaccinated within one year after the initial vaccination. If the owner obtains the dog or brings the dog into the Village of Neshkoro after the dog has reached five months of age, the owner shall have the dog vaccinated against rabies within 30 days after the dog is brought into the Village unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date that immunization expires, as stated on the certificate of vaccination or, if no date is specified, within three years after the previous vaccination. The certificate of vaccination shall meet the requirements of § 95.21(2), Wis. Stats.  
[Amended 10-4-2010]
- B. Issuance of certificate of rabies vaccination. A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the Village, stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the Village.
- C. Copies of certificate. The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.
- D. Rabies vaccination tag. After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.
- E. Tag to be attached. The owner shall attach the rabies vaccination tag or a substitute tag to a collar, and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under Subsection **A**.
- F. Duplicate tag. The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.
- G. Cost. The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

## § 173-3. Issuance of dog and kennel licenses.

- A. Dog licenses.

- (1) It shall be unlawful for any person in the Village of Neshkoro to own, harbor or keep any dog more than five months of age without complying with the provisions of §§ 174.05 through 174.10, Wis. Stats., relating to the listing, licensing and tagging of the same.
- (2) The owner of any dog more than five months of age on January 1 of any year or five months of age within the license year shall, annually or on or before the date the dog becomes five months of age, pay a license tax as set by § 174.05(2), Wis. Stats., and obtain a license.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II); this ordinance also deleted original subsection (a)(3), minimum license tax, which immediately followed this section.*
- (3) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by § 173-2 of this chapter, the Village Clerk-Treasurer shall complete and issue to the owner a license for such dog containing all information required by state law. The Village Clerk-Treasurer shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.
- (4) The owner shall securely attach the tag to a collar, and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in § 173-2E.
- (5) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any law enforcement or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached.
- (6) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the Village Clerk-Treasurer upon application therefor.

B. Kennel licenses.

- (1) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this chapter, apply for a kennel license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax of \$35 for a kennel of 12 or fewer dogs and an additional \$4 for each dog in excess of 12. Upon payment of the required kennel license tax and, if required by the Village Board, upon presentation of evidence that all dogs over five months of age are currently immunized against rabies and if, as required by County regulations, the kennel has had a satisfactory sanitary inspection by the County Health Department, the Village Clerk-Treasurer shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five months old kept by the owner or keeper under a kennel license, but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times, but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is on leash or temporarily for the purposes of hunting, breeding, trial, training or competition.
- (3) The term "kennel" means any person harboring five or more dogs over the age of five months or any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling of dogs.<sup>[3]</sup>

[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (4) No kennel license shall be issued to the keeper or operator of a kennel who fails to provide proper food and drink and proper shelter for the dogs in said kennel or who neglects or abandons said dogs. Designated officials shall investigate any complaints regarding the failure to maintain proper standards or investigate any kennel premises upon their own initiative. Expressly incorporated by reference in this section as minimum standards for kennel keepers or operators are the relevant provisions of Ch. 951, Wis. Stats.
- (5) Issuance of a county kennel license shall include the requirement for the County Health Department to conduct an annual sanitary inspection of the premises to ensure that the conditions outlined in Ch. 951, Wis. Stats., are met. The kennel operator/owner shall be responsible for ensuring that the sanitary inspection is conducted prior to the issuance of the dog license/multiple dog license and kennel license. The applicant must present current certificates of rabies vaccination for all dogs and a certificate of completed sanitary inspection prior to license issuance.<sup>[4]</sup>

[4] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (6) A condition of a kennel license shall be that the licensed premises may be entered and inspected at any reasonable hour by appropriate Village officials or the County Health Department without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this section. Should any kennel be found to constitute a public nuisance, the license shall be revoked and the nuisance abated pursuant to Village ordinances.<sup>[5]</sup>

[5] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 173-4. Late fees.

The Village Clerk-Treasurer shall assess and collect a late fee of \$5 from every owner of a dog five months of age or over if the owner failed to obtain a license prior to April 1 of each year or within 30 days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required license fee.

## § 173-5. Rabies quarantine.

- A. Dogs and cats confined. If a district is quarantined for rabies, all dogs and cats within the Village shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The Village Clerk-Treasurer shall promptly post in at least three public places in the Village notices of quarantine.
- B. Exemption of vaccinated dog or cat from Village quarantine. A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the Village quarantine provisions of Subsection **A** if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.
- C. Quarantine or sacrifice of an animal suspected of biting a person or being infected or exposed to rabies.
  - (1) Quarantine or sacrifice of dog or cat. An officer or animal warden shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

- (2) Sacrifice of other animals. An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.

D. Quarantine of dog or cat.

- (1) Delivery to isolation facility or quarantine on premises of owner. An officer or animal warden who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than 24 hours after the original order is issued, or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.
- (2) Health risk to humans. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least 10 days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.
- (3) Risk to animal health.
  - (a) If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for 180 days. The owner shall have the animal vaccinated against rabies between 155 and 165 days after the exposure to a rabid animal.
  - (b) If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for 60 days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.
- (4) Destruction of a dog or cat exhibiting symptoms of rabies. If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.

E. Delivery of carcass; preparation; examination by Laboratory of Hygiene. An officer who kills an animal shall deliver the carcass to a veterinarian or the County Health Department. The veterinarian or County Health Department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Village, the veterinarian or County Health Department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

F. Cooperation of veterinarian. Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Village, the Laboratory of Hygiene, the County Health Department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.

G. Responsibility for quarantine and laboratory expenses. The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision

and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.

## § 173-6. Dangerous animals.

[Amended 10-4-2010; 11-6-2012]

- A. It shall be unlawful to permit any dangerous animal or vicious animal of any kind to run at large within the Village. It shall be unlawful to exhibit or parade animals which are feral in nature in the eyes of the law, without obtaining a permit form from the Chief of Police. Members of the Police Department are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person or property.
- B. No vicious, dangerous, or ferocious dog or dog sick with infectious disease shall be permitted to run at large in the Village.
- C. For purposes of enforcing this section, a dog or animal shall be deemed to be of a dangerous or vicious disposition if, within any twelve-month period, it bites two or more persons or inflicts serious injury on a person in unprovoked circumstances off the owner's premises.
- D. Prohibition and regulation of dog breeds deemed as dangerous.

(1) It is unlawful to keep, harbor, own or in any way possess within the corporate limits of the Village of Neshkoro, Wisconsin, any of the dogs listed below which are considered dangerous due to their natural breeding line. These dog breeds registered with the Village on or prior to November 5, 2012, may be kept within the Village but are subject to the standards and requirements set forth in Subsection **D**. Prohibited breeds:

[Amended 12-1-2014]

- (a) Pit bull, defined as Staffordshire bull terrier, American pit bull terrier, pit bull mix or any dog which has the appearance and characteristics of being predominantly of this breed.
  - (b) Chow or chow mix or any dog which has the appearance and characteristics of being predominantly of this breed.
  - (c) Rottweiler, rottweiler mix or any dog which has the appearance and characteristics of this breed.
  - (d) Wolf hybrid, wolf mix or any dog which has the appearance and characteristics of being predominantly of this breed.
  - (e) Any dog that has caused serious injury to a person or domestic animal off the owner's property, without reasonable cause.
- (2) Keeping of registered breeds or dogs listed above. The provisions of Subsection **D(1)** are not applicable to owners, keepers or harborers of dangerous breeds listed which are registered with the Village as of November 5, 2012. Keeping of such dogs, however, shall be subject to the following standards:
- (a) Leash. No person shall permit the dog to go outside its house, kennel or pen unless such dog is securely leashed with a leash no longer than six feet in length. No person shall permit this dog to be kept on a rope, chain or other type of leash outside of its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc.
  - (b) Report requirements. All owners, keepers, or harborers of the dog must, within 10 days of the following incidents, report the following information in writing to the Village Clerk as required hereinafter:

[1] The removal from the Village or the death of the dog.

[2] The birth of offspring of the dog.

[3] The new address of the dog should the owner move within the corporate Village limits.

(c) Sale or transfer of ownership prohibited. No person shall sell, barter, or in any other way dispose of these registered dogs to any other person within the Village, unless the recipient person permanently resides in the same household and on the same premises as the registered owner of such dog, provided that the registered owner of the dog may sell or otherwise dispose of such dog or the offspring of such dog to persons who do not reside within the Village.

(d) Animals born of registered dogs. All offspring of these dogs registered within the Village shall be removed from the Village within 10 weeks of the birth of such animal.

(e) Irrebuttable presumptions. There shall be an irrebuttable presumption that any registered dog as prohibited by Subsection **D(1)** of this section is in fact a dog subject to the requirements of this Subsection **D**.

(f) Failure to comply. It shall be unlawful for the owner, keeper, or harbinger of these dogs registered with the Village to fail to comply with the requirements and conditions set forth in this Subsection **D**. Any dog found to be in violation of this Subsection **D** shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the Village.

(g) Exemptions. The provisions of this subsection regarding dangerous animals shall not apply to animals owned by law enforcement agencies and used for law enforcement purposes.

E. Animals running at large.

(1) No person having in his/her possession or ownership any animal or fowl shall allow the same to run at large within the Village. The owner of any animal, whether licensed or unlicensed, shall keep his animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large unlicensed and required by state law or Village ordinance to be licensed shall be seized and impounded by a humane or law enforcement officer or animal warden.

(2) A dog or cat shall not be considered to be running at large if it is on a leash not to exceed 10 feet in length and under control of a person physically able to control it when the animal is off of the owner's premises.

F. Animals restricted on public grounds and cemeteries. No dog or cat shall be permitted in any public playground, school grounds, public park, or swimming area within the Village unless such dog or cat is on a leash and under control. Dogs and cats are prohibited from being in cemeteries. Every dog specially trained to lead blind persons shall be exempt from this subsection.

G. Owner's liability for damage caused by dogs; penalties. The provisions of § 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs, together with the penalties therein set forth, are hereby adopted and incorporated herein by reference.

## § 173-7. Impoundment of animals.

[Amended 10-4-2010]

A. Impounding of animals. In addition to any penalty hereinafter provided for a violation of this chapter, a County Sheriff Deputy, law enforcement officer or animal control officer may order any

dog, cat or other animal impounded which habitually pursues any vehicle upon any street, alley or highway of this Village; assaults or attacks any person; is at large within the Village; habitually barks, cries or howls; kills, wounds or worries any domestic animal; or is infected with rabies. In order for an animal to be impounded, the impounding officer must see or hear the violation of this section or have in his/her possession a signed statement of a complaining witness made under oath alleging the facts regarding the violation and containing an agreement to reimburse the Village for any damages it sustains for improper or illegal seizure.

[Amended 12-1-2014]

- B. Village not liable for impounded animals. The Village shall not be responsible for the cost of impoundment of any animal. Neither the Village, law enforcement or its animal control agency shall be liable for the death of any animal which has been impounded or disposed of pursuant to this section.

[Amended 12-1-2014]

- C. Impoundment fee. There is hereby established an initial impoundment fee of \$35 for each animal impounded. The impoundment fee shall be in addition to the daily boarding fee. The impoundment fee and daily boarding fee shall be paid by the owner of the animal. The owner of an animal which has been impounded under this section and who has not paid either the impoundment or boarding fee may be proceeded against in the name of the Village and in the manner provided for in a civil action, for the amount of the fees plus any direct collection costs incurred by the Village.

[Added 11-6-2012]

## § 173-8. Duty of owner in case of dog or cat bite.

Every owner or person harboring or keeping a dog or cat who knows that such dog or cat has bitten any person shall immediately report such fact to Village law enforcement officials and shall keep such dog or cat confined for not less than 10 days or for such period of time as directed. The owner or keeper of any such dog or cat shall surrender the dog or cat to a law enforcement or humane officer upon demand for examination.

## § 173-9. Animal feces.

- A. Removal of fecal matter. The owner or person in charge of any dog, cat, horse or other animal shall not permit solid fecal matter of such animal to deposit on any street, alley or other public or private property, unless such matter is immediately removed therefrom by said owner or person in charge. This section shall not apply to a person who is visually or physically handicapped.
- B. Accumulation of fecal matter prohibited on private yards. The owner or person in charge of the dog or cat must also prevent accumulation of animal waste on his/her own property by regularly patrolling and properly disposing of the fecal matter.

## § 173-10. Injury to property by animals.

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

## § 173-11. Barking dogs or crying cats.

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the

neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. The owner of a dog or cat is considered to be in violation of this section when two formal, written complaints are filed with Village law enforcement officers within a four-week period.

## § 173-12. Farm animals.

[Amended 10-4-2010]

Except as provided in § 173-20 regarding miniature pigs and on properties zoned in an agricultural classification, no person shall own, keep, harbor or board any cattle, horses, ponies, swine, goats or sheep unless a permit is first issued by the Village Board. Such permit shall be a one-time permit with a fee as set by the Village Board. For purposes of this section, the term "swine" shall not include any miniature pigs of either sex weighing less than 80 pounds which are intended for and kept as domestic pets.<sup>[1]</sup>

[1] *Editor's Note: Original Sec. 7-1-13, Sale of rabbits, chicks or artificially colored animals, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 173-13. Providing proper food and drink to confined animals.

- A. No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this section.
- B. The food shall be sufficient to maintain all animals in good health.
- C. If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

## § 173-14. Providing proper shelter.

Proper shelter. No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.<sup>[1]</sup>

[1] *Editor's Note: Original subsections (b) through (e), which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 173-15. Neglected or abandoned animals.

- A. Neglected or abandoned animals.
  - (1) No person may abandon any animal.
  - (2) Any law enforcement or animal control officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases, the owner, if known, shall be immediately notified, and such officer or other person having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.

- (3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.
  - (4) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal, and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
  - (5) Sections 173.10, Investigation of cruelty complaints, and 173.24, Reimbursement for expenses, Wis. Stats., are hereby adopted by reference and made a part of this chapter.
- B. Injured animals. No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the Village or any animal control agency with whom the Village has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

## § 173-16. Cruelty to animals and birds prohibited.

Acts of cruelty prohibited. No person except a law enforcement or animal control officer in the pursuit of his duties shall, within the Village, shoot or kill or commit an act of cruelty to any animal or bird or disturb any birds' nests or birds' eggs.<sup>[1]</sup>

[1] *Editor's Note: Original subsections (b) through (e), which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 173-17. Limitation on number of dogs and cats.

- A. Purpose. The keeping of a large number of dogs and cats within the Village of Neshkoro for a considerable period of time detracts from and, in many instances, is detrimental to healthful and comfortable life in such areas. The keeping of a large number of dogs and cats is, therefore, declared a public nuisance.
- B. Number limited.
  - (1) No person or family or entity shall own, harbor or keep in its possession more than a total of six dogs and cats in any property, except that a litter of pups or kittens or a portion of a litter may be kept for not more than 10 weeks from birth.  
[Amended 11-5-2001]
  - (2) The above requirement may be waived with the approval of the Village Board when a kennel license has been issued by the Village pursuant to § **173-3B**. Such application for waiver shall first be made to the Village Clerk-Treasurer.

## § 173-18. Trapping of animals.

All such traps set, placed or tended on Village-owned lands shall comply with Ch. 29, Wis. Stats., as it relates to trapping.

## § 173-19. Keeping of bees.

It shall be unlawful for any person to establish or maintain any hive, stand or box where bees are kept or keep any bees in or upon any premises within the corporate limits of the Village unless the bees are

kept in accordance with the following provisions:

- A. No hive, stand or box where bees are kept shall be located closer than 20 feet to any property boundary. Such hives, stands or boxes may only be located in the rear yard.
- B. If bee colonies are kept within 50 feet of any exterior boundary of the property on which the hive, stand or box is located, a barrier that will prevent bees from flying through it, no less than five feet high, shall be installed and maintained along said exterior boundary. Said barrier may be either a natural planting or artificial.
- C. Fresh clean watering facilities for bees shall be provided on the said premises.
- D. The bees and equipment shall be kept in accordance with the provisions of state law.
- E. A conditional use permit shall first be obtained pursuant to the Village Zoning Code.

## § 173-20. Vietnamese potbellied pigs; exotic animals.

[Amended 10-4-2010; 12-1-2014]

- A. Definitions. As used in this section, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

### **VIETNAMESE POTBELLIED PIG**

A purebred Vietnamese potbellied pig registered through a North American Vietnamese potbellied pig registry, which does not exceed 100 pounds in weight.

- B. License required/fee. It is unlawful for any person, party, firm or corporation to keep or maintain within the Village of Neshkoro limits a Vietnamese potbellied pig or exotic animals normally associated with zoos, without first getting approval from the Village Board and obtaining a license from the Village Clerk-Treasurer annually.
- C. (Reserved)
- D. (Reserved)
- E. Suspension, revocation or denial of renewal of license. The Village Board or a law enforcement officer shall have the right to suspend or revoke any license once granted or deny annual renewal thereof when it appears that any licensee has violated any of the provisions of this chapter or any ordinance of the Village or law, rule or regulation of the State of Wisconsin involving cruelty or mistreatment of the animal or the unlawful possession of the animal. Prior to the suspension or revocation of any license or the denial of an application for a renewal thereof, written notice of the reason for such action shall be given to the applicant or licensee by the officer.

## § 173-21. Violations and penalties.

- A. Any person violating § **173-15**, **173-16**, **173-17**, **173-18**, **173-19** or **173-20** shall be subject to a forfeiture of not less than \$50 and not more than \$200. This subsection shall also permit the Village Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this chapter.
- B. Anyone who violates §§ **173-1**, **173-3**, **173-4** and **173-5** of this Code or Ch. 174, Wis. Stats., shall be subject to a forfeiture of not less than \$25 and not more than \$200 for the first offense and not less than \$100 and not more than \$400 for any subsequent offenses. An owner who fails to have a dog vaccinated against rabies as required in § **173-2** shall be subject to the penalty prescribed by § 95.21(10)(a), Wis. Stats.

[Amended 10-4-2010]

- C. An owner who refuses to comply with an order issued under § 173-5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than \$100 nor more than \$1,000, together with costs of prosecution, and, in default of such forfeiture and costs, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 60 days.  
[Amended 10-4-2010]
- D. Any person who violates §§ 173-6 through 173-14 of this Code shall be subject to a forfeiture of not less than \$25 and not more than \$100 for the first violation and not less than \$50 and not more than \$200 for subsequent violations.
- E. Each day that a violation of this chapter continues shall be deemed a separate violation. Any dog found to be the subject of a violation of this chapter shall be subject to immediate seizure, impoundment and removal from the Village by Village officials in the event the owner or keeper of the dog fails to remove the dog from the Village. In addition to the foregoing penalties, any person who violates this chapter shall pay all expenses, including shelter, food, handling and veterinary care, necessitated by the enforcement of this chapter.

## Chapter 191. Bicycles and Play Vehicles

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 10, Ch. 2, of the 1999 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Juveniles — See Ch. 326.

Snowmobiles — See Ch. 432.

All-terrain vehicles — See Ch. 480, Art. VI.

Vehicle and traffic regulations — See Ch. 480.

### § 191-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

#### BICYCLE

Every device propelled by the feet acting upon pedals and having wheels, any two of which are not less than 14 inches in diameter.

#### BICYCLE LANE

That portion of a roadway set aside for exclusive use of bicycles and so designated by appropriate signs and markings by the responsible governing body.

#### BICYCLE WAY

Any path or sidewalk, or portion thereof, designated for the use of bicycles by the responsible governing body.

#### BIKE ROUTE

Any bicycle lane, bicycle way or highway which has been duly designated by the responsible governing body and identified by appropriate signs and markings.

#### CARRIER

Any device attached to a bicycle designed for carrying articles.

#### PLAY VEHICLE

Any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.

#### RIGHT-OF-WAY

The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

## § 191-2. Lighting and other equipment.

No person shall operate a bicycle upon a highway unless equipped as required in § 347.489, Wis. Stats.

## § 191-3. Rules of the road.

The provisions of Chs. 346 and 347, Wis. Stats., and applicable Village ordinances shall govern the operation of bicycles where appropriate. Every person driving a bicycle upon a roadway shall be granted all the rights and shall be subject to all the duties applicable to the driver of a vehicle by the laws of the state declaring rules of the road applicable to vehicles or by the traffic ordinances of the Village applicable to the driver of the vehicle, except as to those provisions of laws and ordinances which by their nature can have no application.

## § 191-4. Regulation of skateboards, roller skates and roller skis.

- A. Regulations. It shall be unlawful for any person in the Village of Neshkoro to operate or ride a skateboard, roller skates, or roller skis ("play vehicles") in any of the following places:
- (1) On any Village streets, except while crossing a roadway at a crosswalk.
  - (2) On any sidewalk in a business district. For purposes of this section, a "business district" shall be defined as any area primarily commercial in nature.
  - (3) In any public parking ramp or parking lot.
  - (4) On private property, unless permission has been received from the owner, lessee or person in charge of that property.
- B. Yield to pedestrians. Operators or riders of skateboards, roller skates, roller skis, or other play vehicles shall yield the right-of-way to other pedestrians using Village sidewalks and shall not otherwise endanger or interfere with normal pedestrian traffic on those sidewalks.
- C. Play vehicles not to be pulled by moving vehicles. No person riding upon any coaster, roller skates, skateboard, roller skis, sled, toboggan or play vehicle shall attach the same or himself to any vehicle upon a roadway.

## § 191-5. General bicycle regulations.

- A. Parental responsibility. No parent or guardian of any child shall authorize or knowingly permit such child to violate any of the provisions of §§ **191-3**, **191-4** and this section.
- B. Street operation.
- (1) Unless preparing to make a left turn, every person operating a bicycle upon a roadway carrying two-way traffic shall ride as near as possible to the right edge of the unobstructed traveled roadway. On one-way roadways, the operator of the bicycle shall ride as near as possible to the right edge or left edge of the unobstructed traveled roadway. Every person operating a bicycle upon a roadway shall exercise due care when passing a standing vehicle or one proceeding in the same direction, allowing a minimum of three feet between his bicycle and the vehicle.

- (2) Every person when operating a bicycle upon a roadway shall ride such bicycle in single file.<sup>[1]</sup>  
[1] *Editor's Note: Former Sec. 10-2-5(b)(3), which immediately followed this subsection and duplicated information that is also in Subsection E, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (3) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. Infant seats are permitted if securely attached to the frame at the top mount and to the axle and frame at the rear bottom mount and if provided with hand holds, foot rests, foot guards and safety belt. Persons are not permitted to be located on a bicycle in front of the operator of the bicycle.<sup>[2]</sup>  
[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (4) No person operating a bicycle shall carry any package, bundle or article which prevents the safe operation of the bicycle with at least one hand on the handlebars at all times.
- (5) No rider of a bicycle shall remove both hands from the handlebars or feet from the pedals or practice any acrobatic or fancy riding on any street.
- (6) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.
- (7) No person may operate a bicycle or moped upon a roadway where a sign is erected indicating that bicycle riding is prohibited.
- C. Bicycle parking. No bicycle shall be parked in front of or adjacent to any commercial establishment unless the bicycle is parked on the sidewalk parallel to the street and as close as possible to the curb. No person shall leave a bicycle at such a place or in such a way as to create a hazard to pedestrians, automobile operators or to anyone else.
- D. Required equipment. Every bicycle, when operated upon a highway, shall be equipped with a brake adequate to control the movement of and to stop such vehicle whenever necessary. Such brake shall be maintained in good working order at all times.
- E. Bicycles not to be pulled by moving vehicles. No person riding upon a bicycle shall cling or attach himself or his bicycle to any other moving vehicle upon a street or highway, nor shall the operator of any such bicycle tow or draw any coaster wagon, sled, person on roller skates, toy vehicles or any other similar vehicle on such highway.
- F. Speed. No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions or in excess of any posted speed limit.
- G. Operation on sidewalks. No bicycles, roller blades or skateboards are allowed on sidewalks in the Main Street business area, from south of the bridge to Berlin Street.  
[Amended 6-6-2005<sup>[3]</sup>]  
[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- H. Bicycle operation while hearing obstructed. No person may operate a bicycle upon a highway while such operator is using any audio device attached directly to the ear or ears of such operator that materially impairs the ability of such operator to hear traffic signals or warnings.
- I. Mopeds prohibited on bicycle ways. No person may ride a moped or motor bicycle with the power unit in operation upon a bicycle way.
- J. Riding bicycle on bicycle lane.
- (1) Unless two-way traffic is authorized by the Village Board, on any portion of a roadway which it has set aside as a bicycle lane and appropriate traffic signs are installed, every person operating a bicycle upon a bicycle lane shall ride in the same direction in which vehicular traffic on the lane of the roadway nearest the bicycle lane is traveling.
- (2) Entering or leaving lane:

- (a) Unless otherwise provided under Subsection **J(2)(b)** below, a person operating a bicycle may enter or leave a bicycle lane only at intersections or at driveways adjoining the bicycle lane.
  - (b) A person may leave a bicycle lane at any point by dismounting from the bicycle and walking it out of the lane. A person may enter a bicycle lane at any point by walking his bicycle into the lane and then mounting it.
- (3) Every person operating a bicycle upon a bicycle lane shall exercise due care and give an audible signal when passing a bicycle rider proceeding in the same direction.
  - (4) Every operator of a bicycle entering a bicycle lane shall yield the right-of-way to all bicycles in the bicycle lane. Upon leaving a bicycle lane, the operator of a bicycle shall yield the right-of-way to all vehicles and pedestrians.
- K. Riding bicycle on bicycle way.
- (1) Every person operating a bicycle upon a bicycle way shall:
    - (a) Exercise due care and give an audible signal when passing a bicycle rider or a pedestrian proceeding in the same direction.
    - (b) Obey each traffic signal or sign facing a roadway which runs parallel and adjacent to a bicycle way.
  - (2) Every person operating a bicycle upon a bicycle way open to two-way traffic shall ride on the right side of the bicycle way.
  - (3) Every operator of a bicycle entering a bicycle way shall yield the right-of-way to all bicycles and pedestrians in the bicycle way.

## § 191-6. Bicycle penalties.

- A. Any person 16 years of age or older who shall violate any provision of this chapter may be issued a uniform traffic citation and be subject to the penalties provided by the Uniform State Traffic Deposit Schedule.
- B. Any person 14 years of age through 15 years of age who shall violate any provisions of this chapter may be issued a citation and be subject to the penalties provided by the deposit schedule and, upon conviction thereof, may be required to forfeit not more than \$25, together with the cost of the prosecution and, in default of such payment, the court may suspend the child's operating privileges, as defined in § 340.01, Wis. Stats., for not less than 30 days nor more than 90 days.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Any person under 14 years of age who shall violate any provision of this chapter may be issued a special bicycle violation warning notice along with the following additional actions:
  - (1) First offense in one year: A warning letter sent to the parent or guardian.
  - (2) Second offense in the same year: Vehicle license stickers shall be invalidated by the Chief of Police for a period of not longer than 15 days, as said officer may deem necessary. The owner of said vehicle shall neither use this vehicle nor any other vehicle during said suspension.
  - (3) Third offense in the same year: Vehicle license stickers shall be invalidated by the Chief of Police for a period of not less than 15 days nor more than 30 days, as said officer may deem necessary. The owner of said vehicle shall neither use this vehicle nor any other vehicle during said suspension.

- (4) Fourth and subsequent offense in the same year: Mandatory referral to Marquette County Juvenile Court.
- D. All violations shall be determined based on the preceding twelve-month period to establish which violation has occurred.
  - E. Any parent or guardian of any child who authorizes or knowingly permits such child to violate any of the provisions of this chapter may be subject to the provisions of §§ 346.77 and 346.82(1), Wis. Stats.

## § 191-7. Play vehicle penalties.

- A. Any person 12 years of age and over who shall violate any provisions of this chapter may be issued a citation and be subject to the penalties provided by the deposit schedule and, upon conviction thereof, may be required to forfeit not more than \$25, together with the costs of prosecution.
- B. Any person under 12 years of age who shall violate any provisions of this chapter may receive an officer's report warning notice along with the following additional actions:
  - (1) First offense in one year: A warning letter sent to the parent or guardian.
  - (2) Second or third offense in the same year: The play vehicle may be impounded by law enforcement authorities.
  - (3) Fourth and subsequent offense in the same year: Mandatory referral to Marquette County Juvenile Court.
  - (4) Any parent or guardian of any child who authorizes or knowingly permits such child to violate any of the provisions of this chapter may be subject to the provisions of §§ 346.77 and 346.82(1), Wis. Stats.

## Chapter 200. Building Construction

[HISTORY: Adopted by the Village Board of the Village of Neshkoro as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Construction site erosion control — See Ch. **226**.

Driveways — See Ch. **238**.

Floodplain and shoreland-wetland zoning — See Ch. **270**.

Hazardous materials — See Ch. **285**.

Historic preservation — See Ch. **300**.

Property maintenance — See Ch. **396**.

Subdivision of land — See Ch. **450**.

Zoning — See Ch. **500**.

## Article I. Land Use Permit

[Adopted 12-6-2004]

### § 200-1. Permit required.

[Amended 10-4-2010]

Prior to application for a building permit from the contracted inspection service, Village of Neshkoro residents shall hereby be required to apply for a land use permit through the Village Clerk-Treasurer's

office.

- A. A land use permit is required for any construction or alterations to the property, including driveways. Exempt: freestanding gazebos, windows, siding, roofing, cabinets or flooring.
- B. After a land use permit is obtained from the Village Board, a permit from the contracted inspection service will be required for any new construction or alteration over \$7,500.  
[Amended 11-3-2014]
- C. A land use permit shall lapse and become void unless the operation described in the permit is completed within one year from the date of issuance.

## § 200-2. Application.

- A. Application for a land use permit shall be made in writing upon a form furnished by the Clerk-Treasurer and shall state the name and address of the owner, the property address, if different, and the intended use of the improvement.
- B. All applications for a land use permit shall be accompanied by a sketch showing the location, the distances from other buildings on the property, and distances from lot lines, as well as any other information with regard to the proposed building as may be necessary to provide for the enforcement of Village ordinances and zoning regulations.  
[Amended 10-4-2010]
- C. Land use permits will only be reviewed at monthly Village Board meetings unless other arrangements are made with the Village Board.  
[Added 10-4-2010]

## § 200-3. Fees.

[Amended 10-4-2010]

Fees for land use permits shall be established by the Village Board and reviewed from time to time.<sup>[1]</sup> All fees shall be paid to the Village Clerk-Treasurer before a permit shall be issued.

[1] *Editor's Note: The current Fee Schedule is on file in the Village office.*

# Article II. Codes Adopted; Construction Standards

[Adopted 10-4-2010]

## § 200-4. Portions of state building code adopted by reference.

Chs. Comm 61 through 65, Wis. Adm. Code (Commercial Building Code); Chs. Comm 75 through 79, Wis. Adm. Code (Existing Buildings Code); and Ch. Comm 70, Wis. Adm. Code (Historic Building Code) are hereby adopted and made a part of this Code with respect to those classes of buildings to which this chapter specifically applies. Any future amendments, revisions and modifications of said chapters adopted by reference herein are intended to be made a part of this Code.

## Chapter 207. Cable Television

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 9, Ch. 3, of the 1999 Code. Amendments noted where applicable.]

## § 207-1. Grant of franchise.

This chapter allows the Village of Neshkoro to grant to a franchise grantee, its successors and assigns, a nonexclusive license to install, maintain, and operate a cable television system for the distribution of television signals, frequency-modulated radio signals and any other electronic signals capable of being transmitted on a coaxial or fiber-optic network including data transmission and closed circuit television programs for a term of 15 years, provided that the franchise grantee conforms to the conditions, limitations, requirements of this chapter. This chapter may be amended from time to time by the Village through the enactment of amendments thereto.

## § 207-2. Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number.

### **CABLE**

Coaxial or fiber-optic cables, wave guides, or other conductors and equipment for providing video, audio and data frequencies by cable or through its facilities as herein contemplated, and including closed-circuit special event programs and educational television.

### **CUSTOMER**

Any person or entity receiving and paying for any purpose for the services of a grantee herein.

### **GRANTEE**

A person or entity to whom or which a franchise under this chapter is granted by the Village Board and the lawful successor or assigns of such person or entity.<sup>[1]</sup>

### **GROSS REVENUES**

Any revenue derived directly or indirectly by a grantee, its affiliates, subsidiaries, parents and any persons or entities in which a grantee has a financial interest of 5% or more from or in connection with the operation of a Neshkoro cable system, including, but not limited to, basic subscriber service monthly fees, pay cable fees and installation and reconnect fees revenues. The term does not include any taxes on service furnished by grantee and imposed directly upon any subscriber or user by the state, Village, or other governmental unit and collected by the grantee on behalf of said governmental unit.

### **STREET**

The surface of and space above and below any public street, road, highway, freeway, lane, alley, court, sidewalk, parkway or drive, now or hereafter existing as such within the Village.

### **VILLAGE**

The Village of Neshkoro, State of Wisconsin, in its present incorporated form or in any later recognized, consolidated, enlarged or reincorporated form.

### **VILLAGE BOARD**

The present governing body of the Village or any future body constituting the legislative body of the Village.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 207-3. Renewal.

- A. A grantee shall have the right to apply to the Village for renewal or extension of the franchise. The Village shall grant such renewal or extension application unless it finds that:

- (1) The grantee has not substantially complied with the material terms of the ordinance and with applicable law, or its officers have been convicted of a felony;
  - (2) The legal, technical, or financial qualifications of the grantee are inadequate to provide the service proposed by it;
  - (3) The service and facilities to be provided by the grantee are not reasonable in light of the community need for and cost of such services and facilities;
  - (4) The service quality of the cable system has not been reasonable in light of the community needs; or
  - (5) The proposals contained in the renewal application are otherwise unreasonable.
- B. A grantee must file for renewal at least 30 months before the expiration of the franchise. The Village must consider the renewal application and conduct any proceedings necessary to adequately consider the application and may not request, accept or consider any other franchise application until the grantee's application is denied or approved.
- C. The Village shall negotiate in good faith with the grantee regarding franchise renewal within 60 days after the completion of proceedings pursuant to Subsection **B** above and shall make a preliminary decision on granting or denying renewal within four months after receipt of an application. If the Village denies an application it must notify the grantee by written statement, within seven days after its decision, of the reasons for the denial.
- D. The grantee, if adversely affected or aggrieved by a decision of the Village made pursuant to this section, may appeal such decision in any court of competent jurisdiction. The franchise shall remain in effect pending the completion of such appeal.
- E. Both the Village and grantee shall comply with all the provisions of § 626 of the Cable Communications Policy Act of 1984 regarding renewal procedures.
- F. In the event that the Act changes, the Village shall conduct renewal procedures in accordance with then applicable law.

## § 207-4. Termination or expiration.

- A. Should a grantee's franchise be terminated or expire and there is no judicial or administrative review of the termination or expiration taking place, the grantee shall begin removal within 90 days of termination or expiration of all property owned by the grantee and placed on a public right-of-way unless permitted by the Village to abandon said property to a purchaser.
- B. In the event that a franchise has been terminated or has expired, the Village shall have options, to the extent then permitted by law, to purchase the assets of the grantee's cable television system previously governed by the franchise at its fair market value, as determined by any other reasonable, bona fide offer to purchase the system, to assign such rights to purchase, or to require removal of all grantee's property located within the public ways of the Village at the grantee's expense. Such an option must be exercised within one year from the date of the revocation or expiration of the franchise, the entry of a final judgment by a court reviewing the question of the revocation or expiration, or the entry of final order upon appeal of the same, whichever is later.

## § 207-5. Transfer procedure.

- A. All of the rights and privileges and all the obligations, duties and liabilities created by this chapter shall pass to and be binding upon the successors of the Village and the successors and assigns of any grantee, and the same shall not be assigned or transferred without the written approval of the Village hereunder, which approval shall not be unreasonably withheld without a showing of good

cause; provided, however, that this section shall not prevent the assignment or pledge of a franchise or system by a grantee as security for debt without such approval, and provided further that transfers or assignments of a franchise between any parent and subsidiary corporation or between entities of which at least 51% of the beneficial ownership is held by the grantee or any parent corporation shall be permitted without the prior approval of the Village. The sale, transfer or assignment of a material portion of the tangible assets of a grantee to an unrelated third party shall be considered an assignment subject to the provisions of this section.

- B. The parties to the sale or transfer of a franchise shall make a written request to the Village for its approval of a sale or transfer of the franchise.
- C. The Village shall reply in writing within 30 days of the request and shall indicate approval of the request or its determination that a public hearing is necessary due to potential adverse effect on the franchise subscribers.
- D. If a public hearing is deemed necessary pursuant to Subsection C above, the Village shall conduct such hearing within 30 days of such determination and notice of any such hearing shall be given 14 days prior to the hearing by publishing notice thereof once in a newspaper of general circulation in the area being served by the franchise. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by the Village.
- E. Within 30 days after the public hearing, the Village shall approve or deny in writing the sale or transfer request.
- F. The parties to the sale or transfer of a franchise only, without the inclusion of a cable communications systems in which at least substantial construction has commenced, shall establish that the sale or transfer of a franchise only will be in the public interest.
- G. A grantee, upon transfer, shall within 60 days thereafter file with the Village a copy of the deed, agreement or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as correct by the grantee.

## § 207-6. Franchise territory.

Any franchise for the present territorial limits of the Village of Neshkoro. For any area henceforth added thereto during the term of the franchise, service shall be extended wherever household density reaches 30 homes per plant mile, including interconnecting trunks.

## § 207-7. Customer privacy.

- A. A grantee shall not, except as required by governmental action, provide any data concerning specific subscribers or users to their use of subscriber services without notification to the subscribers or users.
- B. Subscribers and users shall retain the right to deactivate their terminals but shall continue to be responsible for charges until the grantee is notified to terminate service.

## § 207-8. Technical performance.

- A. The cable system shall be operated to comply with all guidelines and standards set by the FCC for signal quality and leakage upon proper notification. The Village reserves the right to test the system and independently measure the signal quality. The system shall comply at all times with the applicable National Electrical Code of the National Fire Protection Association.

- B. The Village may inspect all construction or installation work during such construction or installation, or at any time after the completion thereof, in order to ensure compliance with the provisions of this chapter and all other governing ordinances.

## § 207-9. Open books and records.

Any grantee shall manage all of its operations in accordance with the policy of totally open books and records vis-a-vis the Village. The authorized officers of the Village shall have the right to inspect, upon notice, during normal business hours all books, records, maps, plans and service complaint logs of the grantee that relate to the operation of the franchise.

## § 207-10. Customer service.

- A. The grantee shall provide a line, either staffed or with answering capabilities, available 24 hours a day.
- B. The grantee shall answer service requests for service interruptions within 48 hours, excluding weekends and holidays. Problems should be rectified in 48 hours or, in the case of a dispute, in fewer than 30 days. Customers shall be able to request from the grantee that a service visit occur during a four-hour block of time in either the morning or the afternoon.

## § 207-11. Description of system.

Upon request, a grantee shall, as part of the acceptance of a franchise, provide a complete written description or map of the cable system in the Village of Neshkoro. Such written description or map shall be updated as additions or changes are made.

## § 207-12. Rates.

- A. All rates and charges shall be established by a grantee; provided, however, the Village reserves its right to the maximum extent possible to regulate the rates of a grantee, as permitted by federal or state law, regulation or rule. In the event after the effective date of this chapter any federal or state law, regulation or rule is at any time changed, modified, amended or repealed so as to allow for increased authority of the Village to regulate a grantee's rates, the Village shall be permitted to do so to the maximum extent possible.
- B. A grantee shall provide the Village with a rate schedule of the grantee's charges at the time of grantee's acceptance of a franchise. Subsequent additions or amendments to rates and service charges shall be filed with the Village Board at least 30 days prior to the implementation of the addition or amendment. The grantee shall give subscribers at least 30 days' advance written notice before instituting a rate increase.
- C. Pending such modification, amendment or repeal of current federal and state laws regarding regulation of a grantee's rates, the following procedure shall apply, to the extent permitted by law;
- D. At the time this chapter is being adopted, the Federal Communications Commission is developing rules whereby municipalities will be given the limited right to regulate rates for basic cable service. A grantee shall not increase its basic cable service rates without giving the Village Board written notice of any proposed basic cable service rate increase at least 30 days prior to the effective date of such increase. The Village Board may deny the grantee such increase based upon the procedures and standards to be developed by the Federal Communications Commission. In the event the Village would certify to the FCC to regulate the basic service rate and, at the discretion of the Village Board, the Village Board may schedule a public hearing to determine whether the grantee's proposed basic rate increase should be granted. Grantee will cooperate fully with the

Village Board in connection with such proceedings and, upon request, supply to the Village Board within 20 days any additional information as may be reasonably required for determining whether the proposed increase should be granted, provided such disclosure will not violate any applicable law, confidentiality obligation or contract to which the grantee is a party. A grantee shall be permitted to participate in the public hearing and present its case for the proposed rate increase. Should the Village Board fail to deny the proposed rate increase prior to its taking effect, but determines within 30 days of the effective date of the increase that the increase should be denied or modified under the standards to be developed by the Federal Communications Commission, then the previous basic rate charge shall be the effective basic cable service rate charge from the first day of the month following the Village Board's action. Nothing contained herein shall prevent the grantee from challenging before any court of appropriate jurisdiction that the action of the Village Board in denying the basic cable service rate increase is arbitrary and capricious and/or violates applicable law.

## § 207-13. Conditions on street occupancy.

- A. All transmission and distribution structures, lines and equipment erected by a grantee within the Village shall be so located as not to cause interference with the proper use of streets, alleys and other public ways and places, and not to cause interference with the rights of or reasonable convenience of property owners who adjoin any of the streets, alleys or other public ways and places.
- B. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the grantee shall first give notice to the Director of Public Works of any contemplated disturbances of pavement, sidewalk, driveway or other surfacing, and shall, at its own cost and expense and in a manner approved by the Director of Public Works, replace and restore all pavement, sidewalk, driveway or other surface of any street or alley disturbed in as good condition as before such work commenced. The grantee shall otherwise comply with Village ordinances relating to street openings.
- C. If at any time during the period of a franchise the Village shall elect to alter or change the location or grade of any street, alley or other public way, the grantee, upon reasonable notice by the Village, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense. If any construction by the grantee is in violation of the provisions of Subsection **A** of this section, the grantee shall likewise, upon reasonable notice by the Village, remove, re-lay and relocate its property in such a manner as to remedy such violation at its own expense.
- D. The grantee shall not place poles or other fixtures where the same will interfere with any existing gas, electric, telephone or other fixture, water hydrant, or main. All such poles or other fixtures placed in any street shall be placed between the outer edge of sidewalk and the curblin, and those placed in alleys shall be placed close to the line of the lot abutting on such alley in such a manner as not to interfere with the usual travel on the streets, alleys and public ways. However, nothing in this chapter shall prohibit the use by the grantee of existing public utility poles where practical.
- E. A grantee shall, on the request of any person holding a building moving permit issued by the Village, temporarily raise or lower its wires to permit the moving of buildings. The expenses of such temporary raising or lowering of the wires shall be paid by the person requesting the same, and the grantee may require such payment in advance. The grantee shall be given, not less than 72 hours in advance, notice to arrange for such temporary wire changes.
- F. The grantee, to the same extent that the Village has such authority, may trim trees that overhang streets, alleys, sidewalks and public places of the Village so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee.

## § 207-14. Indemnity.

- A. The grantee shall defend and save the Village and its agents and employees harmless from all claims, damages, losses and expenses including attorneys' fees sustained by the Village on account of any suit, judgment, execution, claim or demand whatsoever arising out of:
- (1) The enactment of this chapter and granting of a franchise thereunder, except such claims as may arise from the Village's selection of a grantee to be awarded a franchise pursuant to this chapter.
  - (2) The installation, operation or maintenance of the cable system except for acts of the Village, its agents or employees, unless said acts are at the request of and under the direction or supervision of the grantee.
- B. The Village shall notify the grantee within 10 days after the presentation of any claim or demand, either by suit or otherwise made against the Village on the part of the grantee. The grantee shall furnish to the Village, before any franchise becomes effective, satisfactory evidence in writing that the grantee has in force and will maintain in force during the term of the franchise public liability insurance.
- C. Insurance.
- (1) A grantee shall maintain throughout the term of the permit a general comprehensive liability insurance policy naming as additional insured the Village, its officers, boards, commissions, agents and employees in a form satisfactory to the Village Attorney.
  - (2) The policy shall protect the Village and its agencies and employees against liability for loss or damages for personal injury, death or property damage occasioned by the operations of grantee under any franchise granted hereunder, in the amounts of:
    - (a) One million dollars for bodily injury or death to any one person with the limit however of \$2,000,000 for bodily injury or death resulting from any one accident; and
    - (b) One million dollars for property damage resulting from any one accident.
  - (3) The Village shall be named as an additional insured under such insurance, and a copy of the current in-force policy shall be deposited with the Village Clerk.

## § 207-15. Service remedies.

A grantee is not responsible for failure to provide adequate service caused by acts of God, strikes, governmental or military action, or other conditions beyond its control including the lack of material or parts. Except as otherwise provided, upon interruption of service of greater than 48 hours without the prior express permission of the Village, the grantee shall provide its customers with a refund based on the following formula:

$$\frac{\text{Basic Service Rate} \times \text{Number of Days}}{\text{Number of Days in Month}}$$

## § 207-16. Franchise fees.

- A. A grantee of a franchise hereunder shall pay to the grantor a fee in an amount as designated in the franchise agreement, which amount shall not be less than 3% of grantee's gross revenues. Such payment shall commence as of the effective date of the franchise or any renewal date. The grantor, on an annual basis, shall be furnished a statement within 120 days of the close of the calendar year, either audited and certified by an independent certified public accountant or certified by a financial officer of the grantee, reflecting the total amount of the revenue and all payments, deductions and computations for the period covered by the payment. Upon 10 days'

prior written notice, grantor shall have the right to conduct an independent audit of the grantee's records, in accordance with generally accepted accounting principles.

- B. No acceptance of any payment by the grantor shall be construed as a release or as an accord and satisfaction of any claim the grantor may have for further or additional sums payable as a franchise fee under this section or for the performance of any other obligations of the grantee.
- C. The franchise fee shall be paid on an annual basis according to the following schedule: revenues for January through December shall be paid by February 15 of each calendar year.

## § 207-17. Rights of residents.

- A. Any owner or operator of an apartment building, condominium, nursing home, mobile home park, or any other rental facility may not interfere with or charge a fee for the installation of cable system facilities for the use of a lessee of said property or premises, except that such owner or operator may require:
  - (1) Installation to conform to reasonable conditions necessary to protect the safety, appearance and functioning of the premises;
  - (2) The grantee, occupant or tenant to pay for the installation, operation or removal of such facilities; or
  - (3) The grantee, occupant or tenant to agree to indemnify the owner or operator for any damages caused by the installation, operation or removal of such facilities.
- B. It shall be unlawful for the grantee to reimburse or offer to reimburse any person, or for any person to demand or receive reimbursement from the grantee, for the placement upon the premises of such person of the grantee's facilities necessary to connect such person's premises to the distribution lines of grantee to provide cable service to said premises.
- C. A landlord may not discriminate in the amount of rent charged to tenants or occupants who receive cable service and those who do not.

## § 207-18. Rights of the Village.

- A. The right is hereby reserved by the Village to adopt, in addition to the provisions contained in this chapter and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police powers. Such regulations, by ordinance or otherwise, shall be reasonable and not be in conflict with the rights granted in this chapter and not be in conflict with the laws of the state.
- B. The Village may, during the term of a franchise, free of charge where aerial construction exists, maintain upon the poles of the grantee within the Village limits wire and pole fixtures necessary for a police and fire alarm system, such wires and fixtures to be constructed and maintained to the satisfaction of the grantee and in accordance with its specifications.

## § 207-19. Waiver of charges.

During the term of a franchise, the grantee shall provide free service to any and all schools, whether private, public or parochial, within the area of the franchise. Grantee may charge for usual installation costs.

## § 207-20. Acceptance by grantee.

Any franchise granted under this chapter shall be effective upon written acceptance of the franchise being filed with the Clerk-Treasurer of the Village within 30 days from the adoption hereof, and the franchise shall continue in force for a period of 15 years.

## § 207-21. Arbitration.

- A. Controversies arising from a grantee's performance under the terms of this chapter shall be submitted to arbitration. Arbitration shall not be demanded by any party until such time as that party has served written notice upon the opposing party, setting forth its proposed determinations or actions which are to be the subject matter of the arbitration. Such notice shall be in writing and mailed to the other party by certified mail, return receipt requested.
- B. In the event of arbitration, the parties shall select the arbitrator, or if they fail to do so, a Circuit Judge shall select the arbitrator. The expenses of the arbitration and compensation of the arbitrator shall be borne by the Village and the grantee, as the award shall provide, but in no event shall the Village or the grantee be obligated to pay more than 1/2 such expenses and compensation. The arbitration award shall be binding upon the parties.

## § 207-22. Incorporation of amendments.

This chapter shall be amended to incorporate all amendments to the statutes, rules and regulations of the federal government as they are promulgated by the federal government. Any provision herein in conflict with or preempted by said rules, regulations or statutes shall be superseded.

## § 207-23. Protection of nonsubscribers.

A grantee shall at all times keep its cables and other appurtenances used for transmitting signals shielded in such a manner that there will be no interference with signals received by radios or televisions not connected to the grantee's service.

## § 207-24. grantee rules.

A grantee may promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the grantee to exercise its rights and perform its obligations under the franchise and to assure uninterrupted service to all its subscribers. However, such rules, regulations, terms and conditions shall not be in conflict with the provisions of this chapter or the laws of the state.

## § 207-25. Waiver of objections.

By the adoption of this chapter, the Village expressly waives all objections it has or may have to the legal rights of the grantee to attach its cables, equipment and transmission lines to the poles of the Village, pursuant to an agreement, or to the poles of the public utilities and the authority of such public utilities to grant such right to the grantee.

## § 207-26. Grantee without recourse.

A grantee shall have no recourse whatsoever against the Village for any loss, cost or expense, or damage arising out of any provisions or requirements of a franchise or because of the enforcement thereof by the Village, or for the failure of the Village to have authority to grant all or any part of the

franchise. Grantee expressly acknowledges that in accepting any franchise it does so relying on its own investigation and the understanding of the power and authority of the Village to grant the franchise. By accepting a franchise, a grantee acknowledges that it has not been induced to enter into the franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of the Village or by any other third person concerning any term or condition of the franchise not expressed herein. The grantee further acknowledges by acceptance of the franchise that it has carefully read the terms and condition hereof and is willing to and does accept all the risks of the meeting of such terms and conditions and agrees that in the event of any ambiguity therein or in the event of any dispute over the meaning thereof the same shall be construed strictly against the grantee and in favor of the Village.

## § 207-27. Work performed by others.

- A. A grantee shall give prior notice to the Village specifying the names and addresses of any entity, other than the grantee, that performs services pursuant to the franchise; provided, however, that all provisions of the franchise remain the responsibility of the grantee.
- B. All provisions of any franchise shall apply to any subcontractor or other entity performing any work or services pursuant to the provisions of the franchise.

## § 207-28. Contest of validity.

Grantee agrees by acceptance of a franchise that it will not at any time set up against the Village in a claim for proceeding any condition or term of the franchise as unreasonable, arbitrary or void, or that the Village had no proper authority to make such term or condition, but shall be required to accept the validity of the terms and conditions of the franchise in their entirety.

## § 207-29. Unlawful acts.

- A. It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the company's community antenna system within this Village for the purpose of enabling himself or other to receive any television signal, radio signal, picture, program or sound, without payment to the company.
- B. It shall be unlawful for any person, without the consent of the company, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, picture, programs or sound.

## Chapter 213. Cemetery

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 8, Ch. 4, of the 1999 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Restrictions on pets — See § 173-6D.

Offenses against property — See Ch. 385, Art. III.

## § 213-1. Policy statement.

- A. Purpose. The Village Cemetery is owned and maintained by the Village of Neshkoro for the benefit of all citizens. Definite rules and regulations must be set up by the Village Board to ensure proper maintenance and beauty and to prevent abuse and destruction. The following rules and

regulations are set forth in this chapter to govern the cemetery. The Village reserves the right to amend or change any of these provisions to conform with newly developed cemetery practices.

- B. Management. The Village Cemetery shall be subject to the control of the Village Board, and the Board may, from time to time, acquire lands for cemetery purposes as the same are required, contiguous to said described premises, in the manner provided by law. The Board shall have full power and authority to exercise general supervision over said cemetery and shall regulate the manner of burial and shall designate who shall be buried in the public grounds.

## § 213-2. Platting of new cemetery lots.

Before any new block in the municipal cemetery is opened for the sale of lots, the Village Board shall cause it to be platted and recorded in the office of the Register of Deeds.

## § 213-3. Purchase of lots.

- A. Price of lots. The Village Board shall fix a price on all lots to be sold in the municipal cemetery.
- B. Sale of lots. Persons or their agents desiring to purchase a lot in the cemetery shall be referred to the Village Clerk-Treasurer or to his/her duly authorized agent. The Clerk-Treasurer will have available suitable plats showing size and price of lots, and such other information as may be required, and will render assistance to those desiring to make lot purchases. Upon having made a lot selection, the Clerk-Treasurer will issue a deed to the lot in the form prescribed by the Village Attorney. The deed shall be signed by the Village Clerk-Treasurer and Village President and sealed with the corporate seal and acknowledged so as to entitle it to be recorded. The purchaser may record this deed with the County Register of Deeds if desired.

## § 213-4. Ownership rights of interment.

- A. The lot owner or his authorized agent shall have the right to use a lot or portion of a lot for burial purposes only in accordance with the terms of the cemetery rules and regulations.
  - (1) Upon full payment of the purchase price of a lot, the Village Clerk-Treasurer will issue a cemetery deed, and the deed will be recorded in the records of the Village as evidence of ownership of the lot. All lots are exempt from taxation and cannot be seized for debt (except those owed to the cemetery) nor can they be mortgaged.
  - (2) The lot owner shall have acquired the lot for interment of himself and members of his family. However, the lot owner may grant written permission (which must be notarized and placed on file with the Village Clerk-Treasurer) for the burial of other persons.
- B. Unless otherwise directed in writing and filed with the Village Clerk-Treasurer, the lot owner, his/her devisees, or his/her heirs, the cemetery will permit the interment of members of his/her family at the request of any interested person upon proof of eligibility for burial as follows:
  - (1) The surviving spouse of the lot owner shall have the first right to interment or to direct the right of interment.
  - (2) When there is no surviving spouse, the devisees or heirs of the owners may, by agreement in writing, determine who among them shall have the right of interment or direction for interment, which agreement shall be filed with the Village Clerk-Treasurer.
  - (3) In the event the owner, his/her devisees or heirs shall not have arranged for future interments, then the devisees or the heirs, as the case may be, of such owner shall have the right to interment in order of their need.

- C. All burial rights in cemetery lots purchased from the Village occupy the same position as real estate at the death of the owner. Only such persons whose names appear on the cemetery records of the Village will be recognized as owners or part owners of lots. In case of the death of a lot owner, when the cemetery lot is disposed of by a will, and when ownership is to be determined, a certified copy of the will must be delivered to the Village Clerk-Treasurer before the Village will recognize the change of ownership. If the deceased lot owner left no will, satisfactory proof of descent must be provided. It is recommended that lot owners in making their wills include a provision covering the cemetery lots and devise same to one person.
- D. Lot owners may not resell or transfer their lots or parts of lots except as outlined below:
- (1) The Clerk-Treasurer shall enter in the record kept for that purpose all deeds of transfer and reconveyance of cemetery lots. No such reconveyance shall be received and recorded by the Clerk-Treasurer until a fee has been paid therefor. Said fee shall go into the general cemetery fund.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (2) Reconveyance of lots or parts of lots may be made only by written application therefor upon blanks furnished by the Village Clerk-Treasurer. Such application shall be executed by the owner(s) of the lots or, if the owner(s) is deceased, by the legal heirs. The application shall state the lot and block number.

## § 213-5. Privileges and restrictions.

### A. Plants and decorations.

- (1) Planting restricted. The planting of trees and shrubs by private individuals is prohibited. Any planting must be done by cemetery personnel.
- (2) Decorations. Decorations may only be placed in planters and only at times to be set by the Village Board.
- (3) Planters. Planters must be placed on the side or end of monument.
- (4) Liability. Decorations and planters are placed at the risk of the persons making such placement. The Village shall not be liable for any damage or loss of any plantings, decorations or planters.
- (5) Enclosures. No hedges, fences or enclosures of any kind will be permitted on or around lots. Wooden boxes, wire containers, glass jars, bottles, toys, cans and other such objects may not be placed on lots and, if so placed, will be removed by the Village without notice.
- (6) Artificial flowers. A limited amount of artificial flowers displayed in the cemetery must be in containers and placed on the extension. Any artificial flowers not in containers will be removed from the cemetery by the Sexton.
- (7) Wire stands. Wreaths on wire stands must also be placed at the head of the lot near the monument or marker.
- (8) Fresh flowers. Fresh cut flowers may be used anytime and will remain until, in the judgment of the Sexton, they become wilted or unsightly. Containers for cut flowers are to be a type level with the ground surface and not holding water when not in use or of the type to be disposed of when the flowers are removed.
- (9) Potted plants. Potted plants may be set on lots, without disturbing the sod, on special occasions, such as Memorial Day, birthday, anniversary, etc., but will be picked up and destroyed if unsightly.

### B. Landscaping. All landscaping, care of lots and other work in the cemetery will be done by the Village, but it is desired that each lot owner feel free to consult with those in charge of the

cemetery at all times. Their advice will be cheerfully given without charge and may be of much value to those contemplating the purchase of or improvements to cemetery lots. The Village shall retain the ownership of all aisles, including monument aisles. Lot owners may remove, under the direction of the Public Works Director, large trees on grave sites that hinder the full usage of the grave site. The expense of the tree and stump removal will be paid for by the lot owners.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

C. Village rights.

(1) The Village reserves the right for its workers and those persons necessary to the performance of normal cemetery operation to enter upon or cross over any lot in the cemetery in the performance of such duties.

(2) The Village, or its employees, assumes no liability for damages to property or of persons or for physical or mental suffering arising out of the performance of its normal operations or for loss by vandalism or other acts beyond its reasonable control.

(3) The Village reserves the right to alter, use, change or close alleys, roadways, water mains and other physical public properties of the cemetery.

## § 213-6. Rules for visitors.

A. The cemetery will be open to visitors at all times between the hours of 8:00 a.m. and 1/2 hour after the official sunset. Permission to enter the cemetery at any other time must be obtained from the Sexton or the Village Board.

B. Children under 16 years of age will be admitted only when accompanied by parents or guardians.

C. Persons or picnic parties with refreshments or alcoholic beverages are not permitted within any municipal cemetery. No person shall consume or have in his/her possession any open container containing an alcoholic beverage upon any cemetery property within the Village unless the property is specifically named as being part of a licensed premises.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

*Original subsection (d), pertaining to dogs in cemeteries, which immediately followed this subsection was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II); see § 173-6D for similar provisions*

D. Firearms will not be allowed in the cemetery except in conjunction with military funerals. At all other times, firearms, bows and arrows, slingshots and other like articles will not be allowed. Driving golf balls is prohibited.

E. Visitors are required to use the walks and drives whenever possible and shall not pick any flowers (either wild or cultivated), injure any shrub, tree or plant, or mar or deface any monument, stone or structure in the cemetery.

F. Vehicles traveling within the cemetery shall not exceed 15 miles per hour. No vehicle shall be driven except on roads designated for that purpose, nor shall such be driven in a reckless manner. No person shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area, nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

G. No riding of bicycles, motor bikes, snowmobiles, motorcycles or other such vehicles will be allowed in the cemetery unless such vehicles are present in conjunction with cemetery business.

H. Sound devices. No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.<sup>[3]</sup>

[3] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- I. Littering prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any cemetery without the owner's consent.<sup>[4]</sup>  
*[4] Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- J. Loitering prohibited. No person shall loiter or cause a nuisance or engage in any sport or exercise on any cemetery property without the owner's consent.<sup>[5]</sup>  
*[5] Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 213-7. Interments and disinterments.

### A. Interments.

- (1) Interments will be made only during daylight hours.
- (2) All interments shall be made in a permanent outer container excluding the use of wood.
- (3) All graves shall be dug by an authorized agent of the deceased. <sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (4) No burial will be permitted until a legal burial transit permit has been presented to the Village Clerk-Treasurer. The interment of bodies of persons who have died of a contagious disease shall be in strict accordance with the rules of the Department of Health Services.<sup>[2]</sup>  
*[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (5) There will be no responsibility on the part of the Village for the protection and maintenance of flowers, wreaths, emblems, etc., used in conjunction with funerals.
- (6) When definite information for locating a grave is not available 36 hours prior to grave preparation to meet the time requested for interment, the cemetery may exercise its best judgment in making a location in order that the requested time for interment may be met. The cemetery assumes no responsibility for any error or inconvenience of such location and an additional charge will be made for any change requested.
- (7) The Sexton or his agent shall, whenever possible, be given 36 hours' notice to assure the opening and preparation of a grave prior to interment. Barring unforeseen or other untoward circumstances, such grave shall be opened and prepared in time for interment.
- (8) One burial per grave space will be allowed, except that two burials per grave space will be allowed if the remains are cremated or are of infants.
- (9) Aboveground burials will not be allowed.
- (10) Pets or other animals shall not be buried in the cemetery.

### B. Disinterments.

- (1) Disinterments of bodies from graves in the cemetery will be made in accordance with the requirements of the Department of Health Services. Charges set by the Village for removal must be paid in advance.<sup>[3]</sup>  
*[3] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (2) Lot owners or their heirs desiring graves opened may secure the necessary disinterment permit from the state and deliver the same to the Cemetery Sexton. All removals will be made by the Village under the supervision of a licensed embalmer.
- (3) For sanitary reasons, graves will not be reopened for inspection except for an official investigation.

## § 213-8. Monuments and markers.

- A. Grave markers and foundations will be set only by the monument company according to regulations specified by the Village. Monuments shall be no higher than 36 inches in height. Except as herein otherwise provided, under no conditions will the Village construct monument or marker bases or erect monument or markers on bases. Grave markers shall be set with a suitable cement foundation with at least a four-inch wash for trimming of grass. The Village reserves the right to require the construction of a foundation of such size, material and design as will provide ample insurance against settlement or injury to the stonework. The top of the concrete foundation will be constructed flush with the ground line. Grave markers will be set on a straight line on the back side of the lot. Whenever possible, all markers will be set with a five-inch margin, with 12 to 15 inches on at least one end. Verbal permission is required and shall be available from the office of the Sexton or his/her assistant.
- B. The setting of monuments, stones and markers and the transportation of all tools, materials, etc., within the cemetery grounds shall be subject to the supervision and control of the Sexton. Unless special arrangements are made with the Sexton, such work shall be conducted between the hours of 8:00 a.m. and 4:00 p.m., Mondays through Fridays, except on national holidays. Whenever possible, at least 24 hours' notice shall be given to the Sexton that said work is to take place. Heavy trucking will not be permitted within the cemetery when, in the opinion of the Sexton, such work might cause damage to the driveways. Except when special permission is obtained, all work as outlined above shall be completed and debris removed immediately.
- C. The Village reserves the right to refuse permission to erect any monument work not in keeping with the good appearance of the grounds. The size of the monument and/or stonework must be given to the Sexton or his/her agent and approved before said work will be permitted on a lot. All monuments must be set in line with other monuments so far as possible, as directed by the Cemetery Sexton or his/her assistant.
- D. Stonework or monumental work, once placed on its foundation, shall not be removed, except by permission of the Cemetery Sexton.
- E. The lot must be paid in full or other assurance given of payment before markers and monuments are set.
- F. Temporary markers must be removed or replaced with a permanent marker within one year.
- G. Any additional head or foot markers must be set flush with the ground. Bronze government markers may be placed on the backside of a family stone.

## § 213-9. Vaults and mausoleums.

Construction of vaults and mausoleums is prohibited.<sup>[1]</sup>

[1] *Editor's Note: Original Sec. 8-4-10, Trees, shrubs and flowers, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II); similar provisions are included in § 213-5A and B.*

## § 213-10. Miscellaneous.

- A. It is urged that lot owners interest themselves in the present and future care of their lots, as a single neglected lot mars the beauty of the entire cemetery.
- B. All fees and charges as outlined in the current schedule of fees, and charges are payable at the office of the Village Clerk-Treasurer, where receipts will be issued for the amounts paid.
- C. A schedule of the fees and charges, as established by the Village Board, shall be on file in the office of the Village Clerk-Treasurer and Sexton. Such schedule may change from time to time without advance notice to conform with current economic conditions.

- D. The Village will take reasonable precautions to protect all private property, lots and/or grave owners' property in the cemetery from loss or damage, but it distinctly disclaims all responsibility for loss or damage from causes beyond its control and especially from the acts of thieves, vandals and rioters and from all acts of providence, including wind, tornadoes, hail, snow, rain and frost, whether the damage be indirect or proximate.

## Chapter 219. Cigarettes and Tobacco Products

[HISTORY: Adopted by the Village Board of the Village of Neshkoro as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Licenses — See Ch. 337.

## Article I. Cigarette License

[Adopted 4-5-1999 as Title 7, Ch. 3, of the 1999 Code]

### § 219-1. License required.

No person, firm or corporation in the Village of Neshkoro shall, in any manner, directly or indirectly, upon any premises or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, without first obtaining a license as hereinafter provided.

### § 219-2. Application for license; fee.

[Amended 11-7-2005<sup>[1]</sup>]

Every person, firm or corporation desiring a license under this article shall file with the Village Clerk-Treasurer a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be filed by the Village Clerk-Treasurer and shall name the licensee and the place wherein he/she is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the Village Clerk-Treasurer a license fee as set by the Village Board.<sup>[2]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: The current Fee Schedule is on file in the Village office.*

### § 219-3. Issuance and term of license.

Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, shall be issued by the Village Clerk-Treasurer. Each license shall be issued on the first day of July in each year or thereafter whenever applied for and shall continue in force from date of issuance until the succeeding June 30, unless sooner revoked for any violation of this article.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 226. Construction Site Erosion Control

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 15, Ch. 2, of the 1999 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Building construction — See Ch. **200**.  
Floodplain zoning — See Ch. **270**.  
Subdivision and land development — See Ch. **450**.  
Zoning — See Ch. **500**.

## § 226-1. Intent; authority.

- A. Intent. The intent of this chapter is to require erosion control practices that will reduce the amount of sediment and other pollutants leaving construction sites during land development or land disturbance activities.
- B. Authority. This chapter is adopted under the authority granted by § 61.354, Wis. Stats.

## § 226-2. Findings and purpose.

- A. The Village Board finds runoff from large construction sites carries a significant amount of sediment and other pollutants to the waters of the state and this Village.
- B. It is the purpose of this chapter to preserve the natural resources; to protect the quality of the waters of the state and the Village; and to protect and promote the health, safety and welfare of the people to the extent practicable by minimizing the amount of sediment and other pollutants carried by runoff or discharged from construction sites to streams and wetlands.

## § 226-3. Applicability.

This chapter applies to land-disturbing and land-developing activities on lands of five acres or more and of street excavation projects of 100 feet or more in the Village of Neshkoro, and optionally, similar projects subject to the extraterritorial authority of the Village under Ch. 236, Wis. Stats. All state-funded or -conducted construction is exempt from this chapter.

## § 226-4. Definitions.

The following definitions are applicable in this chapter:

### **AGRICULTURAL LAND USE**

Use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.

### **COMMERCIAL LAND USE**

Use of land for the retail or wholesale sale of goods or services.

### **CONSTRUCTION SITE CONTROL MEASURE**

A control measure used to meet the requirement of § **226-7B**.

### **CONTROL MEASURE**

A practice or combination of practices to control erosion and attendant pollution.

### **CONTROL PLAN**

A written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this chapter, submitted by the applicant for review and approval by the Village of Neshkoro.

### **EROSION**

The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

**LAND-DEVELOPING ACTIVITY**

The construction of buildings, roads, parking lots, paved storage areas and similar facilities.

**LAND-DISTURBING CONSTRUCTION ACTIVITY**

Any man-made change of the land surface, including removing vegetative cover, excavating, filling and grading but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; harvesting of trees; and landscaping modifications.

**LAND USER**

Any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.

**LANDOWNER**

Any person holding title to or having an interest in land.

**RUNOFF**

The rainfall, snowmelt or irrigation water flowing over the ground surface.

**SET OF ONE-YEAR DESIGN STORMS**

The following rain intensities and rain volumes or corresponding values specific to the community for the storm durations of 0.5, one, two, three, six, 12 and 24 hours that occur approximately once per year. Note: The following are typical characteristics of these one-year storms for most of Wisconsin:

<b>Storm Duration (hours)</b>	<b>Average Rain Intensity (inches/hour)</b>	<b>Total Rain (inches)</b>
0.5	1.8	0.9
1	1.1	1.1
2	0.7	1.3
3	0.5	1.5
6	0.3	1.7
12	0.2	2.0
24	0.1	2.3

**SITE**

The entire area of five acres or more, or a street surface of 100 lineal feet or more, included in the legal description of the land on which land-disturbing or land-development activity is proposed in the permit application.

**§ 226-5. Design criteria, standards and specifications for control measures.**

All control measures required to comply with this chapter shall meet the design criteria, standards and specifications identified by the Village of Neshkoro.

**§ 226-6. Maintenance of control measures.**

All sedimentation basins and other control measures necessary to meet the requirements of this chapter shall be maintained by the applicant or subsequent landowner during the period of land

disturbance and land development of the site in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions.

## § 226-7. Control of erosion and pollutants during land disturbance and development.

A. Applicability. This section applies to the following sites of land development or land-disturbing activities:

- (1) Those lands over five acres in area requiring a subdivision plat approval; commercial, industrial or institutional buildings on lots of five acres or more;
- (2) Those projects of 100 lineal feet or more involving street, highway, road or bridge construction, enlargement, relocation or reconstruction; or
- (3) Those projects involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 100 feet or more.

B. Erosion and other pollutant control requirements. The following requirements shall be met on all sites described in Subsection **A**:

(1) Site dewatering.

(a) Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators, or other appropriate controls designed and used to remove particles of 100 microns or greater for the highest dewatering pumping rate. If the water is demonstrated to have no particles greater than 100 microns during dewatering operations, then no control is needed before discharge, except as determined by the Village of Neshkoro. Water may not be discharged in a manner that causes erosion of the site or receiving channels. [Note: There are many ways to meet this particle-size performance objective, depending on the pumping rate. As an example, if the pumping rate is very low (one gallon/minute), then an inclined or vertical enlarged pipe (about eight inches in diameter for one gallon/minute) several feet long would be an adequate control device to restrict the discharge of 100 micron and larger particles. As the pumping rate increases, then the "device" must be enlarged. At a moderate (100 gallons/minute) pumping rate, a vertical section of corrugated steel pipe or concrete pipe section or other small "tank" (about 4 1/2 feet across for 100 gallons/minute pumping rate) several feet tall would be adequate. With these pipe sections or small tanks, inlet baffles would be needed to minimize turbulence. With very large pumping rates (10,000 gallons/minute), sediment basins (about 35 feet in diameter for a pumping rate of 10,000 gallons/minute) at least three feet in depth with a simple (but adequately sized) pipe outlet would be needed. More sophisticated control devices (such as swirl concentrators or hydro-cyclones) could be specially fabricated that would generally be smaller than the simple sedimentation devices described above, but they would not be required.

(b) The performance standard of one-hundred-micron maximum particles in the dewatering water at the maximum pumping rate significantly reduces the liability of the contractor when compared to a standard of "no visible particulate matter." If a properly sized device is correctly used, based on the one-hundred-micron particle-size performance standard, then discharges of visible particulate matter would not constitute a violation. It is not possible to design a control device that would ensure "no visible particulate matter" discharges. This one-hundred-micron standard is intended to significantly reduce sedimentation problems in downstream drainage systems and in the receiving waters that are caused by large particles. "Visible particulate matter" will probably still occur in water meeting this standard, as most turbidity effects are caused by very small particles that usually do not cause as severe of a sedimentation problem as larger particles. This

one-hundred-micron particle-size performance standard was therefore selected to be easily met and enforced and to reduce sedimentation problems. A "no visible particulate matter" standard in contrast could not be met easily or cheaply, violations would frequently occur, and inspectors would have to make frequent site visits and require frequent control device changes. In addition, particle-size measurements would not be required to prove compliance with the one-hundred-micron performance standard. Only the proper use of a device designed to meet this particle-size criteria is needed. However, if a contractor or site engineer feels that the dewatering water does not contain any particles larger than 100 microns, no control device would be needed if optional frequent particle-size analyses confirm that fact. In most cases, the use of the simple control devices described previously would be less expensive and less bothersome than performing frequent particle-size analyses.)

- (2) Waste and material disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed and not allowed to be carried by runoff into a receiving channel or storm sewer system.
- (3) Tracking. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.
- (4) Drain inlet protection. All storm drain inlets shall be protected with a straw bale, filter fabric, or equivalent barrier meeting accepted design criteria, standards and specifications.
- (5) Site erosion control. The following criteria [Subsection **B(5)(a)** through **(d)**] apply only to land development or land-disturbing activities that result in runoff leaving the site:
  - (a) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below in Subsection **B(5)(c)**. Sheetflow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff velocities of less than 0.5 feet/second across the disturbed area for the set of one-year design storms. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels. (Note: Natural Resources Conservation Service guidelines for allowable velocities in different types of channels should be followed.)
  - (b) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
  - (c) Runoff from the entire disturbed area on the site shall be controlled by meeting the following criteria:
    - [1] For sites of less than 10 acres disturbed at one time, filter fences, straw bales, or equivalent control measures shall be placed along all side-slope and down-slope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.
    - [2] For sites with more than 10 acres disturbed at one time or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least 1% of the area draining to the basin and at least three feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet. The basin shall be designed to trap sediment greater than 15 microns in size, based on the set of one-year design storms having durations from 0.5 to 24 hours. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

- (d) Any soil or dirt storage piles containing more than 10 cubic yards of material should not be located with a down-slope drainage length of less than 15 feet to a roadway or drainage channel.
- (e) In-street utility repair or construction soil or dirt storage, for applicable project sites, must be protected with straw bales or other appropriate filtering barriers to prevent down-site erosion.

## § 226-8. Permit application, control plan and permit issuance.

- A. Approval. No landowner or land user may commence a land-disturbance or land-development activity subject to this chapter without receiving prior approval of a control plan for the site and a permit from the Village of Neshkoro. The landowner or land user shall submit an application for a permit and a control plan and pay an application fee to the Village. By submitting an application, the applicant authorizes the inspector designated by the Village to enter the site to obtain information required for the review of the control plan.
- B. Content of the control plan for land-disturbing activities covering five acres or more.
  - (1) Existing site map. A map of the existing site conditions on a scale of at least one inch equals 100 feet, showing the site and immediately adjacent areas. The site plan to include:
    - (a) Site boundaries and adjacent lands which accurately identify the site location.
    - (b) Site identification information to include all streams, wetlands, channels, ditches and other watercourses, floodplain information, information on vegetative cover, locations and dimensions of stormwater drainage systems, and natural drainage patterns; locations and dimensions of utilities, structures, roads.
  - (2) Site construction plan. Location, description and dimensions of all construction site management control measures necessary to meet the requirements of this chapter. Provisions for maintenance of the construction site control measures during construction.
  - (3) Plan of final site conditions. A plan of final site conditions on the same scale as the existing site map, showing the site changes.
- C. Review of control plan. Within 10 workdays of receipt of the application, control plan and fee, the inspector designated by the Village will review the application and control plan to determine if the requirements of this chapter are met. If the requirements of this chapter are met, the inspector shall approve the plan and issue the permit. If the requirements of this chapter are not met, he/she shall so advise the applicant of the reasons for disapproval of the permit.
- D. Permits.
  - (1) Duration. Permits shall be valid for a period of 180 days or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Village of Neshkoro may extend the period one or more times for up to an additional 180 days. The Village of Neshkoro may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this chapter.
  - (2) Surety bond. As a condition of approval and issuance of the permit, the Village of Neshkoro may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved control plan and any permit conditions.
  - (3) Permit conditions. All permits shall require the permittee to:
    - (a) Notify the Village of Neshkoro within 48 hours of commencing any land-disturbing activity.
    - (b) Notify the Village of Neshkoro of completion of any control measures within 14 days after their installation.

- (c) Obtain permission in writing from the Village of Neshkoro prior to modifying the control plan.
- (d) Install all control measures as identified in the approved control plan.
- (e) Maintain all road drainage systems, stormwater drainage systems, control measures and other facilities identified in the control plan.
- (f) Repair any siltation or erosion damage to adjoining surfaces and drainageways resulting from land-developing or -disturbing activities.
- (g) Inspect the construction control measures after each rain of 0.5 inches or more and at least each week and make needed repairs.
- (h) Allow the Village of Neshkoro to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan.
- (i) Keep a copy of the control plan on the site.

## § 226-9. Inspection.

- A. The inspector shall inspect construction sites as often as he/she deems it appropriate to ensure compliance with this chapter.
- B. If land-disturbing or land-development activities are being carried out without a permit, the inspector shall enter the land pursuant to the provisions of § 66.0119, Wis. Stats.

## § 226-10. Enforcement.

- A. The Village of Neshkoro may post a stop-work order if:
  - (1) Any land-disturbing or land-developing activity regulated under this chapter is being undertaken without a permit;
  - (2) The control plan is not being implemented in a good faith manner; or
  - (3) The conditions of the permit are not being met.
- B. If the permittee does not cease the activity or comply with the control plan or permit conditions within 10 days, the Village of Neshkoro may revoke the permit.
- C. If the landowner, or land user where no permit has been issued, does not cease the activity within 10 days, the Village of Neshkoro may request the Village Attorney to obtain a cease-and-desist order.
- D. The Village of Neshkoro or the Board of Appeals may retract the stop-work order or the revocation.

## Chapter 238. Driveways

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 6, Ch. 3, of the 1999 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Land use permit — See Ch. **200**, Art. **I**.  
 Streets and sidewalks — See Ch. **445**.  
 Subdivision of land — See Ch. **450**.

## § 238-1. Driveway permit required.

- A. Purpose. For the safety of the general public, the Village shall determine the location, size, construction and number of access points to public roadways within the Village limits. It is the Village's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.
- B. Permit required to construct, reconstruct, alter or enlarge. No person, firm or corporation shall construct, reconstruct, alter or enlarge any private driveway within the limits of the dedicated portion of any public street under the control and jurisdiction of the Village of Neshkoro without first obtaining a land use permit therefor as provided by this Code. A separate permit is not required when a new sidewalk is to be constructed in conjunction with the construction of a new principal structure; the sidewalk is included in the building permit process in such cases.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II); this ordinance also deleted original subsections (c) and (d)(1) through (3) and retained (d)(4), which immediately followed this subsection.*
- C. The Village does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the Village street.

## § 238-2. Driveway location, design and construction requirements.

- A. General requirements. The location, design and construction of driveways shall be in accordance with the following:
- (1) General design. Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least 10 feet apart except by special permission from the Village Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.
  - (2) Number. The number of driveways to serve an individual property fronting on a street shall be one, except where deemed necessary and feasible by the Village Board for reasonable and adequate service to the property, considering the safety, convenience and utility of the street.
  - (3) Island area. The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection **A(6)**.
  - (4) Drainage. The surface of the driveway connecting with rural-type street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed.
  - (5) Reconstruction of sidewalks and curb and gutter. When the construction of a driveway requires the removal of a curb or gutter, the new connections shall be of equivalent acceptable material, and curb returns shall be provided or restored in a neat, workmanlike manner. The driveway surface shall be connected with the highway pavement and the

sidewalk, if any, in a neat, workmanlike manner. The driveway apron from the street and/or curb to the outer edge of the adjacent sidewalk (or where a sidewalk would typically be constructed) shall be paved. The driveway construction shall include the replacement of such sidewalk areas which are inadequate or which are or may be damaged by means of vehicle travel across the sidewalk.

(6) Restricted areas. The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:

(a) The filling or draining shall be to grades approved by the Village and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.

(b) Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate manholes adequate for cleanout purposes may be required where the total culvert length is excessive.

(c) Where no street-side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Village Board.

(7) Relocation of utilities. Any costs of relocating public utilities shall be the responsibility of the property owner, with approval of the Village Board or authorized committee thereof necessary before any utility may be relocated and the driveway installed.

(8) Construction across sidewalks. All driveway entrances and approaches which are constructed across sidewalks shall be of concrete constructed in accordance with the requirements for sidewalk construction in § 445-5 of this Code, insofar as such requirements are applicable, including thickness requirements.

(9) Variances. Any of the above requirements may be varied by the Village Board in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.

B. Special requirements for commercial and industrial driveways. The following regulations are applicable to driveways serving commercial or industrial establishments:

(1) Width of drive. No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width greater than 30 feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Village Board in its discretion may permit a driveway of additional width.

(2) Angular placement of driveway. The angle between the center line of the driveway and the curbline shall not be less than 45°.

(3) Island areas. Where the public sidewalk is adjacent to the curb, an island of a minimum length of six feet measured along the curbline shall be placed between each entrance to a Village street. The curb shall be left intact for the length of this island. Where the public sidewalk is remote from the curb, an island of a minimum length of 10 feet measured along the right-of-way line shall be maintained along each entrance to the Village street. All flares shall be tangent to the curbline. A curb length of not less than three feet shall be left undisturbed adjacent to each property line to serve as an island area in the event an adjoining property owner applies for a driveway permit to serve his property.

C. Special requirements for residential driveways. The following regulations are applicable to driveways serving residential property:

- (1) Width of driveways. Openings for vehicular ingress and egress shall be at least 10 feet wide at the property line for residential properties but shall not exceed 24 feet at the property line and 30 feet at the curb opening.
  - (2) Angular placement. The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curbline.
- D. Appeal from permit refusal. Any person feeling himself/herself aggrieved by the refusal of the Clerk-Treasurer to issue a permit for a private driveway may appeal such refusal to the Village Board within 20 days after such refusal to issue such permit is made.
- E. Prohibited driveways.
- (1) No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the Village of Neshkoro except as permitted by this section. As used herein, the word "structure" includes private driveway, a portion of which extends into any public road, highway or street, and which is in nonconformance with this chapter.
  - (2) No driveway shall be closer than 10 feet to the extended street line at an intersection. At street intersections, a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Village for effective traffic control or for highway signs or signals.
  - (3) The grade of that portion of any private driveway or pedestrian path located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.
  - (4) No driveway apron shall extend out into the street further than the facing of the curb, and under no circumstances shall such driveway apron extend into any gutter area. All driveway entrances and approaches shall be constructed as not to interfere with the drainage of streets, side ditches or roadside areas, or with any existing structure on the right-of-way.
  - (5) No portion of any curb, parapet or retaining wall rising above the grade of the driveway, erected by the owner of the premises involved, shall extend beyond the culvert spanning the watercourse located in such public way.
- F. Culvert construction and standards.
- (1) Size. Culverts shall be installed prior to construction work being commenced on the property served. No pipe smaller than 12 inches in diameter (or equivalent elliptical or arch pipe) will be allowed. All culverts shall be constructed of galvanized steel or reinforced concrete and shall be made of new manufacture, unless specifically excepted by the Clerk-Treasurer or Village Engineer.
  - (2) Gauge.
    - (a) The minimum wall thickness for the galvanized steel pipe culverts shall be in accordance with the following:

**Pipe Diameter**

<b>(inches)</b>	<b>Gauge</b>
15 to 24	16
30 to 36	14
42 to 54	12
60 to 72	10
78 to 84	8

(b) The class of reinforced concrete pipe shall be in accordance with the following:

**Height of Cover**

**(feet)**

**Class of Pipe**

0 to 2

IV

2 to 3

III

3 to 6

II

- (3) Drainage. The culverts shall be placed in the ditchline at elevations that will assure proper drainage.
- (4) Endwalls. Culverts shall be provided with concrete or metal apron endwalls, as directed by the Village Engineer.
- (5) Backfill material. Material used for backfill shall be of quantity acceptable to the Village Engineer or Clerk-Treasurer and shall be free from frozen lumps, wood or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six inches.
- (6) Erosion control. Erosion control measures shall be implemented as necessary to control erosion or as directed by the Village Engineer or Clerk-Treasurer.
- (7) Distance. The distance between culverts under successive driveways shall not be less than 10 feet, except as such restricted area is permitted to be filled pursuant to Subsection **A(6)**.
- (8) Cost. The property owner shall install the culvert and be responsible for the cost thereof. The property owner shall keep his culverts unobstructed and clean.
- (9) Appeal. Persons may request a variance from the culvert requirements of this section by filing a written appeals request with the Village Clerk-Treasurer, who shall place the matter as an agenda item for the Village Board's next meeting. The Village Board may only waive the requirement for a culvert upon a finding that unique physical characteristics of the location in question render a culvert unnecessary. The Village Engineer or Clerk-Treasurer may be asked to render an opinion on the request.

## Chapter 252. Fair Housing

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 15, Ch. 3, of the 1999 Code; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Subsequent amendments noted where applicable.]

### § 252-1. Statement on fair housing.

- A. Statement of purpose. It is hereby declared to be the policy of the Village of Neshkoro to assure equal opportunity to all persons to live in adequate housing facilities regardless of race, family status, color, religion, ancestry, national origin, sex, handicap, sexual preference, marital status of persons maintaining a household, lawful source of income, place of birth, or age, and, to that end, to prohibit discrimination in housing by any persons.
- B. State statutes adopted.
  - (1) Adopted by reference. The statutory provisions of § 106.50, Wis. Stats., and subsequent amendments thereto, are hereby adopted by reference and made a part of this chapter as if fully set forth herein.
  - (2) Implementation. The officials and employees of the Village of Neshkoro shall assist in the orderly prevention and removal of all discrimination in housing within the Village of Neshkoro

by implementing the authority and enforcement procedures set forth in § 106.50, Wis. Stats.

## Chapter 260. Fires and Fire Prevention

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Secs. 5-2-2 to 5-2-10 and 5-3-1 of the 1999 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Fire Department — See Ch. 55.

Fireworks — See Ch. 264.

Hazardous materials — See Ch. 285.

Property maintenance — See Ch. 396.

### § 260-1. Impeding fire equipment prohibited.

No person shall impede the progress of a fire engine, fire truck or other fire apparatus of the Neshkoro Fire Department along the streets or alleys of such Village at the time of a fire or when the Fire Department of the Village is using such streets or alleys in response to a fire alarm or for practice.

### § 260-2. Police power of Fire Department; investigation of fires.

#### A. Police authority at fires.

- (1) The Chief and assistants or officers in command at any fire are hereby vested with full and complete police authority at fires. Any officer of the Department may cause the arrest of any person failing to give the right-of-way to the Fire Department in responding to a fire.
- (2) The Fire Chief may prescribe certain limits in the vicinity of any fire within which no persons, excepting firefighters and police officers and those admitted by order of any officer of the Department, shall be permitted to come.
- (3) The Chief shall have the power to cause the removal of any property whenever it shall become necessary for the preservation of such property from fire or to prevent the spreading of fire or to protect the adjoining property, and during the progress of any fire he/she shall have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the Department during the progress of a fire.

#### B. Fire inspection duties.

- (1) The Fire Chief, or the Chief's designee, shall be the Fire Inspector of the Village of Neshkoro and shall have the power to appoint one or more deputy fire inspectors and shall perform all duties required of fire inspectors by the laws of the state and rules of the Department of Commerce, particularly § 101.14, Wis. Stats.
- (2) While acting as Fire Inspector pursuant to § 101.14(2), Wis. Stats., the Fire Chief, or any officer of the Fire Department designated by the Fire Chief, shall have the right and authority to enter any building or upon any premises in the Village of Neshkoro at all reasonable hours for the purpose of making inspections or investigations which, under the provisions of this Code, he/she may deem necessary. Should the Fire Inspector find that any provisions of this Code relating to fire hazards and prevention of fires are being violated or that a fire hazard exists which should be eliminated, it shall be his/her duty to give such directions for the abatement of such conditions as he/she shall deem necessary and, if such directions be not complied with, to report such noncompliance to the Village Board for further action.
- (3) The Chief of the Fire Department is required, by himself/herself or by officers or members of the Fire Department designated by him/her as fire inspectors, to inspect all buildings,

premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or any violations of any law or ordinance relating to the fire hazard or to the prevention of fires. Such inspections shall be made at least once in six months in all of the territory served by the Fire Department and not less than once in three months in such territory as the Village Board has designated or thereafter designates as within the Village or as a congested district subject to conflagration or more often as the Chief of the Fire Department orders. Each six-month period shall begin on January 1 and July 1 and each three-month period on January 1, April 1, July 1 and October 1 of each year.

- (4) Written reports of inspections shall be made and kept on file in the office of the Chief of the Fire Department in the manner and form required by the Department of Commerce. A copy of such reports shall be filed with the Fire Chief.

C. Fire Inspectors' handbook. The Fire Inspectors Handbook, Department of Commerce, is hereby adopted and made part of this Code by reference.<sup>[1]</sup>

[1] *Editor's Note: Original Sec. 5-2-4, Damaging fire hose prohibited; parking by hydrants; blocking fire lanes, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 260-3. Firefighters may enter adjacent property.

Entering adjacent property. It shall be lawful for any firefighter while acting under the direction of the Fire Chief or any other officer in command to enter upon the premises adjacent to or in the vicinity of a building or other property then on fire for the purpose of extinguishing such fire, and in case any person shall hinder, resist or obstruct any firefighter in the discharge of his/her duty as is hereinbefore provided, the person so offending shall be deemed guilty of resisting firefighters in the discharge of their duty.<sup>[1]</sup>

[1] *Editor's Note: Original subsection (b), Destruction of property to prevent spread of fire, which immediately followed this subsection, and original Secs. 5-2-6, Duty of bystanders to assist, and 5-2-7, Vehicles to yield right-of-way, which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 260-4. Interference with use of hydrants prohibited.

No person shall occupy any portion of such streets or alleys with a motorized or other vehicle between such fire engine or fire truck or other fire apparatus or any hydrant to which a fire hose may be or may be about to be attached.

## § 260-5. Open burning.

A. Open burning prohibited. No person, firm or corporation shall build any outdoor fire within the corporate limits of the Village of Neshkoro excepting as set forth below in this section.

B. Exceptions. The prohibition stated in Subsection **A** shall not apply to the following:<sup>[1]</sup>

(1) Burning containers, under the following guidelines:

- (a) Any container used for burning shall not exceed 55 gallons in size and must have a screen covering.
- (b) All containers determined by the Fire Chief to be unsafe and/or located in an unsafe environment will be banned from burning use.

- (2) Outdoor cooking over a fire contained in a device or structure designed for such use is permissible.
- (3) Recreational burning pits not exceeding four feet in diameter and not located less than 25 feet from any structure (the burning of clean wood only is permitted and the use of burning pits to burn refuse is prohibited).
- (4) Controlled burning of grass or similar vegetation for environmental management purposes, with the prior written approval of the Fire Chief, or his designee, may be permitted.
- (5) Open burning complying with the requirements in Subsection **C** below.
- (6) Other occasions of desirable outdoor burning not specified by this subsection, but not as an alternative to refuse removal or disposal for which other methods are available, may be granted single-occasion approval.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

C. Open burning regulations. The following regulations shall be applicable with open burning situations:

- (1) All open burning shall be performed in a safe, pollution-free manner, when wind and weather conditions are such as to minimize adverse effects, and in conformance with local and state fire protection regulations. Open burning shall not be used to covertly burn plastic, large amounts of construction debris or recyclables.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (2) The size of the pile of material to be burned shall not exceed four feet in any direction measured horizontally or three feet measured vertically.
- (3) The pile of material being burned shall be at least 25 feet away from any structure, wood or lumber pile, wooden fence, trees or bushes.<sup>[3]</sup>

[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (4) Any ashes created by burning such material as is lawful under this section are to be disposed of in a manner authorized by law.
- (5) Open burning shall be supervised by a competent person of at least 16 years of age until such fire is extinguished. This person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire while burning and/or extinguishing such fire.
- (6) No materials may be burned upon any street, curb, gutter, sidewalk or street right-of-way.

## § 260-6. Banning or regulating use of fires, burning materials, and fireworks during extreme fire danger.

A. Declarations of emergency. When there occurs a lack of precipitation, there may exist an extreme danger of fire within the Village of Neshkoro. This extreme danger of fire affects the health, safety and general welfare of the residents of the Village of Neshkoro and constitutes a state of emergency. It is hereby found that the regulation of fires, burning materials, and fireworks is necessary and expedient for the health, safety, welfare and good order of the Village of Neshkoro during said emergency.

B. Regulation of fires, burning materials and fireworks. Pursuant to § 166.23, Wis. Stats., and when a burning state of emergency is declared, it may be ordered that a person may not:

- (1) Set, build or maintain any open fire, except:
  - (a) Charcoal grills using charcoal briquets, gas grills, or campstoves on private property; or

- (b) Charcoal grills using charcoal briquets, gas grills, or campstoves in Village parks placed at least 20 feet away from any combustible vegetation.
  - (2) Throw, discard or drop matches, cigarettes, cigars, ashes, charcoal briquets or other burning materials while outdoors, except into a noncombustible container that does not contain combustible materials.
  - (3) Light or ignite a flare, except upon a roadway in an emergency.
  - (4) Light, ignite or use anything manufactured, processed or packaged solely for the purpose of exploding, emitting sparks or combustion for amusement purposes, including fireworks, firecrackers, bottle rockets, caps, toy snakes, sparklers, smoke bombs, or cylindrical or cone fountains that emit sparks and smoke, except in displays authorized by the Village where adequate fire prevention measures have been taken.
- C. Period of emergency.
- (1) The periods of emergency for which this section shall be in effect shall be during such periods that Marquette County, Wisconsin, is under Wisconsin Department of Natural Resources emergency fire regulations banning outdoor smoking and campfires or when necessary as determined by the Village President upon the recommendation of the Fire Chief.
  - (2) Pursuant to § 166.23, Wis. Stats., burning emergencies shall become effective upon the time and date of the Village President declaring a state of emergency and shall remain in effect until the period of emergency ceases to exist or until the ratification, alteration, modification or repeal of the burning state of emergency by the Village Board.

## § 260-7. Adoption of state codes.

The following orders, rules and regulations of the Wisconsin Department of Commerce (formerly the Department of Industry, Labor and Human Relations), all of which are set forth in the Wisconsin Administrative Code, as from time to amended, are incorporated herein by reference and adopted as part of this fire prevention chapter:

- A. Ch. Comm 7, Explosives and Fireworks.
- B. Ch. Comm 10, Flammable and Combustible Liquids.
- C. Ch. Comm 14, Fire Prevention.
- D. Ch. Comm 16, Electrical.
- E. Ch. Comm 32, Public Employee Safety and Health.
- F. Ch. Comm 40, Gas Systems.
- G. Ch. Comm 43, Anhydrous Ammonia.
- H. Chs. Comm 61 to 65, Wisconsin Commercial Building Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 264. Fireworks

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 7, Ch. 6, of the 1999 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Fire prevention — See Ch. 260.

Hazardous materials — See Ch. 285.

Public nuisances — See § 368-5..

Sale and discharge of fireworks — See § 385-6.

## § 264-1. Definition.

In this chapter, the term "fireworks" shall be defined as provided in § 167.10(1), Wis. Stats.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 264-2. Sale.

No person may sell or possess with intent to sell fireworks, except:

- A. To a person holding a permit under § 264-3C;
- B. To a municipality; or
- C. For a purpose specified under § 264-3B(2) through (6).

## § 264-3. Use.

- A. Permit required. No person may possess or use fireworks without a user's permit from the Village President or from an official or employee of the Village as designated by the Village Board. No person may use fireworks or a device listed under § 167.10(1)(e) through (g) and (i) through (n), Wis. Stats., while attending a fireworks display for which a permit has been issued to a person listed under § 264-3C(1) through (5) or under Subsection C(6) if the display is open to the general public.
- B. Permit exceptions. Subsection A above does not apply to:
  - (1) The Village, except that Village fire officials shall be notified of the proposed use of fireworks at least two days in advance.
  - (2) The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Commerce.
  - (3) The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.
  - (4) The possession or use of explosive or combustible materials in any manufacturing process.
  - (5) The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
  - (6) A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. §§ 841 to 848, if the possession of the fireworks is authorized under the license or permit.
  - (7) The possession of fireworks in the Village while transporting the fireworks to a city, town or village where the possession of the fireworks is authorized by permit or ordinance. Subsection A applies to a person transporting fireworks under this subsection if, in the course of transporting the fireworks through the Village, the person remains in the Village for a period of at least 12 hours.<sup>[1]</sup>
- C. Who may obtain permit. A permit under this section may be issued only to the following:
  - (1) A public authority.

[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (2) A fair association.
  - (3) An amusement park.
  - (4) A park board.
  - (5) A civic organization.
  - (6) Any individual or group of individuals.<sup>[2]</sup>  
*[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (7) An agricultural producer, for the protection of crops from predatory birds or animals.
- D. Crop protection signs. A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
- E. Bond. The Village President issuing a permit under this section shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the Village, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the office of the Village.
- F. Required information for permit. A permit under this section shall specify all of the following:
- (1) The name and address of the permit holder.
  - (2) The date on and after which fireworks may be purchased.
  - (3) The kind and quantity of fireworks which may be purchased.
  - (4) The date and location of permitted use.
  - (5) Other special conditions prescribed by ordinance.
- G. Copy of permit. A copy of a permit under this section shall be given to the Fire Chief at least two days before the date of authorized use.
- H. Minors prohibited. A permit under this section may not be issued to a minor.

## § 264-4. Storage and handling.

- A. Fire extinguishers required. No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.
- B. Smoking prohibited. No person may smoke where fireworks are stored or handled.
- C. Fire Chief to be notified. A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.
- D. Storage distance. No wholesaler, dealer or jobber may store fireworks within 50 feet of a dwelling.  
<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- E. Restrictions on storage. No person may store fireworks within 50 feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one gallon.<sup>[2]</sup>  
*[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 264-5. Parental liability.

A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

## § 264-6. Violations and penalties.

Violation of this chapter shall be subject to a forfeiture of not more than \$1,000.

[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

# Chapter 270. Floodplain and Shoreland-Wetland Zoning

[HISTORY: Adopted by the Village Board of the Village of Neshkoro as indicated in Part histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Building construction — See Ch. 200.

Construction site erosion control — See Ch. 226.

Streets and sidewalks — See Ch. 445.

Subdivision of land — See Ch. 450.

Zoning — See Ch. 500.

## Part 1. Floodplains

[Adopted 11-14-2012<sup>[1]</sup>]

[1] *Editor's Note: This ordinance superseded former Arts. I through X of this chapter, adopted 4-5-1999 as Title 13, Ch. 2, of the 1999 Code, as amended.*

## Article I. Statutory Authorization, Findings of Fact, Statement of Purpose, Title and General Provisions

### § 270-1. Statutory authorization.

This chapter is adopted pursuant to the authorization in §§ 61.35 and 62.23, Wis. Stats., for villages and cities; §§ 59.69, 59.692, and 59.694, Wis. Stats., for counties; and the requirements in § 87.30, Wis. Stats.

### § 270-2. Findings of fact.

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

### § 270-3. Statement of purpose.

This chapter is intended to regulate floodplain development to:

- A. Protect life, health and property;
- B. Minimize expenditures of public funds for flood-control projects;

- C. Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- D. Minimize business interruptions and other economic disruptions;
- E. Minimize damage to public facilities in the floodplain;
- F. Minimize the occurrence of future flood blight areas in the floodplain;
- G. Discourage the victimization of unwary land and home buyers;
- H. Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- I. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

## § 270-4. Title.

This chapter shall be known as the "Floodplain Zoning Ordinance for the Village of Neshkoro, Wisconsin."

## § 270-5. General provisions.

- A. Areas to be regulated. This chapter regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO Zones. Regional flood elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most-restrictive information shall apply.
- B. Official maps and revisions. The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevation (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the letter of map change process (see Article VIII, Amendments) before they are effective. No changes to RFEs on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Clerk, Village of Neshkoro. If more than one map or revision is referenced, the most-restrictive information shall apply.
  - (1) Official maps, based on the FIS:
    - (a) Flood Insurance Rate Map (FIRM), Panel Number 55077C0080D, dated December 18, 2012, with corresponding profiles that are based on the Flood Insurance Study (FIS), Volume 55077CV00A, dated December 18, 2012.  
Approved by: the DNR and FEMA.
  - (2) Official maps based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.
    - (a) Neshkoro Millpond Dam Failure Analysis and Assessment Study, completed March 2014 by General Engineering.  
Approved by the DNR March 6, 2014.
- C. Establishment of floodplain zoning districts. The regional floodplain areas are divided into three districts as follows:

- (1) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and is contained within AE Zones as shown on the FIRM.
  - (2) The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.
  - (3) The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and do not have a BFE or floodway boundary determined, including A, AH and AO Zones on the FIRM.
- D. Locating floodplain boundaries. Discrepancies between boundaries on the Official Floodplain Zoning Map and actual field conditions shall be resolved using the criteria in Subsection **D(1)** or **(2)** below. If a significant difference exists, the map shall be amended according to Article **VIII**, Amendments. The Zoning Administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual predevelopment field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to § **270-28C** and the criteria in Subsection **D(1)** and **(2)** below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Article **VIII**, Amendments.
- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
  - (2) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.
- E. Removal of lands from floodplain. Compliance with the provisions of this chapter shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Article **VIII**, Amendments.
- F. Compliance. Any development or use within the areas regulated by this chapter shall be in compliance with the terms of this chapter and other applicable local, state, and federal regulations.
- G. Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply if § 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when § 30.2022, Wis. Stats., applies.
- H. Abrogation and greater restrictions.
- (1) This chapter supersedes all the provisions of any municipal zoning ordinance enacted under § 59.69, 59.692 or 59.694, Wis. Stats., for counties; § 62.23, Wis. Stats., for cities; § 61.35, Wis. Stats., for villages; or § 87.30, Wis. Stats., which relates to floodplains. A more-restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
  - (2) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
- I. Interpretation. In their interpretation and application, the provisions of this chapter are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this chapter, required by Ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this chapter or in effect on the date of the most-recent text amendment to this chapter.

- J. Warning and disclaimer of liability. The flood protection standards in this chapter are based on engineering experience and research. Larger floods may occur, or the flood height may be increased by man-made or natural causes. This chapter does not imply or guarantee that nonfloodplain areas or permitted floodplain uses will be free from flooding and flood damages. This chapter does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this chapter.
- K. Severability. Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.
- L. Annexed areas for cities and villages. The Marquette County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of Ch. NR 116, Wis. Adm. Code, and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's Official Zoning Map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the Municipal Zoning Administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

## Article II. General Standards Applicable to All Floodplain Districts

### § 270-6. Application review.

- A. The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; shall be constructed with flood-resistant materials; and shall 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.
- B. 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 § **270-26B**. 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, shall be located and constructed to minimize or eliminate flood damages.

### § 270-7. Hydraulic and hydrologic analyses.

- A. No floodplain development shall:
  - (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
  - (2) Cause any increase in the regional flood height due to floodplain storage area lost.
- B. The Zoning Administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of Article **VIII**, Amendments, are met.

### § 270-8. Watercourse alterations.

- A. No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified, in writing, all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of § 270-7 must be met, and the flood-carrying capacity of any altered or relocated watercourse shall be maintained.
- B. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, and pursuant to Article VIII, Amendments, the community shall apply for a letter of map revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

## § 270-9. Chapters 30, 31, Wis. Stats., development.

Development which requires a permit from the Department, under Chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the Floodplain Zoning Ordinance are made according to Article VIII, Amendments.

## § 270-10. Public or private campgrounds.

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

- A. The campground is approved by the Department of Health Services;
- B. A land use permit for the campground is issued by the Zoning Administrator;
- C. The character of the river system and the campground elevation are such that a seventy-two-hour warning of an impending flood can be given to all campground occupants;
- D. 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;
- E. 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 A(4) — to remain in compliance with all applicable regulations, including those of the State Department of Health Services and all other applicable regulations;
- F. Only camping units that are fully licensed, if required, and ready for highway use are allowed;
- G. 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;
- H. 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;
- I. The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

- J. All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Article **III**, **IV** or **V** for the floodplain district in which the structure is located;
- K. 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
- L. 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.

## Article III. Floodway District (FW)

### § 270-11. Applicability.

This article applies to all floodway areas on the Floodplain Zoning Maps and those identified pursuant to § **270-21**.

### § 270-12. Permitted uses.

- A. The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District if: they are not prohibited by any other ordinance; they meet the standards in §§ **270-13** and **270-14**; and all permits or certificates have been issued according to § **270-26**:
  - (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 § **270-13D**.
  - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with §§ **270-13** and **270-14**.
  - (5) Extraction of sand, gravel or other materials that complies with § **270-13D**.
  - (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 § **270-13C**.

### § 270-13. Standards for developments in the floodway.

- A. General.
  - (1) Any development in the floodway shall comply with Article **II** and have a low flood damage potential.
  - (2) Applicants shall provide the following data to determine the effects of the proposal according to §§ **270-7** and 270-26B(3):

- (a) A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
  - (b) An analysis calculating the effects of this proposal on regional flood height.
- (3) The Zoning Administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for Subsection **A(2)** above.
- B. Structures. Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
  - (1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
  - (2) Shall have a minimum of two 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 floodproofed to or above the flood-protection elevation; and
  - (5) It must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.
- C. Public utilities, streets and bridges. Public utilities, streets and bridges may be allowed by permit if:
  - (1) Adequate floodproofing measures are provided to the flood-protection elevation; and
  - (2) Construction meets the development standards of § **270-7**.
- D. Fills or deposition of materials. Fills or deposition of materials may be allowed by permit if:
  - (1) The requirements of § **270-7** are met;
  - (2) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to Ch. 30, Wis. Stats., and a permit pursuant to Section 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.

## § 270-14. Prohibited uses.

All uses not listed as permitted uses in § **270-12** are prohibited, including the following uses:

- A. Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- B. Storing materials that are buoyant, flammable, explosive, or injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- C. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

- D. Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Ch. SPS 383, Wis. Adm. Code;
- E. Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Chs. NR 811 and NR 812, Wis. Adm. Code;
- F. Any solid or hazardous waste disposal sites;
- G. Any wastewater treatment ponds or facilities, except those permitted under § NR 110.15(3)(b), Wis. Adm. Code; and
- H. Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which comply with the regulations for the floodplain area occupied.

## Article IV. Floodfringe District (FF)

### § 270-15. Applicability.

This article applies to all floodfringe areas shown on the Floodplain Zoning Maps and those identified pursuant to § **270-21**.

### § 270-16. Permitted uses.

Any structure, land use, or development is allowed in the Floodfringe District if the standards in § **270-17** are met, the use is not prohibited by this chapter or any other ordinance or regulation and all permits or certificates specified in § **270-26** have been issued.

### § 270-17. Standards for development in the floodfringe.

Section **270-7** shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Article **VI**, Nonconforming Uses.

- A. Residential uses. Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of Article **VI**, Nonconforming Uses.
  - (1) The elevation of the lowest floor shall be at or above the flood-protection elevation on fill unless the requirements of § **270-17A(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 as provided in Subsection **A(4)**.
  - (4) In developments where existing street or sewer line elevations make compliance with Subsection **A(3)** impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation if:
    - (a) 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

- (b) The municipality has a DNR-approved emergency evacuation plan.
- B. Accessory structures or uses. Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- C. Commercial uses. Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of § **270-17A**. Subject to the requirements of § **270-17E**, 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.
- D. 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 § **270-30**. Subject to the requirements of § **270-17E**, 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. 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 be floodproofed in compliance with § **270-30**. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- F. Public utilities, streets and bridges. All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans and:
  - (1) 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 § **270-30**.
  - (2) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- G. Sewage systems. All sewage disposal systems shall be designed to minimize or eliminate infiltration of floodwater into the system, pursuant to § **270-30C**, to the flood-protection elevation and meet the provisions of all local ordinances and Ch. SPS 383, Wis. Adm. Code.
- H. Wells. All wells shall be designed to minimize or eliminate infiltration of floodwaters into the system, pursuant to § **270-30C**, to the flood-protection elevation and shall meet the provisions of Chs. NR 811 and NR 812, Wis. Adm. Code.
- I. Solid waste disposal sites. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- J. Deposition of materials. Any deposited material must meet all the provisions of this chapter.
- K. Manufactured homes.
  - (1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage and prepare, secure approval for and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
  - (2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
    - (a) Have the lowest floor elevated to the flood-protection elevation; and
    - (b) Be anchored so they do not float, collapse or move laterally during a flood.
  - (3) 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 § **270-17A**.

- 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 § **270-17K(2)** and **(3)**. 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.

## Article V. General Floodplain District (GFP)

### § 270-18. Applicability.

The provisions for this district shall apply to all floodplains mapped as A, AO or AH Zones.

### § 270-19. Permitted uses.

- A. Pursuant to § **270-21**, it shall be determined whether the proposed use is located within the floodway or floodfringe.
- B. Those uses permitted in the Floodway (§ **270-12**) and Floodfringe (§ **270-16**) Districts are allowed within the General Floodplain District, according to the standards of § **270-20**, provided that all permits or certificates required under § **270-26** have been issued.

### § 270-20. Standards for development in the General Floodplain District.

Article **III** applies to floodway areas; Article **IV** applies to floodfringe areas. The rest of this chapter applies to either district.

- A. In AO/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) Two feet above the highest adjacent grade around the structure; or
  - (3) The depth as shown on the FIRM.
- B. In AO/AH Zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

### § 270-21. Determining floodway and floodfringe limits.

Upon receiving an application for development within the General Floodplain District, the Zoning Administrator shall:

- A. 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 floodproofing measures; and the flood zone as shown on the FIRM.

- B. Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
- (1) A hydrologic and hydraulic study as specified in § 270-26B(3).
  - (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.
  - (3) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

## Article VI. Nonconforming Uses

### § 270-22. General provisions.

- A. Applicability. If these standards conform with § 59.69(10), Wis. Stats., for counties, or § 62.23(7)(h), Wis. Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this chapter or any amendment thereto.
- B. The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this chapter may continue subject to the following conditions:
- (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this chapter. 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.
  - (2) 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.
  - (3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
  - (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with § 270-17A. The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood-protection elevation are excluded from the 50% provisions of this subsection.
  - (5) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall

be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with § 270-17A.

- (6) If, on a per-event basis, the total value of the work being done under Subsection **B(4)** and **(5)** equals or exceeds 50% of the present equalized assessed value, the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with § 270-17A.
- (7) Except as provided in Subsection **B(8)**, 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 requirements of this chapter. A structure is considered substantially damaged if the total cost to restore the structure to its predamaged condition equals or exceeds 50% of the structure's present equalized assessed value.
- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction:

(a) Residential structures:

- [1] Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of § 270-30B.
- [2] Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and shall be constructed with methods and materials resistant to flood damage.
- [3] Shall be constructed with electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- [4] In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
- [5] In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in § 270-20A.
- [6] In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

(b) Nonresidential structures:

- [1] Shall meet the requirements of § 270-22B(8)(a)[1] through [6].
- [2] 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 § 270-30A or B.
- [3] In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in § 270-20A.

- C. A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as an historic structure, the alteration will comply with § 270-13A, flood-

resistant materials are used, and construction practices and floodproofing methods that comply with § **270-30** are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of § **270-22B(8)(a)** if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and is the minimum necessary to preserve the historic character and design of the structure.

## § 270-23. 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 requirements of this chapter;
  - (2) Meets the requirements of § **270-22**;
  - (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 § **270-30**, 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 floodwaters 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, § **270-30C** and Ch. SPS 383, Wis. Adm. Code.
- C. No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, § **270-30C** and Chs. NR 811 and NR 812, Wis. Adm. Code.

## § 270-24. 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 § **270-17**, except where § **270-24B** 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 Board of Adjustment/Appeals, using the procedures established in § **270-28**, may grant a variance from those provisions of Subsection **A** for modifications or additions

using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood-protection elevation may be permitted if:

- (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
  - (2) Human lives are not endangered;
  - (3) Public facilities, such as water or sewer, shall not be installed;
  - (4) Flood depths shall not exceed two feet;
  - (5) Flood velocities shall not exceed two feet per second; and
  - (6) The structure shall not be used for storage of materials as described in § **270-17E**.
- 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, § **270-30C** and Ch. SPS 383, Wis. Adm. Code.
- D. All new wells, or addition to, replacement, repair or maintenance of a well, shall meet the applicable provisions of this chapter, § **270-30C** and Chs. NR 811 and NR 812, Wis. Adm. Code.

## Article VII. Administration

### § 270-25. Designation of administrator.

Where a Zoning Administrator, planning agency or a Board of Adjustment/Appeals has already been appointed to administer a zoning ordinance adopted under § 59.69, 59.692 or 62.23(7), Wis. Stats., these officials shall also administer this chapter.

### § 270-26. Zoning Administrator.

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

- (5) Submit copies of the following items to the Department's regional office:
    - (a) Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments.
    - (b) Copies of case-by-case analyses and other required information, including an annual summary of floodplain zoning actions taken.
    - (c) Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
  - (6) Investigate, prepare reports, and report violations of this chapter to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department's regional office.
  - (7) Submit copies of amendments to the FEMA regional office.
- B. Land use permit. A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated.
- (1) Application to the Zoning Administrator shall include:
    - (a) General information:
      - [1] Name and address of the applicant, property owner and contractor.
      - [2] Legal description, proposed use, and whether it is new construction or a modification.
    - (b) Site development plan. A site plan, drawn to scale, shall be submitted with the permit application form and shall contain:
      - [1] Location, dimensions, area and elevation of the lot.
      - [2] Location of the ordinary high-water mark of any abutting navigable waterways.
      - [3] Location of any structures, with distances measured from the lot lines and street center lines.
      - [4] Location of any existing or proposed on-site sewage systems or private water supply systems.
      - [5] Location and elevation of existing or future access roads.
      - [6] Location of floodplain and floodway limits as determined from the Official Floodplain Zoning Maps.
      - [7] The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study - either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD).
      - [8] Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Articles III and IV are met.
      - [9] Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to § 270-7. This may include any of the information noted in § 270-13A.
    - (c) Hydraulic and hydrologic studies to analyze development. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer

registered in the state. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

[1] Zone A floodplains.

[a] Hydrology.

[i] The appropriate method shall be based on the standards in Ch. NR 116.07(3), Wis. Admin. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.

[b] Hydraulic modeling. The regional flood elevation shall be based on the standards in Ch. NR 116.07(4), Wis. Admin. Code, Hydraulic Analysis: Determination of Regional Flood Elevation, and the following:

[i] Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.

[ii] Channel sections must be surveyed.

[iii] Minimum four-foot contour data in the overbanks shall be used for the development of cross-section overbank and floodplain mapping.

[iv] A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope, including a survey of the channel at each location.

[v] The most-current version of HEC-RAS shall be used.

[vi] A survey of bridge and culvert openings and the top of road is required at each structure.

[vii] Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.

[viii] Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's n values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high-water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.

[ix] The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

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

[i] If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.

[ii] If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as

in the Existing Model, unless adequate justification based on standard accepted engineering practices is provided.

[2] Zone AE floodplains.

- [a] Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Ch. NR 116.07(3), Wis. Admin. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.
- [b] Hydraulic model. The regional flood elevation shall be based on the standards in Ch. NR 116.07(4), Wis. Admin. Code, Hydraulic Analysis: Determination of Regional Flood Elevation, and the following:
  - [i] Duplicate Effective Model. The Effective Model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the Effective Model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
  - [ii] Corrected Effective Model. The Corrected Effective Model shall not include any man-made physical changes since the Effective Model date but shall import the model into the most-current version of HEC-RAS for Department review.
  - [iii] Existing (pre-project conditions) Model. The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (post-project) Model or to establish more up-to-date models on which to base the Revised (post-project) Model.
  - [iv] Revised (post-project conditions) Model. The Revised (post-project conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
  - [v] All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
  - [vi] Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the Effective Model and result in water surface elevations and 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.
- [c] Mapping. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
  - [i] Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, and bridge plans.
  - [ii] Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.

- [iii] Annotated FIRM panel showing the revised one-percent and two-tenths-percent annual chance floodplains and floodway boundaries.
  - [iv] If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used, then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
  - [v] The revised floodplain boundaries shall tie into the effective floodplain boundaries.
  - [vi] All cross sections from the Effective Model shall be labeled in accordance with the effective map, and a cross-section lookup table shall be included to relate to the model input numbering scheme.
  - [vii] Both the current and proposed floodways shall be shown on the map.
  - [viii] The stream center line, or profile baseline, used to measure stream distances in the model shall be visible on the map.
- (2) Expiration. All permits issued under the authority of this chapter shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.
- C. Certificate of compliance. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:
- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this chapter.
  - (2) Application for such certificate shall be concurrent with the application for a permit.
  - (3) If all provisions of this chapter 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 certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of § **270-30** are met.
- D. Other permits. Prior to obtaining a floodplain development permit, the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the United States Army Corps of Engineers under section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 344.

## § 270-27. Zoning agency.

A. The Zoning Committee shall:

- (1) Oversee the functions of the office of the Zoning Administrator; and
- (2) Review and advise the governing body on all proposed amendments to this chapter, maps and text.

B. The Zoning Committee shall not:

- (1) Grant variances to the terms of this chapter in place of action by the Board of Adjustment/Appeals; or

- (2) Amend the text or Zoning Maps in place of official action by the governing body.

## § 270-28. Board of Adjustment/Appeals.

The Board of Adjustment/Appeals, created under § 59.694, Wis. Stats., for counties, or § 62.23(7)(e), Wis. Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this chapter. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator shall not be the Secretary of the Board.

### A. Powers and duties. The Board of Adjustment/Appeals shall:

- (1) Appeals: hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this chapter;
- (2) Boundary disputes: hear and decide disputes concerning the district boundaries shown on the Official Floodplain Zoning Map; and
- (3) Variances: hear and decide, upon appeal, variances from the standards of this chapter.

### B. Appeals to the Board.

- (1) Appeals to the Board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within 30 days, unless otherwise provided by the rules of the Board, by filing with the official whose decision is in question, and with the Board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board all records regarding the matter appealed.

- (2) Notice and hearing for appeals, including variances.

#### (a) Notice. The board shall:

- [1] Fix a reasonable time for the hearing;
- [2] Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
- [3] Assure that notice shall be mailed to the parties in interest and the Department's regional office at least 10 days in advance of the hearing.

#### (b) Hearing. Any party may appear in person or by agent. The Board shall:

- [1] Resolve boundary disputes according to § **270-28C**;
- [2] Decide variance applications according to § **270-28D**; and
- [3] Decide appeals of permit denials according to § **270-29**.

- (3) Decision. The final decision regarding the appeal or variance application shall:

- (a) Be made within a reasonable time;
- (b) Be sent to the Department's regional office within 10 days of the decision;
- (c) Be a written determination signed by the Chairman or Secretary of the Board;
- (d) State the specific facts which are the basis for the Board's decision;
- (e) Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and

- (f) Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.
- C. Boundary disputes. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:
- (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
  - (2) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
  - (3) If the boundary is incorrectly mapped, the Board should inform the Zoning Committee or the person contesting the boundary location to petition the governing body for a map amendment according to Article **VIII**, Amendments.
- D. Variance.
- (1) The Board may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that:
    - (a) Literal enforcement of the chapter will cause unnecessary hardship;
    - (b) The hardship is due to adoption of the Floodplain Ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
    - (c) The variance is not contrary to the public interest; and
    - (d) The variance is consistent with the purpose of this chapter in § **270-3**.
  - (2) In addition to the criteria in Subsection **D(1)**, to qualify for a variance under FEMA regulations, the following criteria must be met:
    - (a) The variance shall not cause any increase in the regional flood elevation;
    - (b) Variances can only be granted for lots that are less than 1/2 acre and are contiguous to existing structures constructed below the RFE; and
    - (c) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of this chapter.
  - (3) A variance shall not:
    - (a) Grant, extend or increase any use prohibited in the zoning district;
    - (b) Be granted for a hardship based solely on an economic gain or loss;
    - (c) Be granted for a hardship which is self-created;
    - (d) Damage the rights or property values of other persons in the area;
    - (e) Allow actions without the amendments to this chapter or map(s) required in Article **VIII**, Amendments; and
    - (f) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
  - (4) When a floodplain variance is granted, the Board shall notify the applicant, in writing, that it may increase risks to life and property and flood insurance premiums could increase up to

\$25 per \$100 of coverage. A copy shall be maintained with the variance record.

## § 270-29. Review of appeals of permit denials.

- A. The zoning agency (§ 270-27) or Board shall review all data related to the appeal. This may include:
  - (1) Permit application data listed in § 270-26B;
  - (2) Floodway/floodfringe determination data in § 270-21;
  - (3) Data listed in § 270-13A(2) where the applicant has not submitted this information to the Zoning Administrator; and
  - (4) Other data submitted with the application or submitted to the Board with the appeal.
- B. For appeals of all denied permits, the Board shall:
  - (1) Follow the procedures of § 270-28;
  - (2) Consider zoning agency recommendations; and
  - (3) Either uphold the denial or grant the appeal.
- C. For appeals concerning increases in regional flood elevation, the Board shall:
  - (1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of Article VIII, Amendments; and
  - (2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase, provided no other reasons for denial exist.

## § 270-30. Floodproofing standards for nonconforming structures or uses.

- 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 either:
  - (1) Certified by a registered professional engineer or architect; or
  - (2) Which meets or exceeds the following standards:
    - (a) 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;
    - (b) The bottom of all openings shall be no higher than one foot above grade; and
    - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- C. Floodproofing measures shall be designed, as appropriate, to:

- (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
- (2) Protect structures to the flood-protection elevation;
- (3) Anchor structures to foundations to resist flotation and lateral movement;
- (4) Minimize or eliminate infiltration of floodwaters; and
- (5) Minimize or eliminate discharges into floodwaters.

## § 270-31. Public information.

- A. Place marks on structures to show the depth of inundation during the regional flood.
- B. All maps, engineering data and regulations shall be available and widely distributed.
- C. Real estate transfers should show what floodplain district any real property is in.

## Article VIII. Amendments

### § 270-32. 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, in accordance with § **270-33**.

- A. In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a conditional letter of map revision from FEMA and amendments are made to this chapter the Official Floodplain Zoning Maps, floodway lines and water surface profiles, in accordance with § **270-33**. Any such alterations must be reviewed and approved by FEMA and the DNR.
- B. In A Zones, increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a conditional letter of map revision from FEMA and amendments are made to this chapter, the Official Floodplain Maps, floodway lines, and water surface profiles, in accordance with § **270-33**.

### § 270-33. Boundary changes.

The governing body shall change or supplement the floodplain zoning district boundaries and this chapter in the manner outlined in § **270-34** below. Actions which require an amendment to the chapter and/or submittal of a letter of map change (LOMC) include, but are not limited to, the following:

- A. Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- B. Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- C. Any changes to any other officially adopted floodplain maps listed in § **270-5B(2)**;
- D. Any floodplain fill which raises the elevation of the filled area to a height at or above the flood-protection elevation and is contiguous to land lying outside the floodplain;
- E. Correction of discrepancies between the water surface profiles and floodplain maps;
- F. Any upgrade to a floodplain zoning ordinance text required by § NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and

- G. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

## § 270-34. Procedures.

Ordinance amendments may be made upon petition of any party according to the provisions of § 62.23, Wis. Stats., for cities and villages, or § 59.69, Wis. Stats., for counties. The petitions shall include all data required by §§ **270-21** and **270-26B**. The land use permit shall not be issued until a letter of map revision is issued by FEMA for the proposed changes.

- A. The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department's regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of § 62.23, Wis. Stats., for cities and villages, or § 59.69, Wis. Stats., for counties.
- B. No amendments shall become effective until reviewed and approved by the Department.
- C. All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

## Article IX. Enforcement and Penalties

### § 270-35. Violations and Penalties.

Any violation of the provisions of this chapter by any person shall be unlawful and shall be referred to the Municipal Attorney, who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not more than \$50, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this chapter is a public nuisance, and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to § 87.30, Wis. Stats.

## Article X. Definitions

### § 270-36. Definitions.

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

#### **ACCESSORY STRUCTURE OR USE**

A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

#### **AH ZONE**

See "area of shallow flooding."

#### **ALTERATION**

An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air-conditioning and other systems within a structure.

#### **AO ZONE**

See "area of shallow flooding."

#### **AREA OF SHALLOW FLOODING**

A designated AO, AH, AR/AO, AR/AH, or VO Zone on a community's Flood Insurance Rate Map (FIRM), with a one-percent or greater annual chance of flooding to an average depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

#### **A ZONES**

Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

#### **BASE FLOOD**

The flood having a one-percent chance of being equaled or exceeded in any given year, as published by FEMA as part of an FIS and depicted on a FIRM.

#### **BASEMENT**

Any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.

#### **BUILDING**

See "structure."

#### **BULKHEAD LINE**

A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to § 30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this chapter.

#### **CAMPGROUND**

Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four or more camping units or which is advertised or represented as a camping area.

#### **CAMPING UNIT**

Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

#### **CERTIFICATE OF COMPLIANCE**

A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this chapter.

#### **CHANNEL**

A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

#### **CRAWLWAYS or CRAWL SPACE**

An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

#### **DECK**

An unenclosed exterior structure that has no roof or sides but has a permeable floor which allows the infiltration of precipitation.

#### **DEPARTMENT**

The Wisconsin Department of Natural Resources.

#### **DEVELOPMENT**

Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

#### **DRYLAND ACCESS**

A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

#### **ENCROACHMENT**

Any fill, structure, equipment, use or development in the floodway.

#### **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)**

The federal agency that administers the National Flood Insurance Program.

#### **FLOOD FREQUENCY**

The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring on the average once in a specified number of years or as a percent chance of occurring in any given year.

#### **FLOODFRINGE**

That portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

#### **FLOOD HAZARD BOUNDARY MAP**

A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

#### **FLOOD INSURANCE RATE MAP (FIRM)**

A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

#### **FLOOD INSURANCE STUDY**

A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

#### **FLOOD or FLOODING**

A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- A. The overflow or rise of inland waters;
- B. The rapid accumulation or runoff of surface waters from any source;
- C. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
- D. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

#### **FLOODPLAIN**

Land which has been or may be covered by floodwater during the regional flood. It includes the floodway and the floodfringe and may include other designated floodplain areas for regulatory purposes.

#### **FLOODPLAIN ISLAND**

A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

#### **FLOODPLAIN MANAGEMENT**

Policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

#### **FLOOD PROFILE**

A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

#### **FLOODPROOFING**

Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

#### **FLOOD-PROTECTION ELEVATION**

An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: "freeboard.")

#### **FLOOD STORAGE**

Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

#### **FLOODWAY**

The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

#### **FREEBOARD**

A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

#### **HABITABLE STRUCTURE**

Any structure or portion thereof used or designed for human habitation.

#### **HEARING NOTICE**

Publication or posting meeting the requirements of Ch. 985, Wis. Stats. For appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week

consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

### **HIGHEST ADJACENT GRADE**

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

### **HIGH FLOOD DAMAGE POTENTIAL**

Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

### **HISTORIC STRUCTURE**

Any structure that is either:

- A. Listed individually on the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior, or by the Secretary of the Interior in states without approved programs.

### **INCREASE IN REGIONAL FLOOD HEIGHT**

A calculated upward rise in the regional flood elevation greater than 0.00 feet based on a comparison of existing conditions and proposed conditions, which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

### **LAND USE**

Any nonstructural use made of unimproved or improved real estate. (Also see "development.")

### **LOWEST ADJACENT GRADE**

The elevation of the lowest ground surface that touches any of the exterior walls of a building.

### **LOWEST FLOOR**

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of 44 CFR 60.3.

### **MAINTENANCE**

The act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

### **MANUFACTURED HOME**

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

**MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING**

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading or the pouring of concrete pads.

**MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION**

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING**

A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this chapter. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

**MOBILE RECREATIONAL VEHICLE**

A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required, and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

**MODEL, CORRECTED EFFECTIVE**

A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more-detailed topographic information than that used in the current Effective Model.

**MODEL, DUPLICATE EFFECTIVE**

A copy of the hydraulic analysis used in the effective FIS and referred to as the Effective Model."

**MODEL, EFFECTIVE**

The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

**MODEL, EXISTING (PRE-PROJECT)**

A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man-made modifications that have occurred within the floodplain since the date of the Effective Model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the Effective Model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

**MODEL, REVISED (POST-PROJECT)**

A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

**MUNICIPALITY or MUNICIPAL**

The county, city or village governmental units enacting, administering and enforcing this chapter.

**NAVD or NORTH AMERICAN VERTICAL DATUM**

Elevations referenced to mean sea level datum, 1988 adjustment.

**NEW CONSTRUCTION**

For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction"

commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

#### **NGVD or NATIONAL GEODETIC VERTICAL DATUM**

Elevations referenced to mean sea level datum, 1929 adjustment.

#### **NONCONFORMING STRUCTURE**

An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this chapter for the area of the floodplain which it occupies. (For example, an existing residential structure in the Floodfringe District is a conforming use. However, if the lowest floor is lower than the flood-protection elevation, the structure is nonconforming.)

#### **NONCONFORMING USE**

An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies such as a residence in the floodway.

#### **OBSTRUCTION TO FLOW**

Any development which blocks the conveyance of floodwaters such that this development, alone or together with any future development, will cause an increase in regional flood height.

#### **OFFICIAL FLOODPLAIN ZONING MAP**

That map, adopted and made part of this chapter, as described in § 270-5B, which has been approved by the Department and FEMA.

#### **OPEN SPACE USE**

Those uses having a relatively low flood damage potential and not involving structures.

#### **ORDINARY HIGH-WATER MARK**

The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

#### **PERSON**

An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

#### **PRIVATE SEWAGE SYSTEM**

A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

#### **PUBLIC UTILITIES**

Those utilities using underground or overhead transmission lines, such as electric, telephone and telegraph, and distribution and collection systems, such as water, sanitary sewer and storm sewer.

#### **REASONABLY SAFE FROM FLOODING**

Base floodwaters will not inundate the land or damage structures to be removed from the floodplain and any subsurface waters related to the base flood will not damage existing or proposed buildings.

#### **REGIONAL FLOOD**

A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one-percent chance of being equaled or exceeded in any given year, and, if depicted on the FIRM, the RFE is equivalent to the BFE.

## **START OF CONSTRUCTION**

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the "actual start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

## **STRUCTURE**

Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

## **SUBDIVISION**

Has the meaning given in § 236.02(12), Wis. Stats.

## **SUBSTANTIAL DAMAGE**

Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its predamaged condition would equal or exceed 50% of the equalized assessed value of the structure before the damage occurred.

## **SUBSTANTIAL IMPROVEMENT**

Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50% of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

## **UNNECESSARY HARDSHIP**

Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

## **VARIANCE**

An authorization by the Board of Adjustment or Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in this chapter.

## **VIOLATION**

The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

## **WATERSHED**

The entire region contributing runoff or surface water to a watercourse or body of water.

## **WATER SURFACE PROFILE**

A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

#### **WELL**

An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater, regardless of its intended use.

### § 270-37. through § 270-38. (Reserved)

## Part 2. Shoreland-Wetland Zoning

[Adopted 6-6-2005]

### Article XI. Shoreland-Wetland Zoning District

[Added 6-6-2005]

#### § 270-39. District boundaries of shoreland-wetlands.

- A. The shoreland-wetland zoning district includes all wetlands in the Village of Neshkoro which are five acres or more in size and are shown on the Wetland Inventory Map prepared by the Department for the Village of Neshkoro, which hereby is adopted and made a part of this chapter, and which wetlands are:
- (1) Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the municipality shall be presumed to be navigable if they are listed in the Department publication "Surface Water Resources of Marquette County" or are shown on the most recent United States Geological Survey Quadrangle Map for Neshkoro, which is hereby adopted and made part of this chapter, or other zoning base maps which have been incorporated by reference and made part of this chapter.
  - (2) Within 300 feet of the ordinary high-water mark of navigable rivers or streams or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey Quadrangle Map for Neshkoro or other zoning base maps which have been incorporated by reference and made a part of this chapter. Floodplain zoning maps adopted in § **270-5** shall be used to determine the extent of floodplain areas.
- B. Determinations of navigability and ordinary high-water mark location shall initially be made by the Building Inspector. When questions arise, the Building Inspector shall contact the appropriate district office of the Department for a final determination of navigability or ordinary high-water mark.
- C. When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official zoning maps and the actual field conditions at the time the maps were adopted, the Building Inspector shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If Department staff concur with the Building Inspector that a particular area was incorrectly mapped as a wetland, the Building Inspector shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official zoning maps, the Building Inspector shall be responsible for initiating a map amendment within a reasonable period.

- D. Notwithstanding any other provision of law or administrative rule, this Article **XI** does not apply to lands adjacent to farm drainage ditches, if:
- (1) Such lands are not adjacent to a natural navigable stream or river;
  - (2) Those parts of the drainage ditches adjacent to such lands were not navigable streams before ditching; and
  - (3) Such lands are maintained in nonstructural agricultural use.

## § 270-40. Permitted uses in shoreland-wetlands.

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

- A. Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs.
- (1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
  - (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
  - (3) The practice of silviculture, including the planting, thinning and harvesting of timber;
  - (4) The pasturing of livestock;
  - (5) The cultivation of agricultural crops; and
  - (6) The construction and maintenance of duck blinds.
- B. Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below.
- (1) The practice of silviculture, including limited temporary water-level-stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
  - (2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
  - (3) The maintenance and repair of existing drainage systems, where permissible under § 30.20, Wis. Stats., to restore preexisting levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Ch. 30, Wis. Stats., and that dredged spoil is placed on existing spoil banks where possible;
  - (4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
  - (5) The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
  - (6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district, provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the shoreland-wetland listed in § **270-42A** of this chapter; and
  - (7) The maintenance, repair, replacement and construction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

- C. Uses which are allowed upon the issuance of a conditional use permit and which may include wetland alterations only to the extent specifically provided below.
- (1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under this section, provided that:
    - (a) The road cannot, as a practical matter, be located outside the wetland;
    - (b) The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in § **270-42A**;
    - (c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
    - (d) Road construction activities are carried out in the immediate area of the roadbed only; and
    - (e) Any wetland alteration must be necessary for the construction or maintenance of the road.
  - (2) The construction and maintenance of nonresidential buildings, provided that:
    - (a) The building is used solely in conjunction with a use permitted in the Shoreland-Wetland District or for the raising of waterfowl, minnows or other wetland or aquatic animals;
    - (b) The building cannot, as a practical matter, be located outside the wetland;
    - (c) The building does not exceed 500 square feet in floor area; and
    - (d) Only limited filling and excavating necessary to provide structural support for the building is allowed.
  - (3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
    - (a) Any private development allowed under this subsection shall be used exclusively for the permitted purpose;
    - (b) Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
    - (c) The construction and maintenance of roads necessary for the uses permitted under this subsection are allowed only where such construction and maintenance meets the criteria in Subsection **C(1)** above; and
    - (d) 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 and water, gas and sewer lines and related facilities and the construction and maintenance of railroad lines, provided that:
    - (a) The transmission and distribution lines and related facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
    - (b) Only limited filling or excavating necessary for such construction or maintenance is allowed; and

- (c) Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in § **270-42A**.

## § 270-41. Prohibited uses in shoreland-wetlands.

- A. Any use not listed in § **270-40** is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this chapter in accordance with § **270-42** and Article **VIII**.
- B. The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

## § 270-42. Rezoning shoreland-wetlands.

- A. Rezoning of a shoreland-wetland shall require amendment of the Final Wisconsin Wetland Inventory Map adopted in § **270-39A** pursuant to procedures established in Article **VIII**. In order to ensure that any amendment will be consistent with the shoreland protection objectives of § 61.351, Wis. Stats., the Village 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:
- (1) Stormwater and floodwater storage capacity.
  - (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
  - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
  - (4) Shoreline protection against soil erosion;
  - (5) Fish spawning, breeding, nursery or feeding grounds;
  - (6) Wildlife habitat; or
  - (7) Areas of special recreational, scenic or scientific interest, including scarce wetland types of habitat of endangered species.
- B. Upon notification of a proposed amendment as required by Article **VIII**, if the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Subsection **A**, the Department shall so notify the Village of its determination either prior to or during the public hearing held on the proposed amendment.
- C. If the Department notifies the Plan Commission in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Subsection **A**, that proposed amendment, if approved by the Village, shall not become effective until more than 30 days have elapsed since written notice of the Village Board approval was mailed to the Department, as required by Article **VIII**. If, within the thirty-day period, the Department notifies the Village Board that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the Village under § 61.351(6), Wis. Stats., the proposed amendment shall not become effective until that ordinance adoption procedure is completed or otherwise terminated. The record of the Village Board decision on the proposed amendment shall advise the petitioner of the provisions of this section.

[Amended 10-4-2010]

## Article XII. Shoreland Protection

## § 270-43. Finding of fact.

Uncontrolled use of the shorelands and pollution of the navigable waters within the Village of Neshkoro would adversely affect the public health, safety, convenience, and general welfare and impair the tax base.

## § 270-44. Purpose.

For the purpose of promoting the public health, safety, convenience and welfare, this chapter has been established to:

- A. Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
  - (1) Limiting structures to those areas where soil conditions will provide a safe foundation.
  - (2) Establishing minimum lot sizes to provide adequate area for private sewage disposal facilities.
  - (3) Controlling filling and grading to prevent serious soil erosion problems.
- B. Protect spawning grounds, fish and aquatic life through:
  - (1) Preserving wetlands and other fish and aquatic habitat.
  - (2) Regulating pollution sources.
  - (3) Controlling shoreline alterations, dredging and lagooning.
- C. Control building sites, placement of structures and land uses through:
  - (1) Separating conflicting land uses.
  - (2) Prohibiting certain uses detrimental to the shoreland area.
  - (3) Setting minimum lot sizes and widths.
  - (4) Regulating side yards and building setbacks from waterways.
- D. Preserve shore cover and natural beauty through:
  - (1) Restricting the removal of natural shoreland cover.
  - (2) Preventing shoreline encroachment by structures.
  - (3) Controlling shoreland excavation and other earthmoving activities.
  - (4) Regulating the use and placement of boathouses and other structures.

## § 270-45. Title.

The title of this article shall be the "Shoreland Protection Ordinance of the Village of Neshkoro."

## § 270-46. Areas to be regulated.

Areas regulated by this article shall include all shorelands in the Village of Neshkoro. Determinations of navigability and the ordinary high-water mark shall initially be made by the Building Inspector. When questions arise, the Building Inspector shall contact the appropriate district office of the Department for

a final determination of navigability or ordinary high-water mark. This article does not apply to lands adjacent to farm drainage ditches if:

- A. Such lands are not adjacent to a natural navigable body of water;
- B. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- C. Such lands are maintained in nonstructural agricultural use.

## § 270-47. Compliance.

The use of any land or water; the size, shape and placement of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste disposal facilities; the filling, grading, lagooning or dredging of any lands; the cutting of shoreland vegetation; or the subdivision of lots shall be in full compliance with the terms of this chapter and other applicable local, state or federal regulations. (However, see Article VI for standards applicable to nonconforming uses.) Buildings, signs and other structures shall require a permit unless otherwise expressly excluded by a provision of this chapter. Property owners, builders and contractors are responsible for compliance with the terms of this chapter.

## § 270-48. Municipalities, counties and state agencies regulated.

Unless specifically exempted by law, all municipalities, towns and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply when § 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 § 30.2022, Wis. Stats., applies.

## § 270-49. Abrogation and greater restrictions.

The provisions of this chapter supersede all the provisions of any Village zoning ordinances which relate to shorelands, except those ordinances which are more restrictive than this chapter shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

## § 270-50. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes.

## § 270-51. Dimensions of shoreland building sites.

The minimum dimensions of shoreland building sites shall be:

- A. Unsewered lots. The minimum lot area shall be 24,000 square feet with a minimum lot width of 100 feet.
- B. Sewered lots. The minimum lot area shall be 12,000 square feet with a minimum lot width of 90 feet.
- C. Other lot dimensions. All other lot dimensions shall be as specified in the general Village Zoning Ordinance, Chapter **500**.

## § 270-52. Setbacks from the water.

- A. Lots that abut on navigable waters. All buildings and structures, except piers, boat hoists and open fences, which may require a lesser setback, shall be set back at least 40 feet from the ordinary high-water mark of navigable waters.
- B. Boathouses. Boathouses are not permitted within 40 feet of the ordinary high-water mark. All legally existing boathouses shall be subject to Article VI regulating nonconforming uses. Routine maintenance shall be permitted but shall not include improvements, such as installation of patio doors, plumbing, fireplaces, furniture, or any features inconsistent with or superfluous to the use of the structure for the storage of watercraft. No variance shall allow boathouses within 40 feet of the ordinary high-water mark.

## § 270-53. Removal of shore cover.

- A. Purpose. The purpose of tree and shrubbery cutting regulations applicable to the shoreland area is to protect scenic beauty, control erosion, and reduce effluent and nutrient flow from the shoreland. The provisions shall not apply to removal of dead, diseased or dying trees or shrubbery at the discretion of the property owner or to silvicultural thinning upon recommendation of a forester.
- B. Shoreline cutting on all navigable bodies of water. Tree and shrubbery cutting in an area parallel to the ordinary high-water mark, and extending 35 feet inland from all points along the ordinary high-water mark, shall be limited in accordance with the following provisions:
  - (1) No more than 30 feet in any 100 feet, as measured along the ordinary high-water mark, may be clear-cut to the depth of the thirty-five-foot area.
  - (2) Natural shrubbery shall be preserved as far as practicable, and where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.
- C. Remedial action. In addition to any other enforcement actions the Village may take for violations of this chapter, the Village may require remedial action as set forth in this section.
  - (1) In order to restore functional values of a vegetative buffer, the buffer must consist of three layers: a ground cover, a shrub layer and a tree canopy. The restoration design will seek to reestablish all three layers. The entire damaged shoreland buffer area must be revegetated — no bare soil may remain.
  - (2) Trees and shrubbery removed in violation of this chapter shall be replaced with trees and shrubs native to this area in order to provide effective erosion runoff protection and preservation of natural beauty. Minimum restoration/replanting standards are as follows:

<b>Layer</b>	<b>Minimum Number of Species</b>	<b>Overall Density</b>
Trees	2	1 per 100 square feet
Shrubs	4	1.5 per 100 square feet
Ground cover plant plugs	1	70 per 100 square feet
Ground cover seeding	1	Seeding rates vary

- (3) Trees shall have a minimum size at planting of two inches in diameter and be spaced a minimum of six feet to 10 feet apart, depending on species.
- (4) Any planting utilized as part of a remedial action that is dead and/or dying must be replaced within 12 months in conformance with the minimum standards of remediation identified in this

chapter.

- D. Compliance. If a property owner refuses to comply with this chapter, the Village of Neshkoro reserves the right to bring the site into compliance and place a special charge against said property until all costs of compliance are paid.
- E. Paths. Any path, road or passage within the thirty-five-foot area shall be constructed and surfaced so as to effectively control erosion.
- F. Cutting more than 35 feet inland. From the inland edge of the thirty-five-foot area to the outer limits of the shoreland, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management and soil conservation practices that protect water quality.

## § 270-54. Filling, grading, lagooning, dredging, ditching and excavating.

- A. General standards. Filling, grading, lagooning, dredging, ditching or excavating that does not require a permit under Subsection **B** below may be permitted in the shoreland area, provided that:
  - (1) It is done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.
  - (2) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets all applicable requirements of Article **XI**.
  - (3) All applicable federal, state and local authority is obtained, in addition to a permit under this chapter.
  - (4) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or bulkhead.
- B. Permit required. Except as provided in Subsection **C** below, a special exception permit is required:
  - (1) For any filling or grading of any area that is within 300 feet landward of the ordinary high-water mark of navigable water and that has surface drainage toward the water, and on which there is either:
    - (a) Any filling or grading on slopes of more than 20%.
    - (b) Filling or grading of more than 1,000 square feet on slopes of 12% to 20%.
    - (c) Filling or grading of more than 2,000 square feet on slopes less than 12%.
  - (2) For any new construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway that is within 300 feet landward of the ordinary high-water mark of a navigable body of water, or where the purpose is the ultimate connection with a navigable body of water.
- C. Soil conservation practices. Soil conservation practices, such as terraces, runoff diversions and grassed waterways that are used for erosion control, shall not require a permit under Subsection **B** when designed and constructed to Natural Resources Conservation Service technical standards.
- D. Permit conditions. In granting a special exception permit under Subsection **B**, the Board of Appeals shall attach the following conditions, where appropriate, in addition to those specified in § 270-31G of this chapter:
  - (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.

- (2) Temporary ground cover (such as mulch or jute netting) shall be used, and permanent vegetative cover shall be established.
- (3) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
- (4) Lagoons shall be constructed to avoid fish trap conditions.
- (5) Fill shall be stabilized according to accepted engineering standards.
- (6) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
- (7) Channels or artificial watercourses shall be constructed with side slopes of two units horizontal distance to one unit vertical, or flatter, that shall be promptly vegetated, unless bulkheads or riprap are provided.

## Chapter 285. Hazardous Materials

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Secs. 5-3-2 and 5-3-3 and Title 8, Ch. 2, of the 1999 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Fire prevention — See Ch. 260.

Fireworks — See Ch. 264.

Abatement of public nuisances — See Ch. 360.

Sewers — See Ch. 420.

Zoning — See Ch. 500.

### § 285-1. Disclosure of hazardous materials and infectious agents; reimbursement for cleanup of spills.

#### A. Application.

- (1) All persons, firms or organizations using, researching, storing or producing hazardous materials and/or infectious agents shall notify the Fire Department as prescribed by this chapter.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (2) The provisions of this chapter shall apply to all persons, firms or organizations using, researching, producing or storing hazardous materials and/or infectious agents on and after the effective date of this chapter.

#### B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

##### HAZARDOUS MATERIALS

Those materials that can cause death or disabling injury from brief exposure; those materials that could cause a lost-time injury from exposure; and those materials that could cause temporary disability or injury without permanent effects, which are used, researched, produced or stored within or on premises, except those household consumer products used at the point of consumption and not used for commercial or experimental purposes. This definition of hazardous materials shall include radioactive materials.

##### INFECTIOUS AGENT

A bacterial, mycoplasmal, fungal, parasitic or viral agent known to cause illness in humans, which is used, researched, produced or stored within or on premises.

#### C. Information required.

- (1) Any person, firm or organization using, researching, producing and/or storing any hazardous materials shall provide in writing to the Fire Department the following information:
  - (a) Address, location of where hazardous materials are used, researched, stored or produced;
  - (b) The trade name of the hazardous material;
  - (c) The chemical name and any commonly used synonym for the hazardous material and the chemical name and any commonly used synonym for its major components;
  - (d) The exact locations on the premises where materials are used, researched, stored and/or produced;
  - (e) Amounts of hazardous materials on the premises per exact location;
  - (f) The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids, and appearance and odor of the hazardous material;
  - (g) The flashpoint and flammable limits of the hazardous substance;
  - (h) Any permissible exposure level, threshold limit value or other established limit value for exposure to a hazardous material;
  - (i) The stability of the hazardous substance;
  - (j) Recommended fire-extinguishing media, special fire-fighting procedures and fire and explosion hazard information for the hazardous material;
  - (k) Any effect of overexposure to the hazardous material, emergency and first aid procedures and telephone numbers to call in an emergency;
  - (l) Any condition or material which is incompatible with the hazardous material and must be avoided;
  - (m) Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the hazardous materials; and
  - (n) Procedures for handling or coming into contact with the hazardous materials.
- (2) Any person, firm or organization using, researching, producing and/or storing an infectious agent and/or a carrier of an infectious agent shall provide, in writing, to the Fire Department the following:
  - (a) The name and any commonly used synonym of the infectious agent;
  - (b) Address/location where infectious agents are used, researched, stored and/or produced;
  - (c) The exact locations where infectious agents are used, researched, stored and/or produced;
  - (d) Amount of infectious agent on premises per exact locations;
  - (e) Any methods or route of transmission of the infectious agents;
  - (f) Any symptoms of effect of infection, emergency and first aid procedure, and a telephone number to be called in an emergency;
  - (g) Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming in contact with the infectious agent; and
  - (h) Procedure for handling, cleanup and disposal of infectious agents leaked or spilled.

- D. Reimbursement for cleanup of spills. Any person who possesses or controls a hazardous material or infectious agent which was discharged or caused the discharge of a hazardous material or infectious agent shall reimburse the Village for actual and necessary expenses incurred by the Village or its agent to contain, remove or dispose of the hazardous substance or infectious agent or take any other action which is deemed appropriate under the circumstance.

## § 285-2. Hazardous material incident response reimbursement.

- A. Prohibited discharges. No person, firm or corporation shall discharge or cause to be discharged, leaked, leached or spilled upon any public or private street, alley, public or private property, or onto the ground, surface waters, subsurface waters, or aquifers, or within the Village of Neshkoro, except those areas specifically licensed for waste disposal or landfill activities, and to receive such materials, any explosive, flammable or combustible solid liquid or gas, any radioactive material at or above nuclear regulatory restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.
- B. Emergency services response. Includes, but is not limited to: fire service, emergency medical service, law enforcement. A person, firm or corporation who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall be responsible for reimbursement to the responding agencies for actual and necessary expenses incurred in carrying out their duties under this chapter. Actual and necessary expenses may include, but not be limited to, replacement of equipment damaged by the hazardous material; cleaning, decontamination and maintenance of the equipment specific to the incident; specific laboratory expenses incurred in the recognition and identification of hazardous substances in the evaluation of response; decontamination; costs incurred in the procurement and use of specialized equipment specific to the incident; cleanup and medical surveillance; and incurred costs in future medical surveillance of response personnel as required by the responding agencies' medical advisor.
- C. Site access. Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to emergency government officers and staff and to Village Police and Fire Departments personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.
- D. Public protection. Should any prohibited discharge occur that threatens the life, safety or health of the public at, near or around the site of a prohibited discharge, and the situation is so critical that immediate steps must be taken to protect life and limb, the Village President, his/her assistant, or the senior Village police or fire official on the scene of the emergency may order an evacuation of the area or take other appropriate steps for a period of time until the Village Board can take appropriate action.
- E. Enforcement. The Fire Chief and his/her deputies, as well as the Village police officers, shall have authority to issue citations or complaints under this chapter.
- F. Civil liability. Any person, firm or corporation in violation of this chapter shall be liable to the Village for any expenses incurred by the Village or loss or damage sustained by the Village of Neshkoro by reason of such violation.

## § 285-3. Cleanup of spilled or accidentally discharged wastes.

- A. Cleanup required. All persons, firms or corporations delivering, hauling, disposing, storing, discharging or otherwise handling potentially polluting substances, solid or liquid, such as, but not limited to, the following: fuel oil, gasoline, solvents, industrial liquids or fluids, milk, grease trap and septic tank wastes, sewage sludge, sanitary sewer wastes, storm sewer catch basin wastes, oil or petroleum wastes, shall immediately clean up any such spilled material to prevent it becoming a

hazard to health or safety or directly or indirectly causing pollution to the lakes and streams under the jurisdiction of the Village.

- B. Notification. Spills or accidental release of hazardous materials or pollutants at a site or of a quantity or nature that cannot adequately be cleaned up by the responsible party or parties shall be immediately reported to the Village Clerk-Treasurer so that assistance can be given by the proper agency.
- C. Financial liability. The party or parties responsible for the release, escape or discharge of wastes shall be held financially liable for the cost of any cleanup or attempted cleanup deemed necessary or desirable and undertaken by the Village, or its designated agent, in an effort to minimize the polluttional effects of the discharged waste.

## § 285-4. Storage of polluting substances.

It shall be unlawful for any person, firm or corporation to store any potentially polluting substances unless such substances are stored in such manner as to securely prevent them from escaping onto the ground surface and/or into any street, sewer, ditch or drainageway, lake or stream within the jurisdiction of the Village of Neshkoro.

## Chapter 293. Health and Sanitation

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Secs. 8-1-7 through 8-1-12 of the 1999 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Nuisances — See Ch. **368**.

Peace and good order — See Ch. **385**.

Property maintenance — See Ch. **396**, Art. **I**.

Solid waste — See Ch. **438**.

Zoning — See Ch. **500**.

## § 293-1. Compulsory connection to Village sewer and water system.

When required. Whenever a sewer or water main becomes available to any building used for human habitation, the owner of the property upon which the building is located shall connect the building to such main or mains in the manner prescribed by law, except the Village Board may defer connection to such water or sewer main or mains for those properties which have existing septic systems or wells whose construction was permitted by the Village of Neshkoro, but such deferment shall not exceed five years from the date of installation of such main or mains. See § **420-11** of the Code for provisions concerning mandatory sewer hookup.<sup>[2]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: Original Secs. 8-1-7(b), (c) and (d), pertaining to connection to the sewer and water system, and 8-1-8, Unhealthy, hazardous or unsightly materials on public or private property, which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 293-2. Rodent control.

- A. Definitions. The following definitions shall be applicable in this section:

### HARDWARE CLOTH

Wire screening of such thickness and spacing as to afford reasonable protection against the entrance of rodents.

#### **OWNER or MANAGER**

Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the Village, as executor, administrator, trustee, guardian or agent, such person or persons shall be deemed and taken to be the owner or owners of such property within the true intent and meaning of this section and shall be bound to comply with the provisions of this section to the same extent as the owner, and notice to any such person of any order or decision of the Building Inspector or his/her designee shall be deemed and taken to be a good and sufficient notice, as if such person or persons were actually the owner or owners of such property, except that, whenever an entire premises or building is occupied as a place of business, such as a store, factory, warehouse, rooming house, junkyard, lumberyard or any other business under a single management, the person, firm or corporation in charge of such business shall be considered the owner or manager.

#### **RODENT HARBORAGE**

Any place where rodents can live and nest without fear of frequent molestation or disturbance.

#### **RODENTPROOF CONTAINER**

A container constructed of concrete or metal, or the container shall be lined with metal or other material that is impervious to rodents, and openings into the container such as doors shall be tight-fitting to prevent the entrance of rodents.

#### **RODENTPROOFING**

Consists of closing openings in building foundations and openings under and around doors, windows, vents and other places which could provide means of entry for rodents, with concrete, sheet iron, hardware cloth or other types of rodentproofing material approved by the Village.

- B. Elimination of rodent harborages. Whenever accumulations of rubbish, boxes, lumber, scrap metal, car bodies or any other materials provide rodent harborage, the person, firm or corporation owning or in control of such materials shall cause the materials to be removed or the materials shall be stored so as to eliminate the rodent harborage. Lumber boxes and similar materials shall be neatly piled. These piles shall be raised at least a foot above the ground. When the owner of the materials cannot be found after a reasonable search, the owner or manager of the premises on which the materials are stored shall be responsible for disposal or proper piling of the materials.
- C. Elimination of rodent feeding places. No person, firm or corporation shall place or allow to accumulate any materials that may serve as a food for rodents in a site accessible to rodents. Any waste material that may serve as food for rodents shall be stored in rodentproof containers. Feed for birds shall be placed on raised platforms, or such feed shall be placed where it is not accessible to rodents.
- D. Extermination. Whenever rodent holes, burrows or other evidence of rodent infestation are found on any premises or in any building within the Village, it shall be the duty of the owner or manager of such property to exterminate the rodents or to cause the rodents to be exterminated. Within 10 days after extermination, the owner or manager shall cause all of the rodent holes or burrows in the ground to be filled with earth or other suitable material.
- E. Rodentproofing. It shall be the duty of the owner or manager of any building in the Village of Neshkoro to make such building reasonably rodentproof, to replace broken basement windows and, when necessary, to cover the basement window openings with hardware cloth or other suitable material for preventing rodents from entering the building through such window openings.

## **§ 293-3. Composting regulations.**

- A. Purpose and intent. The purpose of this section is to promote the recycling of yard wastes and certain kitchen wastes through composting and to establish minimum standards for proper compost maintenance.
- B. Definitions. "Composting" shall mean the organic waste produced from the growing, trimming and removal of grass, branches (not exceeding one inch in diameter), bushes, shrubs, plants, leaves and garden debris. Kitchen waste shall be any uncooked plant matter not contaminated by or containing meat, fish and/or dairy products.
- C. Maintenance. All compost piles shall be maintained using approved composting procedures to comply with the following requirements:
- (1) All compost piles shall be enclosed in a freestanding compost bin. Each compost bin shall be no larger in volume than 125 cubic feet and shall be no taller than 42 inches.
  - (2) All compost bins shall be so maintained as to prevent the attraction or harborage of rodents and pests. The presence of rodents in or near a compost bin shall be cause for the Village to proceed under § 293-6.
  - (3) All compost bins shall be so maintained as to prevent unpleasant odors.
  - (4) No compost bin shall be allowed to deteriorate to such condition as to be a blighting influence on the surrounding property or neighborhood or the Village in general.
  - (5) Setback.
    - (a) All compost bins shall be located not less than three feet from a property line or principal building or dwelling and three feet from any detached accessory building.
    - (b) A variance from these setback requirements may be applied for if the property owner(s) can show a hardship exists which prohibits compliance. In addition, any variance application must include a signed written approval of the variance request from the adjacent property owner(s). Variances can be granted by the Building Inspector on an annual basis upon the proper application being submitted by the property owner(s). Screening and/or fencing of compost bins may be required as a condition of a variance being granted.
  - (6) No compost bin shall be located in any yard except a rear yard, as defined in the Village Zoning Code. A compost bin may be located in a side yard, as defined in the Village Zoning Code, subject to the annual variance procedure contained in Subsection **C(5)(b)**, and must be screened from view to the street.
  - (7) Those composting bins which existed prior to the adoption of this section shall be given one year to comply with the requirements set forth herein.
- D. Ingredients.
- (1) No compost bin shall contain any of the following:
    - (a) Lakeweeds;
    - (b) Cooked food scraps of any kind or type;
    - (c) Fish, meat or other animal products;
    - (d) Manures; and
    - (e) Large items that will impede the composting process.
  - (2) Permitted ingredients in a compost bin shall include the following:
    - (a) Yard waste;

- (b) Coffee grounds and used tea leaves;
  - (c) Uncooked plant matter not contaminated by or containing meat, fish and/or dairy products; and
  - (d) Commercial compost additives.
- E. Owner responsibility. Every owner or operator shall be responsible for maintaining all property under his or her control in accordance with the requirements of this section.
- F. Municipal exception. Any municipal composting site maintained by the Village shall be exempt from the provisions of this section.<sup>[1]</sup>
- [1] *Editor's Note: Original Secs. 8-1-11, Discharge of clear waters; and 8-1-12, Holding tanks, which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 300. Historic Preservation

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 15, Ch. 7, of the 1999 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Building permits — See Ch. 200.

Zoning — See Ch. 500.

### § 300-1. Declaration of public policy and property.

The Village Board hereby declares as a matter of public policy that the protection, preservation, perpetuation and use of places, areas, buildings, structures and other objects having special historical, community or aesthetic interest or value is a public advantage and is promoted in the interest of the people. The purpose of this chapter is to:

- A. Safeguard the cultural resources of the Village of Neshkoro by preserving sites, structures, landmarks and districts which reflect elements of the Village's cultural, social, economic, political, visual or architectural history.
- B. Protect and enhance the Village's attractions to visitors and residents, and serve as a support and stimulus to business, industry and tourism.
- C. Foster civic pride in the beauty and notable achievements of the past.
- D. Enhance the visual and aesthetic character, diversity and interest of the Village.
- E. Promote the use and preservation of historic sites, structures, landmarks and districts for the education and general welfare of the people of the Village with respect to the cultural, civic, architectural and historic heritage of the Village.

### § 300-2. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

#### COMMITTEE

The Historic Preservation Committee created hereunder.

#### CULTURAL RESOURCES

Any work of man or nature that is primarily of interest for its historical, archaeological, natural scientific or aesthetic value, including, but not limited to, historic houses and other structures such as barns, schools, kilns, archaeological sites, American Indian burial grounds and earthworks, buildings identified as the work of an architect, developer or master builder whose work has influenced the Village, and structures noteworthy because of their design, detail, materials or craftsmanship, or association with historic persons or events.

#### **HISTORIC DISTRICT**

An area of the Village which contains one or more designated sites, structures or landmarks. The historic district's boundaries shall be shown on the Village Zoning Map.

#### **HISTORIC SITE**

Any area, place, structure, land or other object which has been duly designated by the Village Board; this includes prehistoric aboriginal sites.

#### **LANDMARK**

A natural or man-made feature of local or regional interest which is associated with a particular historic or prehistoric event.

#### **STRUCTURE**

Any man-made building which has special character, historic interest or value as part of the development, heritage or cultural characteristics of the Village.

### **§ 300-3. Powers and duties of Historic Preservation Committee; procedure for designation of sites, structures, landmarks and districts.**

#### **A. Composition.**

- (1) The Village Board shall establish a five-member Historic Preservation Committee vested with the authority and responsibility to propose action to safeguard and preserve the historic heritage of the Village. In this role, the Historic Preservation Committee will act in an advisory capacity to the Village Board in all matters concerning properties which are designated as historical sites, structures, landmarks and districts within the Village. In the alternative, the duties of the Committee may be delegated to a standing committee of the Village Board.
- (2) Members of the Historical Preservation Committee shall be chosen and appointed with consideration of one or more of the following qualities:
  - (a) Active interest in the historic preservation of the Village of Neshkoro.
  - (b) Knowledge of the history of the Village and its environs.
  - (c) Expertise and knowledge concerning architecture and archaeology.
  - (d) Ability to utilize authoritative resources concerning historic preservation.
- (3) The initial five-member committee shall be appointed to serve terms as follows: position number one, one year; position number two, two years; position number three, three years; position number four, four years; and position number five, five years. As each term expires, a new appointment or reappointment shall be made by the Village Board for a term of five years. The Historic Preservation Committee shall furnish recommendations to the Village Board for consideration for new appointments.
- (4) The Historic Preservation Committee shall elect a Chairperson to serve a one-year term. This Chairperson may be reelected or a new Chairperson may be elected annually.

- (5) The Historic Preservation Committee shall hold regular meetings six times annually. Additional meetings shall be held as needed to perform the duties of the Committee. A quorum shall consist of three members.
  - (6) The Village Board and Building Inspector shall be fully informed of the decisions and recommendations of the Historic Preservation Committee in order to distinguish and expedite actions to promote and safeguard the Village's program of historic preservation.
- B. Inventory of cultural resources. The Village Board shall direct and empower the Historic Preservation Committee to establish and maintain a continuing inventory of cultural resources in the Village for consideration for placement on the historic register of the Village. Historic sites, structures, landmarks and districts shall be chosen for their eligibility as described under § 300-4 below.
  - C. Nomination of properties. Property nominated by the Historic Preservation Committee to be designated as an historic site, structure, landmark or part of a district shall require a public hearing under the direction of the Village Board. Notice of the public hearing shall be published and also mailed to the owners of the property proposed.
  - D. Notice to owners. The Historic Preservation Committee shall provide full information to the property owners of the civic advantages and responsibilities involved in accepting such designation. Approval of the property owners shall be obtained as prerequisite to official designation.
  - E. Restrictive covenant. The owner of any historic site or structure may, at any time following such designation of this property, enter into a restrictive covenant on the subject property after negotiating with the Historic Preservation Committee. The Committee may assist the owner in preparing such covenant in the interest of preserving historic property. The owner shall record such covenant in the County Register of Deeds office and shall notify the Village Assessor of such covenant and the conditions thereof.
  - F. Assistance with other registrations. The Historic Preservation Committee shall provide encouragement, information and assistance to owners of Village-designated historic properties who show interest in seeking nomination to the National Register of Historic Places through the State Historical Society.
  - G. Promotional activities. The Historic Preservation Committee shall promote interest in the community for designation of properties as historic sites, structures, landmarks or as part of an historic district, and assist property owners in submitting qualifications of their properties as historic sites for consideration of such designation.
  - H. Subcommittees. The Historic Preservation Committee shall have the power to appoint subcommittees from the community and enlist the aid of area historical societies and other organizations for assistance in promoting the policy of the Village in the interest of historic preservation.
  - I. Funding. As it deems advisable, the Historic Preservation Committee is empowered to solicit and receive funds for the purpose of preservation of landmarks of the Village. Funds for such purposes shall be placed in a special Village account.

## § 300-4. Criteria for determining eligibility.

In determining the eligibility of any area, site, place, building, structure or district within the Village as an historic landmark, the Historic Preservation Committee shall consider the following factors with respect to eligibility:

- A. Its character, interest or value as a part of the history or cultural heritage of the Village, state or United States.

- B. Its association with the persons or events which have made a significant contribution to the cultural heritage.
- C. Its potential to yield information important in history or prehistory.
- D. Its embodiment of distinguishing characteristics of an architectural type or style or element of design, detail, materials or craftsmanship.
- E. Its unique location or singular physical appearance representing an established and familiar feature of a neighborhood or community of the Village.

## § 300-5. Register of historic sites, structures, landmarks and districts.

The Village of Neshkoro shall maintain a register of historic sites, structures, landmarks and districts.

## § 300-6. External alteration of designated property.

The owner of designated property shall report any planned external alteration, including demolition, to the respective property to the Historic Preservation Committee for review and recommendation. The Historic Preservation Committee will base its recommendation according to the guidelines set forth in the Secretary of the Interior's Standards for Rehabilitation.

## § 300-7. Transfer of historically designated property.

- A. The Village Assessor shall notify the Historic Preservation Committee when the ownership of any historically designated property is transferred.
- B. The Historic Preservation Committee shall inform the new owners of the importance of their property and their responsibilities under this chapter.

## § 300-8. Review of permits.

- A. Notification of every application for building, zoning or demolition permits for properties on the Village Register shall be given by the Village Building Inspector or his/her designee to the Historic Preservation Committee for its review. The Committee shall make a recommendation to the Village Board concerning the proposed permit.
- B. Considering that time is of the essence, the Historic Preservation Committee shall act promptly in its consideration of an application for building, zoning or demolition permits in relation to designated properties. The review and recommendation shall be forwarded to the Village Board within 30 days. The Village Board will vote to decide if the permit will be issued or denied.
- C. The Village Board, in considering the recommendations of the Historic Preservation Committee, shall determine if the work to be performed adversely affects the designated historic property. In determining whether or not there is such an adverse effect, the Village Board shall consider the following factors:
  - (1) Whether the work will significantly alter the appearance of the building or structure so as to remove features which distinguish the historic site, structure, landmark or district as a significant cultural resource.
  - (2) Whether the use of the property will destroy, disturb or endanger a known or suspected archaeological feature.

- D. The Historic Preservation Committee may also recommend to the Village Board variations which are comparable to the proposed changes if the Village Board determines that such variations are necessary to alleviate financial hardship placed upon the owner of the property. The Historic Preservation Committee will be allowed another 30 days to determine such variations. The Committee's recommendation shall be considered by the Village Board before a vote is taken to determine if a building, zoning or demolition permit will be issued.
- E. Nothing contained in this section shall prohibit the construction, alteration or demolition of any improvement on a designated historic property or in an historic district pursuant to any court judgment to remedy conditions determined to be dangerous to life, health or property. In such case, no approval from the Committee shall be required.

## § 300-9. Designation of repository for documents.

The Village of Neshkoro Village Hall is designated as the repository for all studies, surveys, reports, programs and designations of all historic sites, structures, landmarks and districts.

# Chapter 312. Intoxicating Liquor and Fermented Malt Beverages

[HISTORY: Adopted by the Village Board of the Village of Neshkoro as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Taxes owed — See Ch. **50**, Art. **I**.

Adult uses — See Ch. **165**.

Juveniles — See Ch. **326**.

Licenses — See Ch. **337**.

Unlicensed sale of liquor and beer — See § **368-4**.

Loitering by underage persons where alcohol dispensed — See § **385-8D**.

## Article I. Licensing

[Adopted 4-5-1999 as Title 7, Ch. 2, of the 1999 Code]

### § 312-1. State statutes adopted.

The provisions of Ch. 125, Wis. Stats., relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this article as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this article. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this article in order to secure uniform statewide regulation of alcohol beverage control.

### § 312-2. Definitions.

[Amended 10-4-2010]

As used in this article, the terms "alcoholic beverages," "intoxicating liquors," "principal business," "legal drinking age," "premises," "sell," "sold," "sale," "restaurant," "club," "retailer," "person," "fermented malt beverages," "wholesalers" and "operators" shall have the meaning given them by Ch. 125, Wis. Stats.

## § 312-3. License required.

No person, firm or corporation shall vend, sell, deal or traffic in or have in his possession with intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided in this article nor without complying with all the provisions of this article and all statutes and regulations applicable thereto, except as provided by §§ 125.26, 125.27, 125.28 and 125.51, Wis. Stats.

## § 312-4. Classes of licenses.

- A. Retail "Class A" intoxicating liquor license. A retail "Class A" intoxicating liquor license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.
- B. Retail "Class B" intoxicating liquor license. A retail "Class B" intoxicating liquor license, when issued by the Village Clerk-Treasurer under authority of the Village Board, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four liters at any one time to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.
- C. Reserve "Class B" licenses. A Reserve "Class B" license means a license that is not granted or issued by the Village on December 1, 1997, and that is counted under § 125.51(4)(br), Wis. Stats., which, if granted or issued, authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold, and also authorizes the sale of intoxicating liquor in the original package or container in multiples not to exceed four liters at any one time to be consumed off premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.
- D. Class "A" fermented malt beverage retailer's license. A Class "A" retailer's fermented malt beverage license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1. The license shall expire on the following June 30.
- E. Class "B" fermented malt beverage retailer's license.
  - (1) License. A Class "B" fermented malt beverage retailer's license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than 1/2 of a percentum of alcohol by volume without obtaining a special license to sell such beverages. Such license may be issued after July 1. The license shall expire on the following June 30.
  - (2) Application. Class "B" licenses may be issued to any person qualified under § 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another, except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment or to a bona fide club, society or lodge that has been in existence for at least six months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this article. Except as

provided in § 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverage wholesalers.

F. Temporary Class "B" fermented malt beverage license.

- (1) License. As provided in § 125.26(1) and (6), Wis. Stats., temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six months before the date of application and to posts of veterans' organizations, authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Village Board.
- (2) Application. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Village Clerk-Treasurer together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a penalty as provided in § 1-4 of the Code and will be ineligible to apply for a temporary Class "B" license for one year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of 15 days prior to the meeting of the Village Board at which the application will be considered for events of more than three consecutive days. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

G. Temporary "Class B" wine license.

- (1) License. Notwithstanding § 125.68(3), Wis. Stats., temporary "Class B" licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six months before the date of application and to posts of veterans' organizations authorizing the sale of wine containing not more than 6% alcohol by volume in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. No fee may be charged to a person who, at the same time, applies for a temporary Class "B" beer license under § 125.26(6), Wis. Stats., for the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine containing not more than 6% alcohol by volume from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than 6% alcohol by volume from the stands while the fair is being held.
- (2) Application. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Village Clerk-Treasurer together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a penalty as provided in § 1-4 of the Code and will be ineligible to apply for a temporary "Class B" wine license for one year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of 15 days prior to the meeting of the Village Board at which the application will be considered for events of more than three consecutive days. If the application is for a license to be used in a Village park, the applicant shall specify the main point-of-sale facility.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- H. Wholesaler's license. A wholesaler's fermented malt beverage license, when issued by the Village Clerk-Treasurer under authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.
- I. Retail "Class C" licenses.
  - (1) In this subsection, "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.
  - (2) A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
  - (3) A "Class C" license may be issued to a person qualified under § 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom if the municipality's quota prohibits the municipality from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.
  - (4) A "Class C" license shall particularly describe the premises for which it is issued.

## § 312-5. License fees.

[Amended 3-6-2000; 11-7-2005]

There shall be the following classes of licenses which, when issued by the Village Clerk-Treasurer under the authority of the Village Board after payment of the license fee as set by the Village Board and publication costs specified, shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in § 312-4 of this article and Ch. 125, Wis. Stats.:

- A. Class "A" fermented malt beverages retailer's license. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- B. Class "B" fermented malt beverage license. This license may be issued at any time for six months in any calendar year, for which 50% of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- C. Temporary Class "B" fermented malt beverage license. The fee for this license shall be per event.
- D. Temporary "Class B" wine license. The fee for this license shall be per event. However, there shall be no fee if the temporary wine license is obtained along with a temporary fermented malt beverage license.
- E. Fermented malt beverage wholesaler's license.
- F. "Class A" intoxicating liquor retailer's license.
- G. "Class B" intoxicating liquor retailer's license.
- H. Reserve "Class B" intoxicating liquor license.
- I. "Class B" license for full-service restaurants and hotels.
- J. "Class C" wine license. The fee for less than 12 months shall be prorated.

[1] *Editor's Note: The current Fee Schedule is on file in the Village office.*

## § 312-6. Application for license.

- A. Contents. Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue, and shall be sworn to by the applicant as provided by §§ 887.01 to 887.03, Wis. Stats., and shall be filed with the Village Clerk-Treasurer not less than 15 days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.
- B. Corporations. Such application shall be filed and sworn to by the applicant, if an individual; by the president and secretary, if a corporation.
- C. Publication. The Village Clerk-Treasurer shall publish each application for a Class "A," Class "B," "Class A," "Class B" or "Class C" license. There is no publication requirement for temporary Class "B" picnic beer licenses under § 125.26, Wis. Stats., or temporary "Class B" picnic wine licenses under § 125.51(10), Wis. Stats. The application shall be published once in the official Village newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under § 985.08, Wis. Stats.
- D. Amending application. Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within 10 days after the occurrence thereof.
- E. Quota. License quotas shall be as prescribed Ch. 125, Wis. Stats.

## § 312-7. Qualifications of applicants and premises.

- A. Residence requirements. A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least 90 days prior to the date of the application.
- B. Applicant to have malt beverage license. No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.
- C. Right to premises. No applicant will be considered unless he/she has the right to possession of the premises described in the application for the license period, by lease or by deed.
- D. Age of applicant. Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age, except for an operator's license, which may be granted to persons who have attained the age of 18.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- E. Corporate restrictions.
  - (1) No license or permit may be issued to any corporation unless the corporation meets the qualifications under § 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under § 125.04(6) and the officers and directors of the corporation meet the qualifications of § 125.04(a)1 and 3 and (b) and unless the agent of the corporation appointed under § 125.04(6) meets the qualification under § 125.04(a)2. The requirement that the corporation meet the qualifications under § 125.04(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

- (2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the Village Clerk-Treasurer a statement of transfers of stock within 48 hours after such transfer of stock.
  - (3) Any license issued to a corporation may be revoked in the manner and under the procedure established in § 125.12, Wis. Stats., when more than 50% of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this article or under the state law.
- F. Sales tax qualification. All applicants for retail licenses shall provide proof, as required by § 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.
- G. Connecting premises. Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.
- H. Limitations on other business; Class "B" premises. No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:
- (1) A hotel.
  - (2) A restaurant, whether or not it is a part of or located in any mercantile establishment.
  - (3) A combination grocery store and tavern.
  - (4) A combination sporting goods store and tavern in towns, villages and 4th class cities.
  - (5) A combination novelty store and tavern.
  - (6) A bowling alley or recreation premises.
  - (7) A club, society or lodge that has been in existence for six months or more prior to the date of filing application for the Class "B" license or permit.

## § 312-8. Investigation.

The Village Clerk-Treasurer shall notify the Chief of Police, Fire Inspector and Building Inspector (and, as appropriate, pertinent law enforcement agencies) of each new application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall furnish to the Village Clerk-Treasurer in writing, who shall forward to the Village Board, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a reinspection of the premises and report as originally required.

## § 312-9. Approval of application.

- A. No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Village are delinquent and unpaid.
- B. No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the Department of Health Services applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all ordinances of the Village.
- C. Consideration for the granting or denial of a license will be based on:
  - (1) Arrest and conviction record of the applicant, subject to the limitations imposed by §§ 111.321, 111.322 and 111.335, Wis. Stats.;
  - (2) The financial responsibility of the applicant;
  - (3) The appropriateness of the location and the premises where the licensed business is to be conducted; and
  - (4) Generally, the applicant's fitness for the trust to be reposed.
- D. An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the five years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Village Board, the Village Board reserves the right to consider the severity and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Board, at its discretion, may, based upon an arrest or conviction record of two or more offenses which are substantially related to the licensed activity within the five years immediately preceding, act to suspend such license for a period of one year or more.

## § 312-10. Granting of license.

- A. Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Village Board, the Village Clerk-Treasurer shall issue to the applicant a license, upon payment by the applicant of the license fee to the Village.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. If the Village Board denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Village Board and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to § 19.85(1)(b), Wis. Stats., unless the applicant requests such reconsideration be held in open session and the Village Board consents to the request. Such written notice shall be mailed or served upon the applicant at least 10 days prior to the Village Board meeting at which the application is to be reconsidered.

## § 312-11. Transfer and lapse of license.

- A. In accordance with the provisions of § 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Village Board. An application for transfer shall be made on a form furnished by the Village Clerk-Treasurer. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is prescribed by § 125.04(12), Wis. Stats. Whenever a license is transferred, the Village

Clerk-Treasurer shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the Village for reissuance of said license, and the Village, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the Village Clerk-Treasurer written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Village Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the Village Clerk-Treasurer of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Village Board until the successor agent or another qualified agent is appointed and approved by the Village.

## § 312-12. Numbering of license.

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 312-13. Posting licenses; defacement.

- A. Every person licensed in accordance with the provisions of this article shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.
- B. It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

## § 312-14. Conditions of license.

All retail Class "A," Class "B," "Class A," "Class B" and "Class C" licenses granted hereunder shall be granted subject to the following conditions and all other conditions of this section and subject to all other ordinances and regulations of the Village applicable thereto.

- A. Consent to entry. Every applicant procuring a license thereby consents to the entry of law enforcement authorities or duly authorized representatives of the Village at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of Village ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- B. Employment of minors. No retail "Class B" or Class "B" licensee shall employ any underage person, as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages, except as otherwise authorized by §§ 125.32 and 125.68, Wis. Stats.  
[Amended 10-4-2010]
- C. Disorderly conduct prohibited. Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

- D. Licensed operator on premises. There shall be upon premises operated under a "Class B," Class "B" or "Class C" license, at all times, the licensee, members of the licensee's immediate family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving, as waiters or in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a "Class B," Class "B" or "Class C" license unless he possesses an operator's license or there is a person with an operator's license upon said premises at the time of such service.
- E. Health and sanitation regulations. The rules and regulations of the Department of Health Services governing sanitation in restaurants shall apply to all "Class B" liquor or "Class C" licenses issued under this article. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conforms to such rules and regulations.
- F. Restrictions near schools and churches. No retail Class "A," Class "B," "Class A" or "Class B" license shall be issued for premises, the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises. This subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300 feet thereof by any school building, hospital building or church building.
- G. Clubs. No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
- H. Gambling prohibited. Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this article or the laws of the State of Wisconsin.
- I. Credit prohibited. No retail Class "A," Class "B," "Class A," "Class B" or "Class C" liquor, wine or fermented malt beverage licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.
- J. Licensee or permittee responsible for acts of help. A violation of this article by a duly authorized agent or employee of a licensee or permittee under this article shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this article shall violate any portion of this article, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this article.

## § 312-15. Closing hours.

[Amended 10-4-2010]

Closing hours shall be established in conformance with §§ 125.32(3) and 125.68(4), Wis. Stats., and further restricted as follows:

- A. Class B licenses.
  - (1) No premises for which a retail "Class B" liquor, Class "B" fermented malt beverage, or "Class C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1.
  - (2) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons; bowling alleys, indoor horseshoe-pitching facilities, curling clubs; golf courses and

golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection **A(1)** above.

- B. Carry-out hours. Between 9:00 p.m. and 6:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" or Class "A" license, fermented malt beverages or intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises.

[Amended 11-3-2014]

## § 312-16. Restrictions on temporary fermented malt beverage or wine licenses.

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon any Village-owned property or privately owned property within the Village of Neshkoro, except through the issuance of a temporary Class "B" fermented malt beverage license or temporary "Class B" wine license issued by the Village Board in accordance with Wisconsin Statutes and as set forth in this section. A temporary Class "B" fermented malt beverage license or temporary "Class B" wine license authorizing the sale and consumption of beer and/or wine on Village-owned property or privately owned property may be authorized by the Village Board, provided the following requirements are met:

- A. Compliance with eligibility standards. The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society, as set forth in § 125.26(6), Wis. Stats., and shall fully comply with the requirements of this section and § **312-22**. Members of an organization which is issued a temporary license and who are issued operator's licenses for the event may be required to attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and the organization will be.
- B. Posting of signs and licenses. All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any underage person without proper identification.
- C. Fencing.
  - (1) If necessary due to the physical characteristics of the site, the Village Board may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one point of ingress and egress. When required, the double fence shall be a minimum of four feet high with a minimum of six feet between fences.
  - (2) For indoor events, the structure used shall have suitable exits and open spaces to accommodate anticipated attendance. It should contain adequate sanitary facilities to accommodate the size of the group.
- D. Underage persons prohibited. No underage persons, as defined by the Wisconsin Statutes, shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, except for a person holding a valid operator's license, nor shall they be allowed to loiter or linger in the area of any point of sale.  
[Amended 10-4-2010]
- E. Licensed operator requirement. A licensed operator shall be stationed at all points of sales at all times.
- F. Waiver. The Village Board may waive or modify the requirements of this section due to the physical characteristics of the licensed site.

G. Insurance. The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the Village and its employees and agents harmless against all claims, death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to file a certificate of comprehensive general liability insurance with the Village of Neshkoro. The applicant may be required to furnish a performance bond prior to being granted the license.

## § 312-17. Revocation and suspension of licenses; nonrenewal.

- A. Procedure. Whenever the holder of any license under this article violates any portion of this article or of Article II, Offenses Involving Alcoholic Beverages, of this chapter, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this section.
- B. Abandonment of premises. Any licensee holding a license to sell alcohol beverages who abandons such business or suspends or ceases to do business for a period of 90 consecutive days shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The closing of the licensed premises for at least six months shall be prima facie evidence of the abandonment, unless extended by the Village Board. All persons issued a license to sell alcohol beverages in the Village for which a quota exists limiting the number of such licenses that may be issued by the Village shall cause such business described in such license to be operated on the premises described in such license for at least 150 days during the terms of such license, unless such license is issued for a term of less than 180 days, in which event this subsection shall not apply.
- C. License revocation or suspension. License revocation or suspension procedures shall be as prescribed by Ch. 125, Wis. Stats.
- D. Point values for alcohol beverages violation, revocations and suspensions.
- (1) Purpose and definitions. The purpose of this subsection is to administratively interpret those portions of this article relating to the establishment of an alcohol beverage demerit point system to assist in determining which license holders should be subject to suspension or revocation procedures.
  - (2) Point schedule. The scale of demerit points is listed according to the type of alcohol beverage violation. This demerit point system is used to identify habitually troublesome license holders who have repeatedly violated state statutes and Village ordinances for the purpose of recommending suspension or revocation of their alcohol beverage licenses.  
[Amended 9-14-2015]

	<b>Type of Violation</b>	<b>Point Value</b>
1.	Sale of alcohol beverages without license or permit; sale of controlled substances on licensed premises	100
2.	Sale of alcohol beverages to underage person	50
3.	Sale of alcohol beverages to intoxicated person	50
4.	Underage person on premises	50
5.	Intoxicated bartender; disorderly conduct on premises	50
6.	After-hours consumption	50
7.	Refusal to allow police to search premises or refusal to cooperate with lawful police investigation	50
8.	Licensee, agent or operator not on premises at all times	25
9.	Persons on premises after closing hours	25

	<b>Type of Violation</b>	<b>Point Value</b>
10.	Violations of carry-out hours	25
11.	Licensee permitting person to leave licensed premises with open alcohol beverage	25
12.	All other violations of this article	25
13.	Law enforcement contact	25

(3) Violations, how calculated. In determining the accumulated demerit points against a licensee within 12 months, the Village shall use the date each violation was committed as the basis for the determination.

(4) Suspension or revocation of license.

(a) The Village Board shall call before it for purposes of revocation or suspension hearing all licensees who have accumulated 200 points in a twelve-month period as a result of court-imposed convictions.

(b) If the demerit point accumulation calculated from the date of violation amounts to 200 points in a twelve-month period, a suspension of 30 days shall be imposed. If the demerit point accumulation is 250 points (calculated from the date of violation) in a twenty-four-month period, a suspension of 60 days shall be imposed. If the demerit point accumulation in a thirty-six-month period is 300 points, the suspension shall be for the maximum allowed by law, which is 90 days. If the license is revoked, no other license shall be granted to such licensee or for such premises for a period of 12 months from the date of revocation.

(c) The procedure to be used for suspension or revocation shall be that found in Subsection C above.

## § 312-18. Non-alcohol events for underage persons on licensed premises.

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

- A. The licensee or agent of a corporate licensee shall notify the Police Department at least 48 hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement. All notices shall be filed with the Police Department during normal working hours (8:00 a.m. to 5:00 p.m., Monday through Friday) and shall be given on forms prescribed by the Village. After a non-alcohol event notice has been given, the licensee may cancel an event(s) only by giving like notice to the Police Department in accordance with the provisions of this subsection. Regardless of the date given, all notices shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail Class "B," "Class B" or "Class C" license.
- B. During the period of any non-alcohol event, a notice card prescribed by the Police Department shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises during the event. Such notice cards shall be made available by the Village to a requesting licensee.
- C. Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on, or carried into the licensed premises until the next day following the closing hours of the licensed premises.

- D. During the period of any non-alcohol event, all alcohol beverages shall be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present and shall be under the direct and immediate control and supervision of the licensee or a licensed bartender in the employ of the licensee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.

## § 312-19. Outdoor beer gardens and sports activities regulated.

[Amended 10-4-2010; 10-2-2017]

- A. Purpose. The Village Board finds that restrictions are necessary for outdoor beer gardens and sports activities at premises holding "Class B" and Class "B" liquor and fermented malt beverages licenses due to concerns arising from noise, density and related problems. This section enacted pursuant to police power provides a framework for regulatory controls on such outdoor sports and beer garden activities.
- B. Approval required.
- (1) Generally. No licensee shall conduct or sponsor any outdoor sports activity or event or beer garden on property forming any part of the real property on which the licensed premises exist without the prior approval of the Village Board.
  - (2) Permit required for beer garden outdoor consumption. No licensee shall permit the consumption of alcohol beverages on any part of the licensed premises not enclosed within the building, except under a beer garden permit granted by the Village Board. Annual permits are a privilege in which no rights vest and, therefore, may be revoked by the Village Board at its pleasure at any time or shall otherwise expire on June 30 of each year. No person shall consume or have in his or her possession alcohol beverages on any unenclosed part of a licensed premises which is not described in a valid beer garden permit.
- C. Application. If a licensee shall conduct or sponsor any outdoor sports activity or event or beer garden on the licensee's property, the licensee shall file an application with the Clerk-Treasurer setting forth the following information:
- (1) The name, address and telephone number of the person or persons who will be responsible for the actual conduct of the activity or event;
  - (2) The date and duration of time for the proposed activity or event;
  - (3) An accurate description of that portion of the licensee's property proposed to be used;
  - (4) A good faith estimate of the number of users, participants and spectators for the beer garden or proposed activity or event; and
  - (5) The licensee's plan for maintaining the cleanliness of the licensed area.
- D. Time for filing. The licensee shall file the application when applying for or renewing their annual license. A one-day beer garden permit shall be applied for not less than 15 days before the date of the proposed activity or event. The Village Board may waive the fifteen-day time limit upon a licensee's showing of exigent circumstances. The application shall be accompanied by payment of a fee as set by the Village Board for review of the application.<sup>[1]</sup> The applicant may request that an annual permit be issued for the beer garden or outdoor sports activities.
- [1] *Editor's Note: The current Fee Schedule is on file in the Village office.*
- E. Review. The Village Board shall review the applications in light of the standards of this section. If the nature of the property or the event requires the imposition of additional regulations, the Village Board may impose these regulations upon an express finding detailing the reasons for additional regulation.

- F. Outdoor sports activity standards. The following standards shall apply to any outdoor sports activity regulated under this section:
- (1) Approval of an application shall not act to permit outdoor consumption of alcohol beverages on the property beyond the area specifically licensed.
  - (2) If the estimated number of participants and spectators shall bring the number of persons on the property above the number for which licensed premises' restroom facilities are rated adequate, the licensee shall provide a number of portable temporary restrooms sufficient to serve the estimated number of persons.
  - (3) The Village Board shall not grant approval to any applicant whose property on which the activity or event is proposed is adjacent to any property zoned residential or on which a residential use exists as a nonconforming use, or within 100 feet of any property zoned residential or on which a residential use exists as a nonconforming use. Fencing may be required.
  - (4) The applicant shall provide parking adequate for the proposed activity or event, whether on site or through agreements with property owners shown to the Village Board's satisfaction to permit their property to be used for parking for the proposed activity or event.
  - (5) The applicant shall show the Village Board plans adequate to provide reasonable access to participants and spectators for the event, and to limit access for all other persons.
  - (6) The licensee shall clean up all garbage and debris relating to the activity or event at least once per 24 hours during the activity or event.
  - (7) The licensee shall not permit the noise level of the sports activity or event to exceed 75 dB, measured at any border of the licensee's real property.
- G. Limitations on issuance of beer garden permits. No permit shall be issued for a beer garden if any part of the beer garden is within 100 feet of a structure used for residential purposes, except residential uses located in the same structure as the licensed premises. No permit shall be issued for a beer garden if the beer garden area is greater than 50% of the gross floor area of the adjoining licensed premises. Each applicant for a beer garden permit shall accurately describe the area intended for use as a beer garden and shall indicate the nature of fencing or other measures intended to provide control over the operation of the beer garden. Every beer garden shall be completely enclosed with a fence or wall. Amplified sound or music is not permitted in the beer garden between the hours of 10:30 p.m. and 9:00 a.m. There shall be a licensed operator with the beer garden at all times the beer garden is in operation.
- H. State statutes enforced within beer garden. Every permittee under this section shall comply with and enforce all provisions of Ch. 125, Wis. Stats., applicable to Class "B" licensed premises, except insofar as such provisions are clearly inapplicable. Violation of the provisions of Ch. 125, Wis. Stats., shall be grounds for immediate revocation of the outdoor sports activity or beer garden permit by the Village Board.
- I. Violations. Failure of the licensee to comply with any of the provisions of this section shall be grounds for suspension, nonrenewal or revocation of the licensee's alcohol beverage license or licenses.<sup>[2]</sup>

[2] *Editor's Note: Original Sec. 7-2-20, Nude dancing in licensed establishments prohibited, which immediately followed this section, was repealed 10-4-2010.*

## § 312-20. Operator's license.

### A. Operator's license required.

- (1) Operator's licenses; Class "A," Class "B" or "Class C" premises. Except as provided under §§ 125.32(3)(b) and 125.07(3)(a)10, Wis. Stats., no premises operated under a Class "A,"

Class "B" or "Class C" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. An operator's license issued in respect to a vessel under § 125.27(2), Wis. Stats., is valid outside the municipality that issues it. For the purpose of this section, any person holding a manager's license under § 125.18, Wis. Stats., or any member of the licensee's or permittee's immediate family who has attained the age of 18 shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent, may serve fermented malt beverages in any place operated under a Class "A," Class "B" or "Class C" license or permit unless he or she has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.

(2) Use by another prohibited.

(a) No person may allow another to use his or her Class "A" or Class "B" license or permit to sell alcohol beverages.

(b) The license or permit of a person who violates Subsection **A(2)(a)** above shall be revoked.

B. Procedure upon application.

(1) The Village Board may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Village Clerk-Treasurer only to persons 18 years of age or older. Operator's licenses shall be operative only within the limits of the Village.

(2) All applications are subject to an investigation by Village-designated law enforcement authorities and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. The investigating authority shall conduct an investigation of the applicant, including, but not limited to, requesting information from the state, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the investigating authority shall recommend, in writing, to the Village Board approval or denial of the application. If the investigating authority recommends denial, the investigating authority shall provide, in writing, the reasons for such recommendation.

C. Duration. Licenses issued under the provisions of this article shall be valid for a period of one year and shall expire on the 30th day of June.

D. Operator's license fee; provisional or temporary licenses.

(1) Fee. The fee for an operator's license shall be as set by the Village Board for the term or part thereof. The nonrefundable fee for a provisional license shall be \$15. There shall be no fee for a temporary operator's license.

[Amended 11-7-2005<sup>[1]</sup>]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

(2) Provisional license. The Village Clerk-Treasurer may issue provisional operator's licenses in accordance with § 125.17(5), Wis. Stats. The provisional operator's license shall expire 60 days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The Chief of Police shall submit to the Clerk-Treasurer a report regarding the applicant's conviction history, if any. The applicant for such provisional license must present evidence to the Clerk-Treasurer establishing that the applicant is enrolled in an alcohol awareness training program established pursuant to § 125.17(6)(a), Wis. Stats. The Village Clerk-Treasurer may, upon receiving an application for a temporary provisional license, issue

such a license without requiring the successful completion of the approved program as described herein. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his/her successful completion of the approved program, and the applicant shall also apply for a regular operator's license. No such provisional operator's license shall be issued prior to a waiting period of less than 96 hours (four days), and the completion of a background check, subject to limitations established by law. A provisional license may not be issued to any person who has been denied an operator's license by the Village Board, who has had his/her operator's license revoked or suspended within the preceding 12 months, or who previously held an operator's license and who failed to complete the alcohol awareness training program, without first successfully completing the program. The Village Clerk-Treasurer shall provide an appropriate application form to be completed in full by the applicant. The Village Clerk-Treasurer may revoke the provisional license issued if he/she discovers that the holder of the license made a false statement on the application. A provisional license shall not be renewed.

- (3) Temporary license. The Village Clerk-Treasurer may issue a temporary operator's license, provided that:
  - (a) This license may be issued only to operators employed by or donating their services to nonprofit corporations.
  - (b) No person may hold more than one license of this kind per year.
  - (c) The license is valid for any period from one day to 14 days, and the period for which it is valid shall be stated on the license.

E. Issuance or denial of operator's licenses.

- (1) After the Village Board approves the granting of an operator's license, the Village Clerk-Treasurer shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.
- (2) Denial.
  - (a) If the application is denied by the Village Board, the Village Clerk-Treasurer shall, in writing, inform the applicant of the denial, the reasons therefor, and of the opportunity to request a reconsideration of the application by the Village Board in a closed session. Such notice must be sent by registered mail to or served upon the applicant at least 10 days prior to the Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.
  - (b) If, upon reconsideration, the Board again denies the application, the Village Clerk-Treasurer shall notify the applicant in writing of the reasons therefor. An applicant who is denied any license upon reconsideration of the matter may apply to the Circuit Court pursuant to § 125.12(2)(d), Wis. Stats., for review.
- (3) Considerations.
  - (a) Consideration for the granting or denial of a license will be based on:
    - [1] Arrest and conviction record of the applicant, subject to the limitations imposed by §§ 111.321, 111.322 and 111.335, Wis. Stats.;
    - [2] The financial responsibility of the applicant, including payment of delinquent utility charges;  
[Amended 11-3-2014]

- [3] The appropriateness of the location and the premises where the licensed business is to be conducted; and
  - [4] Generally, the applicant's fitness for the trust to be reposed.
- (b) If a licensee is convicted of an offense substantially related to the licensed activity, the Village Board may act to revoke or suspend the license.
- (4) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the five years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Village Board, the Village Board reserves the right to consider the severity and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Village Board, at its discretion, may, based upon an arrest or conviction record of two or more offenses which are substantially related to the licensed activity within the five years immediately preceding, act to suspend such license for a period of one year or more.

F. Training course.

- (1) Except as provided in Subsection **F(2)** below, the Village Board may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that it is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board or unless the applicant fulfills one of the following requirements:
- (a) The person is renewing an operator's license.
  - (b) Within the past two years, the person held a Class "A," Class "B," "Class A," "Class B" or "Class C" license or permit or a manager's or operator's license.
  - (c) Within the past two years, the person has completed such a training course.
- (2) The Village Board may issue a provisional operator's license to a person who is enrolled in a training course under Subsection **F(1)** above and shall revoke that license if the applicant fails to successfully complete the course in which he or she enrolls.
- (3) The Village Board may not require that applicants for operator's licenses undergo training in addition to that under Subsection **F(1)** but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection **F(1)**.

G. Display of license. Each license issued under the provisions of this article shall be posted on the premises whenever the operator dispenses beverages or shall be in his/her possession.  
[Amended 10-4-2010]

H. Revocation of operator's license. Violation of any of the terms or provisions of the state law or of this article relating to operator's licenses by any person holding such operator's license shall be cause for revocation of the license.

## § 312-21. Violations and penalties.

A. Forfeitures for violations of §§ 125.07(1) to (5) and 125.09(2), Wis. Stats., adopted by reference in § **312-1** of the Code of the Village of Neshkoro, shall conform to the forfeiture penalty permitted to

be imposed for violations of the comparable state statute, including any variations or increases for subsequent offenses.

- B. Except as otherwise provided in this chapter, any person who shall violate any provision of this article of the Code of the Village of Neshkoro, except as otherwise provided in Subsection **A** herein, or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the general penalty section of this Code of the Village of Neshkoro, § 1-4.  
[Amended 10-4-2010]
- C. Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

## Article II. Offenses Involving Alcoholic Beverages

[Adopted 4-5-1999 as Secs. 11-4-1 and 11-4-9 of the 1994 Code]

### § 312-22. Outside consumption.

A. Alcoholic beverages in public areas.

(1) Regulations. It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, highway, park, municipal building, library, cemetery or drives or other public area within the following described territory in the Village of Neshkoro or on private property without the owner's consent, except at licensed premises. It shall be unlawful for any person to consume or have in his/her possession any open container containing alcohol beverage upon any public street, public sidewalk, public way, park, municipal building, library, public alley or public parking lot within the Village of Neshkoro. Carry-ins during authorized or licensed events at parks are prohibited.

[Amended 10-4-2010]

(2) Private property held out for public use. It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the Village unless the property is specifically named as being part of a licensed premises.

(3) Exceptions.

[Amended 10-4-2010]

(a) The provisions of this section may be waived by the Village Board for duly authorized events.

(b) This section shall not apply to any organization which has been issued a temporary fermented malt beverage and/or temporary wine license for a designated area and event pursuant to this Code, provided that the provisions of this article and Article I of this chapter are fully complied with.

(c) The provisions of this section regarding open consumption of fermented malt beverages or intoxicating liquor shall not apply within 200 feet of a parade route which the Village of Neshkoro has authorized from one hour prior to the scheduled start of said parade until one hour after the end of said parade, except that the foregoing exemption does not extend to any vehicle or unit of the parade, however propelled, nor to any parade participant for that period of time during which the vehicle, unit of the parade or person is participating within the assembly and disembarkment points of the parade.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

#### **ALCOHOLIC BEVERAGE**

Includes all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated or degerminated grains or sugar, which contain 1/2 of 1% or more of alcohol by volume and which are fit for use for beverage purposes.

#### **PUBLIC AREA**

Shall be construed to mean any location within the Village which is open to access to persons not requiring specific permission of the owner to be at such location, including all parking lots serving commercial establishments.

#### **UNDERAGE PERSON**

Any person under the legal drinking age as defined by the Wisconsin Statutes.

### **§ 312-23. Solicitation of drinks prohibited.**

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the Village who permits an entertainer or an employee to solicit a drink of any alcohol beverage defined in § 125.02(1), Wis. Stats., or any other drink from a customer on the premises, or any entertainer or employee who solicits such drinks from any customer, is deemed in violation of this section.

## **Article III. Social Host Regulations**

[Adopted 5-6-2013 by Ord. No. 312-24]

### **§ 312-24. Purpose and findings.**

The Neshkoro Village Board intends to discourage underage possession and consumption of alcohol and intends to hold persons civilly responsible who host events or gatherings, even if done within the confines of a private residence, where persons under 21 years of age possess or consume alcohol, regardless of whether the person hosting the event or gathering supplied the alcohol. The Neshkoro Village Board finds:

- A. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- B. Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
- C. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- D. Often, events or gatherings involving underage possession and consumption occur without the knowledge of parents. However, there are times when the parent(s) or other adult is aware, condones or is present during the activity and in some circumstances provides the alcohol.
- E. A deterrent effect will be created by holding a person, adult or child, responsible for hosting an event or gathering where underage possession or consumption occurs.

### **§ 312-25. Definitions.**

For purposes of this article, the following terms have the following meanings:

**ALCOHOL**

Ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits, including dilutions and mixtures thereof, from whatever source or by whatever process produced.

**ALCOHOLIC BEVERAGE**

Alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains 1/2 of 1% or more of alcohol by volume and which is fit for beverage purposes, either alone or when diluted, mixed or combined with other substances.

**EVENT or GATHERING**

Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

**HOST or ALLOW**

To aid, conduct, entertain, organize, supervise, control or permit a gathering or event.

**IN CONTROL**

The power to direct, manage, oversee and/or restrict the affairs, business or assets of a person or entity.

**PRESENT**

Being at hand or in attendance.

**RESIDENCE, PREMISES or PUBLIC OR PRIVATE PROPERTY**

Any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or a hall or meeting room, park or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation.

**RESPONSIBLE ADULT**

One of the following:

A. "Parent" means any person having legal custody of a juvenile:

- (1) As a natural, adoptive parent or step-parent;
- (2) As a legal guardian; or
- (3) As a person to whom legal custody has been given by order of the court.

B. An adult, 18 years of age or older, associated with the event or gathering, either by hosting or allowing the gathering or event or by providing alcohol for the gathering or event.

**UNDERAGE PERSON**

Any individual under 21 years of age.

**§ 312-26. Prohibited acts.**

It is unlawful for any person(s) to: host or allow an event or gathering at any residence, premises or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will or does: (i) consume any alcohol or alcoholic beverage; or (ii) possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

- A. A person is responsible for violating the paragraph above if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.
- B. A person who hosts an event or gathering does not have to be present at the event or gathering to be responsible.

## § 312-27. Exceptions.

- A. This article does not apply to conduct solely between an underage person and his or her parents while the parent is present and in control of the underage person.
- B. This article does not apply to legally protected religious observances.
- C. This article does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

## § 312-28. Penalties for offenses.

A person who violates any provision of this article is subject to a forfeiture of not less than \$1,000 nor more than \$5,000, together with the costs of prosecution. A person who is in default of payment is subject to imprisonment in the county jail until the forfeiture and costs are paid.

# Chapter 326. Juveniles

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 11, Ch. 5, of the 1999 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Citations — See Ch. **22**.

Alcohol beverages — See Ch. **312**, Art. **I**.

Peace and good order — See Ch. **385**.

## § 326-1. Curfew.

- A. Curfew established. It shall be unlawful for any juvenile age 17 or under to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, swimming beach, cemetery, school grounds, place of amusement and entertainment, playground, public building or any other public place in the Village of Neshkoro between the hours of 11:00 p.m. and 5:00 a.m. from June 1 through September 1, and between the hours of 10:00 p.m. to 5:00 a.m. from September 2 through May 31, unless accompanied by his or her parent, legal guardian or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefor. The fact that said juvenile, unaccompanied by parent, legal guardian or other person having legal custody, is found upon any such public place during the aforementioned hours shall be prima facie evidence that said juvenile is there unlawfully and that no reasonable excuse exists therefor.
- B. Exceptions.
  - (1) This section shall not apply to a juvenile:
    - (a) Who is performing an errand as directed by his/her parent, legal guardian or person having lawful custody.
    - (b) Who is on his/her own premises or in the areas immediately adjacent thereto.

- (c) Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
    - (d) Who is returning home from a supervised school, church or civic function, but not later than 60 minutes after the ending of such function.
  - (2) These exceptions shall not, however, permit a juvenile to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.
- C. Parental responsibility. It shall be unlawful for any parent, legal guardian or other person having the lawful care, custody and control of any person under age 17 to allow or permit such person to violate the provisions of Subsection **A** or **B** above. The fact that, prior to the present offense, a parent, legal guardian or custodian was informed by any law enforcement officer of a separate violation of this section occurring within 30 days of the present offense shall be prima facie evidence that such parent, legal guardian or custodian allowed or permitted the present violation. Any parent, legal guardian or custodian herein who shall have made a missing person notification to a law enforcement officer shall not be considered to have allowed or permitted any juvenile age 17 or under to violate this section.
- D. Detaining a juvenile. Pursuant to Ch. 938, Wis. Stats., law enforcement officers are hereby authorized to detain any juvenile violating the above provisions and other provisions in this chapter until such time as the parent, legal guardian or person having legal custody of the juvenile shall be immediately notified and the person so notified shall, as soon as reasonably possible thereafter, report to a law enforcement officer for the purpose of taking custody of the juvenile and shall sign a release for him or her, or such juvenile may be taken directly from the scene of his/her apprehension to his/her home. If such juvenile's parents or relative living nearby cannot be contacted to take custody of such juvenile and it is determined by the apprehending officer that the juvenile's physical or mental condition is such as would require immediate attention, the police officer may make such necessary arrangements as may be necessary under the circumstances for the juvenile's welfare.
- E. Warning and penalty.<sup>[1]</sup>
  - (1) Warning. The first time a juvenile is detained by a law enforcement officer of the Village, as provided in Subsection **D**, such juvenile and the parent, guardian or person having legal custody of such juvenile shall be advised, personally, if known, or by registered mail, as to the provisions of this section and further advised that any violation of this section occurring thereafter by such juvenile or any other juvenile under the care of such parent, guardian or person having legal custody shall result in a penalty being imposed as hereinafter provided.
  - (2) Penalty. Any parent, legal guardian or person having legal custody of a juvenile described in Subsection **A** above who has been warned in the manner provided in Subsection D(1) herein and who thereafter violates this section shall be subject to a penalty as provided in § 1-4 of this Code. After a second violation within a six-month period, if the defendant in a prosecution under this section proves that he or she is unable to comply with this section because of the disobedience of the juvenile, the action shall be dismissed and the juvenile shall be referred to the court assigned to exercise jurisdiction under Ch. 938, Wis. Stats. Any juvenile age 17 or under who shall violate this section shall, upon conviction thereof, forfeit not less than \$1 nor more than \$25, together with the costs of prosecution.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 326-2. Possession of controlled substances by juveniles.

It shall be unlawful for any juvenile to possess a controlled substance contrary to the Uniform Controlled Substances Act, Ch. 961, Wis. Stats.

## § 326-3. Petty theft by juveniles.

It shall be unlawful for any juvenile with intent to steal or take property from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof.

## § 326-4. Receiving stolen goods.

It shall be unlawful for a person under the age of 17 to intentionally receive or conceal property he/she knows to be stolen.

## § 326-5. Village jurisdiction over juveniles.

- A. Adoption of state statutes. Sections 938.02 and 938.17(2), Wis. Stats., are hereby adopted and by reference made a part of this section as if fully set forth herein.
- B. Definition of "adult" and "juvenile."

### **ADULT**

A person who is 18 years of age or older, except that, for purposes of prosecuting a person who is alleged to have violated any civil law or municipal ordinance, "adult" means a person who has attained 17 years of age.

### **JUVENILE**

A person who is less than 18 years of age, except that, for purposes of prosecuting a person who is alleged to have violated a civil law or municipal ordinance, "juvenile" does not include a person who has attained 17 years of age.

- C. Provisions applicable to juveniles. Subject to the provisions and limitations of § 938.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code against juveniles may be brought on behalf of the Village of Neshkoro and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.
- D. No incarceration as penalty. The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this section.
- E. Additional prohibited acts. In addition to any other provision of the Village of Neshkoro Code, no juvenile shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Ch. 125, Wis. Stats.
- F. Penalty for violations of Subsection E. Any juveniles who shall violate the provisions of Subsection E shall be subject to the same penalties as are provided in § 1-4 of this Code, exclusive of the provisions therein relative to commitment in the County Jail.<sup>[1]</sup>

[1] *Editor's Note: Subsections G through J, which immediately follow this subsection, originally appeared in the Code of Ordinances as Sec. 1-1-6(d) through (g), and were moved to this section at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- G. Court authority to impose alternative juvenile dispositions and sanctions.
  - (1) For a juvenile adjudged to have violated an ordinance, a court is authorized to impose any of the dispositions listed in §§ 938.343 and 938.344, Wis. Stats., in accordance with the provisions of those statutes and this section.
  - (2) For a juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court under §§ 938.343 or 938.344, Wis. Stats., the Municipal Court is authorized to impose any of the sanctions listed in § 938.355(6)(d), Wis. Stats., in accordance with the provisions of those statutes.
  - (3) This section is enacted under the authority of § 938.17(2)(cm), Wis. Stats.
- H. Juvenile disposition alternatives for alcohol/drug offenses.

(1) Penalties.

(a) If a juvenile is found to have engaged in underage drinking of alcohol, drinking of alcohol on school premises or at a school-sponsored activity, falsifying proof of age, possessing drug paraphernalia, or delivery of drug paraphernalia to a minor in violation of Village ordinances, the Court may order any of the following:

[1] A forfeiture;

[2] Suspension or revocation of the juvenile's driver's license; and/or

[3] Participation in a supervised work program.

(b) After ordering any of the above penalties, the Court may, with the juvenile's agreement, enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed and may require the juvenile to do any of the following:

[1] Submit to an alcohol or other drug abuse (AODA) assessment;

[2] Participate in an outpatient AODA treatment program if an AODA assessment recommends treatment; and/or

[3] Participate in an AODA education program.

(2) In addition to the dispositions listed above, the Court may order a juvenile to participate in a teen court program if the following conditions are satisfied:

(a) The Chief Judge of the Judicial Administrative District has approved a teen court program established in the juvenile's county of residence and the judge determines that participation in the court program will likely benefit the juvenile and the community;

(b) The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, guardian or legal custodian present; and/or

(c) The juvenile has not successfully completed participation in a teen court program during the two years before the date of the alleged violation.

(3) If the Court finds that a juvenile's parent or guardian is unable to provide or refuses to provide court-ordered AODA services for juvenile through his or her health insurance or other third-party payments, the Court may order the parent or health insurer to pay.

(4) If payment is not attainable as described in Subsection E(3) above, the Court may order the municipality to pay for any AODA services so ordered.

I. Dispositional alternatives for other ordinance violations. The Court may impose one or more of the following dispositional alternatives against a juvenile found to have violated a municipal ordinance for which no penalty is otherwise provided, as follows:

(1) Counseling for the juvenile and/or the parent or guardian.

(2) A forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing the same violation. If the forfeiture is for a violation that is only applicable to a juvenile, the maximum forfeiture amount is \$100 plus costs.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

(3) Suspend a fishing, hunting or driving license from 90 days to five years for failure to pay the forfeiture.

(4) Order the juvenile to participate in a supervised work program or other community service work.

(5) Order participation in an AODA assessment, an outpatient AODA treatment or an AODA education program.

- (6) Order participation in a pupil assistance program provided by the juvenile's school, provided the juvenile's school agrees.
- (7) In addition to the dispositions listed above, the Court may order a juvenile to participate in a teen court program if the following conditions are satisfied:
  - (a) The Chief Judge of the Judicial Administrative District has approved a teen court program established in the juvenile's county of residence and the judge determines that participation in the court program will likely benefit the juvenile and the community.
  - (b) The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, guardian or legal custodian present.
  - (c) The juvenile has not successfully completed participation in a teen court program during the two years before the date of the alleged violation.
- J. Violation of juvenile dispositional orders. The Court may impose the following sanctions on a juvenile who has violated a Village ordinance and who has violated a condition of his or her dispositional order:
  - (1) Suspend the juvenile's operating privilege for a period of not more than 90 days;
  - (2) Detain the juvenile in his or her home or current residence for not more than 30 days without electronic monitoring; and/or
  - (3) Order not more than 25 hours of community service work in a supervised work program.<sup>[3]</sup>

*[3] Editor's Note: Original Sec. 11-5-6, Possession, manufacture and delivery of drug paraphernalia by a minor prohibited, which immediately followed this section, was renumbered as § 385-14 at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 326-6. Truancy.

- A. Definitions. For the purpose of this section, the following definitions shall be applicable:

### **ACCEPTABLE EXCUSE**

The meaning as defined in §§ 118.15 and 118.16(4), Wis. Stats.

### **ACT OF COMMISSION OR OMISSION**

Anything that contributes to the truancy of a juvenile, whether or not the juvenile is adjudged to be in need of protection or services, if the natural and probable consequences of that act would be to cause the child to be truant.

### **HABITUAL TRUANT**

A pupil who is absent from school without an acceptable excuse for either of the following:

- (1) Part or all of five or more days out of 10 consecutive days in which school is held during a school semester.
- (2) Part or all of 10 or more days in which school is held during a school semester.

### **TRUANCY**

Any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or legal guardian of the absent pupil. Intermittent attendance carried on for the purpose of defeating the intent of § 118.15, Wis. Stats., shall also be considered truancy.

- B. Prohibition against habitual truant. Any person attending school in the Village between the ages of six years and 18 years, subject to the exceptions found under § 118.15, Wis. Stats., is prohibited

from becoming a "habitual truant," as the term is defined in this section. Any law enforcement officer in this Village is authorized to issue a citation to any such person who is determined to be a habitual truant under the terms of this section.

- C. Preconditions to issuance of citation. Prior to the issuance of any citation, the district school attendance officer shall provide evidence to the pertinent law enforcement officer that appropriate school personnel in the school in which the juvenile is enrolled has, within the school year during which the truancy occurred:
- (1) Met with or attempted to meet with the juvenile's parent or legal guardian to discuss the juvenile's truancy.
  - (2) Provided an opportunity for educational counseling to the juvenile and considered curriculum modifications.
  - (3) Evaluated the juvenile to determine whether learning problems are the cause of the truancy and, if so, taken steps to overcome the learning problems.
  - (4) Conducted an evaluation to determine whether social problems are the cause of the juvenile's truancy and, if so, taken appropriate action or made appropriate referrals.
- D. Form of citation. Any citation issued shall be returnable in Court in the same manner as all other ordinance citations are returnable. The citation is to state on its face that this is a "must appear" citation and no forfeiture amount is to be written on the face of the citation.
- E. Disposition. Upon a finding that the juvenile is habitually truant, the following dispositions are available to the Court:
- (1) Suspension of operating privileges. Suspend the juvenile's operating privileges, as defined in § 340.01(40), Wis. Stats., for not less than 30 days nor more than 90 days. The Judge shall immediately take possession of the suspended license and forward it to the Department of Transportation of the State of Wisconsin, together with a notice setting forth the reason for and duration of the suspension.
  - (2) Counseling, service or work program. Order the juvenile to participate in counseling, community service or a supervised work program under § 938.34(5g), Wis. Stats.
  - (3) In-house restraint. Order the juvenile to remain at home except for the hours in which the juvenile is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a juvenile to leave home if the juvenile is accompanied by a parent or legal guardian.
  - (4) Educational programs. Order the juvenile to attend an educational program as set forth in § 938.34(7)(d), Wis. Stats.
  - (5) Revocation of work permits. Order the Department of Workforce Development to revoke a work permit to the juvenile.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (6) Teen court program. Order the juvenile to be placed in a teen court program if all of the following conditions apply:
    - (a) The Chief Judge of the Judicial Administrative District has approved a teen court program established in the juvenile's county of residence and the judge determines that participation in the court program will likely benefit the juvenile and the community;
    - (b) The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, legal guardian or legal custodian present; and
    - (c) The juvenile has not successfully completed participation in a teen court program during the two years before the date of the alleged violation.

- (7) Parental counseling. Order the parent, legal guardian or legal custodian of a habitually truant juvenile to participate in counseling at his or her own expense.

F. Required school attendance.

- (1) Violations. Any person having under his/her control a juvenile who is between the ages of six years and 18 years, subject to the exceptions found in § 118.15, Wis. Stats., shall cause the juvenile to attend school regularly during the full period and hours that the public or private school in which the juvenile shall be enrolled is in session until the end of the school term, quarter or semester of the school year in which the juvenile becomes 18 years of age.
- (2) Exceptions.
  - (a) A person will not be found in violation of this subsection if that person can prove that he/she is unable to comply with the provisions of this section because of the disobedience of the juvenile. The juvenile shall be referred to the court assigned to exercise jurisdiction under Ch. 938, Wis. Stats.
  - (b) A person will not be found in violation of this subsection if he/she has a juvenile under his/her control and the child has been sanctioned under § 49.26(1)(h), Wis. Stats.
- (3) Proof required for exacting a penalty. Before a person may be found guilty of violating this section, the school attendance officer must present evidence to the Court that the activities under § 118.16(5), Wis. Stats., have been completed by the school system. If that evidence has been presented to the Court and if the Court finds a person guilty of violating this section, a forfeiture may be assessed as hereinafter provided.

G. Contributing to truancy.<sup>[2]</sup>

- (1) Except as provided in Subsection A(4), any person 18 years of age or older, who, by an act or omission, knowingly encourages or contributes to the truancy, as defined in Subsection A, of a juvenile shall be subject to a forfeiture pursuant to § 1-4 of this Code.
- (2) Subsection G(1) above does not apply to a person who has under his or her control a juvenile who has been sanctioned under § 49.26(1)(h), Wis. Stats.
- (3) An act or omission contributes to the truancy of a child, whether or not the juvenile is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the juvenile to be a truant.

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

H. Parent or legal guardian liability for truancy.

- (1) Unless the juvenile is excepted or excused under § 118.15, Wis. Stats., or has graduated from high school, any person having under control a juvenile who is between the ages of six years and 18 years shall cause the juvenile to attend school regularly during the full period of hours, religious holidays excepted, that the public or private school in which the juvenile should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the juvenile becomes 18 years of age.
- (2) Penalty; applicability.
  - (a) A person found to have violated Subsection H(1) above, after evidence is provided by a school official that the activities under § 118.16(5), Wis. Stats., have been completed, shall be subject to a forfeiture pursuant to § 1-4 of this Code.
  - (b) Subsection H(2)(a) above does not apply to a person who has under his or her control a juvenile who has been sanctioned under § 49.26(1)(h), Wis. Stats., nor does it apply if the person proves that he or she is unable to comply with Subsection H(1) because of the disobedience of the juvenile.

## § 326-7. Unlawful sheltering of minors.

- A. No person shall intentionally shelter or conceal a minor child who:
- (1) Is a "runaway child," meaning a child who has run away from his or her parent, legal guardian or legal or physical custodian; or
  - (2) Is a child who may be taken into custody pursuant to § 48.19, Wis. Stats.
- B. Subsection **A** applies when the following conditions are present:
- (1) The person knows or should have known that the child is a child described in either Subsection **A(1)** or **(2)**; and
  - (2) The child has been reported to a law enforcement agency as a missing person or as a child described in Subsection **A(1)** or **(2)**.
- C. Subsection **A** does not apply to any of the following:
- (1) A person operating a runaway home in compliance with § 48.227, Wis. Stats.;
  - (2) A person who shelters or conceals a child at the request or with the consent of the child's parent, legal guardian or legal or physical custodian, except if the sheltering or concealment violates § 948.31, Wis. Stats.; or
  - (3) A person who immediately notifies a law enforcement agency, county department of public welfare or social services, or the intake worker of the court exercising jurisdiction under Chs. 48 or 938, Wis. Stats., that he or she is sheltering or concealing such child and provides the person or agency notified with all information requested.

## § 326-8. Purchase or possession of tobacco products.

- A. Definition of tobacco products. For the purposes of this section, "tobacco products" means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.
- B. Purchase by minors prohibited. It shall be unlawful for any person under the age of 18 years to purchase tobacco products, or to misrepresent their identity or age or to use any false or altered identification for the purpose of purchasing tobacco products.
- C. Possession by minors prohibited. It shall be unlawful for any person under the age of 18 years to possess any tobacco products, provided that the possession by a person under the age of 18 years under the direct supervision of the parent or legal guardian of such person in the privacy of the parent's or legal guardian's home shall not be prohibited.
- D. Statutes adopted. The provisions of §§ 254.92, 134.66 and 778.25(1)(a), Wis. Stats., are adopted by reference and incorporated herein.

## § 326-9. Smoking by minors on public property.

No person under the age of 18 years shall carry or possess a lighted cigar, cigarette, pipe or any other lighted smoking equipment or tobacco product restricted by state law on public property within 500 feet of a school grounds within the Village of Neshkoro between the hours of 7:00 a.m. and 5:00 p.m.

## § 326-10. Criminal gang activity prohibited.

- A. Authority. This section is adopted pursuant to the authority granted by § 66.0107 and Ch. 948, Wis. Stats.
- B. Definitions. For purposes of this section, the following terms are defined as follows:

#### **CRIMINAL GANG**

An ongoing organization, association or group of three or more persons, whether formal or informal, that has as one of its primary activities the commission of one or more criminal or unlawful acts, or acts that would be criminal or unlawful if the actor were an adult, specified in § 939.22(21)(a) to (s), Wis. Stats., or in any of the Village's Code chapters referred to in the definition below; that has a common name or common identifying sign or symbol; and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

#### **PATTERN OF CRIMINAL GANG ACTIVITY**

The same meaning as the definition in § 939.22(21), Wis. Stats., the list of offenses in subsections (a) to (s) of that section and in Chapters **165**, **312**, **326**, **368** and **385** of this Code.<sup>[1]</sup>

#### **UNLAWFUL ACT**

Includes a violation of any of the Code chapters referred to in the definition above or any criminal act or act that would be criminal if the actor were an adult.

[1] *Editor's Note: See Chs. 165, Adult Uses and Massage Establishments; 312, Intoxicating Liquor and Fermented Malt Beverages; 326, Juveniles; 368, Nuisances; and 385, Peace and Good Order.*

- C. Unlawful activity.

- (1) It is unlawful for any person to engage in criminal gang activity.
- (2) It is unlawful for any person to solicit or attempt to solicit a person who has not attained the age of 18 years to commit or attempt to commit any violation of the provisions of this section or any one or more of those chapters of the Code referred to in Subsection **B** above.
- (3) It is unlawful for any person to solicit or attempt to solicit a person who has not attained the age of 18 years to participate in criminal gang activity.
- (4) It is unlawful for any person to solicit or attempt to solicit a person who has not attained the age of 18 years to join a criminal gang.

## § 326-11. Enforcement and penalties.

- A. Citation process. For violations of §§ **326-2** through **326-10**, juveniles may be cited by the citation process on a form approved by the Village Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian.
- B. Penalties. Violations of §§ **326-2** through **326-11** by a person under the age of 18 shall be punishable according to § **1-4** of this Code and §§ 938.17(2), 938.343, 938.344 and 938.345, Wis. Stats. Nothing in this section shall prevent the juvenile officer, in his/her discretion, from referring cases directly to the District Attorney's office.

## Chapter 337. Licenses

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 7, Ch. 10, of the 1999 Code. Amendments noted where applicable.]

#### **GENERAL REFERENCES**

Finance and taxation regulations — See Ch. **50**, Art. **I**.

Cigarette licensing — See Ch. **219**, Art. **I**.  
Fireworks — See Ch. **264**.  
Alcohol beverage licenses — See Ch. **312**, Art. **I**.  
Streets, sidewalks and public grounds — See Ch. **445**.  
Transient merchants — See Ch. **461**.

## § 337-1. Licensees required to pay local taxes, assessments and claims.

- A. Nonpayment of taxes or forfeitures. The Village shall not issue or renew any license to transact any business within the Village of Neshkoro:
- (1) For any purposes for which taxes, assessments or other claims of the Village are delinquent and unpaid.
  - (2) For any person who is delinquent in payment:
    - (a) Of any taxes, assessments or other claims owed the Village; or
    - (b) Of any forfeiture resulting from a violation of any Village ordinance.
- B. Applicability. This section shall apply to licenses issued pursuant to the provisions of Chapter **50**, Art. **I**; Chapter **219**, Art. **I**; Chapter **264**; Chapter **312**, Art. **I**; Chapter **445**; and Chapter **461** of this Code.<sup>[1]</sup>
- [1] *Editor's Note: See Ch. 50, Finance and Taxation, Art. I, General Regulations; Ch. 219, Art. I, Cigarette Licensing; Ch. 264, Fireworks; Ch. 312, Intoxicating Liquor and Fermented Malt Beverages, Art. I, Licensing; Ch. 445, Streets, Sidewalks and Public Grounds; and Ch. 461, Transient Merchants.*
- C. Denial of renewal. An application for renewal of a license subject to this chapter shall be denied pursuant to the provisions of Subsection **A** only following notice and opportunity for hearing as provided by Subsection **D** below.
- D. Hearing. Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection **A**, the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
- (1) With respect to licenses renewable under Chapter **312**, Article **I**, of this Code,<sup>[2]</sup> notice and opportunity for hearing shall be as provided by § 125.12, Wis. Stats., as amended from time to time.

[2] *Editor's Note: See Ch. 312, Intoxicating Liquor and Fermented Malt Beverages, Art. I, Licensing.*
  - (2) With respect to licenses other than those described in Subsection **A** herein, the Village Board or its assignee shall notify the applicant in writing of the Village's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three days nor more than 10 days after the date of the notice, on which the applicant shall appear before the Village Board. If the applicant shall fail to appear before the Board on the date indicated on the notice, the Board shall deny the application for renewal. If the applicant appears before the Board on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Village Board shall conduct a hearing with respect to the matter. At the hearing, both the Village and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Village Board determines the applicant shall not be entitled to renewal pursuant to Subsection **A**, the application for renewal shall be denied.

- E. Other grounds for hearing. Where an individual, business or corporation wishes to appeal the Village Clerk-Treasurer's decision not to issue a license or permit under this chapter on grounds other than those specified in Subsections **A** through **D** above, the applicant may file a request in writing with the Village Clerk-Treasurer that the matter be referred to the Village Board. A public hearing shall be scheduled within 14 calendar days by the Village Board. All parties may be represented by counsel. The Board shall consider all relevant information and shall render a decision, which shall be binding.

## § 337-2. Issuance of licenses.

- A. Application. Applications for licenses under this Code shall be made to the Village Clerk-Treasurer on a form furnished by the Village. Such application shall contain such information as may be required by the provisions of this chapter or as may be otherwise required by the Village Board.
- B. Payment of license fee. License fees imposed under this Code shall accompany the license application. If a license is granted, the Village Clerk-Treasurer shall issue the applicant a receipt for his/her license fee.
- C. Refund of license fee. No fee paid shall be refunded unless the license is denied.
- D. Terms of licenses. All licenses issued hereunder shall expire on June 30 in the year of issuance unless issued for a shorter term, when they shall expire on midnight of the last effective day of the license, unless otherwise provided by these ordinances or state laws.
- E. Form of license. All licenses issued hereunder shall show the date of issue, the activity licensed, and the term of the license, and shall be signed by the Village Clerk-Treasurer and be impressed with the Village Seal, if any.
- F. Record of licenses. The Village Clerk-Treasurer shall keep a record of all licenses issued.
- G. Display of licenses. All licenses hereunder shall be displayed upon the premises or vehicle for which issued or, if carried on the person, shall be displayed to any officer of the Village upon request.
- H. Compliance with ordinances required. It shall be a condition of holding a license under this Code that the licensee comply with all ordinances of the Village. Failure to do so shall be cause for revocation of the license.
- I. Transfer of licenses. All licenses issued hereunder shall be personal to whom issued and shall not be transferred except with the consent of the Board.
- J. Consent to inspection. An applicant for a license under this chapter thereby consents to the entry of police or authorized representatives of the Village upon licensed premises at all reasonable hours for the purposes of inspection and search and consents to removal from the premises and introduction into evidence in prosecutions for violations of this Code all things found therein in violation of this chapter or state law.

## Chapter 368. Nuisances

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 11, Ch. 6, of the 1999 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Animals — See Ch. **173**.

Fireworks — See Ch. **264**.

Hazardous materials — See Ch. **285**.

Health and sanitation — See Ch. **293**.

Peace and good order — See Ch. **385**.

Property maintenance — See Ch. **396**.

Sewers — See Ch. **420**.

Solid waste — See Ch. **438**.

Zoning — See Ch. **500**.

## § 368-1. Public nuisances prohibited.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village of Neshkoro.

## § 368-2. Public nuisance defined.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- A. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- B. In any way render the public insecure in life or in the use of property;
- C. Greatly offend the public morals or decency; or
- D. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

## § 368-3. Public nuisances affecting health.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of § **368-2**:

- A. Adulterated food. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- B. Unburied carcasses. Carcasses of animals, birds or fowl not intended for human consumption or foods which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- C. Breeding places for vermin, etc. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- D. Stagnant water. All stagnant water in which mosquitoes, flies or other insects can multiply.
- E. Garbage cans. Garbage cans which are not fly-tight.
- F. Noxious weeds. All noxious weeds and other rank growth of vegetation.
- G. Water pollution. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- H. Noxious odors, etc. Any use of property, substances or things within the Village or within four miles thereof or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.

- I. Street pollution. Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.
- J. Animals at large. All animals running at large.
- K. Accumulations of refuse. Accumulations of old cans, lumber, elm firewood and other refuse.
- L. Air pollution. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

## § 368-4. Public nuisances offending morals and decency.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of § 368-2:

- A. Disorderly houses. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- B. Gambling devices. All gambling devices and slot machines, except as permitted by state law.
- C. Unlicensed sale of liquor and beer. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for in the ordinances of the Village.
- D. Continuous violation of Village ordinances. Any place or premises within the Village where Village ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- E. Illegal drinking. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the Village.

## § 368-5. Public nuisances affecting peace and safety.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of § 368-2:

- A. Signs, billboards, etc. All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- B. Illegal buildings. All buildings erected, repaired or altered in violation of the provisions of the ordinances of the Village relating to materials and manner of construction of buildings and structures within the Village.
- C. Unauthorized traffic signs. All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.
- D. Obstruction of intersections. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

- E. Tree limbs. All limbs of trees which project over a public sidewalk less than 10 feet above the surface thereof and all limbs which project over a public street less than 14 feet above the surface thereof.
- F. Dangerous trees. All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- G. Fireworks. All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village.
- H. Dilapidated buildings. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- I. Wires over streets. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
- J. Noisy animals or fowl. The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.
- K. Obstructions of streets; excavations. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Village or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit.
- L. Open excavations. All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.
- M. Abandoned refrigerators. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- N. Flammable liquids. Repeated or continuous violations of the ordinances of the Village or laws of the state relating to the storage of flammable liquids.
- O. Unremoved snow. All snow and ice not removed shall be sprinkled with sand or other chemical removers, as provided in this Code.

## § 368-6. Abatement of public nuisances.

### A. Summary abatement.

- (1) Notice to owner. If the inspecting officer determines that a public nuisance exists within the Village and that there is a danger of public health, safety, peace, morals or decency, notice may be served by the inspecting officer or an authorized deputy on the person causing, maintaining or permitting such nuisance or on the owner or occupant of the premises where such nuisance is caused, maintained or permitted, and a copy of such notice shall be posted on the premises. Such notice shall direct the person causing, maintaining or permitting such nuisance, or the owner or occupant of the premises, to abate or remove such nuisance within a period not less than 24 hours or greater than seven days and shall state that, unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, maintaining or permitting the nuisance, as the case may be.
- (2) Abatement by Village. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.

- B. Abatement by court action. If the inspecting officer determines that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, the inspector or sanitarian shall file a written report of such findings with the Village President, who, upon direction of the Village Board, shall cause an action to abate such nuisance to be commenced in the name of the Village in Marquette County Circuit Court in accordance with the provisions of Ch. 823, Wis. Stats.
- C. Court order. Except where necessary under Subsection **A**, no officer hereunder shall use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.
- D. Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the State of Wisconsin.

## § 368-7. Cost of abatement.

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance; such cost shall be assessed against the real estate as a special charge.

## § 368-8. Enforcement; violations and penalties.

- A. Enforcement. The Chief of Police, Fire Inspector, Director of Public Works and Building Inspector shall enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under § **368-6** to abate a public nuisance unless a Village official has inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does, in fact, exist.
- B. General penalty. Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in § **1-4** of the Code.

## Chapter 379. Parks and Recreation

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 12, Ch. 1, of the 1999 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Bicycles and play vehicles — See Ch. **191**.

Snowmobiles — See Ch. **432**.

Streets, sidewalks and public grounds — See Ch. **445**.

Transient merchants — See Ch. **461**.

## § 379-1. Park regulations.

- A. Purpose and definition. In order to protect the parks, parkways, recreational facilities and conservancy areas within the Village of Neshkoro from injury, damage or desecration, these regulations are enacted. The term "park" as hereinafter used in this chapter shall include all grounds, structures and watercourses which are or may be located within any area dedicated to the public use as a park, parkway, recreation facility, playground, swimming pool or conservancy

area in the Village. The Village of Neshkoro maintains River's Edge, Point, Memorial and Stan-O-Gene Parks.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

B. Specific regulations.

- (1) Littering prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any park.
- (2) Sound devices. No person shall operate or play any amplifying system unless specific authority is first obtained from the Village Board.
- (3) Bill posting. No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any park, except park regulations and other signs authorized by the Village Board.
- (4) Throwing stones and missiles prohibited. No person shall throw stones or other missiles in or into any park.
- (5) Removal of park equipment prohibited. No person shall remove benches, seats, tables or other park equipment from any park.
- (6) Trapping. "Trapping," when used in this section, includes the taking, or the attempting to take, of any wild animal by means of setting or operating any device, mechanism or contraption that is designated, built or made to close upon, hold fast or otherwise capture a wild animal or animals; live traps on a person's property are excluded. The trapping of wild animals is hereby prohibited in Village parks.
- (7) Making of fires. No person shall start, tend or maintain a fire except in personal grills or designated fireplaces. Personal grills shall be used only in designated picnic areas. The use of personal grills is permitted, provided lawns and vegetation are not endangered. Unburned fuel and ashes shall be disposed of in such a manner as to prevent fire or damage to any park property.
- (8) Protection of park property.
  - (a) No person shall kill, injure or disturb or attempt to injure or disturb waterfowl, birds or animals, wild or domestic, within any park, except as permitted by this chapter. No person shall climb any tree or remove flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove or in any manner injure, deface, write upon or ill use any tree, shrub, flower, flowerbed, turf, soil, sand, fountain, ornament, building, structure, apparatus, bench, table, official notice, sign or other property within any park.
  - (b) No person shall deface by throwing stones, pebbles or other debris in any of the toilets, bubblers or other sanitary facilities located in any Village park, or deface by drawing with crayon, chalk, paint, or anything else on any of the buildings or equipment at any Village park, or deface the equipment by means of a sharp instrument.
- (9) Motorized vehicles. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. Motor vehicles are restricted to the roads and drives and parking areas. No motor vehicles of any nature may be used on the seeded areas except vehicles which have Village Board authorization for shows, rides or exhibits and then only for the purpose of loading and unloading.
- (10) Snowmobiles. No person shall operate a snowmobile in a Village park except in designated areas. Snowmobiles shall only be operated on designated trails.
- (11) Speed limit. No person shall operate any vehicle in a Village park in excess of 15 miles per hour unless otherwise posted.

- (12) Glass beverage bottles in parks prohibited. No individual shall possess or consume any beverage in a glass bottle or glass container in any Village park.
- (13) Reckless driving in parks prohibited. No person shall operate a motor vehicle in a reckless manner in any of the public parks of the Village.
- (14) Parking in parks. No person shall park any motor vehicle in any park in the Village except in a designated parking area.
- (15) Horse and carriages. No person shall ride a horse or drive a horse-driven vehicle in any park, except on roads or designated bridle paths or the arena. It shall be unlawful for any person to ride a horse or drive a horse-driven vehicle in a careless, negligent or reckless manner which may endanger the safety and well-being of others. Horseback riding shall be allowed only during the daylight hours. No person shall ride a horse which cannot be held under such control that it may be easily turned or stopped. Horses shall not be left unbridled or unattended.  
[Amended 10-4-2010]
- (16) Removing tree protectors. No person shall remove any device for the protection of trees or shrubs.
- (17) Golfing and sporting activities. No golfing or practicing golf in Village parks or recreation areas shall be allowed except with the use of a whiffle ball. All sporting activities must be held in areas so designated for that purpose.
- (18) Arrows. No person shall use or shoot any bow and arrow in any Village park, except in authorized areas.
- (19) Fees and charges. The Village Board shall establish such fees as deemed necessary for use of any park facility, shelter or land area. It shall be unlawful to use such areas without payment of such fee or charge when required.
- (20) Firearms; hunting. Possessing or discharging of any air gun, slingshot, explosive, firearm or weapon of any kind is prohibited in all Village parks.
- (21) Fish cleaning. Cleaning of fish in shelters, toilet facilities or picnic areas is prohibited in all Village parks.
- (22) Controlled substances. Possessing, using or dispensing of a controlled substance in violation of the Uniform Controlled Substances Act is prohibited in all Village parks.
- (23) Vendors restricted. No person shall sell, vend or give away any article of merchandise whatsoever without permission from the Village Board.  
[Amended 10-4-2010]
- (24) Alcohol beverages. The consumption or possession of alcohol beverages in Village parks shall be as regulated by § **312-22** of this Code.
- (25) Camping. No overnight camping shall be permitted in any park, except where written approval of the Village Board or duly authorized agent is first obtained.<sup>[2]</sup>  
*[2] Editor's Note: Former Subsection B(26) and (27), regarding the prohibition of dogs and other pets in Village parks, which immediately followed, were repealed 7-5-2016.*

C. Specific use restrictions on Stan-O-Gene Park. Stan-O-Gene Park has been conveyed to the Village with the following deed-derived use restrictions:

- (1) Use of the property shall be limited to the residents of the Village of Neshkoro, their relatives, friends and invitees for the purposes listed below.
- (2) Use of the park property may be had by organizations such as Camp Fire Girls, Boy Scouts and similar civic or charitable organizations affiliated with a local Village group.

- (3) The property may be used only after obtaining the express consent of the Village Board, which consent shall be made a part of its written minutes, by civic and charitable organizations that are not locally affiliated.
- (4) The property shall not be used for camping purposes, temporary or permanent, except that the Village may create no more than six overnight camping sites to be used only with permission of the Village Board for the convenience of the applicant and further excepting that the property or a part thereof may be used only with Village permission for temporary tent camping for such organizations as are hereinbefore authorized to use this Village park property.<sup>[3]</sup>

[3] *Editor's Note: Original Sec. 12-1-2, Operation of remote- or radio-controlled airborne toys or devices prohibited, which immediately followed this section, was repealed 10-4-2010.*

## § 379-2. Turf protection on public property.

[Amended 10-4-2010]

Except as authorized by the Chief of Police or Village Board, no person shall dig into the turf of any Village-owned park or recreational property for any purposes whatsoever or remove any trees or flowers. Absent authorization by the Chief of Police or Village Board, the use of metal detectors and digging for buried objects on Village park or recreational property is prohibited.

## § 379-3. Park hours.

- A. Presence in parks between 10:30 p.m. and 6:00 a.m. No persons shall loiter, idle, wander or be present either on foot or in a vehicle of any nature whatsoever in a public park of the Village of Neshkoro or upon any streets running through said parks between the hours of 10:30 p.m. and 6:00 a.m. the following morning; said hours shall refer to either central standard time or daylight saving time, whichever is in effect. Point Park closes between dusk and 6:00 a.m., and it is unlawful for persons to be present during closed hours.

[Amended 11-2-2004]

- B. Exceptions for organized activities. Subsection **A** shall not apply to any persons participating in or any organized activity in a Village park and for which activity a permit was issued by the Village Board. This exception shall apply during the time such activity is in progress at a Village park and for 30 minutes after the termination of such activity.

## § 379-4. Reservation of park space.

- A. Policy on reservation. The Village-owned parks and park facilities and shelter areas are primarily for the nonexclusive use of the residents and visitors of the Village. However, under proper circumstances, exclusive use of the same or parts thereof may be permitted. This section is intended to regulate exclusive use of municipally owned parks, park facilities, park shelters or parts thereof in the Village of Neshkoro to the end that the general welfare of the Village is protected.

- B. Reservation of park space.

- (1) A person or group, firm, organization, partnership or corporation may reserve the use of a park facility or a park shelter/pavilion by written application filed with the Village Clerk-Treasurer. All reservations shall be made on application forms in the office of the Village Clerk-Treasurer and shall be on a first-come, first-served basis. Reservation of a designated area shall give the party to whom reserved the right to use such area to the exclusion of others for and during the period of reservation. Areas not reserved shall be open to use by all.

- (2) The pavilion at Stan-O-Genie Park may be reserved following the procedures in Subsections **B(1)** and **C**. Applicants shall deposit with the Clerk-Treasurer both a deposit and a fee as set by the Village Board, which deposit will be refunded if the pavilion is, after use, in a clean, undamaged condition.<sup>[2]</sup>

[2] *Editor's Note: The current Fee Schedule is on file in the Village office.*

- C. Application. Applications shall be filed with the Village Clerk-Treasurer and shall include:
  - (1) The name, address and telephone number of the applicant.
  - (2) If the exclusive use is proposed for a group, firm, organization, partnership or corporation, the name, address and telephone number of the headquarters of the same and the responsible and authorized heads or partners of the same.
  - (3) The name, address and telephone number of the person who will be responsible for the use of the said park, area or facility.
  - (4) The date when the exclusive use is requested and the hours of the proposed exclusive date.
  - (5) The anticipated number of persons to use the said park, area or facility.
  - (6) Any additional information which the Village Board or Clerk-Treasurer finds reasonably necessary to a fair determination as to whether a permit should be issued.
- D. Indemnification. Prior to granting any permit for exclusive use of the park, the Village may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the Village and such other third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the exclusive use sufficient to indemnify the Village and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants.
- E. Permit not required for Village activity. A permit is not required for exclusive use of the park or a park facility sponsored by the Village of Neshkoro.
- F. Class "B" fermented malt beverage licenses. When fermented malt beverages are sold at any event authorized by this section, a valid fermented malt beverage license shall be obtained and the provisions of §§ **312-11** and **312-22** shall be fully complied with. Said license must be held by the person who filed the original license and shall be presented to any law enforcement officer upon request.
- G. Care of facilities. Persons reserving Village facilities shall be completely responsible for cleaning up the facilities after the event to the satisfaction of Village officials. All reserved areas shall be left in a clean condition, with refuse placed in containers provided for such purpose. Any organization or corporation reserving any area in a Village park shall agree to assume full responsibility for all damage to Village property by any invitee of said organization or corporation and shall make full payment therefor upon billing by the Village Clerk-Treasurer. Failure to do so shall deny future use of park facilities until such payment be made, in addition to any other remedy which the Village may have.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 379-5. Ultralight aircraft regulated.

- A. Definition. An ultralight aircraft, vehicle or hang glider is an unpowered or powered aircraft which is not subject to extensive regulation by the Federal Aviation Administration by virtue of its characteristics, and which is defined as an ultralight vehicle by 14 CFR § 103.1, and which is defined as an ultralight aircraft by § 114.195, Wis. Stats.
- B. Regulations regarding use. No person shall operate any ultralight aircraft within the Village in such a manner or in such a location as to endanger or injure any person or property. No person shall

operate an ultralight aircraft in the Village in violation of any applicable state and federal regulations and standards. No person shall cause an ultralight aircraft to land or to take off from any property without permission of the owner or occupant of said property, provided that an emergency landing may be made to prevent a catastrophe. In the case of landing or taking off from a Village public park or other public property, the operator of such ultralight aircraft shall first obtain a permit from the Village Board. No fee shall be charged by the Village Board for such permit, which may be issued for a period up to 30 days, nor shall the Village Board sponsor such activity.

## Chapter 385. Peace and Good Order

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 11, Chs. 1, 2 and 3, of the 1999 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

General penalty — See § 1-4.

Adult uses — See Ch. 165.

Cemetery regulations — See Ch. 213.

Fireworks — See Ch. 264.

Offenses involving alcoholic beverages — See Ch. 312, Art. II.

Juveniles — See Ch. 326.

Nuisances — See Ch. 368.

Parks and recreation property — See Ch. 379.

Streets, sidewalks and public grounds — See Ch. 445.

## Article I. State Statutes Adopted

### § 385-1. Offenses against state laws subject to forfeiture.

The following statutes defining offenses against the peace and good order of the state are adopted by reference to define offenses against the peace and good order of the Village of Neshkoro. With the exception of § 938.342, Wis. Stats., the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code.<sup>[2]</sup> Any future amendments, revisions or modifications of the statutes incorporated herein by reference are intended to be made part of this Code. The penalty for truancy and high school dropouts shall be governed by the provisions of § 938.342, Wis. Stats., as adopted herein.

118.07	Health and safety requirements
118.08	School zones; crossings
118.09	Safety zones
118.10	School safety patrols
118.105	Control of traffic on school premises
118.11	School fences
118.123	Reports and records
118.163	Municipal truancy and school dropout ordinances
134.65	Cigarette and tobacco products retailer license
134.66	Restrictions on sale or gift of cigarettes or tobacco products
167.10	Fireworks regulated
173.10	Investigation of cruelty complaints
173.24	Reimbursement for expenses
175.25	Storage of junked automobiles

254.76	Causing fires by tobacco smoking
254.92	Purchase or possession of tobacco products by person under 18 prohibited
938.125	Jurisdiction over juveniles alleged to have violated civil laws or ordinances
938.17	Jurisdiction over traffic, boating, snowmobile and all-terrain vehicle violations and over civil law and ordinance violations
938.342	Disposition; truancy and school dropout ordinance violations
938.343	Disposition of juvenile adjudged to have violated a civil law or an ordinance
938.344	Disposition; certain intoxicating liquor, beer and drug violations
938.345	Disposition of juvenile adjudged in need of protection or services
939.05(2)(b)	Parties to crime
939.22	Words and phrases defined
940.19(1)	Battery
940.291	Law enforcement officer; failure to render aid
940.42	Intimidation of witnesses; misdemeanor
940.44	Intimidation of victims; misdemeanor
941.01	Negligent operation of vehicle
941.10	Negligent handling of burning material
941.12(2),(3)	Interfering with firefighting
941.13	False alarms
941.20(1)	Endangering safety by use of dangerous weapon
941.23	Carrying concealed weapon
941.235	Carrying firearm in public building
941.24	Possession of switchblade knife
941.35	Emergency telephone calls
941.36	Fraudulent tapping of electric wires or gas or water meters or pipes
941.37(1) and (2)	Obstructing emergency or rescue personnel
942.01	Defamation
942.03	Giving false information for publication
942.05	Opening letters
943.01(1)	Damage to property
943.11	Entry into locked vehicle
943.125	Entry into locked coin box
943.13	Trespass to land
943.14	Criminal trespass to dwellings
943.145	Criminal trespass to a medical facility
943.15	Entry onto a construction site or into a locked building, dwelling or room
943.20(1), (2) and (3)(a)	Theft of property
943.21(3)(am)	Fraud on hotel or restaurant keeper, recreational attraction, taxicab operator, or gas station
943.22	Use of cheating tokens
943.23(1) and (5)	Operating vehicle without owner's consent
943.24	Issue of worthless check
943.34(1)(a)	Receiving stolen property
943.37	Alteration of property identification marks

943.38(3)	Forgery
943.41	Financial transaction card crimes
943.46	Theft of video service
943.50(1) to (3) and (4)(a)	Retail theft
943.55	Removal of shopping cart
943.70	Computer crimes
944.15	Public fornication
944.17	Sexual gratification
944.20	Lewd and lascivious behavior
944.21	Obscene material or performance
944.23	Making lewd, obscene or indecent drawings
944.30	Prostitution
944.31	Patronizing prostitutes
944.32	Soliciting prostitutes
944.33	Pandering
944.34	Keeping place of prostitution
944.36	Solicitation of drinks prohibited
945.01	Definitions (relating to gambling)
945.02	Gambling
945.04	Permitting premises to be used for commercial gambling
946.40	Refusing to aid officer
946.41	Resisting or obstructing officer
946.42(2)	Escape
946.46	Encouraging violation of probation, extended supervision or parole
946.69	Falsely assuming to act as a public officer or employee or a utility employee
946.70	Impersonating peace officers
946.72(2)	Tampering with public records and notices
947.01	Disorderly conduct
947.012	Unlawful use of telephone
947.013	Harassment
947.06	Unlawful assemblies and their suppression
948.01	Definitions (relating to crimes against children)
948.09	Sexual intercourse with a child age 16 or older
948.10	Exposing genitals or pubic area
948.11(1)(b) and (2)(b)	Exposing a child to harmful material or harmful descriptions or narrations
948.21	Neglecting a child
948.40	Contributing to the delinquency of a child
948.50	Strip search by school employee
948.51(1), (2) and (3)(a)	Hazing
948.60	Possession of a dangerous weapon by a person under 18
948.61(1) and (2)	Dangerous weapons other than firearms on school premises
948.63	Receiving property from a child

951.01	Definitions (relating to crimes against animals)
951.015	Construction and application
951.02	Mistreating animals
951.03	Dognapping and catnapping
951.04	Leading animal from motor vehicle
951.05	Transportation of animals
951.06	Use of poisonous and controlled substances
951.07	Use of certain devices prohibited
951.08	Instigating fights between animals
951.09	Shooting at caged or staked animals
951.10	Sale of baby rabbits, chicks and other fowl
951.11	Artificially colored animals; sale
951.13	Providing proper food and drink to confined animals
951.14	Providing proper shelter
951.15	Abandoning animals
961.01	Definitions (Uniform Controlled Substances Act)
961.003	Uniformity of interpretation

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: See § 1-4, the general penalty of the Code of the Village.*

## § 385-2. Penalties; attempts to act; parties to acts.

- A. Penalty. In addition to the general penalty provisions of this Code in § 1-4 or any other penalty imposed for violation of any section of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated juvenile who violates § 385-19 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police Department from referring violations of the provisions of this chapter to the District Attorney's office in the interest of justice.
- B. Attempt.
- (1) Whoever attempts to commit an act prohibited by this chapter and Chapter 165, Chapter 312, Article II, Chapter 326 and Chapter 368 of the Code of the Village of Neshkoro<sup>[1]</sup> may be required to forfeit amounts not to exceed 1/2 the maximum penalty for the completed act.
 

[1] *Editor's Note: See Ch. 165, Adult Uses and Massage Establishments; Ch. 312, Art. II, Offenses Involving Alcoholic Beverages; Ch. 326, Juveniles; and Ch. 368, Nuisances.*
  - (2) An attempt to commit an act prohibited by the ordinances in this chapter and Chapter 165, Chapter 312, Article II, Chapter 326 and Chapter 368 requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he/she does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he/she formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.
- C. Parties to acts prohibited in this chapter and Chapter 165, Chapter 312, Article II, Chapter 326 and Chapter 368 of this Code.
- (1) Whoever is concerned in the commission of an act prohibited by Chapter 165, Chapter 312, Article II, Chapter 326, Chapter 368 and this chapter of this Code is a principal and may be

charged with and convicted of the commission of said act although he/she did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.

- (2) A person is concerned in the commission of an act prohibited by these ordinances if he/she:
- (a) Directly commits the act;
  - (b) Intentionally aids and abets the commission of it; or
  - (c) Is a party to a conspiracy with another to commit it or advises, hires, counsels or otherwise procures another to commit it. Such party is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his/her mind and no longer desires that the act be committed and notifies the other parties concerned of his/her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

## Article II. Offenses Against Public Safety and Peace

### § 385-3. Regulation of firearms, explosives and other missiles.

[Amended 10-4-2010; 12-1-2014]

- A. Discharge of firearms regulated. The Village of Neshkoro will follow guidelines of Wis. Stats. §§ 29.038(2)(b) and 29.038(3)(b)3b.
- B. Definitions. For purposes of this section, a "firearm" is defined as any instrumentality from or with which a shot, bullet or pellet may be discharged or expelled, regardless of whether the propelling force is provided by air, spring or other similar mechanical device, or gunpowder.

### § 385-4. Carrying concealed weapons prohibited; certain weapons prohibited.

- A. Concealed weapons prohibited.
  - (1) Prohibition. No person shall, within the Village of Neshkoro, wear or in any manner carry under his/her clothes or conceal upon or about his/her person any deadly or dangerous weapon, provided this subsection shall not apply to a peace officer or such persons as may be authorized to carry such weapons.
  - (2) Dangerous weapon defined. "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.
- B. Weapons in public establishments. No person shall carry or be possessed of a dangerous weapon in any public building or business establishment open to the public except a bona fide weapons repair, display or sales establishment, unless such dangerous weapon is so stored and secured (other than on the person) so as not to be readily accessible to any person or patron. This subsection shall not apply to peace officers or others duly authorized by law acting within the scope of their duties. This subsection shall not be construed to prohibit the sale, purchase, repair or trade of firearms by a retail business establishment doing so in the course of its regular business in accord with state and federal law, nor to hinder a prospective customer from attempting to buy, sell or trade firearms to or from a retailer.

C. Specific concealed weapons prohibited.

- (1) No person, except a sheriff, constable, police officer or other law enforcement officer acting within the scope of his/her duties, shall carry or wear concealed about his/her person any pistol, revolver, firearm, slingshot, crossknuckle of lead, brass or other materials, bowie knife, switchblade, dirk or dagger or any other dangerous or deadly weapon within the Village.
- (2) Any weapon involved in an offense under this subsection above may be seized and may be forwarded, within 48 hours of seizure, to the Crime Laboratory, Division of the Wisconsin Department of Justice for examination. After examination by the Crime Laboratory, the weapon shall be returned to the Village of Neshkoro Police Department. If the weapon is owned by a person convicted under this subsection, it may be confiscated by the Village of Neshkoro. If it is owned by a person other than the person convicted, the trial judge may decide whether such weapon shall be returned to its rightful owner or confiscated by the Village of Neshkoro.

D. Possession, sale and manufacture of certain weapons prohibited.

- (1) No person shall sell, manufacture, purchase, possess or carry metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles, a "numchuk" (also called a "nunchaku") or any similar weapon, a "cestus" or similar material weighted with metal or other substance and worn on the hand, a "churkin" (also called a "suriken") or any similar object intended to injure a person when thrown, a "sucbai" or similar weapon, a "manrikigusari" or a similar length of chain having weighted ends, or any other martial arts device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce injury or death to another person within the Village of Neshkoro.
- (2) For the purpose of this section, the following definitions shall apply:

**CHURKIN**

A round throwing knife consisting of several sharp points protruding from a rounded disc.

**NUMCHUK or NUNCHAKU**

An instrument consisting of two or more sticks, clubs or rods connected by a rope, cord, wire or chain.

**SUCBAI**

A short length of wood or metal or similar material which, when gripped in the hand, protrudes on either side of the fist. Such prohibited instrument may or may not have spikes or short pointed protrusions from either end.

- (3) Any such device shall be seized by a law enforcement officer and destroyed or turned over to the State of Wisconsin Crime Laboratory for destruction.

E. Reckless use of weapons.

- (1) Acts prohibited.
  - (a) No person shall endanger another's safety by reckless conduct in the operation or handling of a firearm, air gun, knife or bow and arrow.
  - (b) No person shall operate or go armed with a firearm, air gun, knife or bow and arrow while he/she is under the influence of an intoxicant.
  - (c) No person shall intentionally point a firearm, air gun, knife or bow and arrow at or toward another person.
- (2) Reckless conduct defined. "Reckless conduct" consists of an act which creates a situation of unreasonable risk and high probability of death or great bodily harm to another and which

demonstrates a conscious disregard for the safety of another and a willingness to take chances of perpetrating an injury.

## § 385-5. Safe use and transportation of firearms and bows.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

### **AIRCRAFT**

Has the meaning given under § 114.002(3), Wis. Stats.

### **ENCASED**

Enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied or otherwise fastened with no part of the firearm exposed.

### **FIREARM**

A weapon that acts by force of gunpowder.

### **HIGHWAY**

Has the meaning given under § 340.01(22), Wis. Stats.

### **MOTORBOAT**

Has the meaning given under § 30.50(6), Wis. Stats.

### **ROADWAY**

Has the meaning given under § 340.01(54), Wis. Stats.

### **UNLOADED**

Any of the following:

- (1) Having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.
- (2) In the case of a cap lock muzzle-loading firearm, having the cap removed.
- (3) In the case of a flint lock muzzle-loading firearm, having the flashpan cleaned of powder.

### **VEHICLE**

Has the meaning given under § 340.01(74), Wis. Stats., and includes a snowmobile, as defined under § 340.01(58a), Wis. Stats.

B. Prohibitions; motorboats and vehicles; highways and roadways.

- (1) Except as provided in Subsection **C**, no person may place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
- (2) Except as provided in Subsection **C**, no person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
- (3) Except as provided in Subsection **C**, no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.
- (4) Except as provided in Subsection **C**, no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within 50 feet from the center of a road.

- (5) A person who violates Subsection **B(1)** through **(4)** above is subject to a forfeiture pursuant to § 1-4.

C. Exceptions.

- (1) Subsection **B** does not apply to any of the following who, in the line of duty, place, possess, transport, load or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm from or across a highway or within 50 feet of the center of a roadway:
  - (a) A peace officer, as defined under § 939.22(22), Wis. Stats.
  - (b) A member of the U.S. armed forces.
  - (c) A member of the National Guard.
- (2) Subsection **B(1)**, **(2)** and **(3)** do not apply to the holder of a scientific collector permit under § 29.614, Wis. Stats., who is using a net gun or tranquilizer gun in an activity related to the purpose for which the permit was issued.
- (3) Subsection **B(2)** and **(3)** do not apply to the holder of a permit under § 29.163(2)(c), Wis. Stats., who is hunting from a standing automobile in accordance with that subsection.

## § 385-6. Sale and discharge of fireworks restricted.

No person shall sell, expose or offer for sale, use, keep, possess, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the Village unless he/she shall be authorized by a fireworks permit as provided in Chapter **264** of this Code. The term "fireworks," as used in this section, shall be defined as provided in § 167.10(1), Wis. Stats., and shall be deemed to include all fireworks, rockets or similar missiles containing explosive fuel.

## § 385-7. Obstructing streets and sidewalks prohibited.

- A. Obstructing streets. No person shall obstruct, loiter, cause a nuisance or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Village of Neshkoro in such a manner as to:
  - (1) Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon;
  - (2) Prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place; or
  - (3) Cause a nuisance by congregating and hindering the free passage of pedestrian or vehicular traffic.
- B. Obstructing sidewalk prohibited. No person shall block any sidewalk or bridge by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street.
- C. Definitions. As used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

### **LOITER**

To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.

### **NUISANCE**

Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Neshkoro.

#### **OBSTRUCT**

To interfere with unobstructed travel by any means, including, but not limited to, standing on the part of the walk that is fit for travel or placing any object or vehicle whatsoever on such sidewalk.

#### **SIDEWALK**

Any sidewalk owned or maintained by the Village. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.

- D. Free speech. This section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. If two or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such locations as to completely prevent any pedestrian from passing them on the sidewalk.

### **§ 385-8. Loitering prohibited.**

#### **A. Public property loitering prohibited.**

- (1) No person shall loiter in or about any public street, public sidewalk, street crossing, alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any law enforcement officer.
- (2) Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (3) No person shall loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious conduct or any unlawful act.
- (4) No person shall loiter in or about any school or public place at or near which children or students attend or normally congregate. As used in this subsection, "loiter" means to delay, to linger or to idle in or about any said school or public place without a lawful purpose for being present.

#### **B. Private property loitering prohibited.**

- (1) No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls, without invitation from the owner or occupant or by any person in authority at such places. No person shall loiter in or about the doorway, stairway, steps or entrance of any business place or private residence without the expressed consent of the owner thereof, or at any time other than usual business hours. Under this subsection, "business place" shall include public building at such times that the same shall be closed for the usual and normal business conduct thereat.
- (2) Upon being requested to move by any such person in authority or by any police officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (3) No person shall sit, lie or otherwise recline upon or against any parked motor vehicle without the expressed consent of the owner thereof, whether such be parked upon a public street, alley, parking lot, driveway or private premises.

- (4) No person shall stand or loiter on any roadway other than in a safety zone if such act interferes with the lawful movement of traffic.

C. Loitering or prowling prohibited.

- (1) No person shall loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself/herself or manifestly endeavors to conceal himself/herself or any object. Unless flight by the person or other circumstances makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him/her to identify himself/herself and explain his/her presence and conduct. No person shall be convicted of an offense under this subsection if the law enforcement officer did not comply with the preceding sentence or if it appears at trial that the explanation given by the person was true and, if believed by the law enforcement officer at the time, would have dispelled the alarm.
- (2) No person shall hide, wait or otherwise loiter in the vicinity of any private dwelling house, apartment building, or any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a clandestine manner.
- (3) No person shall lodge in any building, structure or place, whether public or private, without the permission of the owner or person entitled to possession or in control thereof.
- (4) No person shall loiter in or about a restaurant, tavern or other public building. As used in this subsection, "loiter" means to, without just cause, remain in a restaurant, tavern or public building or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof.

D. Loitering by underage persons where alcohol beverage is dispensed.

- (1) Underage persons and intoxicants. No underage person shall enter, remain or loiter in any public or private place where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available, unless accompanied by a parent, legal guardian or spouse who has attained the legal drinking age.
- (2) Permitting loitering prohibited. No person of legal drinking age shall permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, legal guardian or spouse who has attained the legal drinking age.

E. Definitions. As used in this section, the terms "loiter" and "nuisance" shall have the same meanings as provided in § 385-7C.<sup>[1]</sup>

<sup>[1]</sup> *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

F. Soliciting. No person shall loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, that such person repeatedly beckons to stop or attempts to stop, or engages male or female passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or produce another to commit an act of prostitution. No arrest shall be made for a violation of this subsection unless the law enforcement officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given

was true and disclosed a lawful purpose. As used in this subsection, the following terms shall have the meanings indicated:

**PUBLIC PLACE**

An area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorway and entrance to buildings or dwellings and the grounds enclosing them.

**KNOWN PROSTITUTE OR PANDERER**

A person who, within five years previous to the date of arrest for violation of this section, had, within the knowledge of the sworn police officer, been convicted in any municipal court or circuit court in the State of Wisconsin of an offense involving prostitution.

**§ 385-9. Loud and unnecessary noise prohibited.**

- A. Loud and unnecessary noise prohibited. It shall be unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise. It shall be unlawful for any person knowingly or wantonly to use or operate, or to cause to be used or operated, any mechanical device, machine, apparatus or instrument for intensification or amplification of the human voice or any sound or noise in any public or private place in such manner that the peace and good order of the neighborhood is disturbed or that persons owning, using or occupying property in the neighborhood are disturbed or annoyed.
- B. Types of loud and unnecessary noises. The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive:
  - (1) Horns, signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the Village for longer than three seconds in any period of one minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.
  - (2) Radios, phonographs, similar devices. The playing, using or operating, or permitting to be played, used or operated, of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the property line of the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
  - (3) Loudspeakers, amplifiers for advertising. The playing, using or operating, or permitting to be played, used or operated, of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.
  - (4) Animals, birds. The keeping of any animal or bird which causes frequent or long continued unnecessary noise.
  - (5) Steam whistles. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request

of proper Village authorities.

- (6) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motorboat except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (7) Construction or repair of buildings. The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays; provided, however, the Chief of Police shall have the authority, upon determining that the loss of inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to grant a permit for a period necessary, within which time such work and operation may take place within the hours of 10:00 p.m. to 7:00 a.m.
- (8) Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street. No person, while on public or private grounds adjacent to any building or while within any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order and operation of such school session or class thereof.
- (9) Exceptions. The provisions of this section shall not apply to:
  - (a) Any vehicle of the Village while engaged in necessary public business.
  - (b) Excavations or repairs of streets or other public construction by or on behalf of the Village, county or state at night when public welfare and convenience renders it impossible to perform such work during the day.
  - (c) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature.

C. Permits for amplifying devices.

- (1) Permit required. The use of loudspeakers or amplifying devices on the streets or in the parks of the Village of Neshkoro is prohibited unless the party desiring to use such loudspeaker or amplifying device first obtains a permit from the Chief of Police.
- (2) Grounds or reasons for denial or allowance. The Chief of Police shall have the authority to revoke such permit when he/she believes such loudspeaker or amplifying device is becoming a nuisance because of the volume, the method in which it is being used or the location in which it is being operated.
- (3) Time restrictions. The Chief of Police shall not grant a permit to use a loudspeaker or amplifying device before the hours of 9:00 a.m. or after 10:30 p.m. No permit shall be granted to anyone who, in the opinion of the Chief of Police, uses said loudspeaker or amplifying device in such a manner or for such a purpose as to constitute a nuisance.

## § 385-10. Disorderly conduct.

A. Disorderly conduct prohibited. No person within the Village of Neshkoro shall:

- (1) In any public or private place, engage in violent, noisy, riotous, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or

provoke an immediate disturbance of public order or tends to annoy or disturb any other person;

- (2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation;<sup>[1]</sup>

[1] *Editor's Note: Original subsection (a)(3), concerning harassing phone calls, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (3) Indecently expose his or her person; or

- (4) Be in any business or private structure, private vehicle or upon any private grounds without the consent of the owner.

- B. Defecating or urinating in public places. It shall be unlawful for any person to defecate or urinate outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the Village or upon any private property in open view of the public or in the halls, rooms without rest room facilities, stairways or elevators of public or commercial buildings.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 385-11. Unauthorized presence on school property.

- A. Unauthorized presence.

- (1) No student who is under suspension, expulsion or other disciplinary procedures excluding him/her from attending any school located within the Village or any person not a student presently enrolled or not an employee of such schools or not a parent or guardian of a student, or not an otherwise authorized person, shall be present within any school building or upon any school grounds without having first secured authorization to be there from the principal or other person in charge of the school building or school grounds, except while in direct route to secure such authorization.

- (2) Any unauthorized person who shall come upon school property and refuses to leave upon request by the school principal or any person acting under the direction of the school principal, in addition to violating Subsection **A(1)**, shall be guilty of trespass.

- (3) "Authorized person" shall include:

- (a) Any person who is present at any school building or school grounds for the purpose previously authorized by the school or its designee;
- (b) Any person transporting a student and who utilizes the driveway specified for loading and unloading personnel; and
- (c) Any person utilizing a designated area for attending an athletic or other organized school event.

- B. Disorderly conduct on public school property.

- (1) No person shall, on any school property or building, engage in violent, abusive, loud or otherwise disorderly conduct which causes or provokes an immediate disturbance of public order or disturbs or annoys any other person, nor shall a person intentionally engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

- (2) Nonstudents, students from schools other than the school on the property or students from a school who are not in compliance with the school system's published rules and regulations shall be considered in violation of this section. The published rules and regulations of the school system are incorporated as if fully set forth herein.

- (3) All entrances to the school buildings referred to in Subsection **A** shall be posted by the School Board with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."
- (4) "Unauthorized presence" shall include any vehicle that is found on school property which has not received permission to be there. If the occupants or owners are not on school property for some legitimate business or activity or are parked in an area that regulates parking to certain authorized vehicles, they are in violation. Such vehicle may be issued a Village summons that regulates parking or may be towed away at the direction of the school principal or person in charge of such school building. Law enforcement officers may also have any vehicle towed away which, because of its location, creates a hazard to life or property.<sup>[1]</sup>

[1] *Editor's Note: Original subsection (c), Loitering near school prohibited, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- C. Possession of intoxicating liquor and fermented malt beverages. No person shall possess intoxicating liquor or fermented malt beverages while on any school property.
  - D. Definitions. Definitions. As used in this section, the terms "loiter" and "nuisance" shall have the same meanings as provided in § **385-7C**.<sup>[2]</sup>
- [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 385-12. Failure to obey lawful order; resisting an officer.

- A. Lawful orders. It shall be unlawful for any person to fail to obey the direction or order of a law enforcement officer while such law enforcement officer is acting in an official capacity in carrying out his or her duties.
- B. Resisting or interfering with officer prohibited. It shall be unlawful for any person to resist or in any way interfere with any law enforcement officer or any person called to assist such officer, or to threaten, resist or interfere with such officer or person, or to advise or encourage any other person to resist or interfere with such officer or person in the discharge of his/her duty, or to in any way interfere with or hinder or prevent him/her from discharging his/her duty as such officer or assistant, or to offer or endeavor to do so, or to in any manner assist any person in the custody of any law enforcement officer to escape or to attempt to escape from such custody, or to try to persuade any person to escape from the custody of such officer, or to rescue or attempt to rescue any person so in custody, or to fail to obey the order or direction of such officer while such officer is acting in his/her official capacity in carrying out his/her duties.

## § 385-13. Possession of controlled substances; marijuana.

- A. Possession of controlled substances. It is unlawful for any person to possess a controlled substance, other than a controlled substance classified in Schedule I and II under Ch. 961, Wis. Stats., which is a narcotic drug, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his/her professional practice, or except as otherwise authorized by this Code.
- B. Possession of marijuana.
  - (1) No person shall possess 25 grams or less of marijuana, as defined in § 961.01, Wis. Stats., unless it was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by Ch. 961, Wis. Stats.
  - (2) For purposes of this section, "practitioner" means:
    - (a) A physician, dentist, veterinarian, podiatrist, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with

respect to, or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.

- (b) A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.
- (3) This section does not apply to any person who is charged with possession of more than 25 grams of marijuana or who is charged with possession of any amount of marijuana following a conviction for possession of any amount of marijuana in the State of Wisconsin.

## § 385-14. Possession, manufacture and delivery of drug paraphernalia by a minor prohibited.

A. Definition. In this section, "drug paraphernalia" shall be defined as provided in § 961.571, Wis. Stats.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

B. Determination of drug paraphernalia. In determining whether an object is drug paraphernalia, the following shall be considered, without limitation of such other considerations a court may deem relevant:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) Prior convictions, if any, of an owner or of anyone in control of the object under any city, state or federal law relating to any controlled substance.
- (3) The proximity of the object in time and space to a direct violation of this section.
- (4) The proximity of the object to controlled substances.
- (5) The existence of any residue of controlled substance on the object.
- (6) Direct or circumstantial evidence of the intent of the owner or of anyone in control of the object to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner or of anyone in control of this object as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
- (7) Oral or written instructions provided with the object concerning its use.
- (8) Descriptive materials accompanying the object which explain or depict its use.
- (9) National and local advertising concerning its use.
- (10) The manner in which the object is displayed for sale.
- (11) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise.
- (12) The existence and scope of legitimate uses for the object in the community.
- (13) Expert testimony concerning its use.

C. Prohibited uses.

- (1) Possession of drug paraphernalia. No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal,

inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this subsection.

- (2) Manufacture or delivery of drug paraphernalia. No person may deliver, or possess with intent to deliver, drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this subsection.
- (3) Delivery of drug paraphernalia by a minor to minor. Any person who is under 18 years of age who violates Subsection **C(2)** by delivering drug paraphernalia to a person under 18 years of age who is at least three years younger than the violator is guilty of a special offense.
- (4) Exemption. This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 961, Wis. Stats. This section does not prohibit the possession, manufacture or use of hypodermics in accordance with Ch. 961, Wis. Stats.

D. Penalties. Any person who violates Subsection **C(1), (2)** or **(3)** shall, upon conviction, be subject to disposition under § 938.344(2e), Wis. Stats.

[1] *Editor's Note: This section was adopted as Sec. 11-5-6 in the 1999 Code of Ordinances.*

## § 385-15. Crossing a police line.

No individual shall cross a police or fire line that has been so designated by banner, signs or other similar identification.

## § 385-16. Harassment.

- A. Harassment. No person, with intent to harass or intimidate another person, shall do any of the following; each instance shall be considered a separate violation:
  - (1) Strike, shove, kick or otherwise subject the person to physical contact or attempt or threaten to do the same.
  - (2) Engage in a course of conduct or repeatedly commit acts which harass or intimidate the person and which serve no legitimate purpose.
- B. Harassing or obscene telephone calls. Whoever commits any of the following acts shall be subject to the general penalty as provided in this Code:<sup>[1]</sup>
  - (1) Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious or indecent;
  - (2) Makes a telephone call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers;
  - (3) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers;
  - (4) Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number or numbers;
  - (5) Knowingly permits any telephone under his/her control to be used for any purpose prohibited by this section; or

- (6) In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.

[1] *Editor's Note: See § 1-4.*

## § 385-17. Open cisterns, wells, basements or other dangerous excavations prohibited.

No person shall have or permit on any premises owned or occupied by him/her any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person, and any cover shall be of a design, size and weight that the same cannot be removed by small children.

## § 385-18. Gambling, lotteries, fraudulent devices and practices prohibited.

All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the Village, except as provided by state law. Any law enforcement officer of the Village may seize anything devised solely for unlawful gambling or found in actual use for gambling within the Village and dispose thereof after a judicial determination that such device was used solely for gambling or found in actual use for gambling.

## § 385-19. Obstructing emergency or rescue personnel.

- A. Definitions. For the purposes of this section, the following definitions apply to the terms as used herein:

### **AMBULANCE**

An emergency vehicle, including any motor vehicle, boat or aircraft, whether privately or publicly owned, which is designated, constructed or equipped to transport patients.

### **AMBULANCE ATTENDANT**

A person who is responsible for the administration of emergency care procedures, proper handling and transporting of the sick, disabled or injured persons, including but not limited to ambulance attendants and ambulance drivers.

### **AMBULANCE SERVICE PROVIDER**

A person engaged in the business of transporting sick, disabled or injured persons by ambulance to or from facilities or institutions providing health services.

### **AUTHORIZED EMERGENCY VEHICLE**

Any of the following:

- (1) Police vehicles, whether publicly or privately owned;
- (2) Conservation wardens' vehicles or foresters' trucks, whether publicly or privately owned;
- (3) Vehicles of a fire department or fire patrol;
- (4) Privately owned motor vehicles being used by deputy state fire marshals or by personnel of a full-time or part-time fire department or by members of a volunteer fire department while en route to a fire or on an emergency call pursuant to orders of their chief or other commanding officer;

- (5) Such emergency vehicles of municipal or county departments or public service corporations as are designated or authorized by the local authorities to be authorized emergency vehicles;
- (6) Such emergency vehicles of state departments as are designated or authorized by the heads of such departments to be authorized emergency vehicles;
- (7) Such ambulances, publicly owned, as are designated or authorized by local authorities to be authorized emergency vehicles; and
- (8) Such ambulances which are privately owned and are operated by owners or their agents and which vehicles are authorized by the Sheriff or others designated by the county board to be operated as emergency vehicles. The Sheriff or others designated by the county board may make such authorization, which shall be in writing and which shall be effective throughout the state until rescinded. The Sheriff or others designated by the county board may designate any owner of ambulances usually kept in the county to operate such vehicles as authorized emergency vehicles. Such written authorization shall at all times be carried on each ambulance used for emergency purposes. The Sheriff shall keep a file of such authorizations in his office for public inspection, and all other persons permitted to issue authorizations shall file a copy of all authorizations issued with the Sheriff, who shall keep them on file.

#### **BONA FIDE EMERGENCY or BONA FIDE REQUEST FOR EMERGENCY SERVICES**

Those circumstances wherein the caller reasonably believes that person(s) and/or property may be in actual or potential danger of injury and, in the case of person(s), in danger of illness.

#### **EMERGENCY MEDICAL PERSONNEL**

Any emergency medical personnel, ambulance attendant, peace officer or firefighter, or other person operating or staffing an ambulance or an authorized emergency vehicle.

#### **PERSON**

Any individual, firm, partnership, association, corporation, trust, foundation, company, any governmental agency other than the U.S. government, or any group of individuals, however named, concerned with the operation of an ambulance.

- B. Prohibitions. It is the intent of the Village of Neshkoro, in its adoption of this provision, to protect against the foregoing activities in a manner consistent with that provided by § 941.37, Wis. Stats. The following acts are prohibited, and perpetration thereof subjects the violator to penalty as provided by § 1-4:
- (1) Knowingly obstructing any emergency medical personnel in the performance of duties relating to an emergency or rescue;
  - (2) Intentionally interfering with any medical personnel in the performance of duties relating to an emergency or rescue, when it is reasonable that the interference may endanger another's safety; or
  - (3) Knowingly making any telephone call to any emergency medical personnel, police agency or fire department for any purpose other than to report a bona fide emergency or to make a bona fide request for emergency services.

## **Article III. Offenses Against Property**

### **§ 385-20. Destruction of property prohibited.**

- A. Destruction of property. No person shall willfully injure or intentionally deface, destroy or unlawfully remove or interfere with any property belonging to the Village of Neshkoro, the Westfield School District, or to any private person without the consent of the owner or proper authority, nor shall any person or organization place or permit to be placed any sign, poster, advertisement, notice or other writing upon any utility ornamental light pole belonging to the Village without the consent of proper authority. Any signs, posters, advertisements, notices or other writings so placed shall be removed by law enforcement authorities and the placing person or organization cited for violation of this section.
- B. Parental liability. Pursuant to § 895.035, Wis. Stats., the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed \$2,500.
- C. Penalty provisions.
  - (1) Any person 18 years of age or over who violates this section is subject to a penalty as provided in § 1-4, restitution to the injured party, and the costs of prosecution.
  - (2) Any person 12 years of age to 17 years of age shall be subject to a forfeiture not to exceed \$50, plus restoration costs, and any other applicable penalty provided by § 938.344, Wis. Stats., as that section may exist, be amended or changed.<sup>[1]</sup>
    - [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- D. Victim remedies. Any person or entity injured by a violation of this section by a minor child shall be advised of the rights and remedies available under § 895.035, Wis. Stats.

## § 385-21. Littering.

- A. No person shall deposit or cause to be deposited in any public street or on any public ground, or on any private property not his/her own, any refuse, garbage, litter, waste material or liquid or any other objectionable material or liquid. When any such material is placed on the person's own private property, it shall be properly enclosed and covered so as to prevent the same from becoming a public nuisance.<sup>[1]</sup>
  - [1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II); this subsection was numbered Sec. 8-1-3 in the 1999 Code of Ordinances.*
- B. Littering prohibited. No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the Village of Neshkoro, or upon property within the Village owned by the Westfield School District or by any private person, or upon the surface of any body of water within the Village.
- C. Litter from conduct of commercial enterprise.
  - (1) Scope. The provisions of this subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.
  - (2) Litter to be cleaned up. Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the same within 12 hours of the time the same is deposited. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.
  - (3) Litter picked up at litterer's expense. If any person, firm, corporation or association fails to pick up any litter as required by Subsection C(1) within the time specified, the Village shall arrange to have the same picked up by Village crews or by private enterprise. The entire expense of picking up such litter, together with an additional charge of 20% for administrative expenses, shall be charged to the person, firm, corporation or association that did the littering. If such

sum is not promptly paid, steps shall be taken, with the advice of the Village Attorney's office, to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this section.

- D. Depositing of materials prohibited. It shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, grass, leaves, foliage, earth, sand, gravel, water, snow, ice, debris, waste material, foreign substance, construction materials, equipment or object upon any street, sidewalk or public property without authorization of the Village Board or upon any private property without the consent of the owner or lessee of the property. Any person who deposits, causes or permits to be deposited, placed or parked any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.
- E. Handbills.
- (1) Scattering prohibited. It shall be unlawful to deliver any handbills or advertising material to any premises in the Village except by being handed to the recipient, placed on the porch, stoop or entranceway of the building or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.
  - (2) Papers in public places prohibited. It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.

## § 385-22. Abandoned refrigerators prohibited.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his/her control in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing said door or lid, snap lock or other locking device from said icebox, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his/her agent and is securely locked or fastened.

## § 385-23. Theft of library material.

- A. Definitions. For the purposes of this section, certain words and terms are defined as follows:

### **ARCHIVES**

A place in which public or institutional records are systematically preserved.

### **LIBRARY**

Any public library, library of an educational or historical organization or society or museum, and specifically the public libraries within the Village of Neshkoro and school libraries.

### **LIBRARY MATERIAL**

Includes any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data-processing records, or other tapes, artifacts or other documents, written or printed materials, regardless of physical form of characteristics, belonging to, on loan to or otherwise in the custody of a library.

- B. Possession without consent prohibited. Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be subject to a

forfeiture as provided by the general penalty provisions of this Code.<sup>[1]</sup> The failure to return library material after its proper return date, after written notice from the library, Chief of Police and/or Village Attorney, shall be deemed to be theft. Notice shall be considered given when written notice is mailed to the last-known address of the person with the overdue material; the notice date shall be the date of mailing.

[1] *Editor's Note: See § 1-4.*

- C. Concealment. The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.
- D. Detention based on probable cause. An official or adult employee or agent of a library who has probable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a law enforcement officer or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose of the detention and be permitted to make telephone calls but shall not be interrogated or searched against his or her will before the arrival of a law enforcement officer, who may conduct a lawful interrogation of the accused person. Compliance with this section entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.
- E. Damaging material prohibited. No person shall mar, deface or in any other way damage or mutilate any book, periodical, pamphlet, picture or other article or property belonging to or in charge of the library. Any person convicted of violating this subsection shall be subject to the penalties as set forth in § 1-4.
- F. Return demanded. No person shall fail, on demand, to return any book periodical, pamphlet, picture or other articles or property belonging to or in charge of the Public Library according to the rules or regulations duly made and adopted by the Library Board, and no person shall remove from the Library any book, periodical, pamphlet, picture or other articles or property without first having it charged as provided by such rules and regulations. Any person convicted of violating any provision of this subsection shall be subject to the penalties as set forth in § 1-4.

## § 385-24. Damage to public property.

- A. Damaging public property. No person shall climb any tree or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flowerbed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure or other property within any park or parkway, or in any way injure, damage or deface any public building, sidewalk or other public property in the Village of Neshkoro.
- B. Breaking of street lamps or windows. No person shall break glass in any street lamps or windows of any building owned or occupied by the Village.
- C. Damaging fire hydrants and water mains. No person shall, without the authority of Village authorities, operate any valve connected with the street or water supply mains, or open any fire hydrant connected with the water distribution system, except for the purpose of extinguishing a fire. No person shall injure or impair the use of any water main or fire hydrant.

## § 385-25. Retail theft.

- A. Whoever intentionally alters indicia of price or value of merchandise or takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant without consent and with intent to deprive the merchant permanently of possession or the full purchase price may be penalized as provided in Subsection **D**.
- B. The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.
- C. A merchant or merchant's adult employee who has probable cause for believing that a person has violated this section in his/her presence may detain such person in a reasonable manner for a reasonable length of time to deliver him/her to a law enforcement officer or to his/her parent or guardian if a minor. The detained person must be promptly informed of the purpose for the detention and may make phone calls, but he/she shall not be interrogated or searched against his/her will before the arrival of a law enforcement officer, who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the merchant or his/her employee affecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.
- D. If the value of the merchandise does not exceed \$100, any person violating this section shall forfeit not more than \$1,000. If the value of the merchandise exceeds \$100, this section shall not apply and the matter shall be referred to the District Attorney for criminal prosecution.

## § 385-26. Issuance of worthless checks.

- A. Violations. Whoever issues any check or other order for the payment of money less than \$1,000, which, at the time of issuance, he or she intends shall not be paid, is guilty of a violation of this section.
- B. Prima facie evidence. Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for payment of money intended it should not be paid:
  - (1) Proof that, at the time of issuance, the person did not have an account with the drawee;
  - (2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order; or
  - (3) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order.
- C. Exceptions. This section does not apply to a postdated check or to a check given in past consideration, except a payroll check.
- D. Returned check fee. In the event a person issues a check to the Village and does not have sufficient funds or credit such that the check is returned unpaid, such person shall pay the check or other order and shall also pay a fee as set by the Village Board, representing the cost of additional administrative expense which results from nonpayment of the original obligation.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). The current Fee Schedule is on file in the Village office.*
- E. Penalties.
  - (1) In addition to any other penalties provided for under § 1-4, a Judge may order a violator of this section to pay restitution to a victim. In determining the method of payment, the Court

shall consider the financial resources and future ability of the violator to pay. The Court shall provide for payment of an amount equal to the pecuniary loss caused by the offense. Upon the application of an interested party, the Court shall schedule and hold an evidentiary hearing to determine the value of the victim's pecuniary loss resulting from the offense. A victim may not be compensated under this section and under § 943.245, Wis. Stats.

(2) In this section, "pecuniary loss" means:

- (a) All special damages, but not general damages, substantiated by evidence in the record, which a person could recover against the violator in a civil action arising out of the facts or events constituting the violator's criminal activities, including, without limitation because of enumeration, the money equivalent of loss resulting from property taken, destroyed, broken or otherwise harmed and out-of-pocket losses, such as medical expenses; and
- (b) Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of the offense.

## § 385-27. Trespass to a dwelling or land.

- A. Trespass to land. No person shall enter or remain on any land after having been notified by the owner or occupant not to remain on the premises.
- B. Trespass to dwelling. No person shall intentionally enter the dwelling of another without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace.

## § 385-28. Regulation of smoking.

- A. State statute adopted. The provisions of § 101.123, Wis. Stats., relating to the regulation of smoking and clean indoor air, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this section. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this section.
- B. Smoking prohibited within or upon all buildings and equipment owned, leased or rented by the Village. In recognition of a need to protect the health and comfort of the public and Village employees from the detrimental effects of smoking, pursuant to the authority granted to the Village by § 101.123(2)(c), Wis. Stats., smoking, as defined by § 101.123(1)(h), Wis. Stats., is hereby prohibited by any person within or upon all buildings and enclosed equipment owned, leased or rented by the Village of Neshkoro, except in designated areas.
- C. State statutes adopted. The provisions contained in § 120.12(20), Wis. Stats., regulating smoking on school premises are adopted by reference and made a part of this section as though set forth in full.

## § 385-29. Theft prohibited.

- A. Acts. Whoever does any of the following may be penalized as provided in § 1-4 of this Code:
  - (1) Intentionally takes and carries away, uses, transfers, conceals or retains possession of movable property of another without his/her consent and with intent to deprive the owner permanently of possession of such property.

- (2) By virtue of his/her office, business or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally uses, transfers, conceals or retains possession of such money, security, instrument, paper or writing without the owner's consent, contrary to his/her authority, and with intent to convert to his/her own use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing which is in his/her possession or custody by virtue of his/her office, business or employment, or as trustee or bailee, upon demand of the person entitled to receive it or as required by law, is prima facie evidence of an intent to convert to his/her own use within the meaning of this subsection.
- (3) Having a legal interest in movable property, intentionally and without consent takes such property out of the possession of the pledgee or such other person having a superior right of possession with intent thereby to deprive the pledgee or other person permanently of the possession of such property.
- (4) Obtains title to property of another by intentionally deceiving him/her with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.
- (5) Intentionally fails to return any personal property which is in his/her possession or under his/her control by virtue of a written lease or written rental agreement within 10 days after the lease or rental agreement has expired.

B. Definitions. The following definitions shall be applicable in this section:

**MOVABLE PROPERTY**

Property whose physical location can be changed, without limitation, including electricity and gas, documents which represent or embody intangible rights, and things growing on or affixed to or found in land.

**PROPERTY**

All forms of tangible property, whether real or personal, without limitation, including electricity, gas and documents which represent or embody a choice in action or other intangible rights.

**PROPERTY OF ANOTHER**

Includes property in which the actor is a co-owner and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife.

**VALUE**

The market value at the time of the theft or the cost to the victim of replacing the property within the reasonable time after the theft, whichever is less, if the property stolen is a document evidencing a choice in action or other intangible right; value means either the market value of the chose in action or other right or the intrinsic value of the document, whichever is greater. If the thief gave consideration for or had a legal interest in the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.

## § 385-30. Fraud on residential landlords prohibited.

A. Prohibited acts. Any person who, with intent to defraud, does any of the following shall be guilty of violating this section:

- (1) Intentionally absconds without paying rent that has been contractually agreed upon in an oral or written lease with a landlord. Prima facie evidence of intentionally absconding will be established if a tenant fails to pay rent due prior to the vacating of the rental premise by the

- tenant and the nonpayment of said rent continues for a period of five days after vacation of the premise; or
- (2) Issues any check, money order or any other form of bank or monetary draft as a payment of rent where such document lacks sufficient funds, where the account is closed, or where such draft is unredeemable in any other form or fashion. Prima facie evidence of intention to defraud will be established if a tenant fails, within five days of a written demand by the landlord or agent, to pay in full the total amount of the draft presented as rent payment plus any bank charges to the landlord attributable to the unredeemability of the draft.
- B. Applicability. This section shall apply to rental agreements between residential landlords and tenants only. The words and terms used in this section shall be defined and construed in conformity with the provisions of Ch. ATCP 134, Wis. Adm. Code, Ch. 704, Wis. Stats., and § 990.001(1), Wis. Stats. The act of service by a landlord of a legal eviction notice or notice to terminate tenancy shall not, in itself, act as a bar to prosecution under this section.
- C. Procedure. An officer may issue a citation only when the complainant provides the following:
- (1) The name and current address of the tenant, a copy of the subject lease agreement, or sworn testimony of the terms of the subject oral lease.
  - (2) The amount of rent due, the date it was due, the date the tenant actually vacated the premise, and testimony that the rent remained unpaid for not less than five days after vacating and that the tenant did not notify or attempt to notify the complainant of the tenant's new address, or that the tenant knowingly gave the complainant a false address.
  - (3) As to an unredeemable payment, the document used for attempting rent payment, the written demand for payment of the full amount plus bank charges, proof that the tenant received the written demand, and testimony that at least five days have elapsed since the demand was received and no payment has been made.

## § 385-31. Graffiti.

- A. Definition. "Graffiti" is any drawing, figure, inscription, symbol or other marking which is scratched, painted, drawn in pen or marker, or placed by some other permanent or semipermanent means upon sidewalks, streets, public or private structures or any other place in public view without the express permission or consent of the property owner.
- B. Public nuisance. Graffiti is hereby declared to be a public nuisance, as defined under Chapter **368** of this Code, affecting peace and safety.
- C. Prohibitions. No person shall write, spray, scratch or otherwise affix graffiti upon any property whether private or public without the consent of the owner or owners of said property. Any person who shall affix graffiti to any property without the consent of the owner shall be liable for the costs of removing or covering such graffiti in addition to any fines imposed for violating this section. The parents of any unemancipated minor child who affixed graffiti shall be held liable for the cost of removing or covering said graffiti in accordance with § 895.035, Wis. Stats.
- D. Removal by property owner.
- (1) Every owner of a structure or property defaced by graffiti shall cover or remove the graffiti within 15 days in compliance with written notice served upon them by the Village of Neshkoro to remove or cover such graffiti.
  - (2) In the event any owner fails to comply with the above-mentioned notice, the Village of Neshkoro may have the graffiti covered or removed, and in such event, all costs, fees and expenses will be assessed to said owner's real estate taxes pursuant to § 66.0627, Wis. Stats.<sup>[1]</sup>

- [1] *Editor's Note: Original Sec. 11-3-13, Cemetery regulations, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II); see § 213-6 for provisions pertaining to cemetery rules for visitors.*

## Chapter 396. Property Maintenance

[HISTORY: Adopted by the Village Board of the Village of Neshkoro as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Health and sanitation — See Ch. 293.

Nuisances — See Ch. 368.

Abandoned vehicles — See Ch. 476.

Zoning — See Ch. 500.

## Article I. Minimum Standards

[Adopted 4-5-1999 as Title 15, Ch. 4, of the 1999 Code]

### § 396-1. Minimum property maintenance standards.

- A. Policy. There exist in the Village of Neshkoro structures, residential yards or vacant areas, or combinations thereof, which are or may become unhygienic, dilapidated or unsafe with respect to structural integrity, equipment or maintenance and, as such, constitute a menace to the health, safety and welfare of the public. Lack of maintenance and progressive deterioration of certain properties have the further effect of creating blighted area conditions and, if such conditions are not curtailed and removed, the expenditure of large amounts of public funds to correct and eliminate the same will be necessary. Timely regulation and restriction to contain and prevent blight is necessary, thereby maintaining the desirability and amenities as well as property values of the neighborhoods in the Village.
- B. Purpose. The purpose of this article is to protect public health, safety and welfare by establishing minimum property maintenance standards. This article does not replace or modify standards otherwise established by other portions of this Code for construction, repair, alteration or use of buildings. This article is meant to be remedial, and this article should be liberally construed to effectuate the purposes stated herein. Violation of the minimum standards set forth in this article shall be deemed to be a public nuisance.

### § 396-2. Definitions.

For purposes of this article, the following definitions shall be applicable:

#### ABANDONED DWELLING

A dwelling which is not occupied and which is not intended by the owner to be occupied within a reasonable period of time. A dwelling shall be presumed to be abandoned if it is unoccupied for a period of 12 consecutive months. Occupancy required hereunder shall be bona fide and not acquired for the sole purpose of defeating the abandonment of a dwelling.

#### ACCESSORY STRUCTURE

A structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.

#### BLIGHTED AREA

Any area (including a slum area) in which a majority of the structures are residential (or in which there is a predominance of buildings or improvements, whether residential or nonresidential) and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to all ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals or welfare.

#### **BUILDING**

Any structure built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land, or connected to a utility, and includes those structures resting on runners, wheels or similar supports.

#### **DETERIORATION**

The condition or appearance of a building or part thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay, neglect, lack of maintenance or excessive use.

#### **DILAPIDATED**

Describes a building, structure or part thereof which is in a state of ruin or shabbiness resulting from neglect. The term implies a hazard to life or property.

#### **DWELLING**

Any enclosed space which is wholly or partly used or intended to be used for living or sleeping by human occupants.

#### **NUISANCE**

Any public nuisance known at common law or in equity jurisprudence or as provided by the statutes of the State of Wisconsin or the Village of Neshkoro Code. Further, a public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- A. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public; or
- B. In any other way render the public insecure in life or in the use of property.

#### **OCCUPANT**

Any person living, sleeping or having actual possession of a building.

#### **OWNER**

Any person who, alone or jointly or severally with others:

- A. Shall have legal title to any premises, with or without accompanying actual possession thereof; or
- B. Shall have charge, care or control of any premises, as owner or agent of the owner or an executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article and of rules and regulations adopted pursuant thereto to the same extent as if he were the owner.

#### **PERSON**

Any natural individual, firm, trust, partnership, association or corporation.

#### **PREMISES**

A platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by a dwelling or nondwelling structure and includes any such building, accessory structure or other structure thereon.

#### **REFUSE**

All putrescible and nonputrescible solids (except body wastes), including garbage, rubbish, ashes and dead animals.

## **RUBBISH**

Nonputrescible solid wastes (excluding ashes), consisting of either:

- A. Combustible wastes such as paper, cardboard, plastic containers, yard clippings and wood; or
- B. Noncombustible wastes such as tin cans, glass or crockery.

## **§ 396-3. Accumulation of litter, rubbish or debris.**

No owner or occupant shall accumulate or allow the accumulation outside of a building or accessory structure of waste matter, litter, refuse, rubbish, lumber, metal scraps, machine parts, accessories, furniture or other material on such property which presents a blighted appearance on the property or which constitutes a nuisance or which tends to decrease the value of neighboring properties.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## **§ 396-4. Housing appearance.**

- A. Minimum standards. No person shall occupy as owner-occupant or shall let or hold out to another for occupancy any dwelling or family unit, for the purpose of living therein, or own or be in control of any vacant dwelling or dwelling unit which is not safe, clean, sanitary and fit for human occupancy and which does not comply with the particular requirements of the following subsections.
- B. Foundations, exterior walls and roofs. No person shall be an owner or occupant of any premises which does not comply with the following requirements:
  - (1) Every exterior wall shall be free of deterioration, holes, breaks, loose or rotting board or timbers.
  - (2) Structures that require paint or stain should have paint or stain applied at regular intervals to exterior building surfaces. When the building has more than 30% deterioration of its finished surface on any wall, that wall shall be painted or stained. Such painting and staining shall be completed within 90 days from the date of the first application.
  - (3) All cornices, moldings, lintels, sills, oriel windows, and similar projections shall be kept in good repair and free from cracks and defects which make them hazardous or unsightly.
  - (4) Roof surfaces shall be tight and have no defects which admit water. All roof drainage systems shall be secured and hung properly.
  - (5) Chimneys, antennas, air vents, and other similar projections shall be structurally sound and in good repair. Such projections shall be secured properly, where applicable, to an exterior wall or exterior roof.
- C. Grading and drainage of lots. Every yard, court, vent passageway, driveway, and other portion of the lot on which the building stands shall be graded and drained so as to prevent the accumulation of water on any such surface or on adjacent property. Driveways shall be maintained in good repair.
- D. Accessory structures. All accessory structures shall be maintained in a state of good repair and vertical alignment. All exterior appurtenances or accessory structures which serve no useful purpose and are in a deteriorated or dilapidated condition, which are not economically repairable, shall be removed. Such structures include, but shall not be limited to, porches, terraces, entrance platforms, garages, driveways, carports, walls, fences and miscellaneous sheds.

- E. Abandoned dwellings. The owner of any abandoned dwelling shall:
- (1) Cause all services and utilities to be disconnected from or discontinued to said dwelling;
  - (2) Lock all exterior doors and windows of said dwelling;
  - (3) Maintain such dwelling so that its foundation, floors, windows, walls, doors, ceilings, roof, porches and stairs shall be reasonably weathertight, waterproof, rodentproof, structurally sound, and in good repair such that they comply with Subsection **B**; and
  - (4) Maintain the yard and accessory structures such that they comply with Subsections **C** and **D**.
- F. Nuisances. The interior and exterior of vacant and abandoned dwellings shall be maintained in a nuisance-free condition.

## § 396-5. Notice and remedy

[Amended 12-5-2005]

- A. Upon determination of a violation of this article, the Village shall notify the owner and, if different from the owner, the occupant of the premises of such violation.
- B. The notice shall specify the nature of the violation, the required correction and a reasonable time, not to exceed 30 days, to correct the violation. The notice shall be served upon the person or persons named, personally or by certified mail addressed, postage paid, to the last known address of such person or persons.
- C. The person so notified shall have the right to appeal the decision to the Village Board within 30 days of the date of the notice.
- D. If, upon expiration of the time given for correction of a violation and time for any appeal has expired and such correction has not been made, an action may be filed in the name of the Village in the Circuit Court for Marquette County, Wisconsin, in accordance with the provisions of Ch. 823, Wis. Stats., as amended from time to time.
- E. In addition to, or in lieu of, the Village may choose to have the Neshkoro Police Department issue a municipal citation to the offending party or parties. Each day the violation exists is considered a separate offense.
- F. A violation of this article is subject to the general penalty provisions of § 1-4, Village of Neshkoro Code.

## § 396-6. Other methods not excluded.

Nothing in this article shall be construed as prohibiting the abatement of public nuisance by the Village of Neshkoro or its officials in accordance with the laws of the State of Wisconsin or Village ordinances.

## § 396-7. Cost of abatement.

In addition to any other penalty imposed by this article for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

## Article II. Commercial Property

## § 396-8. Title.

This article shall be known as the "Village of Neshkoro Commercial Property Exterior Maintenance Code."

## § 396-9. Intent and purpose.

- A. This article is adopted for the purpose of preserving and promoting the public health, safety, comfort, convenience, prosperity and general welfare of the people of the Village and environs. This includes, among others, physical, aesthetic and monetary values.
- B. It is recognized that there may now be or may in the future be commercial buildings, structures, yards or vacant areas and combinations thereof which are so dilapidated, unsafe, dangerous, unhygienic or inadequately maintained so as to constitute a menace to the health, safety and general welfare of the people. The establishment and enforcement of minimum commercial property maintenance standards is necessary to preserve and promote the private and public interest.

## § 396-10. Safe, sanitary and attractive maintenance of property.

- A. Purpose. The purpose of this section is to recognize the private and public benefits resulting from the safe, sanitary and attractive maintenance of commercial buildings, structures, yards or vacant areas. Attractive and well-maintained property will enhance the neighborhood and Village and provide a suitable environment for increasing physical and monetary values.
- B. Minimum requirements. Every owner or operator shall improve and maintain all property under his control to comply with the following minimum requirements:
  - (1) Drainage. All courts, yards or other areas on the premises shall be properly graded to divert water away from any building or structure.
  - (2) Weeds. All exterior property areas shall be kept free from noxious weeds as required by this Code.<sup>[1]</sup> Where weed cutting is required, the Weed Committee shall perform said weed cutting and process the charge therefor as a special assessment against the benefitted property.<sup>[2]</sup>
    - [1] *Editor's Note: See § 396-19, Destruction of noxious weeds.*
    - [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (3) Debris. All exterior property areas shall be properly maintained in a clean and sanitary condition free from debris, rubbish or garbage, physical hazards, rodent harborage and infestation, and animal feces. All animal feces shall be removed within 24 hours.
  - (4) Fences, walks and parking areas. Fences, other minor construction, walks, driveways, parking areas, and similar paved areas shall be properly maintained in a safe, sanitary and substantial condition. Approved walks shall provide all-weather access to buildings or structures.
  - (5) Exterior surfaces. Exterior surfaces of buildings and structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint or other preservative shall be maintained so as to prevent chipping, cracking or other deterioration of the exterior surface or the surface

treatment and to present an attractive appearance. All paint or other preservative shall be applied in a workmanlike fashion.

- (6) Yard areas. Yard areas of real estate shall not be permitted to deteriorate or remain in a condition that is not in accord with the following: Yard areas shall be kept in a clean and sanitary condition, free from any accumulation of combustible or noncombustible materials (which are not used as an integral part of the authorized business carried out on the premises), debris or refuse. Unless in a properly zoned district and screened by a visual barrier at least five feet high, yards shall not be used to store appliances, furnaces, hot water heaters, water softeners, or building material not used within five days, or any unsightly bulk items, unless these items are raw materials used in the business carried out on the premises.
- (7) General requirements. Every foundation, exterior wall, and roof shall be reasonably weathertight, watertight and rodentproof and shall be kept in proper repair and shall be capable of affording privacy. Any hazardous sagging or bulging shall be properly repaired to a level or plumb position. All chimneys and breeching shall be so constructed and maintained so as to ensure that it safely and properly removes the products of combustion from the building.
- (8) Windows and doors. Every window, exterior door, and basement hatchway shall be reasonably weathertight, watertight and rodentproof and kept in proper repair. All door and window hardware shall be installed and maintained in proper working condition.
- (9) Outside stairs and porches. Every outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in proper condition and repair and shall present an attractive appearance. All exterior stairs and steps and every appurtenance thereto shall comply with the requirements specified in the Wisconsin Administrative Code.
- (10) Removal of debris.
  - (a) No person shall dispose of rocks, trees, stumps, waste building material, or other debris from land development, building construction, street grading, or installation of underground utilities upon the surface of any land in the Village, except at approved disposal sites.
  - (b) No landowner shall allow an accumulation of rocks, trees, stumps, waste building material, or other debris from land development, building construction, street grading, or installation of underground utilities upon the surface of his land for a period of more than 10 days.
  - (c) All land-filling operations shall be leveled off to permit the mowing of the weeds between June 1 and November 1. This includes the removal of stones, bottles, wire and other debris that will interfere with mowing operations.

## § 396-11. Fixing responsibility of owners, operators and occupants.

Every owner, operator or occupant of a commercial property, or part thereof, shall maintain that portion of the exterior of the property controlled by him/her.

## § 396-12. Enforcement; service of notices.

Whenever the Building Inspector determines that there are reasonable grounds to believe that there has been a violation of any provision of this article or of any rule or regulation adopted pursuant thereto, he/she shall give notice of such alleged violation to the person or persons responsible therefor and commence an enforcement action pursuant to Article I of this chapter.

# Article III. Junked Vehicles and Appliances

[Adopted 4-5-1999 as Sec. 10-5-8 of the 1999 Code]

## § 396-13. Storage restricted.

A. No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery, appliances or construction debris shall be stored unenclosed upon private property within the Village of Neshkoro for a period exceeding 10 days unless it is in connection with an authorized business enterprise maintained in such a manner as to not constitute a public nuisance and in compliance with Village zoning regulations.

[Amended 9-14-2015]

B. No disassembled, inoperable or junked farm machinery shall be kept or stored outside upon property zoned agricultural for a period exceeding 30 days. A one-time thirty-day storage extension may be granted by the Village Board pursuant to § **396-15** below. Violations of this subsection are deemed to be a public nuisance.

## § 396-14. Definitions.

As used in this article, the following terms shall have the meanings indicated:

### **DISASSEMBLED, INOPERABLE, JUNKED OR WRECKED MOTOR VEHICLES, TRUCK BODIES, TRACTORS, TRAILERS**

Motor vehicles, recreational vehicles, truck bodies, tractors, farm machinery or trailers in such state of physical or mechanical ruin as to be incapable of propulsion, being operated upon the public streets or highways, or which are otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects.

### **INOPERABLE APPLIANCE**

Any stove, washer, refrigerator or other appliance which is no longer operable in the sense for which it was manufactured.

### **MOTOR VEHICLE**

As defined in § 340.01(35), Wis. Stats.

### **UNLICENSED MOTOR VEHICLES, TRUCK BODIES, TRACTORS OR TRAILERS**

Motor vehicles, truck bodies, tractors, recreational vehicles or trailers which do not bear lawful current license plates.

## § 396-15. Exceptions.

This article shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building or on the premises of a business enterprise operated in a lawful place and manner in a properly zoned area in such a manner as to not constitute a nuisance, when necessary to the operation of such business enterprise; in a storage place or depository maintained in a lawful place and manner; or seasonal-use vehicles such as snowmobiles, motorcycles, motor scooters and nonmotorized campers, provided such vehicles are stored in compliance with the ordinances of the Village. Also excepted are motor vehicles registered pursuant to §§ 341.265 and 341.266, Wis. Stats. In other situations, the Village Board may issue a one-time temporary permit permitting an extension of not to exceed an additional 30 days' time to comply with this article where exceptional facts and circumstances warrant such extension.

## § 396-16. Enforcement.

- A. Whenever a law enforcement officer shall find any violation of this article, such officer shall provide notice to the owner and/or occupant of the real estate upon which the violation exists, and/or to the owner and/or occupant of such nuisance property causing the violation, to remove such property, either immediately in the case of an emergency or from one to 30 days in the case of a nonemergency situation. In the event there is not compliance at the expiration of the notice period set forth above, the law enforcement officer may cause to be issued a citation to the property owner and/or occupant of the property on which said violation exists and/or to the owner and/or occupant of such property causing the violation. Said citation shall provide that the violation shall be remedied:
- (1) In the case of an emergency, immediately; or
  - (2) In nonemergency situations, from one to 30 days. Such citation may also provide for a forfeiture pursuant to § 1-4.
- B. If such violation is not remedied within the time set forth in the citation issued under Subsection **A(1)** above, the law enforcement officer may cause the vehicle, appliance or other property causing the violation to be removed and impounded, and it shall thereafter be disposed of as prescribed in §§ 476-3 through 476-6<sup>[1]</sup> by the law enforcement officer, or his/her duly authorized representative. Any costs incurred in the removal and sale of said vehicle, appliance or other violating property shall be recovered from the tenant of the property from upon which it was removed and/or the owner of the property from upon which it was removed. However, if the owner of the vehicle, appliance or other property cannot be readily found, the cost of such removal shall be charged to the property from which it is removed, which charges shall be entered as a special charge on the tax roll pursuant to § 66.0627, Wis. Stats.
- [1] *Editor's Note: See Ch. 476, Vehicles, Abandoned.*
- C. Each day a violation exists after the expiration of time set forth in the citation above shall constitute a new and separate offense. Use of the abatement procedures in this section shall not preclude the Village's use of other enforcement measures, including, but not limited to, imposing a forfeiture under § 1-4 pursuant to § 396-17 below.

## § 396-17. Violations and penalties.

Any person who shall interfere with the enforcement of any of the provisions of this article and shall be found guilty thereof shall be subject to a penalty as provided in § 1-4 of the Code. Each motor vehicle or appliance involved shall constitute a separate offense.

## Article IV. Lawns and Yards

[Adopted 4-5-1999 as Secs. 8-1-1 through 8-1-6 of the 1999 Code]

## § 396-18. Rules and regulations.

The Village Board may make reasonable and general rules for the enforcement of the provisions of this article and for the prevention of the creation of health nuisances and the protection of the public health and welfare and may, where appropriate, require the issuance of licenses and permits. All such regulations shall have the same effect as ordinances, and any person violating any of such regulations and any lawful order of the Board shall be subject to the general penalty provided for in this Code.<sup>[2]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: Original Secs. 8-1-2, Health nuisance, abatement of, and 8-1-3, Deposit of deleterious substance prohibited, which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 396-19. Destruction of noxious weeds.

- A. The Village Clerk-Treasurer shall annually, on or before May 15, publish as required by state law a notice that every person is required by law to destroy all noxious weeds on lands in the Village which he/she owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.
- B. If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Committee of the Village shall give five days' written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that the said Weed Committee after the expiration of the five-day period will proceed to destroy or cause to be destroyed all such weeds growing upon said lands and that the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of § 66.0517, Wis. Stats. In case the owner or occupant shall further neglect to comply within such five-day notice, then the Weed Committee shall destroy such weeds or cause them to be destroyed in the manner deemed to be the most economical method, and the expense thereof, including the cost of billing and other necessary administrative expenses, shall be charged against such lots and be collected as a special tax thereon.  
[Amended 10-4-2010]
- C. As provided for in § 66.0407, Wis. Stats., the Village shall require that all noxious weeds shall be destroyed prior to the time in which such plants would mature to the bloom or flower state. The growth of noxious weeds in excess of 10 inches in height from the ground surface shall be prohibited within the Village of Neshkoro corporate limits. Noxious weeds shall include any weed, grass or similar plant growth which, if allowed to pollinate, would cause or produce hay fever in human beings or would cause a skin rash through contact with the skin.
- (1) Noxious weeds, as defined in this section, shall include but not be limited to the following:
- (a) *Cirsium arvense* (Canada thistle).
  - (b) *Ambrosia artemisiifolia* (common ragweed).
  - (c) *Ambrosia trifida* (great ragweed).
  - (d) *Euphorbia esula* (leafy spurge).
  - (e) *Convolvulus arvensis* (creeping jenny) (field bind weed).
  - (f) *Tragopogon dubius* (goat's beard).
  - (g) *Rhus radicans* (poison ivy).
  - (h) *Cirsium vulgaries* (bull thistle).
  - (i) *Pastinaca sativa* (wild parsnip).
  - (j) *Arctium minus* (burdock).
  - (k) *Xanthium strumarium* (cocklebur).
  - (l) *Amaranthus retroflexus* (pigweed).
  - (m) *Chenopodium album* (common lambsquarter).
  - (n) *Rumex crispus* (curled dock).

- (o) Cannabis sativa (hemp).
  - (p) Plantago lanceolata (English plantain).
- (2) Noxious grasses, as defined in this section, shall include but not be limited to the following:
- (a) Agrostia alba (redtop).
  - (b) Sorghum halepense (johnson).
  - (c) Setaria (foxtail).
- (3) Noxious weeds are also the following plants and other rank growth:
- (a) Ragweed.
  - (b) Thistles.
  - (c) Smartweed.
  - (d) Dandelions (over 10 inches in height).

## § 396-20. Regulation of natural lawns.

[Amended 10-4-2010]

Natural lawns defined. "Natural lawn," as used in this section, shall include common species of grass and wildflowers native to North America which are designed and purposely cultivated to exceed 10 inches in height from the ground. Specifically excluded in natural lawns are the noxious grasses and weeds identified in § 396-19 of this article. Persons wishing to have a natural lawn must receive permission from the Village Board.

## § 396-21. Regulation of length of lawn and grasses.

- A. Purpose. This section is adopted due to the unique nature of the problems associated with lawns, grasses and noxious weeds being allowed to grow to excessive length in the Village of Neshkoro.
- B. Public nuisance declared. The Village Board finds that lawns, grasses and noxious weeds on nonagricultural lots or parcels of land, as classified under the Village Zoning Code, within the Village of Neshkoro which exceed eight inches in length adversely affect the public health and safety of the public in that they tend to emit pollen and other discomforting bits of plants, constitute a fire hazard and a safety hazard in that debris can be hidden in the grass, interfere with the public convenience and adversely affect property values of other land within the Village. For that reason, any nonagricultural lawn, grass or weed on a lot or other parcel of land which exceeds eight inches in length is hereby declared to be a public nuisance, except for property located in a designated floodplain area and/or wetland area or where the lawn, grass or weed is part of a natural lawn approved pursuant to § 396-20 above.

[Amended 8-4-2019]

- C. Nuisances prohibited. No person, firm or corporation shall permit any public nuisance as defined in Subsection **B** above to remain on any premises owned or controlled by him/her within the Village.
- D. Inspection. The Weed Committee or its designee shall inspect or cause to be inspected all premises and places within the Village to determine whether any public nuisance, as defined in Subsection **B** above, exists.

[Amended 10-4-2010]

- E. Abatement of nuisance. If the Weed Committee shall determine with reasonable certainty that any public nuisance as defined in Subsection **B** above exists, the Weed Committee shall immediately

cause written notice to be mailed or served on the owner of the lot or parcel of land or, if he/she is not known and there is a tenant occupying the property, then to the tenant, that the Village proposes to have the lot grass or lawn cut so as to conform with this section and § 396-20. A property owner shall only be notified once annually, rather than per occurrence.  
[Amended 10-4-2010; 11-3-2014]

F. Due process hearing. If the owner believes that his/her grasses or weeds are not a nuisance, he/she may request a hearing before the Village Board. The request for said hearing must be made in writing to the Village Clerk-Treasurer's office within the five days set forth in the Weed Committee's notice. Upon application for the hearing, the property owner must deposit a twenty-five-dollar bond. If a decision is rendered in the property owner's favor, the \$25 will be returned to the property owner. If the property owner fails to appear for the hearing or if the decision is rendered against the property owner, the deposit shall be forfeited and applied to the cost of Village personnel abating the nuisance, if necessary. When a hearing is requested by the owner of the property, a hearing by the Village Board shall be held within seven days from the date of the owner's request. The property in question will not be mowed by the Village until such time as the hearing is held by the Village Board. At the hearing, the owner may appear in person or by his/her attorney, may present witnesses in his/her own behalf and may cross-examine witnesses presented by the Village as well as subpoena witnesses for his/her own case. At the close of the hearing, the Village Board shall make its determination in writing, specifying its findings, facts and conclusions. If the Village Board determines that a public nuisance did exist, the Village Board shall order the Weed Committee to mow the property in question unless the property has been mowed by the owner within 48 hours of the Village Board's decision. If the owner does not abate the nuisance within the described 48 hours, the Weed Committee shall cause the same nuisance to be abated and cost in excess of the forfeited fee assessed accordingly.  
[Amended 10-4-2010]

G. Village's option to abate nuisance. In any case where the owner, occupant or person in charge of the property shall fail to cut his/her lawn, grass or weeds as set forth above, then and in that event, the Village may elect to cut said lawn, grass or weeds as follows:  
[Amended 11-3-2014]

- (1) The written notice required in Subsection E, sent once annually, shall inform said person that, in the event of his/her failure to abate the nuisance within the prescribed time, the Village shall abate the same and the cost thereof shall be assessed to the property owner as a special charge.
- (2) The Village shall cut or cause to be cut all grass and weeds from the subject's property and shall charge the expenses of so doing at a rate as established by the Village Board, including the cost for damage to any equipment. The charges shall be set forth in a statement to the Village Clerk-Treasurer who, in turn, shall mail the same to the owner, occupant or person in charge of the subject premises. If said statement is not paid in full within 30 days thereafter, the Village Clerk-Treasurer shall enter the charges in the tax roll as a special charge against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate or as provided under § 66.0907(3)(f), Wis. Stats.

## Chapter 420. Sewers

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 10-7-1997. Amendments noted where applicable.]

### GENERAL REFERENCES

Health and sanitation — See Ch. 293.

Streets, sidewalks and public grounds — See Ch. 445.

Subdivision of land — See Ch. 450.

Zoning — See Ch. 500.

## Article I. Introduction and General Provisions

## § 420-1. Intent.

This chapter regulates the use of public and private sewers and drains, discharge of septage into the public sewerage system, and the discharge of waters and wastes into the public sewerage systems within the Village of Neshkoro. It provides for and explains the method used for levying and collecting wastewater treatment service charges, sets uniform requirements for discharges into the wastewater collection and treatment systems and enables the Village to comply with administrative provisions and other discharge criteria which are required or authorized by the State of Wisconsin or federal law. Its intent is to derive the maximum public benefit by regulating the characteristics of wastewater discharged into the Village of Neshkoro sewerage system.

## § 420-2. Purpose; applicability.

This chapter provides a means for determining wastewater and septage volumes, constituents and characteristics, the setting of charges and fees, and the issuing of permits to certain users. Revenues derived from the application of this chapter shall be used to defray the costs of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for capital outlay, debt service costs and capital improvements. The charges and fees herein have been established pursuant to requirements of the Wisconsin Statutes. This chapter shall supersede any previous ordinance, rules or regulations and shall repeal all parts thereof that may be inconsistent with this chapter. If there is any conflict between this chapter and any applicable statute, the state statute shall be controlling.

## § 420-3. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

### **AMMONIA NITROGEN (NH<sub>3</sub>-N)**

One of the oxidation states of nitrogen, in which nitrogen is combined with hydrogen in molecular form as NH<sub>3</sub> or in ionized form as NH<sub>4</sub>. Quantitative determination of ammonia nitrogen shall be made in accordance with procedures set forth in the most recent edition of "Standard Methods."

### **APPROVING AUTHORITY**

The Village Board of the Village of Neshkoro, or its duly authorized committee, agent or representative.

### **BIOCHEMICAL OXYGEN DEMAND (BOD)**

The quantity of oxygen utilized in the biochemical oxidation of organic matter in five days at 20° C., expressed in milligrams per liter. Quantitative determination of BOD shall be made in accordance with procedures set forth in the most recent edition of "Standard Methods."

### **BUILDING DRAIN**

That part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the wall of the building and conveys it to the building sewer, beginning approximately five feet outside the inner face of the building wall.

### **BUILDING SEWER**

The extension from the building drain to the public area, also referred to as the "lateral." Except as specifically provided in this chapter, the Village shall not be responsible for the construction and maintenance of building sewers or laterals.

### **CHEMICAL ELEMENTS AND COMPOUNDS**

That are typically found in wastewater and may be regulated by this chapter.

Ammonia nitrogen	NH <sub>3</sub>
Arsenic	As
Cadmium	Cd
Copper	Cu
Chromium	Cr
Cyanide	Cn
Lead	Pb
Mercury	Hg
Nickel	Ni
Nitrogen	N
Phosphorus	P
Radium	Ra
Zinc	Zn

### **COMMERCIAL USER**

Any user whose premises are used primarily for the conduct of a profit-oriented enterprise in the fields of construction, wholesale or retail trade, finance, insurance, real estate or services, and who discharges primarily normal domestic sewage.

### **COMPATIBLE POLLUTANTS**

Biochemical oxygen demand, suspended solids, phosphorus, nitrogen, or pH, plus additional pollutants identified in the WPDES permit for the wastewater treatment works receiving the pollutant, if such works were designed to treat such additional pollutants to a substantial degree.

### **EASEMENT**

An acquired legal right for the specific use of land owned by others.

### **FLOATABLE OIL**

Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater or septage shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection or treatment systems.

### **GARBAGE**

The residue from the preparation, cooking and dispensing of food, and from the handling, storage and sale of food products and produce.

### **GROUND GARBAGE**

The residue from the preparation, cooking and dispensing of food that has been shredded to such degree that all particulates will be no greater than 1/2 inch in any dimension and will be carried freely in suspension under normal flow conditions in sewers.

### **HOLDING TANK SERVICE AREA**

The area outside the Village's current sewer service area, but inside or equal to the Village's future sewer service area, where a contract has been developed for holding tank wastewater to be treated at the wastewater treatment works.

### **INCOMPATIBLE POLLUTANTS OR WASTEWATER**

Wastewater or septage with pollutants that will adversely affect or disrupt the wastewater treatment processes, effluent quality or sludge quality if discharged to the wastewater facilities.

### **INDUSTRIAL USER**

Any user whose premises are used primarily for the conduct of a profit-oriented enterprise in the fields of manufacturing, dairy products processing, meat processing, other food and drink

products, painting or finishing operations, transportation, communications or utilities, mining, agriculture, forestry or fishing.

### **INDUSTRIAL WASTE**

The wastewater from an industrial process, trade or business, as distinct from sanitary sewage, including cooling water and the discharge from pretreatment facilities.

### **LICENSED DISPOSER**

A person or business holding a valid license to do septage servicing under Ch. NR 113, Wis. Adm. Code.

### **MAY**

Indicates is permissible.

### **MILLIGRAMS PER LITER (MG/L)**

Shall be a weight-to-weight ratio; the milligrams per liter value (mg/L) multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

### **MUNICIPAL WASTEWATER**

The wastewater of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and stormwater that may have inadvertently entered the sewer system.

### **NATURAL OUTLET**

Any outlet, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

### **NORMAL DOMESTIC SEWAGE**

Sanitary sewage resulting from the range of normal domestic activities, in which BOD, SS, and total kjeldahl nitrogen concentrations meet the following:

- A. A five-day, 20° C. BOD of not more than 250 mg/L.
- B. A suspended solids content of not more than 250 mg/L.
- C. A total kjeldahl nitrogen content of not more than 25 mg/L.

### **PARTS PER MILLION (PPM)**

A weight-to-weight ratio; the parts per million value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water. Equivalent to milligrams per liter (mg/L).

### **PERSON**

Any and all persons, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, government agency or other entity.

### **pH**

The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of  $10^{-7}$ .

### **PRETREATMENT**

An arrangement of devices and structures for the preliminary treatment or processing of wastewater required to render such wastes acceptable for admission to the public sewers.

### **PRIVATE SEWER**

Any sewer outside of a public right-of-way or public easement. Except as provided in this chapter, a private sewer shall not be subject to the jurisdiction of the Village, and the Village shall not be responsible for the construction and/or maintenance of such sewer.

**PUBLIC SEWER**

Any sewer provided by or subject to the jurisdiction of the Village of Neshkoro. It shall also include sewers within or outside the corporate boundaries that serve more than one person and ultimately discharge into the Village sanitary sewer system, even though those sewers may not have been constructed with Village funds. Public sewers shall not include private sewers or building sewers.

**SANITARY SEWAGE**

A combination of water-carried wastes from residences, business buildings, institutions and industrial plants (other than industrial wastes from such plants), together with such groundwaters, surface waters and stormwaters as may be present.

**SANITARY SEWER**

A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with small quantities of groundwaters, stormwaters and surface waters that are not admitted intentionally.<sup>[1]</sup>

**SEPTAGE**

The wastewater or contents of septic or holding tanks, dosing chambers, seepage beds, seepage pits, seepage trenches, privies or portable rest rooms.

**SEWAGE**

The spent water of a community. The preferred term is "municipal wastewater."

**SEWER SERVICE AREAS**

The areas presently served and anticipated to be served by a municipal wastewater collection system. The sewer service area is delineated in the most recently approved facility plan.

**SEWER SERVICE CHARGE**

A service charge levied on users of the wastewater collection and treatment facilities for payment of capital expenses as well as the operation, maintenance costs, and replacement of said facilities.

**SEWER SYSTEM**

The common sanitary sewers within a sewerage system which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual structures or from private property and which include service connection wye fittings designed for connection with those facilities. The facilities which convey wastewater from individual structures, from private property to the public sanitary sewer or its equivalent, are specifically excluded from the definition of "sewerage system," except that pumping units and pressurized lines for individual structures or groups of structures may be included as part of a sewer system when such units are cost-effective and are owned and maintained by the Village.<sup>[2]</sup>

**SEWERAGE SYSTEM**

All structures, conduits and pipes by which sewage is collected, treated and disposed of, except plumbing inside and in connection with buildings served and service pipes from building to street main.

**SHALL**

Indicates is mandatory.

**SLUG LOAD**

Any substance released at a discharge rate and/or concentration which causes interference to wastewater treatment processes or plugging or surcharging of the sewer system.

**STANDARD METHODS**

The examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water and Wastewater," published jointly by the American Public

Health Association, the American Water Works Association and the Water Environment Federation.<sup>[3]</sup>

### **STORM DRAIN**

A drain or sewer for conveying surface water, groundwater, subsurface water, or unpolluted water from any source; sometimes termed "storm sewer."

### **STORMWATER RUNOFF**

That portion of the rainfall that is collected and drained into the storm sewers.

### **SUSPENDED SOLIDS**

Solids that either float on the surface of, or are in suspension in, water, wastewater, septage or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods" and is referred to as "nonfilterable residue."

### **TOXIC DISCHARGES**

A discharge containing a substance or mixture of substances which, through sufficient exposure or ingestion, inhalation or assimilation by an organism, either directly from the environment or indirectly by ingestion through the food chain, will, on the basis of information available to the Village, cause death, disease, behavioral or immunological abnormalities, cancer, genetic mutations, or developmental or physiological malfunctions, including malfunctions in reproduction or physical deformations, in such organisms or their offspring.

### **USER CLASSES**

Categories of users having similar flows and water characteristics, that is, levels of biochemical oxygen demand, suspended solids, nitrogen, etc. For the purposes of this chapter, there shall be four user classes: residential, commercial, industrial, public authority.

### **WASTEWATER FACILITIES**

The structures, equipment and processes required to collect, carry away, store and treat domestic and industrial waste and septage and dispose of the effluent and sludge.

### **WASTEWATER TREATMENT WORKS**

An arrangement of devices and structures for treating wastewater, septage, industrial waste and sludge. Sometimes used as synonymous with "sewage treatment facility."

### **WATERCOURSE**

A natural or artificial channel for the passage of water, either continuously or intermittently.

### **WPDES**

Wisconsin Pollutant Discharge Elimination System permit, issued per Ch. NR 210, Wis. Adm. Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## **Article II. Management, Operation, and Control**

### **§ 420-4. Authority.**

The management, operation and control of the wastewater facilities of the Village of Neshkoro is vested in the Village Board; all records, minutes and all written proceedings thereof shall be kept by the Village Clerk-Treasurer; the Village Clerk-Treasurer shall keep all the financial records.

### **§ 420-5. Construction.**

The Village Board shall have the power to construct sewer lines for public use and shall have the power to lay sewer pipes in and through the alleys, streets and public grounds of the Village and, generally, to do all such work as may be found necessary or convenient in the management of the wastewater facilities. The Village Board shall have power by itself, its officers, agents and representatives to enter upon any land for the purpose of making examination in the performance of its duties under this chapter, without liability therefor, and the Village Board shall have power to purchase and acquire for the Village any real and personal property which may be necessary for construction of the wastewater facilities or for any repair, remodeling or additions thereto.

## § 420-6. Maintenance of services.

The property owner shall maintain the building sewer from the street main to the house and including all controls between the same, without expense to the Village, except when they are damaged as a result of negligence or carelessness on the part of the Village. All building sewers must be maintained free of defective conditions, by and at the expense of the owner or occupant of the property. When any building sewer is to be relaid and there are two or more buildings on such service, each building shall be disconnected from such sewer and a new building sewer will be installed for each building.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 420-7. Condemnation of real estate.

Whenever any real estate or any easement therein or use thereof shall, in the judgment of the Village Board, be necessary to the wastewater facilities, and whenever, for any cause, an agreement for the purchase thereof cannot be made with the owner thereof, the Village Board shall proceed with all necessary steps to take such real estate, easement or use by condemnation in accordance with the Wisconsin Statutes and the Uniform Relocation and Real Property Acquisition Policy Act of 1970, if federal funds are used for the project associated with the real estate or easement.

## § 420-8. Title to real estate and personalty.

All property, real, personal and mixed, acquired for the construction of the wastewater facilities, and all diagrams, papers, books and records connected therewith said wastewater facilities, and all buildings, machinery and fixtures pertaining thereto, shall be the property of the Village of Neshkoro.

# Article III. User Rules and Regulations

## § 420-9. General.

- A. The rules, regulations and sewer rates of the Village of Neshkoro hereinafter set forth shall be considered a part of the contract with every person, company or corporation who is connected to or uses the sewer system or wastewater treatment works, and every such person, company or corporation by connecting with the sewer system or wastewater treatment works shall be considered as expressing their assent to be bound thereby. Whenever any of said rules and regulations, or such others as the Village Board may hereinafter adopt, are violated, the use or service shall be shut off from the building or place of such violation (even though two or more parties are receiving service through the same connection) and shall not be reestablished except by order of the Village Board and on payment of all arrears, the expenses and charges of shutting off and putting on, and such other terms as the Village Board may determine, and a satisfactory understanding with the party that no further cause for complaint shall arise. In case of such violation, the Village Board, furthermore, may declare any payment made for the service by the party or parties committing such violation to be forfeited, and the same shall thereupon be forfeited. The right is reserved to the Village Board to change these said rules, regulations and

sewer rates from time to time as it may deem advisable and make special rates and contracts in all proper cases.

- B. The following rules and regulations for the government of licensed plumbers, sewer users and others are hereby adopted and established.

## § 420-10. Plumbers.

No plumber, pipe fitter, or other person will be permitted to do any plumbing or pipe fitting work in connection with the sewer system without first receiving a license from the State of Wisconsin and obtaining permission from the Village Board. All service connections to the sewer main shall comply with the State Plumbing Code.

## § 420-11. Mandatory hookup.

- A. Mandatory sewer connection.

- (1) The owner of each parcel of land adjacent to a sewer main on which there exists a building usable for human habitation or in a block through which such system is extended shall connect to such system within 90 days of notice in writing from the Village Board. Upon failure to do so, the Village Board may cause such connection to be made and bill the property owner for such costs. If such costs are not paid within 30 days, such costs shall be assessed as a special tax lien against the property; provided, however, that the owner may, within 30 days after the completion of the work, file a written option with the Village Board stating that he or she cannot pay such amount in one sum and ask that it be levied in not to exceed 10 equal installments and that the amount shall be so collected with interest at the rate of 8% per annum from the completion of the work, the unpaid balance being a special tax lien, all pursuant to § 281.45, Wis. Stats.
- (2) In lieu of the above, the Village at its option may impose a penalty for the period that the violation continues, after 10 days' written notice to any owner failing to make a connection to the sewer system, of a fine in the amount of \$5 per day. Upon failure to make such payment, said charge shall be assessed as a special tax lien against the property, all pursuant to § 281.45, Wis. Stats.
- (3) This section ordains that the failure to connect to the sewer system is contrary to the minimum health standards of the Village and fails to assure preservation of public health, comfort and safety of the Village.

- B. Henceforth, any new construction of a building usable for human habitation will be required to cause the extension of sewer service to said building.  
[Amended 4-5-2005]

## § 420-12. Applications for service.

- A. Application for sewer service.

- (1) Every person desiring to connect to the sewer system shall file an application in writing to the Village Clerk-Treasurer on such form as is prescribed for that purpose. Such application forms will be furnished at the office of the Village Clerk-Treasurer. The application must state fully and truthfully all the wastes which will be discharged. If the applicant is not the owner of the premises, the written consent of the owner must accompany the application. Persons connected to the sewer system of the Village are referred to herein as "users."
- (2) If it appears that the service applied for will not provide adequate service for the contemplated use, the Village Board may reject the application. If the Village Board approves the

application, it shall issue a permit for services as shown on the application upon payment of the connection charge.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

B. Application for septage disposal.

- (1) Between August 1 and September 1 of each year, each licensed disposer wishing to discharge septage to the Village wastewater treatment works shall file a nonrefundable filing fee and an application in writing to the Village Clerk-Treasurer on such form as is prescribed for that purpose. During the months of July and August, forms for such application will be furnished at the office of the Village Clerk-Treasurer. The application must state fully and truly the type, frequency, quantity, quality and location of generated septage to be disposed in the wastewater treatment works.
- (2) During the month of September, the Village Board will evaluate the applications and make a determination as to the amount and conditions of septage disposal. The Village Board shall approve or reject all applications by October 1 of each year. If the Village cannot accept all the proposed septage disposal, then consideration shall be given first to those generators of septage that are within the sewer service or holding tank service areas [see § NR 205.07(2) (f), Wis. Adm. Code].
- (3) The person(s) or party disposing waste shall furnish bond to the Village in the amount of \$1,000 to guarantee performance. Said performance bond shall be delivered to the Village Clerk-Treasurer prior to the issuance of the permit hereunder. Any person or party disposing of septage agrees to carry public liability insurance in an amount not less than \$100,000 to protect any and all persons or property from injury and/or damage caused in any way or manner by any act, or failure to act, by any of his employees. The person(s) shall furnish a certificate certifying such insurance to be in full force and effect.
- (4) All Village Board approvals for septage disposal shall have the condition that, any time the sewerage system has operational problems, maintenance problems or threat of WPDES permit violations that are indirectly or directly related to septage disposal, the Village may immediately restrict septage disposal until such time as corrective action or mitigative measures have been taken.

## § 420-13. Connection charge.

- A. Persons attaching to the Village's collection system shall pay a connection charge as set by the Village Board.

[Amended 10-1-2007<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). The current Fee Schedule is on file in the Village office.*

- B. The connection charge is in addition to all other fees, charges or assessments imposed by the Village, and all construction and related costs incurred by the current or prospective user to actually effect the connection to the Village's collection system. For purposes of this section, "connection" shall mean the tapping into the Village's collection system by the use of a connection lateral, a connection sewer, grinder system or a combination of these or any other type of sewer or connection method.

## § 420-14. Use of sewers.

- A. User to keep in repair. All users shall keep their own building sewers in good repair and protected from frost, at their own risk and expense, and shall prevent any unnecessary overburdening of the sewer system.

- B. Backflow preventor. In areas where sewer main surcharging is known to occur, all floor drains shall have a backflow prevention valve installed at the owner's expense.
- C. User use only. No user shall allow other persons or other services to connect to the sewer system through his building sewer.
- D. Vacating sewer of premises and discontinuance. Whenever premises served by the system are to be vacated or whenever any person desires to discontinue service from the system, the Village Clerk-Treasurer must be notified in writing. The owner of the premises shall be liable for any damage to the property of the system other than through the fault of the system or its employees, representatives or agents.
- E. User to permit inspection. Every user shall permit the Village or its duly authorized agent, at all reasonable hours of the day, to enter his premises or building to examine the pipes and fixtures and the manner in which the drains and sewer connections operate, and he must at all times, frankly and without concealment, answer all questions put to him relative to its use, all in accordance with this chapter and § 196.171, Wis. Stats.

## § 420-15. Utility responsibility.

It is expressly stipulated that no claim shall be made against the Village or acting representative by reason of the breaking, clogging, stoppage or freezing of any service pipes, nor from any damage arising from repairing mains, making connections or extensions or any other work that may be deemed necessary. The right is hereby reserved to cut off the service at any time for the purpose of repairs or any other necessary purpose, any permit granted or regulations to the contrary notwithstanding. Whenever it shall become necessary to shut off the sewer within any district of the Village, the Village Clerk-Treasurer shall, if practicable, give notice to each and every consumer within the affected area of the time when such service will be shut off.

## § 420-16. Building sewer construction.

### A. Excavations.

- (1) In making excavations in streets or highways for laying building sewers or making repairs, the paving and the earth removed shall be deposited in a manner that will result in the least inconvenience to the public.
- (2) No person shall leave any such excavation made in any street or highway open at any time without barricades, and during the night warning lights must be maintained at such excavations.
- (3) In refilling the opening, after the pipes are laid, the earth must be laid in layers of not more than nine inches in depth, and each layer thoroughly compacted to prevent settling. This work, together with the replacing of sidewalks, base course and paving, must be done so as to make the street as good, at least, as before it was disturbed and satisfactory to the Village. No opening of the streets for tapping the pipes will be permitted when the ground is frozen.

### B. Tapping the mains.

- (1) No persons, except those having special permission from the Village or persons in their service and approved by them, will be permitted, under any circumstances, to tap the public sewer or collection pipes. The kind and size of the connection with the pipe shall be that specified in the permits from the Village, to ensure that new sewers and connections to the sewer system are properly designed and constructed.
- (2) Pipes should always be tapped on top and not within six inches (15 cm) of the joint or within 24 inches (60 cm) of another lateral connection. All service connections to mains must comply

with the State Plumbing Code. Lateral connections to existing sewers shall be made into saddles and by coring the existing sewer or by inserting (cutting in) a wye or tee into the existing sewer. The wye or tee shall be of the same pipe material as the existing sewer. The lateral/tee connection shall be made with approved adaptors or couplings.

- C. All building sewer pipes (laterals) on private property will be installed and inspected in accordance with Ch. Comm 82, Wis. Adm. Code.<sup>[1]</sup>  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- D. Clear-water connection prohibited. No person shall make connections of roof downspouts, foundation drains, yard drains, or other sources of surface runoff or groundwater to a building sewer or building drain which is connected directly or indirectly to the public sewer. Any existing connections of surface runoff or groundwater shall be disconnected within 60 days of written notice from the Village.
- E. Inspection of connection. The applicant for connection shall notify the Village Clerk-Treasurer when the building sewer is ready for inspection and connection to the public sewer. The actual connection shall be made under the supervision of the Village.

## § 420-17. Extensions of sewer mains.

The Village shall extend sewer mains to a new person(s) in accordance with the following charges and the following conditions:

- A. Application. When an extension of a sewer main is required by the prospective user, said person shall make an application for such an extension in writing to the Village Board by filing of a written application. After the filing of such an application, the Village Board shall first determine the logical location of the next manhole or manholes. Next, the Board shall determine the length and location of the extension, taking into consideration the prospective demands for service, the capacity of downstream facilities, and the orderly development of the particular area. No extension shall be made for a distance less than to the next manhole. All sewer extensions shall be constructed in compliance with local and state laws, ordinances and regulations.
- B. Payment by users. The person who requests the extension shall pay the entire cost of said extension, including the manhole or manholes that are part of the extension. If more than one user is involved, the entire cost shall be divided among those users in the proportion determined by the Village Board.
- C. Method of dividing cost. After making the decision as to the length and location of the extension and prior to the time of making the charge to the person(s), the Village Board shall determine the benefits to be received by any parcel that can be served by said extension. Before making a determination as to benefits received, the Village Board shall first divide the area to be served into logical building lots. The Village Board may consider the recommendations of the landowner in determining said building lots if the landowner as part of his or her application accompanies said application with a proposed division of said land into lots for sale or use. In determining the amount to be paid by the original users, if more than one user is involved, the division of the charge shall be made by considering each building lot as a separate user. Payments are to be considered contributions to construction.
- D. Future users. After the original contribution, for any future connection by reason other than to a lot owned by a party making a previous contribution, such user may be required to pay to the Village Board his pro-rata share of the lot or lots owned by the new attaching user in the entire extension cost as if said user had been one of the original contributors. No refund shall be made to the original contributors. In addition to the charge made as above provided to each lot, each user shall pay the connection charge and the full cost of the building sewer from the main to his building.

## § 420-18. Septage acceptance location.

- A. Septage shall only be discharged to the Village's sewerage system by Village-approved and State of Wisconsin-licensed disposers and at locations, times and conditions as specified by the Village Board.
- B. Septage discharges to the receiving facility at the wastewater treatment works shall be limited to the posted, normal working hours of the facility. Documentation of the discharge shall be submitted to the Village Clerk-Treasurer within one working day of the discharge.
- C. Septage discharges to specified manholes may, under special circumstances, be allowed, provided discharge rates are restricted as necessary to facilitate mixing, prevent a backup in the receiving sewer and prevent a slug load to the wastewater treatment facility. Discharges shall be limited to the normal working hours of the Village and be approved in advance of each such discharge.
- D. The forms prescribed for the purpose of documentation of the discharge will be furnished at the Village Clerk-Treasurer's office and will include the following information:
  - (1) Name, address and telephone number of the hauler.
  - (2) License number.
  - (3) Type of septage.
  - (4) Quantity of septage.
  - (5) Estimated quality of septage.
  - (6) Location, date, time and feed rate of discharge.
  - (7) Source of septage.
  - (8) Name and address of septage generator.
  - (9) Other information as required by the Village.

## § 420-19. Additional authority.

The Village Board may at any time establish specific connection and lateral charges for any main not covered by other provisions in this chapter or when the Village Board has made an extension and the Village Board has failed to provide lateral or connection charges. It is further provided that the Village Board may amend or alter any connection or lateral charge after its establishment under the terms of this chapter or previous ordinance or resolutions.

## Article IV. Regulations

### § 420-20. General discharge prohibitions.

No person shall contribute or cause to be discharged, directly or indirectly, any of the following described substances into the wastewater facilities of the Village:

- A. Any liquids, solids or gases which by reason of their nature or quantity are or may be sufficient, either alone or by interaction, to cause fire or explosion or be injurious in any other way to the operation of the wastewater facilities or wastewater treatment works.
- B. Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater system.

- C. Any wastewater having a pH less than 5.0 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the system unless the system is specifically designed to accommodate such wastewater.
- D. Any wastewater containing arsenic, cadmium, copper, chromium, cyanide, lead, mercury, nickel, zinc or other toxic pollutants in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitation set forth in special agreements, state or federal categorical pretreatment standards.
- E. Any noxious or malodorous liquids, gases or solids which either singly or by interaction are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
- F. Any substance which may cause the wastewater treatment works' effluent, treatment residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process.
- G. Any substance which will cause violations of the WPDES and/or other disposal system permits.
- H. Any substance with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- I. Any wastewater having a temperature which will inhibit biological activity in the wastewater treatment works resulting in interference, but in no case wastewater with a temperature at the introduction into the public sewer which exceeds 120° F. unless the wastewater facilities are designed to accommodate such temperature.
- J. Any slug load, which shall mean any pollutant, including oxygen-demanding pollutants (BOD), released in a single extraordinary discharge episode of such volume or strength as to cause interference to the wastewater treatment works.
- K. Any unpolluted water, including, but not limited to, non-contact cooling water.
- L. Any wastewaters which may be acutely or chronically toxic to aquatic life or wild and domestic animals.
- M. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as exceeds limits established by the Village in compliance with applicable state or federal regulations.
- N. Any wastewater which causes a hazard to human life or creates a public nuisance.
- O. Any stormwater, surface water, groundwater, roof runoff or surface drainage or any other connections from inflow sources to the public sewer. Such waters may be discharged to a storm sewer or other waterway with permission of the Village Board.

## § 420-21. Limitations on wastewater strength.

- A. National categorical pretreatment standards shall, as promulgated by the U.S. Environmental Protection Agency, be met by all dischargers of the regulated industrial categories.
- B. State requirements and limitations on all facilities shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than other applicable requirements.
- C. The Village Board reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the wastewater facilities where deemed necessary to comply with the objectives set forth in this chapter.

- D. Dilution. No user shall increase the use of potable or process water in any way, nor mix separate waste streams, for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this chapter, unless approved in writing by the Village.
- E. Supplementary limitations.
  - (1) No user shall discharge wastewater containing concentrations of the following enumerated materials exceeding the following values unless prior approval is granted by the Village Board:

<b>Material</b>	<b>Concentration (mg/L)</b>
Biochemical oxygen demand	250
Suspended solids	250
Fats, oil and grease (FOG)	100

- (2) The Village Board may also impose mass limitations on users which are using dilution to meet the pretreatment standards or requirements of this chapter or in other cases where the imposition of mass limitations is deemed appropriate by the Village Board.

## § 420-22. Accidental discharges.

- A. Each user shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this chapter. Where necessary, facilities to prevent additional discharge of prohibited materials shall be provided and maintained at the user's cost and expense. Detailed plans showing facilities and operating procedures shall be submitted to the Village for review and shall be approved by the Village before construction of the facility. Review and approval of such plans and operating procedures by the Village shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this chapter.<sup>[1]</sup>  
 [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. Dischargers shall notify the Village immediately upon the occurrence of a slug load or accidental discharge of substances prohibited by this chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any user who discharges a slug load or prohibited materials shall be liable for any expense, loss or damage to the Village's wastewater facilities on wastewater treatment works, in addition to the amount of any forfeitures imposed on the Village on account thereof under state or federal law.
- C. Signs shall be permanently posted in conspicuous places on industrial users' premises, advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

## § 420-23. Special agreements.

No statement contained in this article shall be construed as prohibiting any special agreement between the Village and any person whereby an industrial waste of unusual strength or character may be admitted to the wastewater treatment works, either before or after pretreatment, provided that there is no impairment of the functioning of the wastewater treatment works by reason of the admission of such wastes, and no extra costs are incurred by the Village without recompense by the person, provided that all rates and provisions set forth are complied with.

# Article V. Sewer User Charge System

## § 420-24. Additional definitions.

The following terms shall have the following meanings under this article:

### **DEBT SERVICE CHARGES**

Includes all costs associated with repayment of debts incurred for the construction and/or rehabilitation of wastewater collection system and treatment facilities.

### **NORMAL DOMESTIC STRENGTH WASTEWATER**

Wastewater with concentrations of BOD<sub>5</sub> no greater than 250 milligrams per liter (mg/L) and suspended solids no greater than 250 milligrams per liter (mg/L).

### **NORMAL USER**

A user whose contributions to the sewerage system consist only of normal domestic strength wastewater originating from a house, apartment or other living quarters occupied by a person or persons constituting a distinct household, business or commercial enterprise.

### **OPERATION AND MAINTENANCE (O&M) COSTS**

Includes all costs associated with the operation and maintenance of the wastewater collection and treatment facilities. These costs, including costs associated with clear water flows (I/I), shall be divided proportionately among the various sewer users.

### **REPLACEMENT COSTS (R)**

Include all costs necessary to accumulate the resources to replace equipment as required to maintain capacity and performance during the design life of the facility. A separate, segregated, distinct replacement fund shall be established and used only for replacement of equipment designated by the fund.

### **SEWER SERVICE CHARGE**

A service charge levied on users of the sewer system for payment of debt service, operation and maintenance costs, including Replacement of said facilities.

## § 420-25. Policy.

It shall be the policy of the Village to obtain sufficient revenues to pay the costs for the debt service, operation and maintenance of the wastewater facilities, including a replacement fund, through a system of sewer service charges, as defined in this article. The system shall assure that each user of the wastewater facilities pays his proportionate share of the cost of such facilities.

## § 420-26. Basis for sewer service charge.

- A. The sewer service charge shall be based on an equivalent unit rate structure.
- B. The sewer service charge shall be sufficient to pay the costs of debt service, operation and maintenance, including any replacement fund, of the wastewater facilities. The Village Board has provided the initial estimates of number of users, costs, etc., to calculate the first year's user charges. The rates in this chapter shall be reviewed not less than biennially. Such review will be performed by the Village Board. Rates shall be adjusted, as required, to reflect the actual number and size of users and actual costs.
- C. Users shall be notified annually of the portion of service charges attributable to operation, maintenance and replacement.

## § 420-27. Residential equivalency charge.

- A. A residential equivalency charge (REC) is hereby imposed upon each lot, parcel of land, building or premises served by the sewerage system or otherwise discharging sewage, including nondomestic and industrial wastes, into the system. Such charge shall be payable as herein provided and shall be on the basis of one unit for each residential equivalent unit. Each single-family dwelling shall be assigned one unit.
- B. A single-family dwelling is defined as a mobile home, a seasonal dwelling, a duplex unit, an apartment unit, a single-family detached dwelling or a multifamily unit.
- C. A REC is hereby imposed on all users of the sewerage system, based upon the actual cost of debt, operation, maintenance and replacement. On or before October 15 of each year, the Village Clerk-Treasurer shall recompute the sewer use charge. This charge shall be computed by dividing the proposed net yearly debt service, operation, maintenance and replacement budget as provided in this chapter by the total number of residential user equivalent (RUE) units.
- D. On or before October 15 of each year, the Village Clerk-Treasurer shall recompute the assignment of residential equivalent units to all users within the system. In no event shall each customer be assigned a residential equivalent unit that is less than one unit. A list of assigned RUE units is included in Appendix A. A new user will be assigned an initial RUE unit based on Appendix B.<sup>[1]</sup>  
 [1] *Editor's Note: Current copies of Appendixes A and B are on file in the Village Clerk-Treasurer's office.*
- E. The residential equivalency charge (REC) shall be as set by the Village Board.<sup>[2]</sup>  
 [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- F. There shall be no discounted rates levied on vacated buildings or premises served by the sewerage system or discontinued services.<sup>[3]</sup>  
 [3] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 420-28. Wastewater strength.

Residential equivalency charge shall be payable as hereinafter provided and in an amount determinable as follows:

- A. Category A is defined as normal or domestic strength wastewater having organic concentrations of biochemical oxygen demand (BOD<sub>5</sub>) no greater than 250 milligrams per liter (mg/L) and suspended solids no greater than 250 milligrams per liter (mg/L). The residential equivalency charge (REC) for Category A wastewater is calculated as follows:

$$\text{REC} = (\text{Debt} + \text{Replacement} + \text{O\&M}) / \text{number of residential equivalent users}$$

- B. Category B is defined as wastewater having organic concentrations of biochemical oxygen demand (BOD<sub>5</sub>) greater than 250 milligrams per liter (mg/L) and/or suspended solids (SS) greater than 250 milligrams per liter (mg/L). The sewer use charge for Category B wastewater is calculated as follows:

$$\text{Sewer Use Charge} = \text{Category A charge} \times \text{Number of RUE Units}$$

$$\text{RUE} = \frac{\text{GPD}}{240} + \frac{\text{BOD}}{0.52} + \frac{\text{SS}}{0.60}$$

- C. Category C is defined as septage which has organic concentrations of biochemical oxygen demand (BOD) greater than 250 milligrams per liter (mg/L) and/or suspended solids (SS) greater than 250 milligrams per liter (mg/L). The equation for the monthly Category C wastewater charge is calculated as follows:

Sewer Use Charge = Category A Charge

$$\begin{aligned} &+ \text{ BOD} \quad \times \quad 8.34 \quad \times \quad \frac{1}{1,000} \quad \times \quad \text{CB} \\ &+ \text{ SS} \quad \times \quad 8.34 \quad \times \quad \frac{1}{1,000} \quad \times \quad \text{CS} \\ &+ \text{ Administrative Fee} \end{aligned}$$

CB = BOD unit price = \$1.02 per pound  
CS = SS unit price = \$0.87 per pound  
Administrative Fee = \$18.00

It will be assumed that holding tank wastewater has a BOD of 600 mg/L and an SS of 1,800 mg/L and septic tank wastewater has a BOD of 5,000 mg/L and SS of 15,000 mg/L unless an actual analysis is furnished by the discharger. This concentration results in a holding tank charge of \$49.76 per 1,000 gallons plus \$18 and a septic tank wastewater charge of \$182.97 per 1,000 gallons plus \$18.<sup>[1]</sup>

[1] *Editor's Note: Original Sec. 10-1-97, subsection 6, Rates, last amended 10-1-2007, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II), except for the last unnumbered subsection which was renumbered as § 420-27F.*

## Article VI. Control of Industrial and Septage Wastewaters

### § 420-29. Submission of basic data.

- A. Within 30 days after passage of this chapter, each user discharging industrial process wastewater to the wastewater system shall be required to obtain a discharge permit and file with the Village Board an industrial wastewater discharge application, to be furnished by the Village Board, which shall supply pertinent data relating to the quantity and characteristics of the waste discharged to the sewerage system. The questionnaire must be signed by an authorized representative of the industrial user.
- B. All permits shall be issued for an unlimited period, subject to amendment or revocations as provided in this chapter.
- C. Similarly, each industrial user desiring to make a new connection or to modify an existing process to the wastewater system shall apply and file with the Village a permit application at least 60 days before desiring such modification or connection and shall include actual or predicted data relating to the quantity and characteristics of the waste to be discharged.

### § 420-30. Discharge conditions.

If any wastewaters or septage are discharged or proposed to be discharged to the wastewater facilities which contain substances or possess the characteristics enumerated in Article VI and which, in the judgment of the Village Board, may be detrimental to the wastewater facilities, the Village Board may:

- A. Reject the wastes.
- B. Require pretreatment to an acceptable condition for discharge to the sewer system.
- C. Require control over the quantities and rates of discharge.

- D. Require payment to cover the added cost of handling and treating the wastewater not covered by existing sewer charges.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 420-31. Septage discharges.

Septage discharged to the wastewater facilities shall be of domestic origin only, and septic tank wastes shall be segregated from holding tank wastes.

## § 420-32. Control manholes.

- A. Each person discharging industrial wastes into a public sewer shall construct and maintain one or more control manholes or access points to facilitate observation, measurement and sampling their waste, excluding domestic sewage when feasible.
- B. Control manholes or access facilities shall be located and built in a manner acceptable to the Village Board. If measuring devices are to be permanently installed, they shall be of a type acceptable to the Village Board.
- C. Control manholes, access facilities, and related equipment shall be installed by the person discharging the industrial waste, at his expense, and shall be maintained by the person discharging the waste so as to be in safe condition, accessible and in proper operating condition at all times. Plans for installation of the control manholes or access facilities and related equipment shall be approved by the Village Board prior to the beginning of construction.

## § 420-33. Measurement of flow.

The volume of flow used for computing charges for nonseptage disposal shall be based upon the actual flow measurement.

## § 420-34. Provision for deductions.

In the event that a person discharging industrial waste into the public sewers produces evidence satisfactory to the Village Board that more than 10% of the total annual volume of water used for all purposes does not reach the public sewer, then the determination of the wastewater volume discharged into the public sewer may be made a matter of agreement between the Village and the industrial wastewater discharger.

## § 420-35. Metering of wastewater.

Devices for measuring the volume of wastewater discharged may be required by the Village Board if this volume cannot otherwise be determined. Metering devices for determining the volume of wastewater shall be installed, owned and maintained by the person discharging the wastewater. Following approval and installation, such meters may not be removed without the consent of the Village Board.

## § 420-36. Wastewater sampling.

- A. Industrial wastes and septage discharged into the public sewers shall be subject to periodic inspection and a determination of character and concentration of said waste as specified by the

Village.

- B. Samples shall be collected in such a manner as to be representative of the composition of the wastes. The sampling may be accomplished either manually or by the use of mechanical equipment acceptable to the Village.
- C. Laboratory analysis shall be the responsibility of the person discharging the wastewater or septage and shall be subject to the approval of the Village Board or its duly authorized representatives. Every care shall be exercised in the collection of samples to ensure their preservation in a state comparable to that at the time the sample was taken. All analysis shall be performed by a Wisconsin-registered or -certified laboratory.

## § 420-37. Pretreatment.

When required, in the opinion of the Village Board, to modify or eliminate wastes that are harmful to the structures, processes or operation of the wastewater facilities, the discharger shall provide at his expense such preliminary treatment or processing facilities as may be required to render this waste acceptable for admission to the public sewers.

## § 420-38. Grease and/or sand interceptors.

When required, in the opinion of the Village Board, grease, oil and sand interceptors shall be provided by the discharger and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the discharger shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Village. Any removal and hauling of the collected materials not performed by the discharger's personnel must be performed by currently licensed disposal firms.

## § 420-39. Analyses.

- A. All measurements, tests and analyses of the characteristics of water, waste and septage to which reference is made in the ordinances shall be determined in accordance with the latest edition of "Standard Methods." Sampling methods, locations, times, durations and frequencies are to be determined on an individual basis, subject to approval by the Village Engineer.
- B. Determination of the character and concentration of the industrial wastewater shall be made by the person discharging it or his agent, as designated and required by the Village Board. The Village may also make its own analyses of the wastes, and these determinations shall be used as a basis for charges. If the person discharging the waste contests the determination, the Village may elect to have an independent laboratory determine the character and concentration of the waste. Said independent laboratory shall be certified under Ch. NR 149, Wis. Adm. Code, and be acceptable to both the Village and the person discharging the waste. All costs incurred by the independent laboratory in making the determination shall be assumed by the discharger.

## § 420-40. Submission of information.

Plans, specifications and any other pertinent information relating to proposed flow equalization, pretreatment, or wastewater processing facilities shall be submitted for review of the Village Engineer prior to the start of their construction if the effluent from such facilities is to be discharged into the public sewers.

## Article VII. Payment for Charges

## § 420-41. Payment and penalty.

[Amended 11-3-2014; 7-7-2015]

All charges for sewerage service shall be made monthly and billed quarterly and shall be payable to the Village Clerk-Treasurer not later than 20 days after the end of each period. A penalty of 1.5% per month shall be added to all bills not paid by the date fixed for final payment. Property owners shall be billed for rental units.

## § 420-42. Charges a lien.

[Amended 11-3-2014]

All sewer service charges, including the initial connection charge and monthly user charge, shall be a lien upon the property serviced, pursuant to § 66.0821, Wis. Stats., and shall be collected in the manner therein provided.

## § 420-43. Disposition of revenue.

The amounts received from the collection of charges authorized by this chapter shall be credited to a wastewater facilities account, which shall show all receipts and expenditures of the wastewater facilities. Charges collected for replacement expenses shall be credited to a segregated, nonlapsing replacement account. These funds are to be used exclusively for replacement. When appropriated by the Village Board, the credits to the account shall be available for the payment of costs of wastewater facilities consistent with Ch. NR 162, Wis. Adm. Code. All present outstanding sewer system general obligation bonds, including refunding bonds, shall be paid from this fund as to both principal and interest.

## § 420-44. Additional charges.

Additional charges shall be imposed upon each lot, parcel of land, building or premises served by public sewer and wastewater facilities located outside the boundaries of the Village to equalize local capital costs.

## § 420-45. Excess revenues.

Any surplus remaining after payment of debt service charges, operation and maintenance, and replacement costs shall be credited to the following year's operation and maintenance account. Excess revenues collected from a user class will be applied to operation and maintenance costs attributable to that class for the next year.

## Article VIII. Audit

### § 420-46. Annual audit.

The Village Board shall have conducted an independent annual audit, the purpose of which shall be to maintain the proportionality between users and user classes of the sewer user charge system and to ensure that adequate revenues are available relative to increasing operation, maintenance and replacement costs and debt service charges. The findings and recommendations of this audit shall be available for public inspection.

## Article IX. Violations and Penalties

### § 420-47. Damages.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

### § 420-48. Written notice of violation.

- A. Any person connected to the wastewater facilities found to be violating a provision of this chapter shall be served by the Village with a written notice stating the nature of the violation and providing a reasonable time for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- B. Any licensed disposer discharging to the wastewater facilities, found to be violating a provision of this chapter or of any conditions of the Village's approval for septage disposal, may have his approval immediately revoked. This revocation shall be done in writing and state the reasons for revoking the septage disposal approval.

### § 420-49. Deleterious discharge.

Any person found to be responsible for accidentally allowing a deleterious discharge into the wastewater facilities which causes damage to the facilities and/or receiving water body shall, in addition to a forfeiture, pay the amount to cover all damages, both of which will be established by the Village Board.

### § 420-50. Discharge reporting.

Any person responsible for a discharge that may have a detrimental impact on the sewerage system shall immediately report the nature and amount of the discharge to the Village Clerk-Treasurer.

### § 420-51. Continued violations.

Any person, partnership or corporation, or any officer, agent or employee thereof, who shall continue any violation beyond the aforesaid notice time limit provided, shall, upon conviction thereof, be punishable as set forth in § 1-4 of the Code.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 420-52. Liability to Village for losses.

Any person violating any provision of this chapter shall become liable to the Village for any expense, loss or damage occasioned by reason of such violation which the Village may suffer as a result thereof.

### § 420-53. Damage recovery.

The Village shall have the right of recovery from all persons any expense incurred by said system for the repair or replacement of any part of the wastewater facilities damaged in any manner by any person by the performance of any work under their control or by any negligent acts.

## § 420-54. Violations and penalties.

Any person who shall violate any of the provisions of this chapter or rules or regulations of the Village or who shall connect a service pipe or discharge without first having obtained a permit therefor, or who shall violate any provisions of the Wisconsin Statutes, Wisconsin Administrative Code, or any other materials which are incorporated by reference, shall, upon conviction thereof, be punishable as set forth in § 1-4 of the Code. This, however, shall not bar the Village from enforcing the connection duties set out in § 420-11 for mandatory hookup.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 420-55. Appeal procedures.

Any user affected by any decision, action or determination, including cease and desist orders, made by the interpreting or implementing provisions of this chapter may file with the Village Board a written request for reconsideration within 10 days of the date of such decision, action or determination, setting forth in detail the facts supporting the user's request for reconsideration. The Village Board shall render a decision on the request for reconsideration to the user in writing within 15 days of receipt of request. If the ruling on the request for reconsideration made by the Village Board is unsatisfactory, the person requesting reconsideration may, within 10 days after notification of the action, file a written appeal with the Village Board. A fee as set by the Village Board shall accompany any appeal. This fee shall be refunded if the appeal is sustained in favor of the appellant.<sup>[2]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: The current Fee Schedule is on file in the Village office.*

## Article X. Amendments

### § 420-56. Notice and hearing required.

The Village, through its duly qualified governing body, may amend this chapter in part or in whole whenever it may deem necessary, but such right will be exercised only upon notice and proper hearing on the proposed amendment.

## Chapter 424. Sex Offenders Residency Restrictions

[HISTORY: Adopted by the Village Board of the Village of Neshkoro at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

### § 424-1. Purpose and intent.

The Village finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be rearrested for a new sexually based crime. Given the high rate of recidivism for sex offenders, and that reducing opportunity and temptation is important to minimizing the risk of reoffense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law. The Village finds and declares that, in addition to schools and day-care centers, children congregate or play in a number of public places, including public parks and other facilities for children. It is the intent of this chapter to serve the Village's compelling interest to promote, protect and improve

the health, safety and welfare of Village citizens by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders are prohibited from entering or establishing residency.

## § 424-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

### **CRIME AGAINST CHILDREN**

Any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or federal government, having like elements necessary for conviction, respectively:

§ 940.225(1)	First Degree Sexual Assault
§ 940.225(2)	Second Degree Sexual Assault
§ 940.225(3)	Third Degree Sexual Assault
§ 940.22(2)	Sexual Exploitation by Therapist
§ 940.30	False Imprisonment – Victim was Minor and Not the Offender's Child
§ 940.31	Kidnapping – Victim was Minor and Not the Offender's Child
§ 940.225	Rape
§ 944.06	Incest
§ 948.02	Sexual Intercourse with a Child
§ 948.02	Indecent Behavior with a Child
§ 948.07	Enticing Child for Immoral Purposes
§ 948.02(1)	First Degree Sexual Assault of a Child
§ 948.02(2)	Second Degree Sexual Assault of a Child
§ 948.025	Engaging in Repeated Acts of Sexual Assault of the Same Child
§ 948.05	Sexual Exploitation of a Child
§ 948.055	Causing a Child to View or Listen to Sexual Activity
§ 948.06	Incest with a Child
§ 948.07	Child Enticement
§ 948.075	Use of a Computer to Facilitate a Child Sex Crime
§ 948.08	Soliciting a Child for Prostitution
§ 948.095	Sexual Assault of a Student by School Instructional Staff
§ 948.11(2)(a)or(am)	Exposing a Child to Harmful Material felony sections
§ 948.12	Possession of Child Pornography
§ 948.13	Convicted Child Sex Offender Working with Children
§ 948.30	Abduction of Another's Child
§ 971.17	Not Guilty by Reason of Mental Disease or an Included Offense
§ 975.06	Sex Crime Law Commitment

### **RESIDENCE**

A place where a person sleeps, abides, lodges or resides, either on a permanent or temporary basis. For purposes of this chapter, a "permanent residence" means a place where the person sleeps, abides, lodges or resides for 14 or more consecutive days, and a "temporary residence" means a place that is not a permanent residence and is a place where the person sleeps, abides, lodges or resides for a period of 14 or more days in the aggregate during any calendar year or four or more days in any month. A residence may be mobile or transitory.

## **SEX OFFENDER**

A person who has been convicted of, or has been found delinquent of, or has been found not guilty by reason of disease or mental defect of, a sexually violent offense and/or a crime against children.

## **SEXUALLY VIOLENT OFFENSE**

Shall have the meaning as set forth in § 980.01(6), Wis. Stats. as amended from time to time.

## **SAFETY ZONE**

Any real property that supports or upon which there exists any facility used for or that supports a school for children, a public park, park facility, pathway or a day-care center.

## **§ 424-3. Residency restrictions.**

- A. A sex offender shall not reside within 1,500 feet of any real property that supports or upon which there exists any of the following uses:
- (1) A school for children.
  - (2) A public park, park facility or park pathway.
  - (3) A day-care center.
  - (4) Community center, library or other child-oriented facilities.  
[Added 3-7-2016]
- B. The distance shall be measured from the closest boundary line of the real property supporting the residence of a sex offender to the closest boundary line of the real property that supports or upon which there exists any of the uses enumerated in Subsection **A** above.
- C. It is unlawful to let or rent any place, structure or part thereof with the knowledge that it will be used as a residence by a sex offender if such place, structure or part thereof is located within 1,500 feet of any of the uses enumerated in Subsection **A** above. A person letting or renting a place or structure shall be deemed to have such knowledge if, at least 10 days prior to letting or renting the place, the sex offender's name appears on the Wisconsin Department of Corrections sex offender registry and the person letting or renting the place knew the sex offender would be residing at the subject place or structure.
- D. Residency restriction exceptions. A sex offender residing within 1,500 feet of any real property that supports or upon which there exists any of the uses enumerated in Subsection **A** above does not commit a violation of this chapter if any of the following apply:
- (1) The sex offender established, reported and registered a residence pursuant to § 301.45, Wis. Stats., prior to the effective date of this chapter.
  - (2) The use enumerated in Subsection **A** above is commenced after the sex offender established a residence and reported and registered that residence pursuant to § 301.45, Wis. Stats.
  - (3) The convicted sex offender is a minor or ward under guardianship.
- E. Original domicile restriction. No offender who has every been ruled a sexual violent offender by a petition filed under Ch. 980, Wis. Stats, or any offender who has been convicted of a crime against children shall be permitted to reside in the Village of Neshkoro, and no supervised release of such offenders shall be established in the Village of Neshkoro, unless the offender was domiciled in the Village at the time of an offense resulting in such conviction, or the person previously resided in the Village for a continuous period of at least two years.  
[Added 3-7-2016]

## **§ 424-4. Safety zones.**

- A. A sex offender shall not enter upon or be present upon or within a safety zone.
- B. Safety zone exceptions. A sex offender who enters upon or who is present upon or within a safety zone does not commit a violation of this chapter if any of the following apply:
- (1) The property also supports a church, synagogue, mosque, temple or other house of religious worship, subject to all of the following conditions:
    - (a) The sex offender's entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and
    - (b) The sex offender shall not participate in any religious education programs that include individuals under the age of 18.
  - (2) The property also supports a use lawfully attended by a sex offender's natural or adopted child(ren), which child's use reasonably requires the attendance of the sex offender as the child's parent upon the property, subject to the following condition:
    - (a) The sex offender's entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public.
  - (3) The property also supports a polling location in a local, state or federal election, subject to all of the following conditions:
    - (a) The sex offender is eligible to vote;
    - (b) The property is the designated polling place for the sex offender; and
    - (c) The sex offender enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is available to any member of the electorate, and vacates the property immediately after voting.
  - (4) The property also supports a school lawfully attended by a sex offender as a student, under which circumstances the sex offender may enter upon the property supporting the school at which the sex offender is enrolled, for such purposes and at such times as are reasonably required for the educational purposes of the school.
  - (5) The property also supports a court, government office or room for public governmental meetings, subject to all of the following conditions:
    - (a) The sex offender is on the property only to transact business at the government office or place of business, other than a public library, or attend an official meeting of a governmental body; and
    - (b) The sex offender leaves the property immediately upon completion of the business or meeting.
- C. Holiday prohibition. It is unlawful for any designated offender to participate in a holiday event involving children under 16 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the designated offender is the parent or guardian of the child involved, and no nonfamilial children are present, are excepted from this subsection.

[Added 2-2-2015]

- (1) Penalties. A person who violates this section shall be punished by a forfeiture not exceeding \$2,000, together with the actual costs of prosecution, including attorneys' fees, if necessary.
- (2) Severability. The provisions of this section shall be deemed severable, and it is expressly declared that the Village Board would have passed the other provisions of this section irrespective of whether or not one or more provisions may be declared invalid. If any provision of this section is held invalid, the remainder of the section shall not be affected.

## § 424-5. Violations and penalties.

- A. Forfeitures. Any person who shall violate any provision of this chapter or any regulation, rule or order made herein shall be subject to a forfeiture as set by resolution and amended from time to time. Each day a violation continues shall constitute a separate offense. Neither the issuance of a citation nor the imposition of forfeiture hereunder shall preclude the Village from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this chapter.
- B. Injunction. If an offender establishes a residence in violation of § **424-3** above or enters or is present upon or within a safety zone in violation of § **424-4** above, the Village Attorney may bring an action in the name of the Village in Circuit Court to permanently enjoin any such violation as a public nuisance.

## Chapter 432. Snowmobiles

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 10, Ch. 3, of the 1999 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Parks and recreation — See Ch. **379**.

Vehicles and traffic — See Ch. **480**.

## § 432-1. State snowmobile laws adopted.

Except as otherwise specifically provided in this chapter, the statutory provisions describing and defining regulations with respect to snowmobiles in the following enumerated sections of the Wisconsin Statutes are hereby adopted by reference and made part of this chapter as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited by this chapter. Any future amendments, revisions or modifications of the statutes incorporated herein by reference are intended to be made part of this Code.

350.01	Definitions
350.02	Operation of Snowmobiles on or in the Vicinity of Highways
350.03	Right-of-Way
350.04	Snowmobile Races, Derbies and Routes
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350.13	Uniform Trail Signs and Standards
350.15	Accidents and Accident Reports
350.17	Enforcement
350.18	Local Ordinances
350.19	Liability of Landowners
350.99	Parties to a Violation

## § 432-2. Applicability of traffic regulations to snowmobiles.

No person shall operate a snowmobile upon any street, highway or alley within the Village of Neshkoro in violation of the traffic regulation provisions of §§ 346.04, 346.06, 346.11, 346.14(1), 346.18, 346.19, 346.20, 346.21, 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50(1)(b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92(1) and 346.94(1) and (9), Wis. Stats.<sup>[1]</sup>

[1] *Editor's Note: Original Sec. 10-3-3, Unattended vehicles, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II); see § 432-4A for provisions concerning unattended snowmobiles.*

## § 432-3. Operation on sidewalks prohibited.

No person shall operate a snowmobile upon any sidewalk, pedestrianway or upon the area between the sidewalk and the curblineline of any street in the Village, except as specifically authorized by § 432-7 or for the purpose of crossing to obtain immediate access to an authorized area of operation.

## § 432-4. Unattended snowmobiles; speed; hours of operation.

- A. Unattended snowmobiles. No person shall leave or allow a snowmobile to remain unattended on any public highway or public property while the motor is running or with the starting key in the ignition.
- B. Speed. No person shall operate a snowmobile upon any public highway within the Village of Neshkoro at a speed in excess of 15 miles per hour during the hours between 10:30 p.m. and 7:00 a.m. or in excess of 20 miles per hour at other times. No person shall operate a snowmobile on any trail designated in § 432-7 or in any public park, golf course or recreation area at a speed in excess of the posted limit or 15 miles per hour, whichever is the lower.
- C. Hours of operation. No person shall operate a snowmobile within the Village of Neshkoro between the hours of 10:30 p.m. and 7:00 a.m. except upon a public highway as authorized by the Wisconsin Statutes and this chapter or for the sole purpose of gaining access to snowmobile routes and trails as set forth in § 432-7.

## § 432-5. Restrictions on operators.

- A. No person under the age of 12 years may operate a snowmobile. No person over the age of 12 years but under the age of 16 years may operate a snowmobile unless he holds a valid snowmobile safety certificate or is accompanied by a person over 18 years of age or by a person

over 14 years of age having a snowmobile safety certificate issued by the Department of Natural Resources.

- B. No person shall operate any snowmobile upon any street, alley or other public right-of-way in the Village unless such person shall have a valid motor vehicle operator's license or unless such operator is accompanied by a person who has a valid motor vehicle operator's license and who is occupying a seat on the vehicle.

## § 432-6. Accidents and accident reports.

- A. If he/she can do so without serious danger to his/her own snowmobile or to persons on board, the operator of a snowmobile involved in a snowmobile accident within the Village shall stop his/her snowmobile and shall render to other persons affected thereby such assistance as may be practicable and necessary to save them from or minimize any danger caused by the accident and shall give his/her name and address and identification of his/her snowmobile to any person injured and to the owner of any property damaged in the accident.
- B. If the snowmobile accident results in death or injury to any person or total property damage in excess of \$200, every operator of a snowmobile involved in such accident shall, as soon as possible, notify the Police Department of the accident and shall, within 10 days after the accident, file a written report thereof with the Police Department on forms prescribed by it.
- C. If the operator of a snowmobile is physically incapable of making the report required by this section and there was another occupant on the snowmobile at the time of the accident capable of making the report, he/she shall make such report.
- D. "Snowmobile accident" means a collision, accident or other casualty involving a snowmobile.

## § 432-7. Snowmobile routes and trails designated.

- A. Designated routes. Except as provided in §§ 350.02 and 350.45, Wis. Stats., or for snowmobile events authorized in accordance with § 350.04, Wis. Stats., no person shall operate a snowmobile upon any public right-of-way, in any public park, golf course or on any other public municipal property in the Village of Neshkoro except upon routes designated as snowmobile routes and trails by resolution of the Village Board. Snowmobiles are strictly prohibited from using public streets and other rights-of-way unless part of a designated trail, except for purposes of taking the most direct route home to the operator's place of residence.
- B. Trail markers. The Snowmobile Club is directed and authorized to procure, erect and maintain appropriate snowmobile route, trail or limit markers.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Rules of operation. Snowmobiles operated on designated snowmobile routes over public highways shall observe the rules of the road for motor vehicles set forth in Ch. 346, Wis. Stats., and Chapter 480 of this Code, which is hereby adopted by reference and made part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by such laws is required or prohibited by this section.
- D. Declaring trails closed. Due to weather conditions or emergency, the Snowmobile Club or the Village Board may declare snowmobile trails closed within the Village.<sup>[2]</sup>  
*[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 432-8. Violations and penalties.

Any person who shall violate any provision of this chapter shall, upon conviction thereof, be punishable as provided in § 1-4 of the Code, together with the costs of prosecution, provided no person shall forfeit an amount in excess of the maximum fine or forfeiture allowed in the Wisconsin Statutes for the same offense and further provided that the penalty and forfeiture for parking violations on highways shall be the amount applicable to such violations by owners or operators of motor vehicles under Chapter 480 of this Code.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 480, Vehicles and Traffic.*

## § 432-9. Enforcement.

- A. Uniform citation for highway violations. The uniform traffic citation promulgated under § 345.11, Wis. Stats., shall be used for violations of this chapter relating to highway use except as herein provided.
- B. Parking violations. The special traffic citation described and defined in Chapter 480 of this Code shall be used for enforcement of violations of rules of the road relating to parking of vehicles adopted by reference in § 432-1 of this chapter.
- C. Other violations. All violations of this chapter not described in Subsection A or B shall be enforced in accordance with §§ 66.0114 and 66.0111, Wis. Stats. Stipulations of guilt or no contest may be made as provided in § 66.0114(1)(b), Wis. Stats., in substantially the form provided in the uniform traffic citation within five days of the date of the citation for such violation. Bail deposits may also be made under § 66.0114, Wis. Stats.
- D. Police Department to receive stipulations and penalties. Stipulations, forfeited penalties and deposits for obtaining release from arrest authorized under this chapter may be accepted at the Police Department offices.
- E. Forfeited penalties and deposits. Except as otherwise provided in § 345.26, Wis. Stats., and the deposit schedule adopted by the State Board of Circuit Court Judges thereunder, required penalties and deposits or bail, not including costs or fees for violation of this chapter, shall be as established by the schedule adopted by the Village Board.

## Chapter 438. Solid Waste

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 8, Ch. 3, of the 1999 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Rodent control — See § 293-6.

Composting regulations — See § 293-7.

Nuisances — See Ch. 368.

Property maintenance — See Ch. 396.

## § 438-1. Title; collection by Village.

- A. Title. This chapter shall be known as the "Village Refuse Disposal and Collection Ordinance of the Village of Neshkoro, Marquette County, Wisconsin," hereinafter referred to as "this chapter."
- B. Residential garbage and refuse. All garbage and refuse produced by residential units in the Village shall be collected and disposed of by the independent haulers licensed to perform such services under rules and regulations set forth herein.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Industrial and commercial waste. All industrial and commercial garbage and refuse may be collected and disposed of by private licensed garbage and refuse haulers and disposed by them at

the designated disposal site.

- D. Supervision. The collection of garbage and refuse as defined herein shall be under the supervision of the Village Board who shall make such regulations as are necessary regarding the collection of garbage and refuse.
- E. Private disposal of garbage. This chapter shall not prohibit the actual producers of garbage or refuse or the owners of residential units upon which refuse has been accumulated from personally collecting, conveying and disposing of such refuse at the approved municipal landfill site or at any other lawful disposal site, provided such producers or owners comply with other provisions of this chapter dealing with the accumulation of garbage and refuse, vehicle regulations and specifications, and with payment to the Village for regular service.

## § 438-2. Declaration of policy.

It is hereby declared to be the purpose and intent of this chapter to enhance and improve the environment and promote the health, safety and welfare of the Village by establishing minimum standards for the storage, collection, transport, processing, separation, recovery and disposal of solid waste.

## § 438-3. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings given herein unless different meanings are clearly indicated by the context.

### **COLLECTION**

The act of removing solid waste from the storage area at the source of generation.

### **COMMERCIAL AND INDUSTRIAL WASTE**

That waste in the Village generated by businesses, industries, retail businesses, manufacturers, hotels, motels, service or professional activities, but excluding residential units and dwellings.

### **CURB**

The back edge of curb and gutter along a paved street or where one would be if street was paved and had curb and gutter.

### **DEMOLITION WASTES**

That portion of solid wastes consisting of wastes from the repair, remodeling or reconstruction of buildings, such as lumber, roofing and sheathing scraps, rubble, broken concrete, asphalt and plaster, conduit, pipe, wire, insulation and any other materials resulting from the demolition of buildings and improvements.

### **DISPOSAL**

The orderly process of discarding useless or unwanted material.

### **GARBAGE**

Any refuse accumulation of animal, fruit or vegetable matter, liquid or solid, that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables, including that from houses, butcher shops and similar establishments and including in both cases natural content of moisture. Any combination of garbage and refuse shall always be deemed to be "garbage" for the purpose of licensing under this chapter.

### **HAZARDOUS WASTE**

Those wastes such as toxic, radioactive or pathogenic substances which require special handling to avoid illness or injury to persons or damage to property and the environment.

**LITTER**

Solid waste scattered about in a careless manner, usually rubbish.

**MIXED-PURPOSE UNITS**

Where commercial and industrial uses are maintained at or in conjunction with the residential unit, the residential unit shall be deemed to be a commercial use and not billed as a residential.

**NONRESIDENTIAL UNIT**

Industrial, agricultural, commercial and residential units, triplexes or larger, shall be considered a nonresidential unit.

**PRIVATE COLLECTION SERVICES**

Collection services provided by a person licensed to do same by the Wisconsin Department of Natural Resources.

**REFUSE**

Combustible and noncombustible refuse. Discarded, relatively dry, miscellaneous materials, comprised chiefly of wood, paper, rags, excelsior, straw, leather, boxes, sweepings from buildings and similar discarded articles of combustible and noncombustible nature.

**RESIDENTIAL SOLID WASTE**

All solid waste that normally originates in a residential environment from residential dwelling units.

**RESIDENTIAL UNIT**

Each living unit in the Village of Neshkoro designed for permanent living quarters, including single-family homes and duplexes.

**SOLID WASTE**

Garbage, rubbish and other useless, unwanted or discarded material from agricultural, residential, commercial, industrial or institutional activities. Solid waste does not include solid or dissolved material in domestic sewage.

**SPECIAL HAUL ITEMS**

Body waste, dead animals, large vehicle parts, large equipment, large appliances, large discarded furniture, construction debris and demolition shall be considered items subject to special haul services and charges and are not considered residential waste subject to regular weekly collection.

**STORAGE**

The interim containment of solid waste in an approved manner after generation and prior to collection and ultimate disposal.

**STORAGE AREAS**

Areas where persons place containers during noncollection days as well as where containers are set out on collection day.

**YARD WASTES**

That part of solid waste consisting of leaves, grass clippings, sawdust and twigs, shrubs and small brush less than 2 1/2 inches in diameter.

**§ 438-4. Refuse storage areas.**

- A. Storage areas shall be kept in a nuisance and odor-free condition. Litter shall not be allowed to accumulate. Collection crews will not be responsible for cleaning up loose materials from any containers which have become ruptured or broken due to wet conditions, animals, vandalism or other cause. The occupant and/or owner shall be responsible for cleaning up this litter. Litter not collected shall not be allowed to accumulate. Violation will result in the occupant and/or owner

being notified to clean up his/her area, with continued violation resulting in the owner being prosecuted under the provisions of this and other Village ordinances.

- B. No garbage, mixed refuse or dead animals shall be kept more than eight days on any premises except at an approved and properly licensed sanitary landfill site.

## § 438-5. Approved waste and refuse containers.

- A. General container standards. Each person occupying and dwelling in a house or other building or portion thereof and producing garbage for collection shall provide and renew, when necessary, a sufficient number of cans or containers to hold the garbage accumulating between collections without overloading. Suitable containers of a type approved by the Village shall be provided in which to store all solid waste except for bulky or certain yard wastes as provided for herein. Containers, in order to be approved, shall provide for efficient, safe and sanitary handling of solid wastes. They shall be maintained in a nuisance and odor-free condition, shall be watertight and flyproof, and shall be sufficient to prevent the scattering of contents by weather conditions or animals.

- B. Approved containers.

- (1) Approved residential solid waste containers shall consist of metal or plastic water-repellent containers with tight-fitting covers and suitable handles, commonly referred to as garbage cans, or plastic bags which are closed by means of a tie, or any other container approved by the hauler. Approved containers shall have a capacity of not more than 33 gallons and shall weigh not more than 50 pounds full. Metal garbage cans shall be of sufficient thickness to resist denting during normal handling by collection crews. Plastic garbage cans shall consist of plastic material not damaged by freezing and not susceptible to melting. They shall be capable of being handled during hot and cold weather without damage during normal handling by collection crews. Plastic bags shall be of sufficient strength to allow lifting and loading of contents without tearing.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (2) Cardboard and paper must be tied in bundles in a convenient size to be handled by one person in such a manner that the same will not be able to be blown or scattered. Should bundles, cardboard boxes and/or contents, because of weather conditions, become wet and soaked, they will not be collected, but must be stored by the owner in an approved container for collection on the next collection day. Cardboard boxes will be considered disposable and will not be emptied and returned to the curb.
- (3) Any defective can or any receptacles having ragged or sharp edges or any defects which might injure or hamper the person collecting the waste shall be replaced immediately by the owner. There shall be a four-container limit on the number of cans or bags placed for any one collection period.

- C. Defective containers. All garbage cans incapable of continuing to meet the definition of an approved container because of damage, loss of handles, or other factors shall be tagged by the collection crew. The collection crew will also leave notification of the defects on the premises. The next collection day the container appears, it will be collected and disposed of. Where containers from several residential units are placed for collection at the same location, the containers shall be identified with the address number so ownership can be determined.

- D. Illegal containers. Containers not approved consist of metal barrels and drums, wooden or cardboard barrels, wheelbarrows and other such containers not approved by this chapter. These containers will not be emptied regardless of contents or weight.

- E. Commercial and industrial waste. All commercial and industrial waste must be stored in hauler-approved receptacles upon the premises of the producer of the waste.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 438-6. Yard wastes from residential units.

Contingencies will be allowed for spring and fall cleanup periods with the understanding that tree branches and debris caused by storms or other acts of nature will be taken to a designated area once a month at the owner's expense and obligation. The designated area and hours that they will be accepted will be posted.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 438-7. Collection of refuse.

- A. Placement for collection. Residential solid waste shall be accessible to collection crews. Residential solid waste in approved containers shall be placed immediately behind the curb of the public street for collection or in a place designated by the collector. Yard and bulky wastes from residential units shall likewise be placed in a neat, orderly fashion behind the curb. During winter months, solid waste shall not be placed on top of the snowbank, nor shall it be placed in the roadway. The owner shall either shovel out an area behind the curb in which to place his wastes or he shall place it in his driveway. Collection crews will not collect residential solid waste unless it is placed at the curb of a public street. Residential units shall bring their solid waste to the public right-of-way for collection. Should collection crews be unable to discharge contents of garbage cans into collection vehicles using normal handling procedures, the cans, including contents, will be left at curbside. The owner shall make provisions to assure that the solid waste therein can be collected on the next collection day. Collection crews will not empty garbage cans by means other than dumping.
- B. Restriction on time of placement. All receptacles and containers for refuse and rubbish and all bundles of rubbish shall be placed in collection locations as designated in Subsection A above not earlier than 24 hours before the regular collection time. All receptacles and containers for refuse and garbage disposal shall be removed from the curbside collection point within 24 hours after the regular collection time. Employees of licensed collectors will not enter any structures to remove garbage or refuse unless special provisions are made for elderly and handicapped.
- C. Time of collection. Garbage and refuse collection shall be once a week from every residential unit served. Refuse collection shall occur between the hours of 6:00 a.m. and 5:30 p.m. When the regular collection day falls on one of the following holidays, such regular collections on the holiday may be omitted and collection shall be made on another day during the week of such holiday, and the licensee shall inform each customer of the make-up collection day. The holidays herein referred to are New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, Christmas, Veterans Day and Good Friday. All garbage vehicles used for hauling garbage by a licensee on any day shall empty his trucks that day at an appropriate and lawful site.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- D. Limitation of containers. Each residential customer shall be entitled to place a maximum of four approved containers per week. Any container collected in excess of limit shall be billed for by the hauler directly at a rate approved by the Village Board.

## § 438-8. Violations; notice; special collections for violations.

- A. Notices. In all instances where such inspections reveal violations of this chapter and regulations authorized herein or the laws of this state, the Board shall issue written notice for each such violation, stating therein the violation found, the date and time of such violation and the corrective measures to be taken, together with the time in which such corrections shall be made. Time limits set for the correction of violations shall be reasonable and consistent. The Board shall consider time needed for repairs or purchases to correct deficiencies, public health, and consistent time limits for like violations. Time limits shall not be greater than 10 working days nor less than 24

hours. All such notices shall be kept in a clearly marked file and shall be available for public inspection during regular business hours.

- B. Special collections for violations. If any person, including those receiving collection from a private firm, is found in violation of the collection and storage requirements of this chapter and fails to comply with a notification and/or citation, the Board shall be empowered to order a special collection to remove such violation. The person shall be notified of such special collection and the charges therefor. The special collection shall be made, and if billing is unpaid, the bill shall be considered a lien on the property and shall be placed on the tax roll. A person shall not use the special collection provisions of this chapter to circumvent requirements for collection by a private firm.

## § 438-9. Title to waste.

In the absence of an agreement to the contrary, title to the refuse and solid waste placed for collection by the Village or collectors licensed by the Village shall vest in the Village of Neshkoro as soon as it is placed for collection.

## § 438-10. Prohibited activities and materials not collected.

- A. Dead animals. It shall be unlawful to place any dead animal, or parts thereof, in a container for collection; provided, however, this section shall not apply to animal parts from food preparation for human consumption.
- B. Undrained food wastes. It shall be unlawful to place any garbage or other food wastes in a container for collection unless it is first drained and wrapped.
- C. Ashes. It shall be unlawful to place hot ashes for collection. Ashes that are cool and dry may be placed for collection, but only in noncombustible, disposable containers. Ashes shall not be placed in reusable containers for collection.
- D. Improper placement. No person shall deposit, throw or place any garbage, offal, dead animals, combustible refuse, or other deleterious matter in any park, lane, alley, street, public grounds or public place within the Village, nor place any garbage, offal, dead animals or other refuse matter upon any private property, whether owned by such person or not, unless the same is enclosed in proper vessels or containers, which shall be watertight and kept so with tightly fitting covers.
- E. Compliance with ordinance. It shall be unlawful to store, collect, transport, transfer, recover, incinerate or dispose of any solid waste within the boundaries of this Village contrary to the provisions of this chapter.
- F. Improper transportation. It shall be unlawful to transport any solid waste in any vehicle which permits the contents to blow, sift, leak or fall therefrom. If spillage does occur, the collection crew shall immediately return spilled materials to the collection vehicle and shall properly clean or have cleaned the area. All vehicles used for the collection and transportation of solid waste shall be durable, easily cleanable and leakproof, if necessary, considering the type of waste and its moisture content. Collection vehicles shall be cleaned frequently to prevent nuisances and insect breeding and shall be maintained in good repair.
- G. Interference with authorized collector. No person other than an authorized collector shall collect or interfere with any garbage or refuse after it shall have been put into a garbage receptacle and deposited in the proper place for the collector, nor shall any unauthorized person molest, hinder, delay or in any manner interfere with an authorized garbage collector in the discharge of his/her duties.
- H. Scavenging. It shall be unlawful for any person to scavenge any solid waste.

- I. Private dumps. It shall be unlawful for any person to use or operate a dump which is not licensed by the DNR.
- J. Noncollectable materials. It shall be unlawful for any person to place for collection any of the following wastes:
  - (1) Hazardous waste.
  - (2) Toxic wastes.
  - (3) Chemicals.
  - (4) Explosives or ammunition.
  - (5) Drain or waste oil or flammable liquids.
  - (6) Large quantities of paint.
  - (7) Tires.
- K. Waste from outside of municipality. It shall be unlawful to bring solid waste from outside the Village into the Village limits for collection and disposal by the Village or licensed collectors.
- L. Building waste. All waste resulting from remodeling, construction or removal of a building, roadway or sidewalk shall be disposed of by the owner, builder or contractor. No license is required if done by owner, contractor or builder.
- M. Special haul items. It shall be unlawful for any person receiving residential garbage collection within the Village of Neshkoro to set for regular collection special haul items, as defined herein. Collection service for the disposal of these items must be contracted directly with the hauler at the rates specified in their contract.

## § 438-11. Fees for disposal and collection of garbage and refuse.

- A. Residential. Residential charges for garbage and refuse collection and disposal shall be determined by the Village Board of the Village of Neshkoro from time to time and shall be billed as a special charge on the property tax roll for all improved properties.
- B. Commercial. All fees for the collection of commercial, industrial waste and residential apartments, triplexes or larger, shall be determined by the Village Board from time to time. Said fees shall be based upon the cost of disposal at the municipal disposal site and upon the rates reasonably requested by the private hauler.<sup>[2]</sup>

[2] *Editor's Note: Original Secs. 8-3-12, Licensing of refuse and garbage collectors; 8-3-13, Revocation or suspension of license or permit; 8-3-14, Liability insurance required; 8-3-15, Collection vehicle permits; and 8-3-16, Collection vehicle regulations, which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). The current Fee Schedule is on file in the Village office.*

## § 438-12. Garbage accumulation; when a nuisance.

The accumulation or deposit of garbage, trash or putrescible animal or vegetable matter in or upon any lot or land or any public or private place within the Village which causes the air or environment to become noxious or offensive or to be in such a condition as to promote the breeding of flies, mosquitoes or other insects, or to provide a habitat or breeding place for rodents, or other animals, or which otherwise becomes injurious to the public health, is prohibited and declared to constitute a nuisance.

# Chapter 445. Streets, Sidewalks and Public Grounds

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 6, Chs. 1 and 2, and Title 7, Ch. 7, of the 1999 Code. Amendments noted where applicable.]

## GENERAL REFERENCES

Construction site erosion control — See Ch. **226**.

Driveways — See Ch. **238**.

Nuisances — See Ch. **368**.

Grass and noxious weeds — See Ch. **396**, Art. **IV**.

Sewers — See Ch. **420**.

Subdivision of land — See Ch. **450**.

## Article I. Grades; Underground Utilities

### § 445-1. Establishment of grades.

- A. Grades to be established. The grade of all streets, alleys and sidewalks shall be established by the Village Board and the same recorded by the Village Clerk-Treasurer in his/her office. No street, alley or sidewalk shall be worked until the grade thereof is established. In all cases where the grade of sidewalks shall not have been specifically set by ordinance, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.
- B. New sidewalk grade. Whenever a street shall be improved for the first time or the grade thereof changed and the street improved so as to conform to the new grade, the grading of the sidewalk shall be considered a part of the improvement, shall be let by contract with the other work of improving such street, and the expense thereof shall be provided for and borne in all respects like that of improving the street, but the construction shall be done by the owners of the abutting lots or parcels of land or at their expense as hereinafter provided. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Village Board shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established.

### § 445-2. Alteration of grade prohibited.

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the Village of Neshkoro by any means whatsoever unless authorized or instructed to do so by the Village Board or Director of Public Works. All such alterations of grade shall be recorded in the office of the Village Clerk-Treasurer.

### § 445-3. Regulation of underground utilities.

- A. Utilities may not cut open any street less than five years old except in case of emergency.<sup>[1]</sup>  
*[1] Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. Elevation. The grade or elevation of all underground construction shall be a minimum of three feet below the established grade of the street, alley, park, public property or easement. The three feet shall be measured between the top of the established grade and the top of the underground construction.
- C. Approval of location. The location of any and all such underground construction must have the approval of the Director of Public Works.

- D. Filing plans. Complete plans for any such construction must be filed with and be approved by the Director of Public Works before construction can begin.
- E. Inspection. On request of the Director of Public Works, the utility company must provide opportunity for him to check any construction before it may be covered.
- F. Conflict with other utilities. If the grade or elevation herein set for the underground construction of utilities shall, in any instance, conflict with other existing utilities, the utility shall be required to lower the elevation of its underground construction or of the storm sewer, at the election of the Director of Public Works and in accordance with his directions and specifications.
- G. Establishment of grade. At the request of the utility company, the Director of Public Works shall give the utility company an established grade on any streets, alleys, public parks or easements where it proposes to install underground utilities.
- H. Emergency. In case of an emergency, when immediate action is necessary in order to protect life or property, the utility company may proceed with underground construction, subject to obtaining the approval of such work by the Director of Public Works as soon thereafter as is reasonably possible.
- I. Restoration of surface. In the event of any such underground construction, the utility company shall leave the surface of the ground or road in the same condition as before said work was commenced, and in the event of its failure so to do, the Village may proceed to place the surface of the ground or street in such condition at the utility company's expense. Such work shall comply with the provisions of §§ **445-6** and **445-7**.
- J. Nonrelief from obligations. Compliance with this section does not relieve the utility company from any responsibility of any kind whatsoever by reason of the widening of the travelway or any other improvements which may become necessary, nor does it relieve it from any liability of any kind or nature whatsoever. Compliance with this section shall not relieve the utility company from the responsibility or obligation of removing, relocating or moving any of its mains, pipes or property due to the opening, widening or improving of streets or due to any other changes which may occur by reason of which such moving, relocation or removing may be necessary.

## Article II. General Regulations

### § 445-4. Removal of rubbish and dirt from sidewalks.

No owner or occupant shall allow the sidewalk abutting on his/her premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Village Board or its designee, the Village Board or its designee may cause the same to be done and report the cost thereof to the Village Clerk-Treasurer, who shall spread the cost on the tax roll as a special tax against the premises, pursuant to § 66.0627, Wis. Stats., or such cost may be recovered in an action against the owner or occupant.

### § 445-5. Construction and repair of sidewalks; cost of curb and gutter.

- A. Board may order. The Village Board may determine that sidewalks or curb and gutter may be constructed, laid, rebuilt or repaired along or upon any public street, right-of-way or highway within the Village. The Village Board may determine or change the width or grade of any street or sidewalk.
- B. Cost of sidewalks.

- (1) New subdivision sidewalks. Sidewalks required in new subdivisions and developments shall be paid for by the land divider pursuant to Chapter **450** of this Code.<sup>[1]</sup> New sidewalks constructed in existing areas of the Village shall be paid for by adjacent property owners.  
*[1] Editor's Note: See Ch. 450, Subdivision of Land.*
  - (2) Sidewalk repair and reconstruction. It shall be the duty of the abutting property owner on each side of the street to construct and repair, and the duty of the abutting property owner to maintain sidewalks along or upon any street, alley or highway in the Village of Neshkoro as required by the Village Board. The cost of sidewalk repair or reconstruction shall be paid 50% by the property owner and 50% by the Village.
  - (3) Assessment a lien. Said special assessment shall remain a lien on the premises until paid in full and shall be entered on the tax roll as a special tax as above provided, and failure to pay when due shall result in the whole balance being immediately due and payable and collectible as a delinquent tax against the above-described property and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to such special assessment.
- C. Authorization required. No person shall hereafter lay, remove, replace or repair any public sidewalk within the Village of Neshkoro unless he/she is under contract with the Village to do such work.
- D. Standard specifications for sidewalk.
- (1) General.
    - (a) All sidewalks shall be constructed of masonry meeting Wisconsin Department of Transportation standard specifications, unless otherwise specified in this section.
    - (b) Concrete sidewalk construction shall meet the specifications and provisions set forth in this section and shall be constructed in locations and to line and grade as established by the Village. All sidewalks constructed in the Village shall conform to the line and grade established by the ordinances or resolutions of the Village. Where no grade has been established as ascertained by the records, the Village Engineer shall prepare and report a grade for the approval of the Village Board, and when the same has been established, the Village Engineer shall stake out the sidewalk as ordered by the Village Board. No sidewalk shall be laid under the provisions of this section until a grade therefor has been established by the Village Board.
  - (2) Subgrade. All earth, dirt and material shall be removed to a depth not less than eight inches, 10 inches across private driveways, below the grade line, and the space shall be filled with crushed stone, sand or gravel. The base shall be left four inches thick after being tamped, with the stone or gravel to be not larger than 1 1/2 inches in diameter and to be free from dirt, dust and foreign matter. Soft, porous and unsuitable subgrade material shall be removed and replaced with sand, gravel or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed. On embankments, the subgrade shall extend at least one foot beyond each edge of the sidewalk.
  - (3) Concrete. The minimum quantity of cement per cubic yard shall be six ninety-four-pound sacks. Concrete shall be mixed for at least one minute. Gravel shall be of good quality and washed. Concrete shall test 2,000 pounds compression in 28 days. Bituminous sidewalks are prohibited.
  - (4) Forming. Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping or other displacement during the process of depositing and consolidating the concrete. Concrete shall be placed in the forms on a moist subgrade, deposited just above the finished grade and consolidated and spaded sufficiently to bring the mortar to the surface and to prevent honeycombing. It shall then be struck off level with the top of the forms and finished with wooden flats. Forms shall be securely fastened, staked,

braced and held firmly to required line and shall be sufficiently tight to prevent leakage of mortar, and all forms shall remain in place for 24 hours after pour.

- (5) Jointing, floating and finishing. Soon after screening and while the concrete is still plastic, the surface shall be floated with wood, cork or metal floats or by a finishing machine. At all places where the sidewalk intersects another sidewalk or curblin, a one-half-inch expansion joint shall be placed. Transverse expansion joints 1/2 inch thick and four inches wide and five feet long of premolded material shall be located every 30 feet. Sidewalks must be marked off to make blocks five foot square and be at right angles to the parallel lines. Any new sidewalk adjoining an old sidewalk or a sidewalk which abuts curb and gutter shall have one-half-inch by four-inch expansion joints of premolded material.
- (6) Slope.
  - (a) All forms must be approved by the Director of Public Works or other inspector designated by the Director of Public Works before concrete is poured. To provide adequate drainage, the sidewalk shall slope toward the curb at a minimum rate of 1/2 inch per foot of width of sidewalk. All joints and edges shall be finished with a one-fourth-inch radius edging tool.
  - (b) In cases where the grade exceeds 15%, steps or special construction shall be required to fit the existing conditions. Such details shall be prepared by the Village Engineer and approved by the Village Board before construction of the walk is started.
  - (c) Sidewalks shall be constructed within the limits of the street, and unless otherwise specifically indicated, there shall be a one-foot strip of street property left between the property line and the edge of the sidewalk.
- (7) Width and thickness.
  - (a) Residential walks shall be four feet in width, laid six inches outside the property line, but not less than four inches in thickness, except within driveway approaches, where the minimum thickness shall be seven inches.
  - (b) Sidewalks in front of commercial or industrial establishments or on designated areas of Main Street shall be not less than six feet in width and five inches in thickness, except within driveway approaches, where the minimum thickness shall be seven inches.
- (8) Finishing. The concrete shall be struck off true to grade, finished smooth and given a broom finish. All edges shall be rounded. No tool marks shall be left on exposed surfaces. In case of rain, the walk shall be covered to protect the surface from being damaged. Walks shall be kept free from all traffic at normal temperatures for 48 hours and in cold weather (below 50° F.) for 96 hours. No concrete shall be poured when the temperature may be expected to fall below 35° F. in any seventy-two-hour period or upon frozen subgrade.
- (9) Curing and drying. As soon as any of the concrete work herein before mentioned has been finished and hardened sufficiently to prevent excessive marring of the surface, it shall be cured and protected against rapid drying. Failure to comply with this requirement shall be deemed sufficient cause for suspension of the work. Curing shall be accomplished by the "impervious coating," "wet fabric" or "paper" methods. For impervious coating or membrane curing, only those materials meeting the requirements of ASTM Spec. C156-44T, "Method of Test for Efficiency of Materials for Curing Concrete," shall be used. Said specifications are hereby adopted by reference as if fully set forth herein.
- (10) Cold weather requirements. When the temperature is less than 40° F., all concrete placed in the forms shall have a temperature between 50° F. and 70° F. and shall meet the requirements as per Wisconsin Department of Transportation specifications for cold weather concrete.
- (11) Minor repairs. Nothing in this section shall apply to minor repairs, the cost of which does not exceed \$500; such repairs may be made at the direction of the Director of Public Works

without notice, and the cost thereof may be charged to the abutting property owner in the same manner as provided in this section for major repairs.

(12) Variances.

- (a) Location. Where the location of a sidewalk in accordance with the specifications established herein would conflict with the location of trees or the root systems thereof a written variance to the specifications may be issued by the Director of Public Works permitting the sidewalk to be located so as to eliminate or reduce such conflict. No variance shall be issued if the public safety or welfare would be adversely affected thereby. No fee shall be charged for such variance.
- (b) Material. Where the property owner desires to use nonstandard materials such as brick, aggregate or cobblestone in the construction of a sidewalk, a written variance to the specifications established herein may be issued by the Village Board to permit the use of such nonstandard material. No variance shall be granted for any portion of a sidewalk which crosses or is part of a driveway, nor shall a variance be granted if the public safety or welfare would be adversely affected thereby. A condition of the granting of a variance under this subparagraph shall be the execution and recording of an indemnity agreement running with the land binding the property owner, his/her successors and assigns, holding the Village harmless from any liability, loss or damage resulting from the use of such nonstandard materials.

E. Repair or replacement of defective sidewalks.

- (1) The Village Board may determine that any sidewalk which is unsafe, defective or insufficient be repaired or removed and replaced with a sidewalk in accordance with this section. The existence of any one or more of the hereinafter enumerated characteristics shall determine whether a sidewalk is defective or insufficient:
  - (a) One-inch or more vertical differential between adjacent sharp-edged individual sidewalk blocks (crack in slab) and between adjacent round-edged individual sidewalk blocks (joint).
  - (b) One-and-one-fourth-inch horizontal distance between adjacent individual sidewalk blocks.
  - (c) Deterioration of the surface to a vertical depth of 1/2 inch or more within each individual sidewalk block.
- (2) If 80% of a property owner's sidewalk blocks are determined to be defective or insufficient, the entire sidewalk shall be replaced.

F. Illegal sidewalks. No sidewalk which shall be constructed contrary to the provisions of this section shall be considered a legal sidewalk, and the same may be ordered to be replaced with a legal sidewalk and with one that is in conformity with this section, the same as if no sidewalk whatever had been built or constructed in the place where any such sidewalk is located.

## § 445-6. Excavations of streets, alleys, public ways and grounds.

A. Permit required. No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ditch, public ground, public sidewalk or Village-owned easement within the Village of Neshkoro without permission therefor from the Director of Public Works.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II); this ordinance also deleted original subsections (a)(2), (3) and (4) and (b), which pertained to permits and fees and which immediately followed this subsection.*

- B. Exception. The provisions of this section shall not apply to Village excavation work done under the direction of the Village Board or Director of Public Works.
- C. Validity of permit. Permits shall be valid for a period of 30 days from the date of approval, except as provided for under § **445-7G** for pavement replacement.
- D. Renewal of permit. If operations have begun under an approved permit and will continue beyond the thirty-day validation period, the permittee shall apply for a thirty-day permit renewal by written request to the Clerk-Treasurer or Director of Public Works. Permit renewals shall be issued at the discretion of the Clerk-Treasurer or Director of Public Works.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- E. Village standards. All street work shall be performed in accordance with the current standard specifications for street openings found in this section and § **445-7**. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.
- F. Insurance. Prior to the commencement of excavation work, a permittee must furnish the Village satisfactory written evidence that he/she has in force and will maintain during the life of the permit and the period of excavation, public liability insurance in an amount not less than \$1,000,000 per person and \$1,000,000 for property damage. This may be altered by the Village Board on small contracts. In the event the permittee claims to be self-insured, then he/she shall place on file with the Village Clerk-Treasurer a certificate of self-insurance in the sums set forth in this paragraph for personal injury and property damage and said permittee shall also execute to the Village an agreement to indemnify and save harmless the Village from any and all liability for claims, accidents or damages caused by reasons of operation under the permit, whether or not the same are caused by the negligence of the permittee, the Village of Neshkoro, or any other person, firm or corporation.
- G. Bond.
  - (1) Before a permit for excavating or opening any street or public way may be issued, the applicant must execute and deposit with the Village Clerk-Treasurer an indemnity bond in the sum of \$10,000, conditioned that he/she will indemnify and save harmless the Village of Neshkoro and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he/she will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he/she may make as near as can be to the state and condition in which he/she found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Village Board for a period of one year, and that he/she will pay all fines or forfeitures imposed upon him/her for any violation of any rule, regulation or ordinance governing street openings or drain-laying adopted by the Village Board, and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the Village. Such statement shall also guarantee that, if the Village shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one year.
  - (2) Faulty work or materials shall be immediately replaced by the permittee upon notice by the Village. Failure to correct deficiencies shall result in a one-year revocation of the right to obtain a street opening permit. The Village shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus 20% for administration.
  - (3) The person who does such restoration shall be responsible therefor for one year from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the Village in an amount determined by the Village Board.
  - (4) Whenever the Village Board shall find that any such work has become defective within one year of the date of completion, it shall give written notice thereof to the contractor or to his/her surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the Village Board to be reasonably necessary to complete said work. After receipt of such

notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the Village for the cost of doing the work as set forth in the notice.

- (5) An annual bond may be given under this section covering all excavation work done by the principal for one year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Village Board as necessary to adequately protect the public and the Village.

H. Public utilities. All public utilities, as defined in § 196.01, Wis. Stats., are hereby required to be bound by the terms and conditions of this section and § **445-7** and any and all subparagraphs thereunder, except that a Village public utility, as defined within this section, shall not be required to post the indemnity bond.

## § 445-7. Regulations governing excavations and openings.

A. Frozen ground. No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15 and April 1 except where it is determined by the Village Board or its designee to be an emergency excavation. Utilities that disturb pavement, sidewalks, lawns within a right-of-way, etc., shall be responsible for concrete/asphalt restoration and grading and reseeded of disturbed lawns.

B. Protection of public.

- (1) Every opening and excavation shall be enclosed with sufficient barriers, signing and such other traffic control devices as may be required by the Village Board or its designee, and in accordance with Section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunset to sunrise. No open-flame warning devices shall be used. Except by special permission from the Director of Public Works, no trench shall be excavated more than 250 feet in advance of pipe or conduit laying nor left unfilled more than 500 feet from where pipe or conduit has been laid.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Village in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
- (3) Unless otherwise approved, a minimum of one lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his project. In the event traffic is limited to less than one lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.
- (4) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workmen or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the Director of Public Works 24 hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Subsection H.
- (5) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least 12 hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Subsection H.

C. Pavement removal.

- (1) Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of his work and in accordance with all applicable codes and regulations.
- (2) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The Director of Public Works shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.
- (3) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curblineline or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.
- (4) The Director of Public Works may order the permittee to remove and replace up to one full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to ensure a full depth of concrete at the joint.

D. Excavation.

- (1) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed.
- (2) Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.

E. Backfilling.

- (1) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight inches in their greatest dimension, frozen lumps or other material which, in the opinion of the Director of Public Works, is unsuitable.
- (2) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the Director of Public Works, hauled in.
- (3) Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.
- (4) Mechanical compaction shall be used on all materials used for trench backfill. Each layer (twelve-inch maximum) shall be uniformly compacted to a dry density of at least 95% of the maximum dry density, as determined by the Modified Proctor Test (ASTM-1557). Compaction or consolidation by flooding shall not be permitted.
- (5) All excavations shall be subject to testing by the Village. Backfilled material not achieving the above compaction requirements shall be removed and recompactd by the permittee. The cost of any retesting shall be paid by the permittee.
- (6) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation.

- F. Notice. It shall be the duty of the permittee to notify the Clerk-Treasurer or Director of Public Works and all public and private individuals, firms and corporations affected by the work to be done at least one business day before such work is to commence. The Clerk-Treasurer or Director of Public Works shall also be notified at least four hours prior to backfilling and/or restoring the surface.
- G. Pavement replacement.
- (1) Backfill material shall be left below the original surface to allow for four inches of three-inch crushed stone and four inches of three-fourths-inch crushed stone, plus the thickness of the required pavement structure. If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted three-fourths-inch crushed stone.
  - (2) Bituminous pavement shall be placed the full depth of the existing pavement or 2 1/2 inches, whichever is greater. Bituminous pavement shall be placed in a maximum of a one-and-one-half-inch base layer and a one-inch top layer, with each layer compacted to maximum density, and shall consist of Wisconsin Department of Transportation gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than 1/4 inch as measured with a ten-foot straight edge.
  - (3) Concrete pavement shall be placed to the full depth of the existing pavement or seven inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three days. Tie bars shall be installed as directed by Village officials.
  - (4) All permanent restoration of street, curb and gutter shall be of the same type and thickness as the curb and gutter which abuts. The grade of the restored curb and gutter shall conform with the grade of the existing adjacent curb and gutter.
  - (5) All permanent restoration of driveways and sidewalks shall conform to the manner of construction as originally placed and to the lines and grades as given by the Village Engineer. No patching of concrete driveway areas will be allowed between joints or dummy joints.
  - (6) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three inches of cold-mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1, except as provided above. Permanent pavements shall be replaced within 60 days of the date of the permit.
  - (7) When a street is reconstructed, utility laterals shall also be installed, including sump pump laterals, even if not immediately needed.
- H. Emergency excavation. In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground, and his/her agents and employees, make take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day and shall notify the Village office immediately.
- I. Excavation in new streets limited. Whenever the Village Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than 30 days before the work of improvement or repaving shall begin. Immediately after such

determination by the Village Board, the Clerk-Treasurer shall notify each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within 30 days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five years after the date of improvement or repaving unless, in the opinion of the Village Board or its designee, conditions exist which make it absolutely essential that the permit be issued. Every effort shall be made to place gas, electric, telephone and television cable lines in street terraces.

- J. Repair by Village. The Village may elect to make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining it for one year shall be charged to the person making the street opening. In the event such charges are not paid within 90 days of actual notice of the same having been furnished the applicant and owner of the premises for which said permit was issued, it shall become a lien against said premises and thereafter be assessed and collected as a special tax.

## § 445-8. Obstructions and encroachments.

- A. Obstructions and encroachments prohibited. No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he/she is the owner or occupant, except as provided in Subsections **B** and **C**.
- B. Exceptions. The prohibition of Subsection **A** shall not apply to the following:
- (1) Temporary encroachments or obstructions authorized by permit under § **445-9** of this chapter pursuant to § 66.0425, Wis. Stats.
  - (2) Building materials for the period authorized by the Clerk-Treasurer which shall not obstruct more than 1/2 of the sidewalk or more than 1/3 of the traveled portion of the street and which do not interfere with the flow in the gutters.
  - (3) Excavations and openings permitted under §§ **445-6** and **445-7** of this chapter.
- C. Standards. Property owners may place certain fixtures on sidewalks which immediately adjoin their property if the following requirements are met:
- (1) The property must be located in an area used for commercial uses.
  - (2) The fixture(s) shall not be physically attached to the sidewalk, any street fixture or any adjacent building, and shall be of a temporary design.
  - (3) The placement of the fixture shall not significantly impede the flow of pedestrian traffic on the sidewalk. In no event shall the fixture reduce the unobstructed sidewalk width to less than three feet at any point.
- D. Removal by Village for sidewalk obstructions and encroachments. In addition to any other penalty imposed, if any Village enforcement official determines that a sidewalk is unlawfully obstructed in violation of this section, he/she shall issue a written notice to the owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within 24 hours.
- E. Removal by Village for obstruction and encroachments located in the Village streets, alleys, public grounds or lands dedicated for public use. In addition to any other penalty imposed, if any Village enforcement official determines that a Village street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he/she shall issue a written notice to the property owner of the premises which adjoin the obstructed public area directing that the obstruction be removed within 24 hours.

F. Failure to remove obstruction.

- (1) If the owner or occupant fails to remove the obstruction within the time period established in Subsection **D** or **E**, respectively, any Village enforcement official shall cause the removal of the obstruction, keeping an account of the expense of the abatement, and such expenses shall be charged to and paid by such property owner. Notice of the bill for abatement of the obstruction shall be mailed to the owner of the premises and shall be payable within 10 calendar days from receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by the state statutes.
- (2) The failure of the Clerk-Treasurer to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the Village expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this section.

## § 445-9. Street privilege permit.

A. When required. Permits for the use of the streets, alleys, sidewalks or other public ways or places of the Village or for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure may be granted to applicants by the Village Board, provided such applicant has complied with the other requirements of this section and has obtained a building permit if required by this Code. The Clerk-Treasurer shall request advisory recommendations from the Director of Public Works, Chief of Police and/or Building Inspector prior to issuance of the permit. Village officials may attach conditions to the permit, including proof of liability insurance.  
[Amended 10-4-2010]

B. Bond. No street privilege permit shall be issued until the applicant shall execute and file with the Clerk-Treasurer a bond in an amount determined by the Director of Public Works not exceeding \$10,000, conditioned that the applicant will indemnify and save harmless the Village from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the Village resulting from such building or moving operations. Upon request, the Village Board may waive this requirement.<sup>[1]</sup>

[1] *Editor's Note: Original Subsection (c), Fee, which immediately followed this subsection, was deleted 10-4-2010.*

C. Conditions of occupancy. The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Village Board, Director of Public Works, Chief of Police, or Building Inspector for violation thereof:

- (1) Such temporary obstruction shall cover not more than 1/3 of any street or alley.
- (2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
- (3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four feet in width guarded by a closed fence at least four feet high on both sides may be maintained during the period of occupancy.
- (4) The process of moving any building or structure shall be as continuous as practicable until completed and, if ordered by the Village Board, shall continue during all hours of the day and night.

- (5) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.
  - (6) Buildings shall be moved only in accordance with the route prescribed by the Village Board.
  - (7) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.
- D. Termination. All street privilege permits shall automatically terminate at the end of three months from the date of issuance unless an earlier termination date is specified thereon, at the discretion of the Clerk-Treasurer.
- E. Removal by Village. In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall remove or neglect to remove such obstruction within 24 hours after such notice from the Village Board to do so, it shall be the duty of the Village Board to remove such obstruction and make return of the costs and expenses thereof to the Clerk-Treasurer, who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

## § 445-10. Snow and ice removal.

- A. Removal from sidewalks. Within 24 hours after the cessation of any fall of sleet or snow, it shall be the duty of the owners and/or the occupants of any lot or parcel of land in the Village of Neshkoro to remove, or cause to be removed, the snow or sleet from any and all sidewalks and the nearest cross sidewalks adjacent to the premises of such owner or occupant and to keep the same free and clear of snow and ice for the full width of the sidewalk. When ice is formed on the sidewalk so that it cannot be removed, it shall be kept sprinkled with salt, sand or like material.
- B. Failure to remove. In case of failure or neglect of any owner or occupant of any land or parcel of land to remove the snow or sleet (ice) from sidewalks as specified in Subsection **A** within the time set forth in said subsection and, after 24 hours after the cessation of any fall of snow, the owner or occupant has failed to remove such snow from sidewalks as specified in Subsection **A**, the Director of Public Works may remove or cause the snow or sleet (ice) to be removed from any and all sidewalks and cross sidewalks that may be so neglected by the owner or occupant, and a fee established by the Village Board shall be assessed against the owner or occupant for the cost and expense of moving such snow or sleet (ice). The fee will be charged against the respective lots and parcels of land adjacent to which said work shall be done, as a special tax, and such sum or sums shall be collected in the same manner as other special taxes.  
[Amended 2-2-2015]
- C. Snow and ice not to encroach. No person shall push, shove or in any way deposit any snow or ice onto any public streets, alley, sidewalk or public lands dedicated to public use except for parcels or lots located where existing buildings are constructed within five feet of the street right-of-way and the sidewalks exist from the Village right-of-way to the curblin. In such instances, the owners, occupants and/or employees of parcels or lots shall be permitted to deposit snow and ice from their sidewalks onto the public streets.
- D. Enforcement. All sworn police officers and other designated Village officials and employees are hereby authorized and directed to enforce the provisions of this section.
- E. Continued violations. Each twenty-four-hour period where a violation occurs shall constitute a separate offense under this section for enforcement purposes. Repeated violations or subsequent additional accumulations of snow and/or ice shall not nullify any pending notice issued under this section.

- F. Abatement after notice. Failure of the owner, occupant or person in charge of any parcel or lot to cause the removal of snow and/or ice within the time established under Subsection **A** shall result in a citation being issued to violators and/or the Village causing the removal of said snow and/or ice and billing the cost thereof pursuant to Subsection **G** below.
- G. An account of the expenses incurred by the Village to abate the snow and/or ice hazard shall be kept and such expenses shall be charged to and paid by the parcel or lot owner. Said expenses shall be not less than \$50 nor more than the actual cost of wages and material required to remove said snow or ice, whichever is greater. Notice of the bill for the removal of snow and/or ice shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within 10 calendar days from the receipt thereof. Within 30 days after such costs and expenses are incurred and remain unpaid, the Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by § 66.0907(5), Wis. Stats.  
[Amended 3-3-2003]
- H. Violations and penalties. In addition to the provisions set forth in this section, any person, firm or corporation which violates the provisions of this section shall be subject to a penalty as provided in § **1-4** of this Code.

## § 445-11. Terrace areas.

- A. Definition. As used in this section, the term "terrace" shall be defined as provided in § **480-15A(12)** of the Code.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- B. Noxious weeds; paving. All that part of a residential terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Village Board or its designee. Basketball backstops, statuary, structures, flagpoles and other objects shall not be placed in the terrace area.
- C. Responsibility to maintain. Every owner of land in the Village whose land abuts a terrace is required to maintain, or have maintained by his/her tenant, the terrace directly abutting such land, as provided in this section and elsewhere in this Code. Every owner shall keep mailboxes located on a terrace free and clear of snow.

## § 445-12. Vaults.

All vaults and cisterns under sidewalks shall be prohibited.

## § 445-13. Requests for improvements.

Requests or petitions by Village property owners for new streets, street resurfacing, curb and gutter, storm sewers, utility work and sidewalks shall be presented to the Village Board on or before September 15 to be considered for installation in the following year.

## § 445-14. Unlawful dumping on streets.

It shall be unlawful for any person to deposit or cause to be deposited, dump, sort, scatter or leave any rubbish, stone, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, construction waste, garbage or other offensive or noxious material in any public street, sidewalk, alley or upon any public property or upon any property of another without the express

permission of the owner or occupant thereof. Such unlawful material or obstruction may be removed by the Village and the cost thereof billed to the violator pursuant to § 66.0627, Wis. Stats.

## § 445-15. Obstruction of public ditches.

No person shall in any manner obstruct or cause to be obstructed the free passage of water in any public gutter, ditch, culvert, swale or drain or place or cause to be placed any rubbish, dirt, sand, gravel or any other matter or thing so that the same is likely to be carried by the elements into any public gutter, ditch, culvert, swale or drain. Such unlawful material or obstruction may be removed by the Village and the cost thereof billed to the violator pursuant to § 66.0627, Wis. Stats.

## § 445-16. Street numbers.

- A. Intent. The intent of this section is to provide an accurate and orderly system for numbering houses and buildings located within the Village limits of the Village of Neshkoro and to provide a grid system to facilitate the same and, further, to provide for the future updating and maintenance of the above system.
- B. Applicability and enforcement. The provisions of this section shall apply to all structures presently located within the Village limits of the Village of Neshkoro or those that may in the future be placed within the Village limits of the Village of Neshkoro in accordance with Village ordinance.
- C. Original system. It is agreed by the Village Board of the Village of Neshkoro that the original house numbering and grid system, which will provide house numbers for all buildings and residences located within the Village of Neshkoro, Marquette County, Wisconsin, shall be provided at the expense of the Wisconsin Gas Company, for the convenience of said Wisconsin Gas Company in the maintaining of its records and to provide a better service to the residents of the Village of Neshkoro.
- D. Maintenance. After the providing of the original house numbering and grid system by the Wisconsin Gas Company for the Village of Neshkoro, it shall be the duty and responsibility of the Village of Neshkoro to thereafter maintain the house numbering and grid system and, further, to provide any additional numbers that may be required for replacement or for the numbering of new buildings or residences.
- E. Placement of numbers on buildings.
  - (1) Expense. Such number or numbers shall be placed within 20 days after the assigning of the proper number. The cost of the number or numbers or replacement of the number or numbers shall be paid for by the owner.
  - (2) Specifications. The numbers used shall not be less than 2 1/2 inches in height. The numbers shall be conspicuously placed immediately above, on or at the side of the proper door of each building so that the number can be seen plainly from the street. Whenever any building is situated more than 50 feet from the street line, the number of such building shall be conspicuously displayed at the street line, near the walk, driveway or common entrance to such building and upon the gatepost, fence, tree, post or other appropriate place so as to be easily discernible from the sidewalk.
- F. Distinctive numbers for portions of buildings. Where only one number can be assigned to any house or building, the owner, occupant or agent of such house or building who shall desire distinctive numbers for the upper and lower portion of any such house or building, or for any part of such house or building, fronting on any street, such owner, occupant or agent shall use the suffixes "A," "B," "C," etc., as may be required.
- G. Building Inspector to determine numbers. It shall be the duty of the Building Inspector to inform any party applying therefor of the number or numbers belonging or embraced within the limits of

said lot or property as provided in this section. In case of doubt as to the proper number to be assigned to any lot or building, the Inspector shall determine the number of such lot or building.

- H. Duty of the owner. Whenever any house, building or structure shall be erected or located in the Village of Neshkoro after the entire work of establishing a uniform system of house numbering has been completed, in order to preserve the continuity and uniformity of numbers of the houses, buildings and structures, it shall be the duty of the owner to secure the correct number or numbers as designated from the Building Inspector for the said property and to immediately fasten the said number or numbers so assigned upon said building as provided by this section. No building permit shall be issued for any house, building or structure until the owner has procured from the Inspector the official number of the premises.
- I. Violation. If the owner or occupant of any building required to be numbered by this section shall neglect for the period of 20 days to duly attach and maintain the proper number on such building, the Police Chief shall serve upon him/her a notice requiring such owner or occupant to properly number the same, and if he neglects to do so for 10 days after the service of such notice, he shall be deemed to have violated this section.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 445-17. Use and/or lease of Village equipment.

The Village of Neshkoro shall not permit any person to use and/or lease any Village office or public works equipment for private purposes.

## § 445-18. Dirt and debris on streets.

- A. In the interests of public safety, health and general welfare, community appearance, and efficiency of operation, it shall be unlawful to place, throw, leave, in any way deposit or permit to be deposited, or permit to remain any dirt, leaves, rubbish, litter, debris or material of any kind upon any street, sidewalk, alley, drainageway or public ground in the Village of Neshkoro.
- B. The owner, occupant or person in charge of private premises who places, causes or permits to remain any of said materials upon any street, sidewalk, alley, drainageway or public ground in the Village of Neshkoro shall immediately remove said materials at no cost to the Village.
- C. The operator of any motor vehicle which tracks, drops or places any materials upon any street, sidewalk, alley, drainageway or public ground in the Village of Neshkoro shall immediately stop and remove said materials at no cost to the Village. In the event said operator is performing work under the control or authority of the owner, occupant or person in charge of the work on private premises, and said operator causes the deposition of any materials upon any street, sidewalk, alley, drainageway or public ground in the Village of Neshkoro, and said operator fails to remove said materials as required in this subsection above, the owner, occupant or person in charge of said work on said private premises shall remove said materials at no cost to the Village.
- D. In the event the materials are not removed from the street in accordance with Subsection **B** and/or **C** above, the Village shall cause the removal of such materials and shall charge said operator, or said owner, occupant or person in charge of said work the cost of the removal. In the event the person charged for said removal fails to pay such costs within 30 days, it shall be entered on the tax roll as a special tax against said property.
- E. In addition to the costs of removal, said operator or said owner, occupant or person in charge of said property shall be subject to a penalty per occurrence as prescribed in § 1-4 of the Code. Each day that said materials are not removed shall constitute a separate offense under this section.

## § 445-19. Damages to streets and public property.

- A. In the interests of public safety, health, general welfare, community appearance, and efficiency of operation, it shall be unlawful in any way to cause damage, injury or destruction to any portion or any fixture of any street, sidewalk, alley, drainageway or public ground in the Village of Neshkoro.
- B. The person who causes damage, injury or destruction of any portion of any street, sidewalk, alley, drainageway or public ground in the Village of Neshkoro shall immediately stop and notify the Police Department that he has caused such damages and shall correct said damages within 10 days at no cost to the Village. The cost for damaging signs is equal to the cost of replacement, plus costs of installation, in addition to any applicable citations.<sup>[1]</sup>  
 [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. In the event the operator of any motor vehicle or equipment which causes damage, injury or destruction of any portion of any street, sidewalk, alley, drainageway or public ground in the Village of Neshkoro fails to report such damage, it shall be considered a violation of this section. In the event said operator is performing work under the control or authority of the owner, occupant or person in charge of the work on private premises, and said operator causes the damage of any portion or fixture of any street, sidewalk, alley, drainageway or public ground in the Village of Neshkoro, and said operator fails to correct said damages as required in Subsection **B** above, the owner, occupant or person in charge of said work on said private premises shall correct said damages at no cost to the Village.
- D. In the event the damages are not corrected within 10 days, the Village shall cause the correction of said damages and shall charge the operator or owner, occupant or person in charge of said property the cost of correcting the damage. In the event the said costs remain unpaid following 30 days, it shall be entered on the tax roll as a special tax against said property.
- E. In addition to the costs to correct damages, said operator or said owner, occupant or person in charge of said property shall be subject to a penalty per occurrence as prescribed in § 1-4 of the Code. Each day after said 10 days that the damages are not corrected shall constitute a separate offense under this section.

## § 445-20. Adoption of state statutes concerning roads.

The statutory provisions in the following enumerated sections of the Wisconsin Statutes, exclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of said statutes, are hereby adopted and, by reference, made a part of this section. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the statutory regulations incorporated herein are intended to be made part of this section.

66.1035	Rights of Abutting Owners
82.19	Discontinuance of Highways
86.03	Trees on and Adjacent to Highway
86.04	Highway Encroachments
86.05	Entrances to Highways Restored
86.06	Highways Closed to Travel
86.07	Digging in Highways or Using Bridges for Advertising
86.105	Snow Removal in Private Driveways
86.19	Highway Signs, Regulation, Prohibition
893.83(1)	Damages Caused by Highway Defects; Liability of Municipality

## § 445-21. Grass clippings.

All grass clippings from lawn mowing or other sources shall not be allowed to excessively accumulate upon any public street or be dumped on a public right-of-way in such a manner in the Village of Neshkoro where such grass clippings could wash into any storm sewer drainage inlet in significant quantities.

## Article III. Street Use Permits

### § 445-22. Purpose.

The streets in possession of the Village are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Village Clerk-Treasurer may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this article is enacted to regulate and control the use of streets pursuant to a street use permit to the end that the health, safety and general welfare of the public and the good order of the Village can be protected and maintained.

### § 445-23. Application.

A written application for a street use permit by persons or groups desiring the same shall be made on a form provided by the Village Clerk-Treasurer and shall be filed with the Village Clerk-Treasurer. The application shall set forth the following information regarding the proposed street use:

- A. The name, address and telephone number of the applicant or applicants.
- B. If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
- C. The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
- D. The date and duration of time for which the requested use of the street is proposed to occur.
- E. An accurate description of that portion of the street proposed to be used.
- F. The approximate number of persons for whom use of the proposed street area is requested.
- G. The proposed use, described in detail, for which the street use permit is requested.

### § 445-24. Representative at meeting.

The person or representative of the group making application for a street use permit shall be present when the Village Board gives consideration to the granting of said street use permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.

### § 445-25. Denial of street use permit.

An application for a street use permit may be denied if:

- A. The proposed street use is primarily for private or commercial gain.
- B. The proposed street use would violate any federal or state law or any ordinance of the Village.
- C. The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.

- D. The application for a street use permit does not contain the information required above.
- E. The application requests a period for the use of the street in excess of five days.
- F. The proposed use could equally be held in a public park or other location. In addition to the requirement that the application for a street use permit shall be denied, as hereinabove set forth, the Village Board may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.

## § 445-26. Insurance.

The applicant for a street use permit may be required to indemnify, defend and hold the Village and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Village on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a certificate of comprehensive general liability insurance with the Village of Neshkoro. The applicant may be required to furnish a performance bond prior to being granted the permit.

## § 445-27. Termination of a street use permit.

A street use permit for an event in progress may be terminated by the Village President or a law enforcement officer if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the Village of Neshkoro. The Village President or a law enforcement officer has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

# Chapter 450. Subdivision of Land

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 14, Ch. 1, of the 1999 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

- Plan Commission — See § 15-5.
- Building construction — See Ch. 200.
- Erosion control — See Ch. 226.
- Driveways — See Ch. 238.
- Floodplains and shoreland-wetlands — See Ch. 270.
- Sewer — See Ch. 420.
- Streets and sidewalks — See Ch. 445.
- Zoning — See Ch. 500.

## § 450-1. Introduction and purpose.

- A. Introduction. In accordance with the authority granted by § 236.45, Wis. Stats., and for the purposes listed in §§ 236.01 and 236.45, Wis. Stats., the Village Board of the Village of Neshkoro does hereby ordain as follows:
  - (1) The provisions of this chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Village.
  - (2) This chapter shall not repeal, impair or modify private covenants or public ordinances, except that it shall apply whenever it imposes stricter restrictions on land use.

- B. Purpose. The purpose of this chapter is to promote the public health, safety, convenience and general welfare. The regulations are designed to lessen congestion in the streets; to foster the orderly layout and use of land; to ensure safety from fire, flooding, panic and other dangers; to provide optimum light and air; to discourage overcrowding of the land; to lessen concentration of population; to facilitate adequate provision of transportation, public water and sewerage, schools, parks, playgrounds and other public necessities; and to facilitate the further division of large tracts of land into smaller parcels. The regulations are made with the reasonable consideration of, but not limited to, the present character of the Village and its environs, with the objectives of conserving the value of the land and improvements placed thereon, providing the most appropriate environment for human habitation, encouraging commerce and industry, and providing for the most appropriate use of land in the Village.

## § 450-2. Definitions.

The following definitions shall be applicable in this chapter:

### **ALLEY**

A public right-of-way which normally affords a secondary means of vehicular access to abutting property.

### **ARTERIAL STREET**

A street which provides for the movement of relatively heavy traffic to, from or within the Village. It has a secondary function of providing access to abutting land.

### **BLOCK**

An area of land within a subdivision that is entirely bounded by a combination or combinations of streets, exterior boundary lines of the subdivision and streams or water bodies.

### **BUILDING LINE**

A line parallel to a lot line and at a distance from the lot line to comply with the Village Zoning Ordinance's yard requirement.

### **COLLECTOR STREET**

A street which collects and distributes internal traffic within an urban area, such as a residential neighborhood, between arterial and local streets. It provides access to abutting property.

### **COMMISSION**

The Plan Commission created by the Village Board pursuant to § 62.23, Wis. Stats., if one is created.

### **COMPREHENSIVE PLAN**

A comprehensive plan prepared by the Village indicating the general locations recommended for the various functional classes of land use, places and structures and for the general physical development of the Village and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

### **CUL-DE-SAC**

A short street having but one end open to traffic and the other end being permanently terminated in a vehicular turnaround.

### **DIVISION OF LAND**

Where the title or any part thereof is transferred by the execution of a land contract, an option to purchase, an offer to purchase and acceptance, a deed or a certified survey, and a division occurs.<sup>[1]</sup>

### **EASEMENT**

The area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.

#### **EXTRATERRITORIAL PLAT APPROVAL JURISDICTION**

The unincorporated area within 1 1/2 miles of a fourth-class city or a Village and within three miles of all other cities.

#### **FINAL PLAT**

The final map, drawing or chart on which the subdivider's plan of subdivision is presented for approval and which, if approved, will be submitted to the County Register of Deeds. Said plat must conform to all state laws.

#### **FLOODLANDS**

Those lands, including the floodplains, floodways and channels, subject to inundation by the one-hundred-year recurrence interval flood or, where such data is not available, the maximum flood of record.

#### **FRONTAGE STREET**

A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

#### **HIGH-WATER ELEVATION**

The average annual high-water level of a pond, stream, river, lake, flowage or wetland referred to an established datum plane or, where such elevation is not available, the elevation of the line up to which the presence of the water is so frequent as to leave a distance mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic geological or vegetative characteristic.

#### **IMPROVEMENT, PUBLIC**

Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip or other facility for which the Village may ultimately assume the responsibility for maintenance and operation.

#### **LAND DIVISION**

The division and redivision of land by the owner or subdivider resulting in the creation of not more than four parcels or building sites of 1 1/2 acres or less in size within five years. See "subdivision" for more than four lots.<sup>[2]</sup>

#### **LOCAL STREET**

A street of little or no continuity designed to provide access to abutting property and leading into collector streets.

#### **LOT**

A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this chapter and any applicable zoning ordinance.

#### **LOT AREA**

The area contained within the exterior boundaries of a lot, excluding streets, easements, except utility easements, and land under navigable bodies of water.<sup>[3]</sup>

#### **LOT, CORNER**

A lot abutting intersecting streets at their intersection.

#### **LOT, DOUBLE-FRONTAGE**

A lot which has a pair of opposite lot lines along two substantially parallel streets and which is not a corner lot. On a double-frontage lot, both street lines shall be deemed front lot lines.

#### **LOT LINES**

The peripheral boundaries of a lot as defined herein.

#### **LOT, REVERSED CORNER**

A corner lot which is oriented so that it has its rear lot line coincident with or parallel to the side lot line of the interior lot immediately to its rear.

#### **LOT, THROUGH**

A lot having a pair of opposite lot lines along two more or less parallel public streets and which is not a corner lot. On a "through lot," both street lines shall be deemed front lot lines.

#### **LOT WIDTH**

The width of a parcel of land measured along the front building line.

#### **MAJOR THOROUGHFARE**

A street used or intended to be used primarily for fast or heavy through traffic. Major thoroughfares shall include freeways, expressways and other highways and parkways, as well as arterial streets.

#### **MARGINAL ACCESS STREET**

A street which is parallel to and adjacent to major thoroughfares and which provides access to abutting properties and protection from traffic on the major street.

#### **MINOR STREET**

A street used or intended to be used primarily for access to abutting properties.

#### **NAVIGABLE STREAM**

Any stream capable of floating any boat, skiff or canoe, of the shallowest draft used for recreation purposes.

#### **OWNER**

Includes the plural as well as the singular and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of these.

#### **PEDESTRIAN PATHWAY**

A public way, usually running at right angles to streets, which is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.

#### **PLAT**

The map, drawing or chart on which the subdivider's plat of subdivision is presented to the Village for approval.

#### **PRELIMINARY PLAT**

The preliminary plat map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Village Board for its consideration as to compliance with the Comprehensive Plan and these regulations along with required supporting data.

#### **PROTECTIVE COVENANTS**

Contracts entered into between private parties which constitute a restriction on the use of all private property within a subdivision for the benefit of the property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

#### **REPLAT**

The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded

subdivision plat without changing exterior boundaries of said block, lot or outlot is not a replat.<sup>[4]</sup>

## **SUBDIVIDER**

Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor subdivision or replat.

## **SUBDIVISION**

The division of a lot, outlot, parcel or tract of land by the owner thereof or his agent for the purpose of transfer of ownership or building development, where the act of division creates five or more parcels or building sites of 1 1/2 acres or less in area, or where the act of division creates five or more parcels or building sites by successive division within a period of five years, whether done by the original owner or a successor owner. See "land division" for less than five lots.<sup>[5]</sup>

## **WETLANDS**

Those lands which are partially or wholly covered by marshland flora and generally covered with shallow standing water or lands which are wet and spongy due to high water table.

## **WISCONSIN ADMINISTRATIVE CODE**

The rules of administrative agencies having rule-making authority in Wisconsin, published in a loose-leaf, continual revision system, as directed by § 35.93 and Ch. 227, Wis. Stats., including subsequent amendments to those rules.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[4] *Editor's Note: The original definition of "shorelands," which immediately followed this definition, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See Ch. 270, Floodplain and Shoreland-Wetland Zoning, for shoreland definitions.*

[5] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## **§ 450-3. General provisions.**

A. Compliance. No person shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision or a replat, as defined herein; no such subdivision or replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this chapter and the following:<sup>[1]</sup>

(1) The provisions of Ch. 236 and § 82.18, Wis. Stats.

(2) The rules of the Department of Commerce contained in Ch. Comm 85, Wis. Adm. Code, for subdivisions not served by public sewer.

(3) The rules of the Wisconsin Department of Transportation contained in Ch. Trans 233, Wis. Adm. Code, for subdivisions which abut a state trunk highway or connecting street.

(4) The rules of the Wisconsin Department of Natural Resources contained in the Wisconsin Administrative Code for a floodplain management program.

(5) Comprehensive plans or components of such plans prepared by state, regional, county or municipal agencies, duly adopted by the Village Board.

(6) All applicable local and county regulations, including zoning, sanitary, building and official mapping ordinances.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

B. Jurisdiction. Jurisdiction of these regulations shall include all lands within the corporate limits of the Village of Neshkoro as well as the unincorporated area within 1 1/2 miles of the corporate limits as provided in §§ 236.10 and 62.23, Wis. Stats. The provisions of this chapter, as they apply to divisions of tracts of land into less than five parcels, shall not apply to:

- (1) Transfers of interests in land pursuant to court order;<sup>[2]</sup>  
*[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (2) Leases for a term not to exceed 10 years, mortgages or easements; or
  - (3) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this chapter or other applicable laws or ordinances.
- C. Certified survey map. Any division of land other than a subdivision, as defined in § 236.02(12), Wis. Stats., shall be surveyed and a certified survey map prepared as provided in § 236.34, Wis. Stats., except per Subsection **B(3)** above.<sup>[3]</sup>  
*[3] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- D. Permits. No building permit shall be issued by the Village authorizing the building on or improvement of any parcel of land not on record as of the effective date of this chapter until the provisions and requirements of this chapter have been met.
- E. Applicability to condominiums. This chapter is expressly applicable to condominium developments within the Village's jurisdiction, pursuant to § 703.27(1), Wis. Stats. For purposes of this chapter, a condominium unit and any associated limited common elements shall be deemed to be equivalent to a lot or parcel created by the act of subdivision.
- F. Land suitability. No land shall be subdivided which is held unsuitable for its proposed use by the Village Board for reason of flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the Village. The Village Board, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he/she so desires. Thereafter the Board may affirm, modify or withdraw its determination of unsuitability.

## § 450-4. Condominium developments.

### A. Purpose.

- (1) The Village Board hereby finds that certain issues arise in condominium developments that require limited applicability of this chapter to condominium developments. The State Legislature has recognized that subdivision ordinances may apply to condominiums but that subdivision ordinances shall not impose burdens upon condominiums that are different from those imposed on other property of a similar character not subject to a declaration of condominium.
- (2) The factor that makes this chapter applicable to a condominium development is the creation of multiple, distinct property entities at or near the ground surface, subject to property taxation as separate parcels, with each property entity having different ownership and management. The Village of Neshkoro determines that this factor makes a condominium development dissimilar, both physically and in ownership, from developments in which the land and improvements are under unitary ownership, management and control.
- (3) Thus, the Village Board hereby finds that new condominium developments can place impacts on community resources in the same manner as other new developments which are characterized by division of land into lots. These impacts include:
  - (a) Additional population density.
  - (b) Possibility of use of particular land in a manner unsuitable to the land's characteristics.

- (c) Additional demands upon Village area parks, recreation areas, utility facilities and schools.
  - (d) Additional traffic and street use.
- B. Portions of chapter applicable to condominium developments. The following sections of this chapter shall apply to condominium developments:
- (1) Sections **450-5** and **450-6** relating to preliminary plat approval. This stage of approval shall be the only approval required for a condominium development. The technical requirements for preliminary plats set forth in § **450-6** shall not apply, since condominiums have separate technical standards set forth in Ch. 703, Wis. Stats.
  - (2) Section **450-15**.
  - (3) Sections **450-9** through **450-17**.
  - (4) Section **450-18**.
- C. Exceptions. This section shall not apply to the following condominiums:
- (1) Any condominium plat recorded prior to the effective date of this chapter.
  - (2) Any conversion of a structure or structures in existence on the effective date of this chapter to a condominium after the effective date of this chapter.

## § 450-5. Procedure for submitting subdivisions.

- A. Preliminary meetings. Before filing a preliminary plat, the subdivider is encouraged to consult with the Village Board for advice regarding general subdivision requirements. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities. This consultation is neither formal nor mandatory but is intended to inform the subdivider of the purpose and objectives of these regulations, the Comprehensive Plan, Comprehensive Plan components and duly adopted Plan implementation devices of the Village and to otherwise assist the subdivider in planning his/her development. In so doing, both the subdivider and Village Board may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequent required procedures.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. Preliminary plat review within the Village.
- (1) Submission. Before submitting a final plat for approval, the subdivider shall prepare a preliminary plat and a letter of application. The preliminary plat shall be prepared in accordance with this chapter, and the subdivider shall file an adequate number of copies of the plat and the application as required by this section with the Village Clerk-Treasurer at least 25 days prior to the meeting of the Village Board at which action is desired. The Village Clerk-Treasurer shall submit a copy of the preliminary plat to the Village Engineer for review and written report of his recommendations and reactions to the proposed plat.
  - (2) Public improvements, plans and specifications. Simultaneously with the filing of the preliminary plat of map, the owner shall file with the Village Clerk-Treasurer 15 complete sets of preliminary plans and specifications for the construction of any public improvements required by this chapter.
  - (3) Property owners' association. The Village Board may require submission of a draft of the legal instruments and rules for proposed property owners' associations when the subdivider proposes that common property within a subdivision would be either owned or maintained by such an organization of property owners.

- (4) Affidavit. The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he/she has fully complied with the provisions of this chapter.
- (5) Supplementary data to be filed with preliminary plat. The following shall also be filed with the preliminary plat:
  - (a) A statement of the proposed use of lots, stating type of residential buildings with number of proposed dwelling units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population;
  - (b) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions; and
  - (c) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Village Board may require that the subdivider submit a preliminary plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions.
- (6) Referral to other agencies.
  - (a) The Village Clerk-Treasurer shall, within two days after a preliminary plat is submitted, transmit four copies of the plat to the county planning agency and two copies for each of the state agencies required to review the plat to the Department of Administration.<sup>[2]</sup>

*[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (b) The Village Clerk-Treasurer shall transmit a copy of the preliminary plat to all affected Village boards, commissions or departments and all affected local utility companies for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Village Board within 15 days from the date the plat is filed. The preliminary plat shall then be reviewed by the Board for conformance with this chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components which affect it.
- (7) Drafting standards. The subdivider shall submit to the Village Clerk-Treasurer copies of a preliminary plat (or certified survey) based upon an accurate exterior boundary survey by a registered land surveyor which shall show clearly the proposed subdivision at a scale of not more than one inch per 100 feet having two-foot contour intervals, shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land), easements which the subdivider proposes to make and shall indicate by accompanying letter when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be submitted.<sup>[3]</sup>

*[3] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

C. Preliminary plat approval within the Village.

- (1) Objecting agencies' recommendations. The objecting agencies shall, within 20 days of the date of receiving their copies of the preliminary plat, or 30 days in the case of the Department of Administration, notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Village Board. If an objecting agency fails to act within 20 days, or 30 days in the case of the Department of Administration, it shall be deemed to have no objection to the plat.<sup>[4]</sup>

*[4] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (2) Board review. The Village Board shall, within 90 days of the date the preliminary plat was filed with the Village Clerk-Treasurer, approve, approve conditionally or reject such plat and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is

extended by written agreement by the subdivider. Failure of the Village Board to act within 90 days or extension thereof shall constitute an approval of the preliminary plat, unless other authorized agencies object to the plat. The Village Clerk-Treasurer shall communicate to the subdivider the action of the Village Board. If the plat or map is approved, the Village Clerk-Treasurer shall endorse it for the Village Board.

- (3) Approval or conditional approval. Approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat, except that, if the final plat is submitted within 24 months of preliminary plat approval and conforms substantially to the preliminary plat layout as indicated in § 236.11(1)(b), Wis. Stats., the final plat shall be entitled to approval with respect to such layout. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat, which will be subject to further consideration by the Village Board at the time of its submission.
- (4) Plat amendment. Should the subdivider desire to amend the preliminary plat as approved, he may resubmit the amended plat, which shall follow the same procedure, except for the hearing and fee, unless the amendment is, in the opinion of the Village Board, of such scope as to constitute a new plat, in which such case it shall be refiled.

#### D. Final plat review.

- (1) The subdivider shall prepare a final plat and a letter of application in accordance with this chapter and shall file copies of the plat and the application with the Village Clerk-Treasurer at least 25 days prior to the meeting of the Village Board at which action is desired. The owner or subdivider shall file six copies of the final plat not later than 24 months after the date of approval of the preliminary plat; otherwise, the preliminary plat and final plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the Village. The owner or subdivider shall also submit at this time a current certified abstract of title or registered property report and such other evidence as the Village Attorney may require showing title or control in the applicant.<sup>[5]</sup>  
*[5] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (2) The Village Clerk-Treasurer shall, within two days after a final plat is submitted, transmit four copies of the plat to the county zoning agency and two copies for each of the state agencies required to review the plat to the Wisconsin Department of Administration. In lieu of this procedure, the subdivider may submit the original plat directly to the Department of Administration in accordance with § 236.12(6), Wis. Stats.<sup>[6]</sup>  
*[6] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (3) The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by § 236.12(2), Wis. Stats.
- (4) Simultaneously with the filing of the final plat or map, the owner shall file with the Village Clerk-Treasurer six copies of the final plans and specifications of public improvements required by this chapter.
- (5) The Village Clerk-Treasurer shall refer two copies of the final plat to the Village Board, one copy to the Engineer, and a copy each to the telephone and power and other utility companies. The abstract of title or registered property report shall be referred to the Attorney for his examination and report. The Village Clerk-Treasurer shall also refer the final plans and specifications of public improvements to the Village Engineer for review. The recommendations of the Village Engineer shall be made within 30 days of the filing of the final plat. The Village Engineer shall examine the plat or map and final plans and specifications of public improvements for technical details and, if he finds them satisfactory, shall so certify in writing to the Village Board. If the plat or map or the plans and specifications are not satisfactory, the Village Engineer shall return them to the owner and so advise the Village Board.

- (6) The Village Board shall examine the final plat as to its conformance with the approved preliminary plat, any conditions of approval of the preliminary plat, this chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it.
- E. Partial platting. The final plat may, if permitted by the Village Board, constitute only that portion of the approved preliminary plat which the subdivider proposes to record at the time.
- F. Final plat approval.
- (1) The objecting agencies shall, within 20 days of the date of receiving their copies of the final plat, or 30 days in the case of the Department of Administration, notify the subdivider and all other approving and objecting agencies of any objections. If there are not objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Village Board. If an objecting agency fails to act within 20 days, or 30 days in the case of the Department of Administration, it shall be deemed to have no objection to the plat.<sup>[7]</sup>  
*[7] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (2) If the final plat is not submitted within 24 months of the last-required approval of the preliminary plat, the Village Board may refuse to approve the final plat.<sup>[8]</sup>  
*[8] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (3) The Village Board shall, within 60 days of the date of filing the original final plat with the Village Clerk-Treasurer, approve or reject such plat unless the time is extended by agreement with the subdivider. If the plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The Village Board may not inscribe its approval on the final plat unless the Village Clerk-Treasurer certifies on the face of the plat that the copies were forwarded to objecting agencies as required herein, the date thereof and that no objections have been filed within 20 days, or 30 days in the case of the Department of Administration, or, if filed, have been met.<sup>[9]</sup>  
*[9] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (4) Failure of the Village Board to act within 60 days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.
  - (5) After the final plat has been approved by the Village Board and required improvements either installed or a contract and sureties ensuring their installation is filed, the Village Clerk-Treasurer shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording with the County Register of Deeds. The Register of Deeds cannot record the plat unless it is offered within six months from the date of last approval and within 24 months of the first approval.<sup>[10]</sup>  
*[10] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (6) The subdivider shall file 10 copies of the final plat with the Village Clerk-Treasurer for distribution to the approving agencies and other affected agencies for their files.
- G. Engineering fee. The subdivider shall pay a fee equal to the actual cost to the Village for all engineering work incurred by the Village in connection with the plat or certified survey map.
- H. Administrative fee. The subdivider shall pay a fee equal to the cost of any legal, administrative or fiscal work which may be undertaken by the Village in connection with the plat or certified survey map.
- I. Recording of plats or certified surveys. Plats and certified surveys, approved by the Village Board of the Village of Neshkoro, must be recorded, together with the adopting resolution, with the County Register of Deeds within six months of the date of the last resolution of preliminary approval and not later than 24 months following the date of the first resolution of approval. Land divisions shall not be recognized by the Village until recorded with the Register of Deeds. The volume, page and document numbers of the recording shall be filed with the Village Clerk-

Treasurer and Building Inspector prior to issuance of any permits. The subdivider shall file 10 certified copies of the approved land division with the Village Clerk-Treasurer.<sup>[11]</sup>

[11] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 450-6. Technical requirements for preliminary and final plats.

- A. General preliminary plat information. A preliminary plat may be required for all subdivisions and shall be based upon a survey by a registered land surveyor, and the plat prepared on tracing cloth or paper of good quality at a scale of not more than 100 feet to the inch, and shall show correctly on its face the following information:
- (1) Title under which the proposed subdivision is to be recorded.
  - (2) Location of the proposed subdivision by government lot, quarter section, township, range, county and state.
  - (3) Date, scale and North point.
  - (4) Names and addresses of the owner, subdivider and land surveyor preparing the plat.
  - (5) Entire area contiguous to the proposed plat owned or controlled by the subdivider shall be included on the preliminary plat even though only a portion of said area is proposed for immediate development. The Village Board may waive this requirement where it is unnecessary to fulfill the purposes and intent of this chapter and undue hardship would result from strict application thereof.
- B. Preliminary plat data. All preliminary plats shall show the following:
- (1) Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.
  - (2) Locations of all existing property boundary lines, structures, drives, streams and watercourses, marshes, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto.
  - (3) Location, right-of-way width and names of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
  - (4) Location and names of any adjacent subdivisions, parks and cemeteries and owners of record of abutting unplatted lands.
  - (5) Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established center line elevations.
  - (6) Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drainpipes, the location of manholes, catch basins, hydrants, electric and communication facilities, whether overhead or underground, and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by the direction and distance from the tract, size and invert elevations.
  - (7) Corporate limit lines within the exterior boundaries of the plat or immediately adjacent thereto.
  - (8) Existing zoning on and adjacent to the proposed subdivision.

- (9) Contours within the exterior boundaries of the plat and extending to the center line of adjacent public streets to national map accuracy standards based upon mean sea level datum at vertical intervals of not more than two feet. At least two permanent bench marks shall be located in the immediate vicinity of the plat; the location of the bench marks shall be indicated on the plat, together with their elevations referenced to mean sea level datum and the monumentation of the bench marks clearly and completely described. Where, in the judgment of the Village Board, undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.
- (10) High-water elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within 100 feet therefrom.
- (11) Water elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within 100 feet therefrom at the date of the survey.
- (12) Floodland and shoreland boundaries and the contour line lying a vertical distance of two feet above the elevation of the one-hundred-year recurrence interval flood or, where such data is not available, two feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or within 100 feet therefrom.
- (13) Soil types and their boundaries, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Natural Resources Conservation Service.
- (14) Location and results of percolation tests within the exterior boundaries of the plat conducted in accordance with Ch. Comm 85, Wis. Adm. Code, where the subdivision will not be served by public sanitary sewer service.
- (15) Location, width and names of all proposed streets and public rights-of-way such as alleys and easements.
- (16) Approximate dimensions of all lots together with proposed lot and block numbers.
- (17) Location and approximate dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring lotting.
- (18) Approximate radii of all curves.
- (19) Any proposed lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to access.
- (20) Any proposed lake and stream improvement or relocation, and notice of application for approval by the Division of Environmental Protection, Department of Natural Resources, when applicable.
- (21) Soil and water conservation. The Village Board, upon determining from a review of the preliminary plat that the soil, slope, vegetation and drainage characteristics of the site are such as to require substantial cutting, clearing, grading and other earthmoving operations in the development of the subdivision or otherwise entail a severe erosion hazard, may require the subdivider to provide soil erosion and sedimentation control plans and specifications. In addition, the Board may request a review of such plans by the County Land Conservation Department.
- (22) Street plans and profiles. The Village Board may require that the subdivider provide street plans and profiles showing existing ground surface, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested. All elevations shall be based upon the same datum as above and plans and profiles shall meet the approval of the Village Board.
- (23) Covenants. The Village Board may require submission of a draft of protective covenants whereby the subdivider intends to regulate land use in the proposed subdivision and

otherwise protect the proposed development.

(24) Affidavit. The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this chapter.

(25) Where the Village Board finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the preliminary plat, it shall have the authority to request in writing such information from the subdivider.

C. Proposed layout. The Village Board may require a proposed subdivision layout of all or part of the contiguously owned land even though division is not planned at the time.

D. Design requirements. To the extent reasonably practicable, the certified survey/minor subdivision plat shall comply with the provisions of this chapter relating to general requirements, design standards and required improvements. Conveyance by metes and bounds shall be prohibited where the lot(s) involved is less than 1 1/2 acres or 300 feet in width.

E. Final plat technical requirements.

(1) General. A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of § 236.20, Wis. Stats.

(2) Additional information. The final plat shall show correctly on its face, in addition to the information required by § 236.20, Wis. Stats., the following:

(a) Exact street width along the line of any obliquely intersecting street.

(b) Floodland and shoreland boundaries and the contour line lying a vertical distance of two feet above the elevation of the one-hundred-year recurrence interval flood or, where such data is not available, a vertical distance of two feet above the elevation of the maximum flood of record.

(c) Location of individual lot soil boring and percolations tests as required by Ch. Comm 85, Wis. Adm. Code, for all lots not served by public sewer. The results of the tests shall be submitted with the plat.

(d) Railroad rights-of-way within and abutting the plat.

(e) Setbacks or building lines required by any approving or reviewing agency.

(f) All lands reserved for future public acquisition or reserved for the common use of property owners within the plat. If property reserved for common use is located within the subdivision, provisions and plans for its use and maintenance shall be submitted with the plat.

(g) Special restrictions required by the Board and other approving or objecting agency relating to access control along public ways, the provision of planting strips, or shorelands or floodlands.

(h) Where the Village Board finds that it requires additional information relative to a particular problem presented by a proposed development to review the final plat, it shall have the authority to request in writing such information from the subdivider.

(3) Deed restrictions. The Village Board may require that deed restrictions be filed with the final plat.

(4) Survey accuracy. A qualified person shall examine all final plats within the Village's jurisdiction and make field checks for the accuracy and closure of survey, proper kind and location of monuments, and legibility and completeness of the drawing.

- (5) Surveying and monumenting. All final plats shall meet all the surveying and monumenting requirements of § 236.15, Wis. Stats.
- (6) Relocate quarter section corners. Where the final plat is located within a quarter section, the corners of which have been relocated, monumented and coordinated by the Village, the plat shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat.
- (7) Certificates. All final plats shall provide all the certificates required by § 236.21, Wis. Stats., and, in addition, the surveyor shall certify that he has fully complied with all the provisions of this chapter.

## § 450-7. Replat.

- A. When it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in §§ 236.40 through 236.44, Wis. Stats. The subdivider or person wishing to replat shall then proceed as specified in § 450-5A through F.
- B. The Village Clerk-Treasurer shall schedule a public hearing before the Village Board when a preliminary plat of a replat of lands within the Village is filed and shall cause notices of the proposed replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within 200 feet of the exterior boundaries of the proposed replat.

## § 450-8. Land divisions.

- A. Certified survey use. When it is proposed to divide land into not more than four parcels or building sites of 1 1/2 acres or less within five years, the land divider may subdivide by use of a certified survey map.
- B. Letter of intent. The land divider shall submit to the Village Clerk-Treasurer a letter of intent. The letter of intent shall specify:
  - (1) The name and address of the owner of the property under consideration.
  - (2) The name and address of the land divider.
  - (3) The name and address of the surveyor who will be doing the work.
  - (4) The names and addresses of all prospective buyers.
  - (5) The location and size of the property.
  - (6) The present use of the land.
  - (7) The intended future use of the land.
  - (8) The estimated timetable of development.
- C. Sketch map. Accompanying the letter of intent, for areas outside the floodplain, the land divider shall submit a sketch map at a scale of one inch equals 200 feet or other appropriate scale. More than one sketch map may be used to show the required information but they shall be of the same scale and no one map shall be larger than 8 1/2 by 14 inches. Each submission shall include all contiguously owned land, except the sketch need not show more than 20 times the area of the intended certified survey. This sketch map shall show the following information:

- (1) North arrow, date and scale.
  - (2) Reference to a section corner.
  - (3) Approximate dimensions of the parcels and easements.
  - (4) The location of existing buildings, water wells, sewerage systems and Village sewer access, watercourses, drainage ditches and other features pertinent to proper division.
  - (5) Setback or building lines required by any approving agency.
  - (6) The uses of the land adjacent to the property and existing roads, easements of record, public access to navigable waters, dedicated areas and utilities.
- D. Floodplain areas. The Board may require that two-foot contour maps prepared by a registered surveyor or engineer be the basis of the sketch in floodplain areas.
- E. Proposed layout. The Board may require a proposed land division layout of all or part of the contiguously owned land even though division is not planned at the time.
- F. Additional information. The Board may require contour maps and individual lot percolation tests and soil borings prior to tentative approval where limiting conditions are suspected. Access to Village sewer and its continuation to neighboring parcels may be required.
- G. Tentative approval. The Board may grant tentative approval based on the letter of intent and sketch map, pending submission of the certified survey map. Tentative approval shall assure final approval if the certified survey submitted within the six months is substantially the same plan and all requirements for division are met.
- H. Certified survey. The land divider shall cause a certified survey map to be prepared and submit five copies along with the individual lot percolation tests and soil borings (for lots not served by public sewer) to the Village Clerk-Treasurer. The map shall be reviewed by the Board for conformance with this chapter and all ordinances, rules, regulations, comprehensive plans, and comprehensive plan components which affect it. The Village Board shall approve or reject such map within 90 days from the date of filing of the map unless the time is extended by agreement with the land divider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the land divider. If the map is approved, the Board shall cause the Village Clerk-Treasurer to so certify on the face of a copy of the map and return it to the submitter.
- I. Recordation. The land divider shall record the map with the County Register of Deeds within six months of the last approval of the map and within 24 months after the first approval by the Village Board.
- J. Certified survey map technical requirements.
- (1) General. A certified survey map prepared by a registered land surveyor shall be required for all land divisions. It shall comply in all respects with the requirements of § 236.34, Wis. Stats. The land division shall comply with the design standards set forth in this chapter.
  - (2) Certificates. The surveyor shall certify on the face of the map that he has fully complied with all the provisions of this chapter. The Village Board, after a recommendation by the reviewing agencies, shall certify its approval on the face of the map. This only applies to CSM for land divisions.
  - (3) Recordation. The certified survey map shall only be recorded with the County Register of Deeds after the certificates of the Village Board and the surveyor are placed on the face of the map.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 450-9. Design standards for streets.

- A. Compliance with comprehensive plans. In any new subdivision, the street layout shall conform to the arrangement, width and location indicated on the Official Map, Comprehensive Plan or component neighborhood development plan of the Village of Neshkoro. In areas for which such plans have not been completed, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as rivers and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas. The subdivisions shall be designed so as to provide each lot with satisfactory access to a public street.
- B. Street classification.
- (1) Arterial streets. Arterial streets, as hereafter defined, shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation, and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
  - (2) Collector streets. Collector streets, as hereafter defined, shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the major street and highway system and shall be properly related to special traffic generators such as schools, churches and shopping areas and other concentrations of population and to the major streets into which they feed.
  - (3) Minor streets. Minor streets, as hereafter defined, shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems, and to provide the minimum street area necessary to provide safe and convenient access to abutting property. Minor street locations and street grades shall be established wherever practicable in such a manner as to avoid excessive grading and to avoid the excessive removal of tree growth and general leveling of the topography.
- C. Environmental factors. Street, block and lot layouts shall be adjusted to the capacity of the soil and water resources and shall be designed so as to least disturb the existing terrain, flora, fauna and water regimen and to meet all of the use, site, sanitary, floodland and shoreland regulations contained in the Village Zoning Code and other applicable ordinances.
- D. Lakefront access. River or lake shores shall have 60 feet of public access platted to the low-water mark at intervals of not more than 1/2 mile as required by § 236.16(3), Wis. Stats.
- E. Reserve strips. Reserve strips shall not be provided on any plat to control access to streets or alleys, except where control of such strips is placed with the Village under conditions approved by the Board.
- F. Compliance with statutes. In laying out a subdivision, the owner shall conform to the provisions of Ch. 236, Wis. Stats., and all applicable code sections. In all cases where the requirements of this chapter are different from the requirements of Ch. 236, Wis. Stats., the more restrictive provision shall apply.
- G. Dedication. The subdivider shall dedicate land and improve streets as provided in this chapter. Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities and land uses, and public convenience and safety. Streets shall conform to the Official Map of the Village.
- H. Sufficient frontage. All lots shall have sufficient frontage on a street to allow access by emergency and service motor vehicles.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- I. Extraterritorial streets. Streets located in the extraterritorial plat jurisdiction of the Village of Neshkoro must also comply with the minimum town road standards of § 82.50, Wis. Stats.

J. Continuation. Streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit. Provision shall be made so that all proposed streets shall have a direct connection with, or be continuous and in line with, existing, planned or platted streets with which they are to connect. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Village Board such extension is not necessary or desirable for the coordination of the layout of the subdivision with existing layout or the most advantageous future development of adjacent tracts. <sup>[2]</sup>

<sup>[2]</sup> *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

K. Minor streets. Minor streets shall be laid out so as to discourage their use by through traffic.

L. Number of intersections. The number of intersections of minor streets with major streets shall be reduced to the practical minimum consistent with circulation needs and safety requirements.

M. Frontage roads. Where a subdivision abuts or contains an existing or proposed arterial highway, the Village Board may require a frontage road, nonaccess reservation along the rear of the property contiguous to such highway, or such other treatment as may be necessary to ensure safe, efficient traffic flow and adequate protection of residential properties.

N. Arterial street and highway protection. Whenever the proposed subdivision contains or is adjacent to a major street or highway, adequate protection of residential properties, limitation of access and separation of through and local traffic shall be provided by reverse frontage, with screen planting contained in a nonaccess reservation along the rear property line, or by the use of frontage streets.<sup>[3]</sup>

<sup>[3]</sup> *Editor's Note: Original subsection (o), Private streets, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

O. Visibility. Streets shall afford maximum visibility and safety and shall intersect at right angles where practicable.

P. Vertical curves. All changes in street grades shall be connected by vertical curves of a minimum length in feet equivalent to 30 times the algebraic difference in grade for major thoroughfares and 20 times this algebraic difference for all other streets.

Q. Half streets. Where a half street is adjacent to the subdivision, the other half street shall be dedicated by the subdivider.

R. Intersections.

(1) Property lines at street intersections of major thoroughfares shall be rounded with a radius of 15 feet or of a greater radius where the Village Board considers it necessary.

(2) Provisions of the Zoning Code with respect to traffic visibility at street intersections shall also apply here.

(3) Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.

(4) Number of streets converging at one intersection shall be reduced to a minimum, preferably to not more than two.

S. Alleys.

(1) Alleys shall be provided in all commercial and industrial districts, except that the Village Board may waive this requirement where other definite and assured provisions are made for service access, such as off-street loading and parking, consistent with and adequate for the uses proposed. No alleys shall connect with a major thoroughfare. Alleys in residential areas other than those zoned for multiple-family use shall not be permitted.<sup>[4]</sup>

<sup>[4]</sup> *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

(2) Dead-end alleys are prohibited.

T. Street names. New street names shall not duplicate the names of existing streets, but streets that are continuations of others already in existence and named shall bear the names of the existing streets. Street names shall be subject to approval by the Village Board.

U. Street design standards. The minimum right-of-way and roadway width of all proposed streets and alleys shall be as specified in § 450-15.<sup>[5]</sup>

[5] *Editor's Note: Original subsection (w), Limited access highway and railroad right-of-way treatment, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 450-10. Design standards for block design.

A. Length; arrangement. The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated, but block length in residential areas shall not generally be less than 500 feet or exceed 1,500 feet nor have less than sufficient width to provide for two tiers of lots of appropriate depth between street lines. A block shall be so designed as to provide two tiers of lots, unless it adjoins a railroad, major thoroughfare, river or park, where it may have a single tier of lots.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

B. Pedestrian pathways. Pedestrian pathways not less than 10 feet wide may be required by the Village Board through the center of a block more than 900 feet long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

## § 450-11. Design standards for lots.

A. Size, shape and orientation of lots shall be appropriate for the location of topography of the subdivision and for the type of development contemplated, provided that no lot shall be smaller in area than the minimum lot size for the appropriate zone as established by the Zoning Code.

B. Lot dimensions and setbacks shall conform to the requirements of the Zoning Code for the appropriate district in which the property is located.

C. Lots shall have a minimum average depth of 100 feet. Excessive depth in relation to width shall be avoided. Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated, as required by the Zoning Code.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

D. Residential lots fronting on major streets and highways shall be platted with extra depth or design or alleviate the effect of major street traffic on residential occupancy.

E. Corner lots for residential use shall have extra width of 10 feet to permit building setback from both streets, as required by the Zoning Code.

F. Every lot shall abut or face a street. Lots may abut or face a private street, if permitted by the Village Board. Every lot shall front or abut for a distance of at least 30 feet at the property line on a public street.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II); this ordinance also deleted original subsections (g) and (h), which immediately followed this subsection.*

- G. Double-frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
- H. In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, watercourses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
- I. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots or a plan shown as to future use, rather than allowed to remain as unusable parcels.
- J. Village sewer shall be made available.<sup>[3]</sup>  
*[3] Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- K. In the case where a proposed plat is adjacent to a limited access highway, other major highway or thoroughfare, there shall be no direct vehicular access from individual lots to such streets and roads. In the platting of small tracts of land fronting on limited access highways or thoroughfares, where there is no other alternative, a temporary entrance may be granted; as neighboring land becomes subdivided and more preferable access arrangements become possible, such temporary access permits shall become void.
- L. Lands lying between the meander line, established in accordance with § 236.20(2)(g), Wis. Stats., and the water's edge, and any otherwise unplatted lands which lie between a proposed subdivision and the water's edge shall be included as parts of lots, outlots or public dedications in any plat abutting a lake or stream. This requirement applies not only to lands proposed to be subdivided but also to all lands under option to the subdivider or in which he holds any interest and which are contiguous to the lands proposed to be subdivided and which abut a lake or stream as provided in § 236.16(4), Wis. Stats.

## § 450-12. Drainage system.

- A. Drainage system required. A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part. A final plat shall not be approved until the subdivider shall submit plans, profiles and specifications as specified in this section, which have been prepared by a registered professional engineer and approved by the Village Engineer.
- B. Drainage system plans.
  - (1) The subdivider shall submit to the Village Engineer and Village Board a report on the ability of existing watercourse channels, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the additional runoff which would be generated by the development of the land within the subdivision. Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed subdivision. The report shall also include:
    - (a) Estimates of the quantity of stormwater entering the subdivision naturally from areas outside the subdivision.
    - (b) Quantities of flow at each inlet or culvert.
    - (c) Location, sizes and grades of required culverts, storm drainage sewers and other required appurtenances.
  - (2) A grading plan for the streets, blocks and lots shall be submitted by the subdivider for the area within the subdivision.

- (3) The design criteria for storm drainage systems shall be based upon information provided by the Village Engineer.
  - (4) Material and construction specifications for all drainage projects (i.e., pipe, culverts, seed, sod, etc.) shall be in compliance with specifications provided by the Village Board or Village Engineer.
- C. Grading. The subdivider shall grade each subdivision in order to establish street, block and lot grades in proper relation to each other and to topography, as follows:
- (1) The subdivider shall grade the full width of the right-of-way of all proposed streets in accordance with the approved plans.
  - (2) Block grading shall be completed by one or more of the following methods:
    - (a) A ridge may be constructed along the rear lot lines which provides for drainage onto the streets.
    - (b) Parts of all lots may be graded to provide for drainage to the street or to a ditch along the rear lot line.
    - (c) Draining across rear or side lot lines may be permitted, provided that drainage onto adjoining properties is skillfully controlled.
- D. Drainage system requirements. The subdivider shall install all the storm drainage facilities indicated on the plans required in Subsection **A** of this section.
- (1) Street drainage. All streets shall be provided with an adequate storm drainage system. The street storm system shall serve as the primary drainage system and shall be designed to carry street, adjacent land and building stormwater drainage. No stormwater shall be permitted to be run into the sanitary sewer system within the proposed subdivision.
  - (2) Off-street drainage. The design of the off-street drainage system shall include the watershed affecting the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage. When the drainage system is outside of the street right-of-way, the subdivider shall make provisions for dedicating an easement of the Village to provide for the future maintenance of said system. Easements shall be a minimum of 20 feet, but the Village may require larger easements if more area is needed due to topography, size of watercourse, etc.
- E. Protection of drainage systems. The subdivider shall adequately protect all ditches to the satisfaction of the Village Engineer. Ditches and open channels shall be seeded, sodded or paved, depending upon grades and soil types. (Generally ditches or channels with grades up to 1% shall be seeded, those with grades up to 4% shall be sodded, and those with grades over 4% shall be paved.)
- F. Drainage easements. Where a land division is traversed by a watercourse, drainageway, channel or stream:
- (1) There shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this section;
  - (2) The watercourse, drainageway, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a stormwater easement or drainage right-of-way conforming to the lines of the relocated watercourse, and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this section; or
  - (3) Wherever possible, drainage shall be maintained in an easement by an open channel with landscaped banks and adequate width for maximum potential volume flow. In all cases, such

easements shall be of a minimum width established at the high-water mark or, in the absence of such specification, not less than 30 feet.

- G. Dedication of drainageways. Whenever a parcel is to be subdivided or consolidated and embraces any part of a drainageway identified on a Village comprehensive stormwater management plan, Comprehensive Plan and/or Official Map, or any portion thereof, such part of said existing or proposed public drainageway shall be platted and dedicated by the subdivider as an easement or right-of-way in the location and at the size indicated, along with all other streets and public ways in the land division. Whenever any parcel is to be subdivided or consolidated and is part of a drainage district established under the authority of Ch. 88, Wis. Stats., the subdivider shall petition the Circuit Court to transfer the jurisdiction of that portion of the drainage district being subdivided or consolidated to the Village in accordance with § 88.83, Wis. Stats.
- H. Dedication/preservation of stormwater management facilities. The subdivider shall dedicate sufficient land area for the storage of stormwater to meet the needs to be created by the proposed land development and in accordance with the standards for on-site detention and as determined by the Village Engineer. Whenever a proposed stormwater management facility (e.g., detention or retention basin) shown on the comprehensive stormwater management plan, Comprehensive Plan and/or Official Map is located, in whole or in part, within the proposed land division, ground areas for providing the required storage capacity in such proposed public facility shall be dedicated to the public to the requirements of the Comprehensive Plan and/or Official Map. Storage areas necessary to serve areas outside the land division shall be held in reserve for a period of five years from the date of final plat approval for future dedication to the Village or other appropriate agency.
- I. Storm drainage facilities. The subdivider, at his cost, shall install all drainage facilities identified in the erosion control plan or determined by the Village Engineer as being necessary for the management of all lands and roadways within the development. In addition, drainage capacity through the development from other areas shall be provided in accordance with a comprehensive surface water management study, if applicable. All required storm drainage facilities shall be constructed and operational prior to acceptance of any dedications and/or public improvements served by the storm drainage facilities.
- J. Minor drainage system. The subdivider shall install all minor drainage system components necessary to reduce inconvenience and damages from frequent storms. Minor drainage components shall include all inlets, piping, gutters, channels, ditching, pumping and other facilities designed to accommodate the post-development runoff resulting from a five-year, twenty-four-hour rainfall (ten-year, twenty-four-hour rainfall for commercial zoning district) event as determined in the most current edition of the Natural Resources Conservation Service Technical Release 55 (TR 55). Temporary accumulations of storm runoff from ponding or flowing water in or near minor system components shall be permitted, providing such accumulations do not allow the water to flow across the crown of the street from one side to the other. For arterial streets and streets located in commercial districts, ponding within normal traffic lanes (10 feet on each side of the center line of the street) is prohibited. In drainageways and drainageway easements, accumulations of water shall not inundate beyond the limits of the drainageway or drainageway easement. Cross-street drainage channels (valley gutters) shall not be permitted except on cul-de-sac or permanent dead-end streets serving less than 10 dwelling units and where the minimum grade in the valley gutter and street gutter between the valley gutter and the next downstream drainage inlet is not less than 1%.
- K. Major drainage system. The subdivider shall install all major drainage system components necessary to reduce inconvenience and damages from infrequent storms. Major system components shall include large channels and drainageways, streets, easements and other paths and shall be capable of accommodating post-development runoff in excess of that accommodated by minor system components resulting from twenty-four-hour rainfall events for storms with return frequencies greater than two years up to and including the one-hundred-year return event (as identified in TR 55). Runoff resulting from a one-hundred-year, twenty-four-hour rainfall event shall be contained within the street right-of-way.

L. Drainage piping systems.

- (1) Unless otherwise approved by the Village Engineer, all drainage piping of 12 inches diameter and greater in street rights-of-way shall be constructed of Class III reinforced concrete pipe. Piping materials outside of rights-of-way shall be subject to approval of the Village Engineer. All storm sewer outlets shall be equipped with steel bar or iron pipe debris gates.
- (2) Agricultural drain tiles which are disturbed during construction shall be restored, reconnected or connected to public storm drainage facilities.

M. Open channel systems.

- (1) Where open channels are utilized in either the minor or major drainage system, they shall be designed so as to minimize maintenance requirements and maximize safety. Drainage easements (in lieu of dedications) shall be utilized to accommodate open channels, providing adequate access by the Village for maintenance of drainage capacity. Side slopes shall not exceed a 4:1 slope. Drainageways where subject to high groundwater, continuous flows, or other conditions, as determined by the Village Engineer, that would hamper maintenance operations due to consistently wet conditions shall have a paved concrete invert of not less than eight feet wide and side slopes to a point one foot above the channel invert.
- (2) In areas where invert paving is not required, the drainageway bottom shall be grass. If the drainageway has a bare soil bottom or the natural grasses in the drainageway are disturbed due to development operations, the drainageway bottom shall be sodded and securely staked to one foot above the elevation of inundation resulting from a predevelopment five-year, twenty-four-hour storm event. Other disturbed areas shall be seeded and prepared in accordance with the Village's erosion control requirements.<sup>[1]</sup> Velocities for grass-lined channels shall not exceed those presented in the Village's surface water management study, if one is adopted.

[1] *Editor's Note: See Ch. 226, Construction site erosion control.*

N. Standards for on-site detention storage. When the subdivider employs on-site detention to control erosion and sedimentation, reduce the post-development peak runoff rate or temporarily store stormwater runoff due to inadequate downstream drainage facilities, the detention (storage) facilities shall be subject to regulation in accordance with the following standards:

- (1) Where on-site detention is temporarily employed for erosion and sedimentation control, the detention facilities shall safely contain the predevelopment runoff from a five-year storm event of twenty-four-hour duration.
- (2) Where on-site detention is permanently employed to reduce the post-development peak runoff, the detention facility shall safely contain the post-development runoff from a twenty-five-year storm event of twenty-four-hour duration within the limits of the facility.
- (3) Post-development peak runoff rates shall be limited to predevelopment levels up to and including twenty-five-year return period storms.
- (4) All detention facilities shall safely contain or pass the runoff from any storm of any duration which exceeds the maximum storm required to be contained up to the one-hundred-year storm event of twenty-four hour duration.
- (5) All permanent detention facilities shall safely contain the runoff from the one-hundred-year storm event of twenty-four-hour duration on both public and, if necessary, private properties without inundating any building at the ground elevation, the travel lanes of any arterial street, the center 10 feet of any collector street or the top of the curb on any local street.
- (6) Determination of on-site detention volumes shall be computed by procedures established by the United States Natural Resources Conservation Service in the most current edition of its technical publication entitled "Urban Hydrology for Small Watersheds, TR-55," and as accepted and approved by the Village Engineer.

- (7) The storage of stormwater runoff shall not encroach on any public park (except parks designed with detention facilities) or any private lands outside the land division unless an easement providing for such storage has been approved and recorded for said lands.
- (8) All detention facilities shall be designed with the safety of the general public and any considerations for ease of maintenance as top priorities.
- (9) Any wet detention facilities shall include riprap to not less than two feet above the normal pool elevation for protection from wave action.
- (10) The sides of all detention facilities shall have a maximum slope ratio of 4:1 (horizontal to vertical), with flatter slopes being required where determined practical by the Village Engineer.
- (11) The Village Board, upon recommendation by the Village Engineer, may require the installation of fencing or other such security measures in detention facilities with excessively long down times or permanent water features or other features requiring additional security for safety reasons.
- (12) The maximum depth of a detention pond shall be two feet and shall be protected, if required by the Village, by fencing according to specifications by the Village Engineer.

## § 450-13. Extra-size or off-site improvements.

- A. Design capacity. All improvements shall be installed to satisfy the service requirements for the service or drainage area in which the subdivision is located, and the improvements shall be of sufficient capacity to handle the expected development of the overall service or drainage area involved.
- B. Extra-size improvements. Where improvements in excess of the size needed to serve just the proposed subdivision are required, the subdivider shall pay for the total cost of improvements he/she is required to install to serve his/her subdivision. The additional costs which result from the extra-size improvement shall be paid for by the subdivider. Thus, when conditions within the whole drainage area will require an eighteen-inch sanitary sewer, for example, and a twelve-inch sewer will adequately serve the subdivision involved, the subdivider shall construct the eighteen-inch utility.
- C. Off-site extensions. When streets or utilities are not available at the boundary of the proposed subdivision, the Village or its duly authorized representative shall require, as a prerequisite to approval of a final plat, assurances that such improvement extensions shall be provided, as follows:
  - (1) Extensions of utilities onto the property involved shall be adequate to serve the total development requirements of the service or drainage area. Utilities leaving the property shall be constructed in such a manner as to make their extension practical for servicing the adjacent areas of the service or drainage area.
  - (2) If the Village or its duly authorized representative finds that extensions across undeveloped areas would not be warranted as a special assessment to the intervening properties or as a governmental expense until some future time, the developer shall be required, if he/she wishes to proceed with the development, to obtain necessary easements or rights-of-way and construct and pay for such extensions. Such improvements shall be available for connections by subdividers of adjoining land, and the subdivider may contract with adjacent property owners and/or subdividers of adjacent land for reimbursement of the oversize and/or off-site improvements constructed.
- D. Where sanitary sewer lift stations and force mains are required to lift sewage to the gravity system, the subdivider shall have plans, profiles and specifications prepared for the installation of such facilities. The installation, inspection, supervision and engineering fees for lift stations and/or

force mains shall be paid for by the subdivider unless otherwise determined and agreed upon by the Village Board.

## § 450-14. Nonresidential subdivisions.

### A. General.

- (1) If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provisions as the Village may require.
- (2) A nonresidential subdivision shall also be subject to all the requirements of site plan approval set forth in the Zoning Code. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the Village and shall conform to the proposed land use standards established by the Comprehensive Plan, Official Map and Zoning Ordinance.

### B. Standards. In addition to the principles and standards in these regulations which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Village that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

- (1) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
- (2) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
- (3) Special requirements may be imposed by the Village with respect to street, curb, gutter and sidewalk design and construction.
- (4) Special requirements may be imposed by the Village with respect to the installation of public utilities, including water, sewer and stormwater drainage.
- (5) Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for permanently landscaped buffer strips when necessary.
- (6) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

## § 450-15. Requirements and design standards for public improvements.

### A. General requirement.

- (1) In accordance with the authority granted by § 236.13, Wis. Stats., the Village of Neshkoro hereby requires that, as a condition of final plat or certified survey map approval, the subdivider agree to make and install all public improvements required by this chapter and that the subdivider shall provide the Village with security to ensure that the subdivider will make the required improvements. As a further condition of approval, the Village Board hereby requires that the subdivider be responsible for the cost of any necessary alterations of any existing utilities which, by virtue of the platting or certified survey map, fall within the public right-of-way.

- (2) As a condition for the acceptance of dedication of public rights-of-way, the Village requires that the public ways have been previously provided with all necessary facilities constructed to Village specifications, including, but not limited to, sewerage, storm drainage, water mains and services, grading and improvement of the streets and other public ways, sidewalks, street signing, streetlighting and such other facilities required by the Village Board.
- (3) The following required improvements shall be installed in accordance with the standards of this chapter and any additional engineering standards and specifications which have been adopted by the Village Board and filed with the Village Clerk-Treasurer. Where standards and specifications have not been adopted, the improvements shall be made in accordance with good engineering practices.

B. Guarantee for installation of required improvements.

- (1) Payment for installation of improvements. The required improvements to be furnished and installed by the subdivider are listed and described in this chapter. For any project to be considered where there will be Village financial involvement, the plat must be approved by November 1 of the year preceding the beginning of construction in order to comply with budget process requirements; provided, however, that, in the case of an improvement the cost of which would by general policy be assessed only in part to the improved property and the remaining cost paid out of general tax levy, provision may be made for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the Village. If any improvement installed within the subdivision will be of substantial benefit to land beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement, representing the benefit to such land, to be assessed against the same, and in such case the subdivider will be required only to pay for such portion of the whole cost of said improvement as will represent the benefit to the property within the subdivision.
- (2) Required agreement providing for proper installation of improvements.
  - (a) Prior to installation of any required improvements and prior to approval of the final plat, the subdivider shall enter into a written contract with the Village requiring the subdivider to furnish and construct said improvements at his/her sole cost and in accordance with plans and specifications and usual contract conditions, which shall include provision for supervision of details of construction by the Village Engineer and grant to the Engineer authority to correlate the work to be done under said contract by any subcontractors authorized to proceed thereunder with any other work being done or contracted by the Village in the vicinity.
  - (b) The agreement shall require the subdivider to make an escrow deposit or, in lieu thereof, to furnish a performance bond or irrevocable letter of credit, the amount of the deposit and the penal amount of the bond to be equal to 125% of the Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection.
  - (c) On request of the subdivider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat, and in such event, the amount of the deposit or bond shall be reduced in a sum equal to the estimated cost of the improvements so completed prior to acceptance of the plat only. If the required improvements are not complete within the specified period, all amounts held under performance bond shall be turned over and delivered to the Village and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider. The Village Board, at its option, may extend the bond period for an additional period not to exceed two years.
  - (d) The time for completion of the work and the several parts thereof shall be determined by the Village Board upon recommendation of the Engineer after consultation with the subdivider.

- (e) The subdivider shall pay the Village for all costs incurred by the Village for review and inspection of the subdivision. This would include preparation and review of plans and specifications by the Engineer, Planner and Attorney, as well as other costs of a similar nature.
- (f) Contractors and subcontractors who are to be engaged in the construction of street and utility improvements on dedicated street rights-of-way shall be subject to the approval of the Board.
- (g) Governmental units to which these security and contract provisions apply may file, in lieu of said contract and security, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section.

C. Procedure.

- (1) Construction plans and specifications. Construction plans for the required improvements conforming in all respects with the standards of the Village Engineer and the ordinances of the Village shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Wisconsin, and said plans shall contain his seal. Such plans, together with the quantities of construction items, shall be submitted to the Village Engineer for his/her approval and for his/her estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required. Simultaneously with the filing of the preliminary plat with the Village Clerk-Treasurer or as soon thereafter as practicable, copies of the construction plans and specifications shall be furnished for the following public improvements:
  - (a) Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.
  - (b) Sanitary sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.
  - (c) Storm sewer and open channel plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
  - (d) Water main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
  - (e) Erosion and sedimentation control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation.
  - (f) Planting plans showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.
  - (g) Additional special plans or information as required by Village officials.
- (2) Action by the Village Engineer. The Village Engineer shall review or cause to be reviewed the plans and specifications for conformance with the requirements of this Code and other pertinent Village design standards recommended by the Village Engineer and approved by the Village Board. If he/she rejects the plans and specifications, he shall notify the owner, who shall modify the plans or specifications, or both, accordingly. When the plans and specifications are corrected, the Village Engineer shall approve the plans and specifications for transmittal to the Village Board. The Village Board shall approve the plans and specifications before the improvements are installed.
- (3) Construction and inspection.
  - (a) Prior to starting any of the work covered by the plans approved above, written authorization to start the work shall be obtained from the Village Engineer upon receipt of all necessary permits and in accordance with the construction methods of this chapter.

- (b) Construction of all improvements required by this chapter shall be completed within two years from the date of approval of the preliminary plat by the Village Board, unless good cause can be shown for the Village Board to grant an extension.
  - (c) During the course of construction, the Village Engineer shall make such inspections as he/she deems necessary to ensure compliance with the plans and specifications as approved. The owner shall pay the actual cost incurred by the Village for such inspections. This fee shall be the actual cost to the Village of inspectors, engineers and other parties necessary to ensure satisfactory work.
- (4) "As-built" plans. After completion of all public improvements and prior to final acceptance of said improvements, the subdivider shall make or cause to be made a map showing the actual location of all valves, manholes, stubs, sewers and water mains and such other facilities as the Village Engineer shall require. This map shall be in black pencil on tracing paper and shall bear the signature and seal of a professional engineer registered in Wisconsin. The presentation of the map shall be a condition of final acceptance of the improvements and release of the surety bond assuring their completion.
- D. Street, alley and sidewalk improvements. The Village Board may waive. The developer shall construct streets and sidewalks as outlined on the approved plans based on the requirements of this Code:<sup>[1]</sup>
- (1) Grading. With the submittal of the final plat, the subdivider shall furnish drawings which indicate the existing and proposed grades of streets and alleys shown on the plat. Proposed grades will be reviewed by the Village Engineer for conformance with Village standards and good engineering practice. Street grades require the approval of the Village Board after receipt of the Village Engineer's recommendations. After approval of the street grades, the subdivider shall grade the full width of the right-of-way of the streets and alleys proposed to be dedicated, including the vision clearance triangle on corner lots. In cases where an existing street right-of-way is made a part of the plat or abuts the plat, the subdivider shall grade that portion of the right-of-way between the existing pavement and the property line. The bed for the roadways in the street rights-of-way shall be graded to subgrade elevation. The Village Engineer shall approve all grading within rights-of-way, and said grading shall extend for a sufficient distance beyond the right-of-way to ensure that the established grade will be preserved. Where electric and other communications or utilities facilities are to be installed underground, the utility easements shall be graded to within six inches of the final grade by the subdivider prior to the installation of such facilities; earthfill piles or mounds of dirt or construction materials shall not be stored on such easement areas.
  - (2) Street and sidewalk construction.
    - (a) After sanitary sewer, storm sewer and water utilities have been installed, the subdivider shall construct and dedicate as part of the subdivision, streets, curbs and gutters and sidewalks, including those adjacent to platted lots in existing street rights-of-way abutting the plat. The subdivider shall surface roadways to the widths prescribed by the Village Board on recommendation of the Village Engineer. Construction shall be to Village standard specifications for street improvements.
    - (b) The subdivider shall construct a concrete sidewalk on both sides of all streets within the subdivision. The Board may permit the construction of a concrete sidewalk on only one side of streets that serve lots having an average width of 100 feet or more fronting on said street and may waive the construction of sidewalks on streets that serve lots having an average width of 150 feet or more fronting on said street. The construction of all sidewalks shall be in accordance with plans and standard specifications approved by the Board.
    - (c) Wider than standard sidewalks may be required by the Board in the vicinity of schools, commercial areas and other places of public assemblage, and the Board may require the construction of sidewalks in locations other than required under the preceding provisions

of this chapter if such walks are necessary, in its opinion, for safe and adequate pedestrian circulation.

- (d) Dedicated walkways shall be improved by the subdivider to a grade and width approved by the Village Engineer and with surfacing as required by the Village Board, based on the location and the amount and character of use. The subdivider shall submit standard drawings indicating the existing and proposed grades.
- (3) Completion of street and sidewalk construction.
- (a) Prior to any building permits being issued on lands adjacent to streets and/or sidewalks, all street and sidewalk construction shall be completed by the subdivider, approved by the Village Engineer and accepted by the Village Board.
  - (b) The Village Engineer may issue a waiver of these requirements in unusual or special circumstances, such as excessively severe weather conditions, heavy construction temporarily in the area or construction material shortages (i.e., cement, asphalt). The issuance of a waiver shall be at the discretion of the Village Engineer and shall be based upon the written request of the subdivider.
  - (c) The subdivider requesting a waiver shall present such information and documentation required by the Village Board. The waiver shall be in written form and shall detail which improvement requirements are temporarily waived and for what period of time.
- (4) Curb and gutter. The subdivider shall install concrete curb and gutter along both sides of all streets shown on the plat prior to installation of the bituminous binder or base. The subdivider shall construct concrete curbs and gutters in accordance with plans and standard specifications approved by the Village Board or its designee. Wherever possible, provision shall be made at the time of construction for driveway access curb cuts.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

E. Construction standards. All streets and highways constructed in the Village or to be dedicated to the Village shall fully comply with the following construction standards:

- (1) Right-of-way and pavement width. The minimum right-of-way and roadway width of all proposed streets and alleys shall be as specified by the Comprehensive Plan, Comprehensive Plan component, Official Map, or neighborhood development study; or if no width is specified therein, the minimum widths shall be as follows:

<b>Type of Street</b>	<b>Right-of-Way to be</b>	<b>Pavement Width</b>
	<b>Reserved and Dedicated</b>	<b>(face of curb to face of curb)</b>
	<b>(feet)</b>	<b>(feet)</b>
Arterial street	80	46
Boulevard	120	Dual 34 with 24 median
Collector street	80	40
Minor street	66	36
Cul-de-sac	60	36
Pedestrianway	10	5
Alley	32	30

- (2) Cul-de-sac streets. Cul-de-sac streets designed to have one end permanently closed shall not exceed 1,000 feet in length. All cul-de-sac streets designed to have an end permanently closed shall terminate in a circular turnaround having a minimum right-of-way radius of 60 feet and a minimum outside curb radius of 40 feet. The Village Board may grant exceptions.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (3) Grades.

- (a) Unless necessitated by exceptional topography subject to the approval of the Village Board, the maximum center line grade of any street or public way shall not exceed the following:
    - [1] Arterial streets: 6%.
    - [2] Collector streets: 8%.
    - [3] Minor streets, alleys and frontage streets: 10%.
    - [4] Pedestrianways: 12%, unless steps of acceptable design are provided.
    - [5] The grade of any street shall in no case exceed 12% or be less than 0.5%.
  - (b) Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth, and general leveling of the topography. All changes in street grades shall be connected by vertical curves of a minimum length equivalent in feet to 15 times the algebraic difference in the rates of grade for major streets, and 1/2 this minimum for all other streets.
- (4) Radius of curvature. When a continuous street center line deflects at any one point by more than 10°, a circular curve shall be introduced having a radius of curvature on said center line of not less than the following:
- (a) Arterial streets and highways: 500 feet.
  - (b) Collector streets: 300 feet.
  - (c) Minor streets: 100 feet.
- (5) Tangents. A tangent at least 100 feet in length shall be provided between reverse curves on arterial and collector streets.
- (6) Full street width. Where an existing dedicated or platted half street is adjacent to the tract being subdivided, the other half of the street shall be dedicated by the subdivider. The platting of half streets should be avoided where possible.
- (7) Roadway ditches. Where curb and gutter is not required by the Village for rural cross section streets, the minimum ditch slope shall be 0.5%.
- (8) Roadway base thickness.
- (a) Residential streets shall have a minimum roadway base thickness of six inches of compacted in-place crushed aggregate base course of gradation No. 2 in the top layer and gradations No. 1 and No. 2 in the lower level.
  - (b) On commercial, arterial or other heavy-use streets, as determined by the Village Engineer, a base course of eight inches compacted shall be constructed upon an inspected and approved subgrade, either well-graded crushed gravel from a state-approved pit with a maximum stone of 1 1/2 inches and no greater than 10% by weight passing a No. 200 sieve or No. 3 crushed rock approximately six inches in depth and one or more layers of fine aggregate, either three-fourths-inch crushed gravel, well-graded with no greater than 10% passing a No. 200 sieve, or three-fourths-inch traffic-bound crushed rock.
  - (c) In the case of commercial, arterial or other heavy-use roads, the Village Board may, in the alternative to the above standards, have the Village Engineer provide specifications for such roads after researching the site(s) and conducting a soil analysis.
  - (d) In any case, the Village Board shall have the sole discretion in determining the use and construction classification to be adhered to.

- (e) In all cases, the base course shall be compacted to the extent necessary to produce a condition so that there will be no appreciable displacement of material laterally and longitudinally under traffic and shall conform to line, grades and shape shown on the approved plans, profiles and cross sections.
- (9) Roadway subbase. Stable and nonorganic subbase material is required. Unstable and organic material must be subcut, removed and replaced with a suitable granular or breaker-run material approved by the Village Engineer.
- (10) Pavement thickness.
- (a) Residential streets shall have a minimum of two-and-one-half-inch-thick compacted bituminous concrete pavement, placed in two layers, a binder course 1 1/2 inches thick and a surface course of one inch. On commercial, arterial or other heavy-use streets, there shall be a minimum of 3 1/2 inches of bituminous concrete pavement, placed in two layers, a binder course two inches thick and a surface course 1 1/2 inches thick. In the case of commercial, arterial or other heavy-use roads, the Village Board may, in the alternative to the above standards, have the Village Engineer provide specifications for paving such roads after researching the site(s) and conducting a soil analysis. In any case, the Village Board shall have the sole discretion in determining the use and construction classification to be adhered to.
  - (b) Between six months to one year after the installation of the roadway, a bituminous binder or base at a compacted depth of 1 3/4 inches to two inches shall be laid, flange of curb to flange of curb, by the subdivider. The thickness and type of bituminous surfacing shall be specified by the Board.
  - (c) Within nine months after the installation of the base course, the finish coat of bituminous surfacing shall be installed to a minimum compacted length of 1 1/4 inches to 1 1/2 inches. The thickness and type of bituminous surfacing shall be specified by the Board.
  - (d) The costs for all surfacing, including inspection, supervision and engineering fees, shall be paid by the subdivider.
- (11) Roadway culverts and bridges. Roadway culverts and bridges shall be constructed as directed by the Village Engineer and sized utilizing the methods listed in Chapter 13, entitled "Drainage," of the Facilities Development Manual of the Wisconsin Department of Transportation. All roadway culverts shall be provided with concrete or metal apron endwalls.
- (12) Driveway culverts. Driveway culverts shall be sized by the Village Engineer (if appropriate). The culverts shall be placed in the ditch line at elevations that will assure proper drainage, be provided with concrete, metal or landscape timber endwalls, and shall comply with the provisions of Chapter **238**, Driveways, of this Code.
- F. Sanitary sewerage system design standards.
- (1) The subdivider shall have plan and profile drawings and specifications prepared for the installation of sanitary sewerage facilities, including lateral house connections for each lot in the subdivision, extended to the lot line.
  - (2) The subdivider shall cause to be installed, in accordance with the Standard Specifications for Sewer and Water Constructions in Wisconsin, all facilities required.
  - (3) Where the subdivision is not within reasonable access to connection with the Village sanitary sewer system, or where it can be shown that other types of sewage treatment may be advantageous to the development, the subdivider shall submit a proposed sewage disposal plan. This plan shall be approved by a registered engineer and all state and local agencies empowered with such approval. It shall be certified in writing that satisfactory, adequate and safe sewage disposal is possible at the site.

- (4) The Village reserves the right to reject any plat which is not served by municipal sewerage facilities if it considers these proposed systems not to be in the best interests of the Village.
- (5) If at the time of final platting sanitary sewer facilities are not available to the plat, as determined by the Village Board, but will become available within a period of five years from the date of plat recording, the subdivider shall install or cause to be installed sanitary sewers and sewer laterals to the street lot line in accordance with this section and shall cap all laterals. The size, type and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and standard specifications approved by the Board.
- (6) The subdivider shall assume the cost of installing all sanitary sewers eight inches in diameter or less in size. If greater than eight-inch-diameter sewers are required to handle the contemplated sewage flows, the cost of such larger sewers shall be prorated in proportion to the ratio which the total area of the proposed plat is to the total drainage area to be served by such larger sewer, and the excess cost either borne by the Village or assessed against the total tributary drainage area.
- (7) If a new sewage lift station is necessary to serve the subdivision, or improvements are necessary to existing facilities to accommodate the needs of the subdivision, the subdivider shall share in the cost of the lift station and associated force main. The cost of the lift station shall be prorated in proportion to the ratio which the total area of the proposed plat is to the total drainage area to be served by the lift station and the excess cost either borne by the Village or assessed against the total tributary drainage area.<sup>[3]</sup>

[3] *Editor's Note: Original subsection (g), Water supply system design standards, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

G. Stormwater drainage facilities. Pursuant to § 450-12, the subdivider shall provide stormwater drainage facilities, which may include curb and gutter, catch basins and inlets, storm sewers, road ditches and open channels, as may be required. All such facilities are to be of adequate size and grade to hydraulically accommodate the twenty-five-year storm. Storm drainage facilities shall be so designed as to present no hazard to life or property, and the size, type and installation of all stormwater drains and sewers proposed to be constructed shall be in accordance with the plans and specifications approved by the Village Engineer. The subdivider shall pay all costs of all storm sewer work.

H. Other utilities.

- (1) The subdivider shall cause gas, electrical power and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision.
- (2) If cable television is available, it shall also be installed underground with service provided for each lot.
- (3) All telephone, electric and gas service lines shall be placed underground entirely throughout a subdivision area, unless otherwise approved by the Board. Conduits or cables shall be placed within easements or dedicated public ways in a manner which will not conflict with other municipal underground services.
- (4) No such electrical or telephone service shall be located on overhead poles along the front lot lines unless otherwise allowed due to exceptional topography or other physical barrier.
- (5) All utility lines for telephone and electric service shall be placed in rear lot line easements, where practicable, and side lot line easements, where necessary.
- (6) The subdivider shall have written statements from all the utilities that the easements as shown on the final plat are acceptable to them.
- (7) All piping must be laid in a sand or stone bed.

- (8) The cost for the plans, installation, inspection, supervision and engineering fees shall be paid by the subdivider.
- (9) Temporary overhead facilities may be installed to serve a construction site or where necessary because of severe weather conditions. In the latter case, within a reasonable time after weather conditions have moderated, such temporary facilities shall be replaced by underground facilities and the temporary facilities removed, subject to any exception permitted by the Village Board.

I. Street lamps.

- (1) The subdivider shall install street lamps along all streets proposed to be dedicated of a design compatible with the neighborhood and type of development proposed. Such lamps shall be placed at each street intersection and at such interior block spacing as may be required by the Village Board.
- (2) The subdivider shall provide for the location of all streetlights within the area being developed after consultation with the Board and the electric utility serving the subdivision.
- (3) In areas where underground electric facilities are installed, poles for streetlights shall be of an ornamental type.
- (4) There shall be no cost obligation to the Village for supplying and installing the required streetlights.
- (5) The Village shall provide and pay the cost of the energy needed to operate the streetlights within the corporate limits of the Village.

J. Street signs. The subdivider shall install at the intersections of all streets proposed to be dedicated a street sign of a design specified by the Village Board.

K. Material standards. All improvements constructed under this chapter shall be of the standards, where applicable, established by the State Department of Transportation's Standard Specifications for Roads and Bridges. Where the Department of Transportation's specifications do not apply, the standards shall be as approved by the Village Engineer.<sup>[4]</sup>

*[4] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

L. Improvements completed prior to approval of final plat. Improvements within a subdivision which have been completed prior to application for approval of the final plat or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements only if the Village Engineer shall certify that he/she is satisfied that the existing improvements conform to applicable standards.

M. Construction.

- (1) Commencement. No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved and the Board has given written authorization.
- (2) Building permits. No building permits shall be issued for erection of a structure on any lot not of record until all the requirements of this chapter have been met.
- (3) Plans. The following plans and accompanying construction specifications may be required by the Board before construction or installation of improvements is authorized:
  - (a) Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.
  - (b) Sanitary sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.

- (c) Storm sewer and open channel plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
  - (d) Water main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
  - (e) Erosion and sedimentation control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation.
  - (f) Planting plans showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.
- (4) Maintenance of the landscape. Proper construction techniques should be followed so as to maintain as many of the natural features of the site as is practical.
- (a) All grading, topsoil removal, mineral extraction, stream course changing, road cutting, waterway construction or enlargement, removal of stream or lake bed materials, excavation, channel clearing, ditching, drain tile laying, dredging and lagooning shall be so conducted as to prevent erosion and sedimentation and to least disturb the natural fauna, flora, watercourse, water regimen and topography. The subdivider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be mulched, seeded, sodded or otherwise protected so that erosion, siltation, sedimentation and washing are prevented, in accordance with the plans and specifications approved by the Board.
  - (b) Sod shall be laid in strips at those intervals necessary to prevent erosion and at right angles to the direction of drainage.
  - (c) Temporary vegetation and mulching shall be used to protect critical areas, and permanent vegetation shall be installed as soon as practical.
  - (d) Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.
  - (e) Sediment basins shall be installed and maintained at all drainageways to trap, remove and prevent sediment and debris from being washed outside the area being developed.
  - (f) The subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines and grasses not actually lying in public roadways, drainageways, soil absorption waste disposal areas, paths and trails.
  - (g) 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.
  - (h) Tree cutting and shrubbery clearing shall not exceed 30% of the lot or tract and shall be so conducted as to prevent erosion and sedimentation; preserve and improve scenic qualities; and during foliage, substantially screen any development from stream or lake uses.
  - (i) Path and trails shall not exceed 10 feet in width and shall be so designed and constructed as to result in the least removal and disruption of trees and shrubs and the minimum impairment of natural beauty.
- N. Acceptance of improvements. The dedication of any improvements, utilities, streets, parks, easements, rights-of-way or other lands or rights to the Village or the public shall not be considered accepted by the Village for public ownership until such time as the required public improvements within the intended dedication or necessary because of the intended dedication have been completed and accepted by the Village Board by adoption of a resolution accepting such dedication. Improvements shall be dedicated to the Village free and clear of any

encumbrances. The subdivider shall be responsible for and liable for the maintenance, safety and operation of all required public improvements until such time as the improvements are accepted by the Village Board by resolution. In the event the Village must take measures to maintain, operate or make safe a public improvement existing or required as a result of the land division, but which has not yet been accepted by the Village, the costs of such measures shall hereby be determined to be Village-incurred costs to be reimbursed to the Village by the subdivider in accordance with the provisions of this chapter.

O. Inspection and certification of improvements.

- (1) After any of the following increments of the required improvements have been installed and completed, the subdivider shall notify the Village Engineer, in writing, that the work is complete and ready for final inspection, shall file reproducible record drawings of the completed improvements and shall file lien waivers or affidavits, in a form acceptable to the Village Engineer and approved by the Village Attorney, evidencing that there are no claims, actions or demands for damages, based upon contract or tort arising out of or in any way related to the project and that no moneys are owned to any surveyor, mechanic, contractor, subcontractor, materialman or laborer after all required improvements have been installed. Acceptance of the improvements may be requested in the following increments:
  - (a) Sewer mains and services (either storm or sanitary).
  - (b) Water mains and services.
  - (c) Streets comprised of all grading, gravel, curb and gutter, culverts and paving.
  - (d) Other miscellaneous appurtenances to the above increments, such as sidewalks, bikeways, streetlighting, street signing, etc.
- (2) The Village Clerk-Treasurer shall certify that there are no unpaid taxes or unpaid special assessments on any of the lands included in the area of acceptance and shall prepare a final billing for engineering, inspection and legal fees and submit it to the subdivider for payment. The Village Engineer shall conduct any necessary final inspections of the improvements and forward a report to the Village Clerk-Treasurer recommending either approval or disapproval. When the engineering, inspection, taxes, special assessments and legal fees have been paid and when the necessary lien waivers and affidavits have been filed, the report of the Village Engineer, together with the recommendation of the Village Clerk-Treasurer, shall be forwarded to the Village Board for approval and acceptance of the improvements and dedications.

## § 450-16. Easements.

- A. Utility easements. The Village Board, on the recommendation of appropriate agencies of the Village, shall require utility easements for poles, wire, conduits, storm and sanitary sewers, gas, water and head mains or other utility lines. It is the interest of this chapter to protect all established easements so as to assure proper grade, assure maintenance of the established grade, prohibit construction of permanent fences or retaining walls over underground installations and prevent the planting of trees in the easement area.
- B. Drainage easements. Where a subdivision is traversed by a watercourse, drainageway, channel or stream:
  - (1) There shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this section; or
  - (2) The watercourse, drainageway, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a stormwater easement or drainage right-of-way conforming to the lines of the relocated

watercourse and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this section.

- (3) Wherever possible, it is desirable that drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume flow. In all cases, such watercourse shall be of a minimum width established at the high-water mark or, in the absence of such specification, not less than 30 feet.

- C. Easement locations. Such easements shall be at least 12 feet wide and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines. Evidence shall be furnished the Village Board that easements and any easement provisions to be incorporated in the plat or in deeds have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.

## § 450-17. Grading.

The subdivider shall grade each land division in order to establish street, block and lot grades in proper relation to each other and to topography, as follows:

- A. Master site-grading plan.

- (1) A master site-grading plan shall be prepared by the subdivider for all new subdivisions. This plan shall be prepared in accordance with the requirements and standards of the Village.
- (2) The master site-grading plan shall show existing and proposed elevations of all lot corners, control points and building locations. The plan shall also indicate all over-land storm drainage in and adjacent to the subdivision. The cost of the preparation of such a plan shall be paid for by the subdivider.
- (3) After approval or modification of these plans by the Village Engineer, the full width of the right-of-way of the proposed streets within the subdivision and the entire subdivision lot area shall be graded in accordance with the master site-grade plan. The owners of the subdivision lots shall adhere to those plans.
- (4) Upon completion of all street and subdivision grading, the grades shall be checked and certified by the Village Engineer to determine that the completed grading work is in accordance with the master site-grading plan.
- (5) The cost of all required grading work, supervision, certification, inspection and engineering fees shall be paid for by the subdivider.

- B. Right-of-way grading. The subdivider shall grade the full width of the right-of-way of all proposed streets in accordance with the approved plans, including the grading of sight triangles at each intersection.

- C. Block grading. Block grading shall be completed by one or more of the following methods:

- (1) Regrading along the side or rear lot lines which provides for drainage to the public drainage facilities, provided any ditches or swales are in public drainage easements, provided that a deed restriction is adopted which prohibits alteration of the grades within five feet of any property line from the grades shown on the master site-grading plan.
- (2) Parts of all lots may be graded to provide for drainage to a ditch or to a swale.

- D. Miscellaneous grading requirements.

- (1) Lot grading shall be completed so that water drains away from each building site toward public drainage facilities at a grade approved by the Village Engineer and provisions shall be made to prevent drainage onto properties adjacent to the land division unless to a public drainage facility.

- (2) Grading activities shall not result in slopes greater than 3:1 on public lands or lands subject to public access.
  - (3) The topsoil stripped for grading shall not be removed from the site unless identified in the erosion control plan approved by the Village Engineer as not being necessary for erosion control or site landscaping purposes. Topsoil shall be uniformly returned to the lots when rough grading is finished. Topsoil piles shall be leveled and seeded for erosion control prior to the Village releasing the one-year guarantee provision on public improvements in the streets adjacent to the lots on which the topsoil is stockpiled.
  - (4) Such grading shall not result in detriment to any existing developed lands either within or outside of the corporate limits.
- E. Drainage flows. The subdivider shall cause to be set upon the master grading plan arrows indicating the directions of drainage flows for each property line not fronting on a street on all parcels and along each street as will result from the grading of the site, the construction of the required public improvements, or which are existing drainage flows and will remain. The arrows indicating the directions of flows shall be appropriately weighted so as to differentiate between the minor and major (one-hundred-year event) drainage components. The arrows shall be accompanied on the master grading plan with the following note: "Arrows indicate the direction of drainage flows in various components resulting from site grading and the construction of required public improvements. The drainage flow components located in easements shall be maintained and preserved by the property owner unless approved by the Village Engineer."

## § 450-18. General park and public land dedication requirements.

### A. Dedication of lands for parks, recreation and open space.

- (1) It is the intent of these regulations that properly located parks, recreation facilities and open space be provided. The subdivider shall designate on every new preliminary plat, at least 5% of the gross area of such lands to be dedicated by the owner or developer to the Village for parks, recreation or open space purposes. The location of such park and recreation sites shall be clearly shown, and no plat shall be accepted without these areas clearly shown. The location of such park and recreation sites is subject to the approval of the Board. Where property abuts the river, the Village may require that the five-percent dedication include up to 5% of the river frontage included in the subdivision.
- (2) The Board may waive the requirement for dedication of land if it finds that the proposed public land would be too small or unsuitable for reasons particular to the subdivision or the neighborhood in which it is located. In lieu of dedication, the Board shall levy a public site fee against the subdivider at the time of application for final plat approval at the rate according to the procedures established in Subsection **B** below.
- (3) At the discretion of the Board, these requirements shall also apply to new preliminary plats lying outside of the corporate limits of the Village but within the jurisdictional area of these regulations. Such requirements for dedication of land or fees shall be applied under the stipulation that such land shall be maintained by the Village at no cost to the residents of the subdivision, and such fees as required by Subsection **B** below shall be used to provide services to residents of the subdivision.

### B. Fees in lieu of land.

- (1) Where, in the sole discretion of the Village Board, there is no land suitable for parks within the proposed land division or the dedication of land would not be compatible with the Village's comprehensive development or park plan, the minimum size under Subsection **D** cannot be met, or Village officials determine that a cash contribution would better serve the public interest, the Village Board shall require the subdivider to contribute a park and recreation development fee in lieu of land. The fees collected shall be held in a nonlapsing fund to be

used for purchase, development, improvement and maintenance of parks, playgrounds, open spaces and other recreational sites and facilities. The total fee shall be computed on the basis of the maximum residential use of each parcel permitted in the particular zoning district under the Zoning Code. For each proposed residential development, the fee shall be as set by the Village Board for each residential unit. The fee shall be paid to the Village at the time of final plat or certified survey map approval. This fee shall be annually adjusted by the Clerk-Treasurer by adding to the base fee the Consumer Price Index (CPI) cost on March 1 of that year for each possible dwelling unit within the plat/land division allowed by the Zoning Code.

[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (2) The Village Board may, in its sole discretion, permit the subdivider to satisfy the requirements of this section by combining a land dedication with a fee payment. If a land dedication of 25% of the required dedication is made, the subdivider shall also contribute an amount equal to 75% of the required per-unit fee in lieu of land. If a land dedication of 50% of the required dedication is made, the subdivider shall also contribute an amount equal to 50% of the required per-unit fee in lieu of land. If a land dedication of 75% of the required dedication is made, the subdivider shall also contribute an amount equal to 25% of the required per-unit fee in lieu of land.
  - (3) The Village shall place any fee collected pursuant to the provisions of this section in a separate account to be used at the discretion of the Village Board in any community park, for developing adequate parks, playgrounds, recreation and open spaces.
- C. Limitations. A subdivider shall not be required to dedicate more than 1/3 of the total area of the plat to meet the objectives of this section.
  - D. Suitability of lands. The Village Board shall have sole authority to determine the suitability and adequacy of parklands proposed for dedication. Drainageways, wetlands or areas reserved for streets shall not be considered as satisfying land dedication requirements.
  - E. Access to dedicated land. All dedicated land shall have frontage on a public street and shall have unrestricted public access.
  - F. Utility extensions. The subdivider shall install or provide for installation water and sanitary sewer lines to the property line of all dedicated land, where such services are to be provided to the adjacent properties.
  - G. Development of park area.
    - (1) When parklands are dedicated to the Village, the subdivider is required to:
      - (a) Properly grade and contour for proper drainage;
      - (b) Provide surface contour suitable for anticipated use of area, as approved by the Village Engineer; and
      - (c) Cover areas to be seeded with a minimum of four inches of quality topsoil, seed as specified by the Village Engineer and mulched, as specified in the standard Specifications for Road and Bridge Construction, Sections 627 and 629. The topsoil furnished for the park site shall consist of natural loam, sandy loam, silt loam, silty clay loam or clay loam humus-bearing soils adapted to the sustenance of plant life, and such topsoil shall be neither excessively acid nor excessively alkaline. Fine grading and seeding must occur within one year following issuance of the first building permit within that land division unless otherwise authorized by the Village. The improved area shall not be deemed officially accepted until a uniform grass cover to a two-inch height has been established. It shall be the responsibility of the subdivider to maintain the area until the Village accepts the dedication.

- (2) It shall be the responsibility of the Village to maintain the dedicated areas upon their dedication and acceptance by the Village.
- (3) A neighborhood park area shall be provided by the subdivider with a standard residential water service unless located directly adjacent to a fire hydrant. A community park area shall be provided by the developer with a minimum six-inch water service or at least one fire hydrant and at least one four-inch sanitary sewer lateral, all located at the street property line.
- (4) The Village Board may require certification of compliance with this section by the subdivider. The cost of such report shall be paid by the subdivider.
- (5) If the subdivider fails to satisfy the requirements of this section, the Village Board may contract said completion and bill such costs to the subdivider, following a public hearing and written notice to the subdivider of noncompliance. Failure to pay such costs may result in the immediate withholding of all building permits until such costs are paid.
- (6) The subdivider shall pay all costs of public improvements in the public streets adjacent to or within all public and/or park lands.

## § 450-19. Administrative and other fees.

- A. General. The subdivider shall pay the Village of Neshkoro all fees as hereinafter required and at the times specified before being entitled to recording of a plat or certified survey map. At the time of submission of a plat or certified survey map, the Village Board, at its sole discretion, may require the subdivider to make a good faith deposit with the Clerk-Treasurer to cover, in all or part, the expenses anticipated to be incurred by the Village because of the land division. Unused portions of such fund may be refunded to the subdivider.
- B. Engineering fee. The subdivider shall pay a fee equal to the actual cost to the Village for all engineering work incurred by the Village in connection with the plat or certified survey map, including inspections required by the Village. The subdivider shall pay a fee equal to the actual cost to the Village for such engineering work and inspection as the Village Board and/or Village Engineer deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the Village or any other governmental authority. Engineering work shall include the preparation of construction plans, standard specifications and administration of the engineering work.
- C. Administrative fee. The subdivider shall pay a fee to the Village equal to the cost of any legal, administrative or fiscal work which may be undertaken by the Village in connection with the plat or certified survey map.
- D. Concept plan. There shall be no fee for the Village's review of a concept or sketch plan of a proposed land division. However, such reviews shall be conducted only as staff time permits.
- E. Preliminary plat.<sup>[2]</sup>
  - (1) A subdivider who submits a preliminary plat to the Village Board shall file said preliminary plat with the Village Clerk-Treasurer and shall deposit with the Village Clerk-Treasurer a fee to cover the costs of reviewing said application. The fee for a preliminary plat shall be as set by the Village Board. If the plat is rejected, no part of the fee shall be returned to the petitioner.
  - (2) A reapplication fee as set by the Village Board shall be paid to the Village Clerk-Treasurer at the time of reapplication for approval or amendment of any preliminary plat which has previously been reviewed.

<sup>[2]</sup> *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- F. Final plat review fee.<sup>[3]</sup>

- (1) The subdivider shall pay a fee as set by the Village Board per lot within the final plat to the Village Clerk-Treasurer at the time of first application for final plat approval of said plat to assist in defraying the cost of review.
- (2) A reapplication fee as set by the Village Board shall be paid to the Village Clerk-Treasurer at the time of a reapplication for approval or amendment of any final plat which has previously been reviewed.

[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

G. Certified survey map.<sup>[4]</sup>

- (1) The subdivider for land divisions shall pay an application fee as set by the Village Board for each certified survey map.
- (2) Should the subdivider submit an amended or revised certified survey map, the resubmittal fee shall be as set by the Village Board for each amended or revised certified survey map.

[4] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

H. Objecting agency review fees. The subdivider shall transmit all fees required for state agency review at the time of application. Said review fees shall be retransmitted to the proper state review agency by the developer. Said fees shall be applicable, where appropriate, to review fees required by the Wisconsin Department of Administration, Wisconsin Department of Transportation, Wisconsin Department of Commerce and the Wisconsin Department of Natural Resources.

I. Public site fee. If the subdivision does not contain lands to be dedicated as required in this chapter, the Village Clerk-Treasurer shall require a fee pursuant to § 450-18 for the acquisition and development of public sites to serve the future inhabitants of the proposed subdivision.

J. Assessments. All outstanding assessments due to the Village shall be due prior to the signing of the final plat or certified survey map by the Village.<sup>[5]</sup>

[5] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

K. Cost determination. The subdivider of land divisions within the Village shall reimburse the Village for its actual cost of design, inspection, testing, construction and associated legal and real estate fees incurred in connection with the preliminary plat, final plat, replat or certified survey map. The Village's costs shall be determined as follows:<sup>[6]</sup>

- (1) The cost of Village employees' time engaged in any way with the land division, based on the hourly rate paid to the employee multiplied by a factor determined by the Village Clerk-Treasurer to represent the Village's cost for expenses, benefits, insurance, sick leave, holidays, vacation and similar benefits.
- (2) The cost of Village equipment employed.
- (3) The cost of mileage reimbursed to Village employees which is attributed to the land division.
- (4) The actual costs of Village materials incorporated into the work, including transportation costs plus a restocking and/or handling fee not to exceed 10% of the cost of the materials.
- (5) All consultant fees, including but not limited to legal and engineering fees, at the invoiced amount plus administrative costs. Unless the amount totals less than \$50, the Village shall bill the subdivider monthly for expenses incurred by the Village. Statements outstanding for more than 30 days shall accrue interest at the rate of 1 1/2% per month. Bills outstanding for more than 90 days shall be forwarded to the subdivider's surety agency for payment. Amounts less than \$50 shall be held for billing by the Village until amounts total more than \$50 or until the conclusion of project activities.

[6] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[1] *Editor's Note: The current Fee Schedule is on file in the Village office.*

## § 450-20. Variations and exceptions.

- A. Where, in the judgment of the Village Board, it would be inappropriate to apply literally the provisions of this chapter because of the proposed subdivision being located outside of the corporate limits or because exceptional or undue hardship would result, the Village Board may waive or modify any requirements to the extent deemed just and proper. Application for any such variance shall be made in writing by the subdivider at the time when the preliminary plat is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Village Board in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.
- B. The Village Board shall not grant variations or exceptions to the regulations of this chapter, unless it shall make findings based upon the evidence presented to it in each specific case that:
- (1) The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
  - (2) The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property; and
  - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
- C. Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this chapter or the desirable general development of the community in accordance with the Comprehensive Plan or Zoning Code, if applicable, of the Village. A three-fourth majority vote of the entire membership of the Village Board shall be required to grant any modification of this chapter, and the reasons shall be entered in the minutes of the Board.
- D. The Village Board may waive the placing of monuments, required under § 236.15(1)(b), (c) and (d), Wis. Stats., for a reasonable time on condition that the subdivider execute a surety bond to ensure the placing of such monuments within the time required.
- E. The Village Board may grant exceptions to any part of this chapter.<sup>[1]</sup>

[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 450-21. Enforcement, penalties and remedies.

- A. Violations. It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this chapter or the Wisconsin Statutes, and no person shall be issued a building permit by the Village authorizing the building on, or improvement of, any subdivision, land division or replat within the jurisdiction of this chapter not of record as of the effective date of this Code until the provisions and requirements of this chapter have been fully met. The Village may institute appropriate action or proceedings to enjoin violations of this chapter or the applicable Wisconsin Statutes.
- B. Penalties.
- (1) Any person, firm or corporation who fails to comply with the provisions of this chapter shall, upon conviction thereof, be punishable as provided in § 1-4 of the Code.<sup>[1]</sup>  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (2) Recordation improperly made has penalties provided in § 236.30, Wis. Stats.
  - (3) Conveyance of lots in unrecorded plats has penalties provided for in § 236.31, Wis. Stats.
  - (4) Monuments disturbed or not placed has penalties as provided for in § 236.32, Wis. Stats.

(5) Assessor's plat made under § 70.27, Wis. Stats., may be ordered by the Village at the expense of the subdivider when a subdivision is created by successive divisions.

C. Appeals. Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom, as provided in §§ 236.13(5) and 62.23(7)(e)10 to 15, Wis. Stats., within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable or discriminatory.

## Chapter 461. Transient Merchants

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 7, Ch. 4, of the 1999 Code. Amendments noted where applicable.]

### **GENERAL REFERENCES**

General taxation records — See Ch. 50, Art. I.

Licenses — See Ch. 337.

Peace and good order — See Ch. 385.

### § 461-1. Registration required.

It shall be unlawful for any transient merchant to engage in direct sales within the Village of Neshkoro without being registered for that purpose as provided herein.

### § 461-2. Definitions.

In this chapter, the following terms shall have the meanings indicated in this section:

#### **CHARITABLE ORGANIZATION**

Includes any benevolent, philanthropic, religious, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, including, for example, Boy Scouts, Girl Scouts, 4-H Clubs and school organizations.

#### **CLERK-TREASURER**

The Village of Neshkoro Clerk-Treasurer or Deputy Clerk-Treasurer.

#### **MERCHANDISE**

Includes personal property of any kind and shall include merchandise, goods or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.

#### **PERMANENT MERCHANT**

Any person who, for at least one year prior to the consideration of the application of this chapter to said merchant:

- A. Has continuously operated an established place of business in the Village; or
- B. Has continuously resided in the Village and now does business from his residence.

#### **PERSON**

All humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

#### **TRANSIENT MERCHANT**

Any individual who engages in the retail sale of merchandise at any place in this state temporarily and who does not intend to become and does not become a permanent merchant of such place. The term shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the transient merchant for the retention of goods by a donor or prospective customer. For purposes of this section, "sale of merchandise" includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

## § 461-3. Exemptions.

The following shall be exempt from all provisions of this chapter:

- A. Regular delivery routes. Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- B. Wholesalers. Any person selling merchandise at wholesale to dealers in such merchandise.
- C. Agricultural products. Any person selling Wisconsin agricultural products which the person has grown.
- D. Deliveries by permanent merchants. Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business.
- E. Requested home visits. Any person who has an established place of business where the merchandise being sold or is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by said person.
- F. Prior sales transactions. Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.
- G. Services not offering merchandise. Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise.
- H. Auctions; sales authorized by statute. Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.
- I. Charitable organizations; limited exemptions. Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Village Clerk-Treasurer proof that such charitable organization is registered under § 440.42, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under § 440.42, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this chapter.
- J. Alleged transient merchants. Any person who claims to be a permanent merchant, but against whom complaint has been made to the Village Clerk-Treasurer that such person is a transient merchant, provided that there is submitted to the Village Clerk-Treasurer proof that such person has leased for at least one year or purchased the premises from which he/she is conducting business or proof that such person has conducted such business in this Village for at least one year prior to the date complaint was made.
- K. Persons licensed by examining boards. Any individual licensed by an examining board, as defined in § 15.01(7), Wis. Stats.
- L. Village authorized events. This chapter does not apply to transient merchants while doing business at special events authorized by the Village Board.

- M. Resident minors. Minors under 18 years of age who are residents of the local school district<sup>[1]</sup>.  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 461-4. License.

- A. License information. Applicants for licensing must complete and return to the Village Clerk-Treasurer a license form furnished by the Clerk-Treasurer which shall require the following information:
- (1) Name, permanent address and telephone number, and temporary address, if any;
  - (2) Height, weight, color of hair and eyes, and date of birth;
  - (3) Name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold;
  - (4) Temporary address and telephone number from which business will be conducted, if any;
  - (5) Nature of business to be conducted and a brief description of the merchandise offered and any services offered;
  - (6) Proposed method of delivery of merchandise, if applicable;
  - (7) Make, model and license number of any vehicle to be used by applicant in the conduct of his business;
  - (8) Last cities, villages, towns, not to exceed three, where applicant conducted similar business just prior to making this registration;
  - (9) Place where applicant can be contacted for at least seven days after leaving this Village; and
  - (10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years, the nature of the offence and the place of conviction.
- B. Identification and certification. Applicants shall present to the Village Clerk-Treasurer for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required;
  - (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
  - (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.
- C. License; fees. Except as provided by § 461-3, no person shall conduct any activity as a transient merchant without a license. Every applicant for a license shall pay a license fee. The fee shall be as set by the Village Board and shall be paid to the Village Clerk-Treasurer. Such license shall be daily.<sup>[2]</sup>

[2] *Editor's Note: The current Fee Schedule is on file in the Village office.*

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 461-5. Investigation.

The Village Clerk-Treasurer shall refuse to issue a permit if it is determined that the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of § 461-4B above.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 461-6. Appeal.

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Village Board or, if none has been adopted, under the provisions of §§ 68.07 through 68.16, Wis. Stats.

## § 461-7. Regulation of transient merchants.

### A. Prohibited practices.

- (1) A transient merchant shall be prohibited from calling at any dwelling or other place between the hours of 9:00 p.m. and 8:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (2) A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
- (3) No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (4) No transient merchant shall make any loud noises or use any sound-amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one-hundred-foot radius of the source.
- (5) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

### B. Disclosure requirements.

- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.
- (2) If any sale of merchandise is made by a transient merchant or any sales order for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25, in accordance with the procedure as set forth in § 423.203, Wis. Stats.; the seller shall give the

buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of § 423.203(1)(a), (b) and (c), (2) and (3), Wis. Stats.

- (3) If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

## § 461-8. Revocation of license.

A license may be revoked by the Village Board after notice and hearing if the licensee made any material omission or materially inaccurate statement in the application for a license, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the licensee's fitness to engage in direct selling.<sup>[2]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: Original subsection (b), pertaining to written notice of revocation, which immediately followed this subsection, and original Sec. 7-4-9, Special event vending permit, which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Chapter 476. Vehicles, Abandoned

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Secs. 10-5-1 to 10-5-7 of the 1999 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Junked vehicles — See Ch. 396, Art. III.

Vehicles and traffic — See Ch. 480.

## § 476-1. Abandoned vehicles; definitions.

- A. Abandonment of vehicles prohibited. No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the Village of Neshkoro for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any such vehicle has been left unattended on any street or highway in the Village of Neshkoro or upon private or public property without the permission of the property owner or other person charged with the lawful jurisdiction thereof for more than 72 hours, the vehicle shall be deemed abandoned and constitutes a public nuisance.
- B. Definitions. For purposes of this chapter, the following definitions shall be applicable:

### STREET

Any public highway or alley and shall mean the entire width between the boundary lines of any public way where any part thereof is open to the public for purposes of vehicular traffic.

### UNATTENDED

Unmoved from its location with no obvious sign of continuous human use.

### VEHICLE

A motor vehicle, trailer, semitrailer or mobile home, whether or not such vehicle is registered under Wisconsin law.

- C. Presumptions. For purposes of this section, the following irrebuttable presumptions shall apply:
- (1) A vehicle shall be presumed unattended if it is found in the same position 72 hours after issuance of a traffic ticket or citation and if such traffic ticket or citation remains placed upon the windshield during said 72 hours.
  - (2) Any vehicle left unattended for more than 72 hours on any public street or public ground or left unattended for more than 72 hours on private property without the consent of the property owner is deemed abandoned and constitutes a nuisance, provided that the vehicle shall not be deemed abandoned under this subsection if left unattended on private property outside of public view and is enclosed within a building or if designated as not abandoned by the Chief of Police or designee.
- D. Exceptions. This section shall not apply to a vehicle in an enclosed building or a vehicle stored on a premises licensed for storage of junk or junked vehicles and fully in compliance with other applicable Village regulations.

## § 476-2. Removal and impoundment of vehicles.

Any vehicle in violation of this chapter shall be removed and impounded until lawfully claimed or disposed of under the provisions of § 476-3.

## § 476-3. Removal, storage, notice or reclaimer of abandoned vehicles.

- A. Applicability. The provisions of this section shall apply to the removal, storage, notice, reclaimer or disposal of abandoned vehicles as defined in § 476-1.
- B. Removal.
- (1) Any police officer who discovers any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the Village of Neshkoro which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment.
  - (2) Upon removal of the vehicle, the police officer shall notify the Chief of Police or his/her designee of the abandonment and of the location of the impounded vehicle.
- C. Storage and reclaimer. Any abandoned vehicle which is determined by the Chief of Police or his/her designee to be abandoned shall be retained in storage for a period of 14 days after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner and/or secured party of record with the Wisconsin Motor Vehicle Division; except that, if the Chief of Police or his/her designee determines an abandoned vehicle to have a value of less than \$100 or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, it may be junked or sold by direct sale to a licensed salvage dealer after having been retained in storage for a period of 72 hours and after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner or secured party of record with the Wisconsin Motor Vehicle Division, provided that it is first determined that the vehicle is not reported stolen or wanted for evidence or other reason. All substantially complete vehicles in excess of 19 model years of age shall be deemed as having a value in excess of \$100. Any such vehicle which may be lawfully reclaimed may be released upon the payment of all accrued charges, including towing, storage and notice charges, and upon presentation of the vehicle title or other satisfactory evidence to the Chief of Police or his/her designee to prove an ownership or secured party interest in said vehicle.
- D. Notice to owner or secured party. Certified mail notice, as referred to herein, shall notify the Wisconsin titled owner of the abandoned vehicle, if any, and/or the secured party of record with the Wisconsin Motor Vehicle Division, if any, of the following:

- (1) That the vehicle has been deemed abandoned and impounded by the Village of Neshkoro;
- (2) The "determined value" of the abandoned vehicle;
- (3) If the cost of towing and storage costs will exceed the determined value of the vehicle;
- (4) That if the vehicle is not wanted for evidence or other reason, the vehicle may be reclaimed upon the payment of all accrued charges, including towing, storage and notice charges, within 14 days of the date of notice, unless the vehicle has been determined to have a value less than \$100 or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, in which case the vehicle may be reclaimed within 72 hours upon the payment of the aforesaid charges; and
- (5) That the owner or aforesaid secured party may, upon request, be granted a hearing relating to the determinations made with respect to said vehicle within the period that such vehicles may be reclaimed.

#### § 476-4. Disposal of abandoned vehicles.

Any abandoned vehicle impounded by the Village which has not been reclaimed or junked or sold by direct sale to a licensed salvage dealer pursuant to the provisions of this chapter may be sold by public auction sale or public sale calling for the receipt of sealed bids. A Class 1 notice, including the description of the vehicle(s), the name(s) and address(es) of the Wisconsin titled owner and secured party of record, if known, and the time of sale shall be published before the sale.

#### § 476-5. Report of sale or disposal.

Within five days after the direct sale or disposal of a vehicle as provided for herein, the Chief of Police or his/her designee shall advise the State of Wisconsin Department of Transportation, Division of Motor Vehicles of such sale or disposal on a form supplied by said Division. A copy of the form shall be given to the purchaser of the vehicle, enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have 10 days to remove the vehicle from the storage area but shall pay a reasonable storage fee established by the Village for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten days after the sale the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by the Village shall be made available to any interested person or organization which makes a written request for such list to the Police Department. The Police Department may charge a reasonable fee for the list.

#### § 476-6. Owner responsible for impoundment and disposal costs.

- A. The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not covered from the sale of the vehicle may be recovered in a civil action by the Village against the owner.
- B. Payment of removal and impoundment costs is not required when the vehicle has been impounded for purposes of law enforcement investigation.

#### § 476-7. Conflict with other provisions.

In the event of any conflict between this section and any other provisions of this Code, this chapter shall control.

# Chapter 480. Vehicles and Traffic

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 4-5-1999 as Title 10, Chs. 1 and 4, of the 1999 Code. Amendments noted where applicable.]

## GENERAL REFERENCES

Bicycles and play vehicles — See Ch. **191**.

Peace and good order — See Ch. **385**.

Snowmobiles — See Ch. **432**.

Streets and sidewalks — See Ch. **445**.

Abandoned vehicles — See Ch. **476**.

## Article I. General Provisions

### § 480-1. State traffic laws adopted.

- A. Statutes adopted. Except as otherwise specifically provided in this Code, the statutory provisions in Chs. 110, 194 and 340 through 349, Wis. Stats., describing and defining regulations with respect to vehicles and traffic, for which the penalty is a forfeiture only, exclusive of any regulations for which the statutory penalty is a fine or term of imprisonment or exclusively state charges, are hereby adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this chapter. Any future amendments, revisions or modifications of the statutory regulations in Chs. 340 through 349, Wis. Stats., incorporated herein, are intended to be made part of this chapter in order to secure to the extent legally practicable uniform statewide regulation of vehicle traffic on the highways, streets and alleys of the State of Wisconsin. Any person who shall, within the Village of Neshkoro, Wisconsin, violate any provisions of any statute incorporated herein by reference shall be deemed guilty of an offense under this section.
- B. Other state laws adopted. There are also hereby adopted by reference the following sections of the Wisconsin Statutes, but the prosecution of such offenses under this chapter shall be as provided in Chs. 340 through 349, Wis. Stats., and the penalty for violation thereof shall be limited to a forfeiture as hereinafter provided in this chapter:

941.01	Negligent Operation of Vehicle
943.11	Entry into Locked Vehicle
943.23	Operating Vehicle without Owner's Consent

- C. General references. General references in this chapter to Wisconsin statutory sections or chapters describing or defining procedures or authority for enactment or enforcement of local traffic regulations shall be deemed to refer to the most recent enactments of the Wisconsin Legislature describing or defining such procedures or authorities.

### § 480-2. State Administrative Code provisions adopted.

- A. Administrative regulations adopted. The following administrative rules and regulations adopted by the Secretary of the Wisconsin Department of Transportation and published in the Wisconsin Administrative Code, exclusive of any provisions therein relating to the penalties to be imposed, are hereby adopted by reference and made part of this chapter as if fully set forth herein.

Trans 150	Leasing of Vehicles by Private Carriers
Trans 304	Slow-Moving Vehicle Emblem

Trans 305 Standards for Motor Vehicle Equipment

Trans 326 Motor Carrier Safety Requirements for Transportation of Hazardous Materials

- B. Noncompliance prohibited. No person shall operate or allow to be operated on any highway, street or alley within the Village a vehicle that is not in conformity with the requirements of Subsection **A** or the provisions of § 110.075 and Ch. 347, Wis. Stats., incorporated by reference in § **480-1** of this chapter.
- C. Safety checks.
- (1) Operators to submit to inspection. When directed to do so by any law enforcement officer, the operator of any motor vehicle shall stop and submit such vehicle to an inspection and such tests as are necessary to determine whether the vehicle meets the requirements of this section or that the vehicle's equipment is in proper adjustment or repair. No person when operating a motor vehicle shall fail to stop and submit such vehicle to inspection when directed to do so by any law enforcement officer as herein provided.
  - (2) Authority of officer. Any law enforcement officer of the Village is hereby empowered whenever he or she shall have reason to believe that any provision of this section is being violated to order the operator of the vehicle to stop and to submit such vehicle to an inspection with respect to brakes, lights, turn signals, steering, horns and warning devices, glass, mirrors, exhaust systems, windshield wipers, tires and other items of equipment.
  - (3) Vehicle to be removed from highway. Whenever, after inspection as provided by this section, a law enforcement officer determines that a vehicle is unsafe for operation, he or she may order it removed from the highway and not operated, except for purposes of removal and repair until the vehicle has been repaired as directed in a repair order. Repair orders may be in the form prescribed by the Secretary of the Department of Transportation under § 110.075(5), Wis. Stats., and shall require the vehicle owner or operator to cause the repairs to be made and return evidence of compliance with the repair order to the department of the issuing officer within the time specified in the order.
- D. Penalty. Penalty for violation of any provision of this section, including the provisions of the Wisconsin Administrative Code incorporated herein by reference, shall be as provided in § **480-33**, together with the costs of prosecution and applicable penalty assessment.

### § 480-3. Official traffic signs and control devices; prohibited signs, signals and markers.

- A. Duty of Director of Public Works to erect and install uniform traffic control devices. Whenever traffic regulations created by this chapter, including State of Wisconsin traffic regulation adopted by reference in § **480-1**, require the erection of traffic control devices for enforcement, the Director of Public Works with the cooperation of the Police Department shall procure, erect and maintain uniform traffic control devices conforming to the Uniform Traffic Control Device Manual promulgated by the Wisconsin Department of Transportation, giving notice of such traffic regulation to the users of the streets and highways on which such regulations apply. Whenever state law grants discretion to local authorities in erecting or placement of a uniform traffic control device, devices shall be erected in such locations and in such a manner as, in the judgment of the Director of Public Works, will carry out the purposes of this chapter and give adequate warning to users of the streets and highways of the Village of Neshkoro.
- B. Code numbers to be affixed to official traffic control devices. The Director of Public Works shall cause to be placed on each official traffic control sign, guideboard, milepost, signal or marker erected under Subsection **A**, a code number assigned by the Wisconsin Department of Transportation, and shall also place or direct the placing of code numbers on all existing official traffic control devices as required by the laws of the State of Wisconsin.

- C. Prohibited signs and markers in highways. No person other than an officer authorized by this chapter to erect and maintain official traffic control devices, or his or her designee, shall place within the limits of any street or highway maintained by the Village any sign, signal, marker, mark or monument unless permission is first obtained from the Director of Public Works or, where applicable, the State Department of Transportation. Any sign, signal, marker, mark or monument placed or maintained in violation of this subsection shall be subject to removal as provided in Subsection **D**.
- D. Removal of unofficial signs, markers, signals and traffic control devices. The Director of Public Works may remove any sign, signal, marking or other device which is placed, maintained or displayed in violation of this chapter or state law. Any charge imposed against premises for removal of a prohibited or illegal sign, signal, marking or device shall be reported by the Director of Public Works to the Village Board for review and certification at its next regular meeting following the imposition of the charge. Any charge not paid on or before the next succeeding November 15 shall be placed upon the tax roll for collection as other special municipal taxes.

## § 480-4. Registration record of vehicle as evidence.

When any vehicle is found upon a street or highway in violation of any provision of this chapter regulating the stopping, standing or parking of vehicles, and the identity of the operator cannot be determined, the owner, as shown by the ownership registration of the vehicle supplied by the Wisconsin Department of Transportation or a comparable authority of any other state, shall be deemed to have committed the violation for purposes of enforcement of this chapter and specifically § **480-1** and shall be subject to the applicable forfeiture penalty, provided the defenses defined and described in § 346.485(5)(b), Wis. Stats., shall be a defense for an owner charged with such violation.

## § 480-5. School bus warning lights.

### A. Flashing red warning lights.

- (1) Notwithstanding the provisions of § 346.48(2)(b)2, Wis. Stats., adopted by reference in § **480-1**, to the contrary and except as provided in Subsection **B** below, school bus operators shall use flashing red warning lights in residential and business districts when pupils or other authorized passengers are to be loaded or unloaded at locations at which there are no crosswalks or traffic signals so that pupils must cross the street or highway before being loaded or after being unloaded.
- (2) The operator of a school bus equipped with flashing red warning lights shall actuate such lights at least 100 feet before stopping to load or unload pupils or other authorized passengers and shall not extinguish such lights until loading or unloading is completed and persons who must cross the street or highway are safely across.
- (3) The operator of a school bus shall use the flashing red warning lights when loading or unloading passengers from either side where the curb and sidewalk are laid on one side of the road only.
- (4) The operator of a school bus shall use the flashing red warning lights when loading or unloading passengers in a residential or business district when the passengers are to be loaded or unloaded at a location at which there are:
  - (a) No traffic signals;
  - (b) Sidewalk and curb are laid on both sides of the street or highway; and
  - (c) Such persons must cross the street or highway before being loaded or after being unloaded.

(5) The operator of a motor vehicle which approaches from the front or rear of any school bus which has stopped on a street or highway when the bus is displaying flashing red warning lights shall stop the vehicle not less than 20 feet from the bus and shall remain stopped until the bus resumes motion or the operator extinguishes the flashing red warning lights. The operator of a school bus which approaches the front or rear of another school bus that has stopped and is displaying red warning lights shall stop not less 20 feet from the other bus, display its red warning lights and remain stopped with red warning lights actuated until the other bus resumes motion or the other operator extinguishes the flashing red warning lights.

B. Pursuant to § 349.21(2), Wis. Stats., the use of flashing red warning lights by school bus operators is prohibited when pupils or other authorized passengers are loaded or unloaded directly from or onto the school grounds or that portion of a right-of-way between the roadway and the school grounds designated by "school" warning signs as provided in § 118.08(1), Wis. Stats.

## § 480-6. Blue warning lights on police vehicles.

A. Pursuant to §§ 346.03(3), 346.94(14), 346.95(3) and 347.25(1), (1m)(a) and (b) and (4), Wis. Stats., a marked police vehicle under § 340.01(3)(a), Wis. Stats., may be equipped with a blue light and a red light which flash, oscillate or rotate.

B. If the vehicle is so equipped, the lights shall be illuminated when the operator of the police vehicle is exercising the privileges granted under § 346.03, Wis. Stats. The blue light shall be mounted on the passenger side of the vehicle and the red light shall be mounted on the driver side of the vehicle. The lights shall be designed and mounted so as to be plainly visible and understandable from a distance of 500 feet during normal sunlight and during hours of darkness. No operator of a police vehicle may use the warning lights except when responding to an emergency call or when in pursuit of an actual or suspected violator of the law, when responding to but not upon returning from a fire alarm, or when necessarily parked on a highway in a position which is likely to be hazardous to traffic using the highway.

## § 480-7. Accident reports.

The operator of every vehicle involved in an accident shall, immediately after such accident, file with the Police Department a copy of the report required by § 346.70, Wis. Stats., if any. If the operator is unable to make such report, any occupant of the vehicle at the time of the accident capable of making such report shall have the duty to comply with this section. Such reports shall be subject to the provisions and limitations of §§ 346.70(4)(f) and 346.73, Wis. Stats., specifically that accident reports filed with this section shall be for the confidential use of Village law enforcement officials and shall not be open to public inspection except as permitted by § 346.73, Wis. Stats.

## Article II. Street Traffic Regulations

### § 480-8. Operators to obey traffic control devices.

Every operator of a vehicle approaching an intersection at which an official traffic control device is erected in accordance with this chapter shall obey the direction of such official traffic control device as required by the Wisconsin Statutes incorporated by reference in § 480-1 of this chapter. Operators of vehicles approaching a stop sign shall stop before entering a highway as required by § 346.46, Wis. Stats. Operators approaching intersections at which a yield sign has been installed shall yield the right-of-way to other vehicles as required by § 346.18(6), Wis. Stats.

### § 480-9. Heavy traffic routes.

- A. Definition. For purposes of this section, "heavy traffic" shall be defined as:
- (1) All vehicles not operating completely on pneumatic tires; and
  - (2) All vehicles or combination of vehicles designed or used for transporting property of any nature and having a gross weight of more than 12,000 pounds. "Heavy traffic" does not include school buses, motor buses or recreational motor homes.
- B. Prohibited routes.
- (1) Heavy traffic is prohibited from using any Village of Neshkoro street or highway not designated as a heavy traffic route.
  - (2) This section shall not act to prohibit heavy traffic from using a Village street or highway for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence which has an entrance on such street or highway, nor shall this section apply to heavy traffic necessary to obtain orders, to make deliveries, or to move supplies or equipment for agricultural purposes. This exception shall be permitted for the period of time necessary to complete the above-described activities. This section will not act to prohibit heavy traffic from using any Village streets over which are routed state trunk highways. When being driven to the site of any construction, repair or maintenance of electric, gas or water service, vehicles owned and operated by a public utility will be exempt from the provisions of this section.
- C. Construction equipment.
- (1) Heavy construction equipment may use Village streets or highways not designated as heavy traffic routes, provided that the closest access route is utilized.
  - (2) Village-owned or -operated equipment is specifically excluded from the provisions of this section.
- D. Liability. Any operator, corporation, owner or agent whose heavy traffic vehicle damages any Village streets or highways in violating this section shall be liable and required to pay the Village the cost of repair or replacement of the damaged street or highway.
- E. Streets designated Class "B" highways. All streets and highways within the Village of Neshkoro, Wisconsin, are hereby designated Class "B" highways subject to the weight limitations imposed on Class "B" highways by the Wisconsin Statutes adopted by reference in § 480-1 except the highways within the Village which are state or county trunk highways.

## § 480-10. Speed limits.

The provisions of §§ 346.57, 346.58 and 346.59, Wis. Stats., relating to the maximum and minimum speed of vehicles are hereby adopted as part of this section as if fully set forth herein.

## § 480-11. Stop intersections.

- A. The operator of a motor vehicle proceeding in a northerly direction on North West Street shall come to a complete stop where it intersects Bluff Street and then proceed in an easterly or westerly direction.
- B. The operator of a motor vehicle proceeding in a southerly direction on North Montello Street shall come to a complete stop where it intersects West Park Street and then proceed in an easterly or westerly direction.
- C. The operator of a motor vehicle approaching East Park Street from the south will come to a complete stop where North State Street intersects East Park Street and then proceed in a westerly

or easterly direction.

- D. The operator of a motor vehicle approaching Morris Street from the east will come to a complete stop where Park Street intersects Morris Street and then proceed in a westerly, northerly or southerly direction.
- E. The operator of a motor vehicle proceeding in a southerly direction on South State Street shall come to a complete stop where it intersects East Berlin Street and then proceed in an easterly or westerly direction.  
[Added 10-1-2007]

## § 480-12. Compression brakes prohibited.

- A. It shall be unlawful for any vehicle equipped with compression brakes (Jake brakes®) to downshift and release the clutch to utilize the vehicle's engine to slow the vehicle in order to meet proper speed restrictions within the Village, except in case of extreme emergency.
- B. Any person violating the provisions of this section shall have committed a traffic infraction and a penalty shall be imposed as provided in § **480-33** of this chapter.

## Article III. Parking Regulations

### § 480-13. Restrictions on parking; posted limitations.

- A. Forty-eight-hour limitation. No person, firm or corporation shall park or leave standing any automobile, truck, tractor, trailer or vehicle of any description on any public streets or public parking lots in the Village of Neshkoro for a period of 48 or more consecutive hours in the same location at any time, except that, where more restrictive parking limits have been established, the more restrictive limits shall apply. When any law enforcement officer shall find a vehicle standing upon a public street or parking lot in violation of the provisions of this section, he is authorized to move such a vehicle or to require the operator in charge thereof to move such vehicle to a position permitted under this chapter. The law enforcement officer may cause said vehicle to be removed to a proper impoundment and storage area within the Village where storage space is available, and in such case, the owner shall pay the costs of removing said vehicle and the storage fees on said vehicle before he may recover the possession thereof.
- B. Off-street public parking areas. It shall be unlawful to park or leave for storage any equipment or vehicle in any Village off-street parking lot, except as provided in § **480-21F**.
- C. Posted limitations.
  - (1) The Village Board may designate certain streets or portions of streets as "no-parking" or "no stopping or standing" zones or as zones for parking by physically handicapped persons and may limit the hours in which the restrictions apply. The Village shall mark, by appropriate signs, each zone so designated in accordance with the provisions of § 349.13, Wis. Stats.
  - (2) Except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, no person shall stop or park a vehicle in an established no stopping or standing zone when stopping or standing is prohibited. No vehicle shall be parked in a no-parking zone during hours when parking is prohibited except physicians on emergency calls or as permitted by state law or elsewhere by this Codes.
  - (3) The Chief of Police is hereby granted the authority, within the reasonable exercise of police power, to prohibit, limit the time or otherwise restrict the stopping, standing or parking of vehicles beyond the provisions of Ch. 346, Wis. Stats. The Village Board shall have the authority to restrict the turning or movement of heavy traffic and to impose special weight

limitations on any highway or portions thereof which, because of the weakness of the roadbed due to deterioration or climatic conditions or other special or temporary conditions, would likely be seriously damaged or destroyed in the absence of any restrictions on heavy traffic movement or special weight limitations.

- (4) No prohibition, restriction or limitation on parking or restriction on movement or turning of heavy traffic and imposition of special weight limits is effective unless official traffic control devices have been placed or erected indicating the particular prohibition, restriction or limitation.
- (5) After the parking limitations on any given street have expired, any change of location of not more than one stall following expiration of the parking period allowed shall be and constitute a violation of this chapter.

## § 480-14. Parking restrictions during temporary snow removal or street maintenance.

- A. Street maintenance. Whenever it is necessary to clear or repair a Village roadway or any part thereof, the Public Works Department and/or Police Department shall post such highways or parts thereof with signs bearing the words: "No Parking. Street Maintenance Work." Such signs shall be erected at least two hours prior to the time that street maintenance work is to be commenced. No person shall park a motor vehicle in violation of such signs.
- B. Temporary parking restrictions for special events. For the period of time during which a community event is being held and upon proper resolution of the Village Board, all or any portion of a street adjacent to the area at which the community event is being held may be designated as a temporary no-parking zone. All such temporary no-parking zones shall be properly designated by an official no-parking sign placed or erected pursuant to the authority and direction of the Village Board. The operator of any motor vehicle shall not park or allow such vehicle to stand in such temporary no-parking zone.
- C. Parking during special snow removal. No person shall park, place or leave standing any automobile, truck or other vehicle on any street or public way after one hour from the time such area has been designated and marked with signs or barriers by the Public Works and/or Police Department of the Village indicating no parking due to special snow removal work.

## § 480-15. Stopping or parking prohibited in certain specified places.

- A. Parking prohibited at all times. Except temporarily for the purpose of and while actually engaged in loading or unloading or in receiving or discharging passengers or property and while the vehicle is attended by a licensed operator so that it may be moved promptly in case of an emergency or to avoid obstruction of traffic, no person shall at any time park or leave standing any vehicle:
  - (1) Within an intersection.
  - (2) On a crosswalk.<sup>[1]</sup>

[1] *Editor's Note: Original subsection (a)(3), pertaining to parking on a terrace or sidewalk area when indicated, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II); see Subsection A(12) in this section for provisions.*
  - (3) Alongside or opposite any highway excavation or obstruction when such stopping or standing would obstruct traffic or when pedestrian traffic would be required to travel in the roadway.

- (4) On the roadway side of any parked vehicle unless double parking is clearly indicated by official traffic signs or markers.
  - (5) Within a fire lane consisting of either the driveway between the front doors of a fire station and the public street or in such places properly designated and marked as fire lanes as ordered by the Fire Chief.
  - (6) Upon any portion of a highway where and at the time when stopping or standing is prohibited by official traffic signs indicating the prohibition of any stopping or standing.
  - (7) In any place or manner so as to obstruct, block or impede traffic.
  - (8) Within 10 feet of a fire hydrant, unless a greater distance is indicated by an official traffic sign.
  - (9) Upon any portion of a highway where and at the time when parking is prohibited, limited or restricted by official traffic signs.
  - (10) Upon any bridge.
  - (11) Upon any street or highway within the Village limits, any vehicle which faces a direction different from the direction of normal traffic flow for the lane of traffic in which said vehicle is stopped or standing.
  - (12) Upon any terrace or sidewalk in the Village at any time. "Terrace or sidewalk area" is defined as that area between the sidewalk and the nearest curblin running parallel or generally parallel thereto or, in the absence of a sidewalk, 10 feet beyond the curblin.
  - (13) In a loading zone.
  - (14) Within six feet of the entrance to an alley, private road or driveway.
  - (15) In any municipal park when said park is closed to the public.
- B. Parking in driveways. No person shall park or leave standing any motor vehicle in any private driveway without the permission of the owner or lessee of the property on which such driveway is located, whether or not such driveway is posted to limit or restrict parking.
- C. Vehicles not to block private drive, alley or fire lane. No vehicle shall, at any time, be parked so as to unreasonably restrict the normal access to any private drive, alley or fire lane. Said access shall be deemed to be unreasonably restricted if any vehicle is parked within four feet of either side of said access. Upon discovery by a law enforcement officer or upon complaint by the owner of any such blocked drive, alley or fire lane, the Chief of Police may order said vehicle towed from such position at the risk and expense of the owner of said vehicle.
- D. Parking vehicle for repair or to display for sale prohibited.
- (1) No person shall stand or park a vehicle on any street, alley, public right-of-way or municipal parking lot in the Village of Neshkoro for the purpose of repairing said vehicle or to display such vehicle for sale. No person shall park on any street or avenue any vehicles for the primary purpose of advertising.
  - (2) No person other than an owner and/or operator of a business located on business-zoned property engaged in the regular business of selling vehicles may display a vehicle for sale upon private premises unless the following conditions are met:
    - (a) Consent to display the vehicle has been given by the owner or lessee of the premises;
    - (b) The owner of the vehicle is on the premises or resides there;
    - (c) The vehicle displayed for sale is parked entirely on the premises;
    - (d) The premises contains only one vehicle displayed for sale; and

- (e) The advertisement or sign for sale of the vehicle is not larger than two square feet.

## § 480-16. Parking reserved for vehicles of disabled.

When official traffic signs indicating such restriction have been erected in accordance with § 480-3 of this chapter, no person shall park, stop or leave standing any vehicle upon any portion of a street, highway or public or private parking facility reserved for vehicles displaying special registration plates or identification cards or emblems issued by the Wisconsin Department of Transportation or, for vehicles registered in another jurisdiction, by such other jurisdiction, designating the vehicle as one used by a physically disabled person.

## § 480-17. Leaving keys in vehicle prohibited; parking vehicles with motor running.

- A. Leaving keys in vehicle. No person shall permit any motor vehicle to stand or remain unattended on any street, alley or other public area, except an attended parking area, unless either the starting lever, throttle, steering apparatus, gearshift or ignition of the vehicle is locked and the key for such lock is removed from the vehicle. Whenever any law enforcement officer shall find any vehicle standing with the key in the ignition in violation of this section, such law enforcement officer is authorized to remove such key from the vehicle and deliver the key to the Village office for safe custody.
- B. Parking vehicles with motor running. No person shall park or leave standing any motor vehicle with the motor or refrigerator unit running for more than 30 minutes within 300 feet of any residence within the Village of Neshkoro between the hours of 10:00 p.m. and 7:00 a.m.

## § 480-18. Unattended motorized machinery.

It shall be unlawful for any person, firm or corporation to permit any construction, compaction, earth-grading or farm machinery which is self-propelled and moves upon the surface of the earth and which is owned or controlled by him to stand for any period of time unattended without locking the ignition system or otherwise rendering said machinery inoperable so as to prevent any person unauthorized by the owner or individual in control thereof from starting said machinery.

## § 480-19. Angle parking.

- A. The Village Board shall from time to time have certain streets or portions of streets marked with white lines to designate parallel or diagonal parking places. Angle parking or parking diagonally is prohibited on all the streets, alleys and highways of the Village except as provided herein in designated angle parking stalls. All vehicles shall park parallel to and within one foot of the curb except where streets and parking lots are so marked for angle parking.
- B. No person shall at any time park any vehicle:
- (1) In any direction other than the designated parking angle where angle parking spaces are so designated and provided by appropriate markings.
  - (2) Backwards into angle parking spaces so designated and provided by appropriate markings.
  - (3) With a trailer attached or any vehicle longer than 20 feet on any street where angle parking is so provided and allowed.

## § 480-20. Parking of vehicles over 12,000 pounds or 22 feet restricted.

- A. **Parking.** No person owning or having control of any truck, trailer, truck power unit, tractor, bus, recreation vehicle, camping/recreational use camper, or combination of vehicles weighing in excess of 12,000 pounds gross weight, or over 22 feet in length (including accessories, racks, or other physical extensions), or having a height of more than eight feet from the roadway, shall park the same upon any street, avenue or public way in the Village of Neshkoro for a continuous period exceeding three hours. The provisions of this subsection shall not be deemed to prohibit the lawful temporary parking of such equipment upon any street, avenue, public way or private property in the Village for the actual loading or unloading of goods, ware or merchandise; providing, however, the "loading" and "unloading," as used in this section, shall be limited to the actual time consumed in such operation. The Village Board may, however, designate specific truck parking zones. (See § 480-21F.)
- B. **Exceptions.** Any municipal vehicle or public works equipment is excepted from the provisions of Subsection **A** above.
- C. **Bus parking.** No operator of a school bus or other bus, regardless of its size, shall park such vehicle in any residential district — on the street, on a lawn, in the alley, in a driveway or anywhere else — except for such time as is reasonably necessary to facilitate the loading or unloading of the vehicle, except that school buses may park at any school when required.
- D. **Removal.** Any vehicle unlawfully parked under Subsection **A** or **B** above may be removed from the street by order of a law enforcement officer, pursuant to § 480-24, and the expense of so moving and storing such vehicle shall be paid by the operator or owner of said vehicle as a forfeiture in addition to the penalties hereafter prescribed.

## § 480-21. Parking limits and no-parking areas.

When signs are erected giving notice thereof, no person shall park a vehicle for longer than the period thereon specified below:

- A. **Posted limits.** When signs are erected in any block giving notice thereof, no person or persons shall park a vehicle for a period longer than the period hereinafter specified, except on Sundays and legal holidays as provided by § 995.20, Wis. Stats.
- B. **Main Street.** During the hours of 6:00 a.m. to 6:00 p.m., parking will be limited to two-hour intervals. There shall be no parking on Main Street from 2:00 a.m. to 6:00 a.m.
- C. **Wall Street.** During the hours of 6:00 a.m. to 6:00 p.m., within an area 132 feet east and west on Wall Street where it intersects South Main Street, parking will be limited to two-hour intervals. There shall be no parking year round from 2:00 a.m. to 6:00 a.m. within this area.
- D. **Winter parking.** On all streets other than Main Street and Wall Street in the Village of Neshkoro, there will be unlimited parking from 6:00 p.m. to 2:00 a.m., except that from November 15 until April 15 there shall be no parking between the hours of 2:00 a.m. and 6:00 a.m. for snow removal purposes.  
[Amended 10-4-2010; 11-3-2014]
- E. **East Park Street.** There shall be a two-hour parking limit on the north side of East Park Street from State Highway 73 to North State Street from 8:00 a.m. to 6:00 p.m. during school hours.
- F. **Municipal Parking Lot.** It shall be unlawful to park or store any vehicle, trailer or equipment in the Municipal Parking Lot for more than 72 hours, except:

- (1) Operable vehicles may park in excess of 72 hours upon specific authorization from the Village Board;
- (2) Semitrucks may temporarily park in the Municipal Parking Lot for a period not to exceed 72 hours.

## § 480-22. Unlawful removal of parking citations.

No person other than the owner or operator thereof shall remove a Village parking citation from a motor vehicle.

## § 480-23. Operation of motor vehicles in public parking lots.

- A. Unlicensed operators prohibited. No person who does not hold a valid operator's license shall operate a vehicle in any public parking lot or ramp or in any private parking lot or ramp held out for the use of parking for the general public.
- B. Traffic regulations applicable. All provisions of § 480-1 of this chapter and of the Wisconsin Statutes and laws incorporated herein by reference shall be applicable on any public parking lot or ramp and on any private parking lot, road or ramp held out for use for the general public for parking or vehicular traffic.

## § 480-24. Removal of illegally parked vehicles.

- A. Hazard to public safety. Any vehicle parked, stopped or standing upon a highway or public parking lot or ramp in violation of any of the provisions of this chapter is declared to be a hazard to traffic and public safety.
- B. Removal by operator. Such vehicle shall be removed by the operator in charge, upon request of any law enforcement officer, to a position where parking is permitted or to a private or public parking or storage premises.
- C. Removal by traffic officer. Any law enforcement officer, after issuing a citation for illegal parking, stopping or standing of an unattended vehicle in violation of this chapter, is authorized to remove such vehicle to a position where parking is permitted.
- D. Removal by private service. The officer may order a motor carrier holding a permit to perform vehicle towing services, a licensed motor vehicle salvage dealer or a licensed motor vehicle dealer who performs vehicle towing services to remove and store such vehicle in any public storage garage or rental parking grounds or any facility of the person providing the towing services.
- E. Towing and storage charges. In addition to other penalties provided in this chapter, the owner or operator of a vehicle so removed shall pay the actual cost of moving, towing and storage. If the vehicle is towed or stored by a private motor carrier, motor vehicle salvage dealer or licensed motor vehicle dealer, actual charges regularly paid for such services shall be paid. If the vehicle is stored in a public storage garage or rental facility, customary charges for such storage shall be paid. Upon payment, a receipt shall be issued to the owner of the vehicle for the towing or storage charge.

## § 480-25. Inoperable, wrecked or discarded vehicles.

- A. Storage prohibited. No person owning or having custody of any partially dismantled, nonoperable, wrecked, junked or discarded motor vehicle shall allow such vehicle to remain on any public street or highway, parking lot or ramp longer than 48 hours after notification thereof by a law

enforcement officer. Any such vehicle not removed within 48 hours is declared to be a public nuisance and may be removed as provided in § 480-24.

- B. Exemptions. This section shall not apply to a motor vehicle in an appropriate storage place or depository maintained in a lawful place and manner authorized by the Village of Neshkoro.

## § 480-26. Traffic and parking regulations on School District grounds.

Pursuant to the provisions of § 118.105, Wis. Stats., the following regulations shall apply to the grounds of the Neshkoro Public School District located within the Village of Neshkoro:

- A. Parking. No person shall park any vehicle in any vehicular traveling area or parking area of the Neshkoro School District, except in conformity with posted parking regulations set forth for such vehicular travel and parking areas.
- B. Speed limits. No person shall, at any time, operate a motor vehicle upon any School District grounds at a speed in excess of 10 miles per hour.
- C. Vehicles prohibited at specified times. No person shall, at any time, operate a motor vehicle other than a school bus or emergency vehicle in or upon any drive designated "for buses only" during the hours of 7:00 a.m. to 9:00 a.m. and during the hours of 3:00 p.m. to 4:30 p.m. on any weekday during the months school is in session.
- D. State traffic forfeiture laws adopted. All provisions of Chs. 340 to 349, Wis. Stats., describing and defining regulations with respect to vehicles and traffic for which the penalty is a forfeiture only, including penalties to be imposed and procedures for prosecution, are hereby adopted and by reference made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this section.
- E. Miscellaneous rules.
  - (1) No person shall operate a motor vehicle on such school premises at a rapid or sudden acceleration with the intent of squealing tires or leaving tire marks.
  - (2) No person shall operate a motor vehicle on such premises across parking lot islands or parking lot dividers.

## Article IV. Miscellaneous Provisions

### § 480-27. Disturbance of the peace.

- A. Unnecessary noise prohibited. It shall be unlawful for any person to operate a motor vehicle in such a manner which shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public or private area in the Village of Neshkoro.
- B. Unnecessary smoke prohibited. It shall be unlawful for any person to operate a motor vehicle in such a manner which shall make or cause to be made any smoke, gases, or odors which are disagreeable, foul or otherwise offensive which may tend to annoy or disturb another in or about any public or private area in the Village.
- C. Unnecessary acceleration and display of power prohibited. It shall be unlawful for any person to operate any vehicle, including motorcycles, all-terrain vehicles and bicycles, in such a manner as to cause, by excessive and unnecessary acceleration, the tires of such vehicle or cycle to spin or

emit loud noises or to unnecessarily throw stones or gravel, nor shall such driver cause to be made by excessive and unnecessary acceleration any loud noise as would disturb the peace.

D. Disorderly conduct with a motor vehicle.

(1) Conduct prohibited. No person shall, within the Village of Neshkoro, by or through the use of any motor vehicle, including but not limited to an automobile, truck, motorcycle, minibike or snowmobile, cause or provoke disorderly conduct with a motor vehicle, cause a disturbance or annoy one or more persons, or disturb or endanger the property or the safety of another's person or property.

(2) Definition. "Disorderly conduct with a motor vehicle" shall mean the engaging in violent, abusive, unreasonably loud conduct, or disturbing or endangering the property or the safety of another's person or property, or otherwise disorderly conduct, including but not limited to unnecessary, deliberate or intentional spinning of wheels, squealing of tires, revving of engine, blowing the horn, causing the engine to backfire or causing the vehicle, while commencing to move or in motion, to raise one or more wheels off the ground.

E. Avoidance of traffic control device prohibited. It shall be unlawful for any person to operate a motor vehicle in such a manner as to leave the roadway and travel across private property to avoid an official traffic control device, sign or signal.

F. Operation in restricted area prohibited. It shall be unlawful for any person to operate a motor vehicle in such a manner as to leave the roadway and park, stop or travel upon or across any public or private property, parking lot, driveway or business service area for any purpose except the official conduct of business located on said property without the consent of the owner or lessee of the property. This section shall specifically include, but not be limited to:

(1) Public park property;

(2) Cemetery properties;

(3) School District property;

(4) Medical facilities;

(5) Funeral homes;

(6) Service stations;

(7) Grocery stores;

(8) Restaurants;

(9) Financial institutions; and

(10) Other similar-type businesses with service driveways or drive-up or drive-through facilities.

G. Stopping and parking prohibited. It shall be unlawful for any person to stop or park a motor vehicle in any manner on any public or private property or parking lot contrary to a regulatory sign posted thereon which may permit parking by certain persons and limits, restricts or prohibits parking as to other persons without the consent of the owner or lessee of the property. Any vehicle parked in violation of this section may be removed or towed by the property owner at the vehicle owner's expense.

## § 480-28. Motor vehicles on pedestrianways and overpasses.

No person shall operate or park any motor vehicle on any pedestrianway or pedestrian overpass within the Village of Neshkoro except municipal or county maintenance vehicles.

## § 480-29. School crossing guards.

Pursuant to § 349.215, Wis. Stats., those adult persons hired by the School District or Village to act as school crossing guards shall have the authority to stop vehicular traffic and to keep it stopped as long as necessary at their respective school crossings for the purpose of permitting schoolchildren to cross the street.

## § 480-30. Driving over curbing or safety islands prohibited.

- A. Driving over curbing prohibited. It shall be unlawful for any motor vehicle to be driven or backed over any curbing in the Village of Neshkoro.
- B. Driving over safety zones or islands prohibited. Whenever safety zones or safety islands are marked in accordance with the Wisconsin Uniform Traffic Control Device Manual, no operator of a vehicle shall at any time drive through or over a safety zone or safety island. Persons causing damage to curbing by driving over such curbing shall be responsible for the cost of such repairs.

## § 480-31. Sound-producing devices in vehicles; impoundment; seizure and forfeiture.

- A. Sound-producing devices; impoundment; seizure and forfeiture.
  - (1) In this section, "sound-producing device" does not include a piece of equipment or machinery that is designed for agricultural purposes and that is being used in the conduct of agricultural operations.
  - (2) A law enforcement officer, at the time of issuing a citation for a violation of § 346.94(16), Wis. Stats., or a Village ordinance in strict conformity with § 346.94(16), Wis. Stats., or any other Village ordinance prohibiting excessive noise, is authorized to impound any radio, electric sound-amplification device or other sound-producing device used in the commission of the violation if the person charged with such violation is the owner of the radio, electric sound-amplification device or other sound-producing device and has two or more prior convictions within a three-year period of § 346.94(16), Wis. Stats., or a local ordinance in strict conformity with § 346.94(16), Wis. Stats., or any other Village ordinance prohibiting excessive noise. The Village authorizes the impoundment of a vehicle for not more than five working days to permit the Village authorities or their authorized agent to remove the radio, electric sound-amplification device or other sound-producing device if the vehicle is owned by the person charged with the violation and the sound-producing device may not be easily removed from the vehicle. Upon removal of the sound-producing device, an impounded vehicle shall be returned to its rightful owner.
  - (3) The Village may recover the cost of impounding the sound-producing device and, if a vehicle is impounded, the cost of impounding the vehicle and removing the sound-producing device. Upon disposition of the forfeiture action for the violation of § 346.94(16), Wis. Stats., or a local ordinance in strict conformity with § 346.94(16), Wis. Stats., or any other local ordinance prohibiting excessive noise, and payment of any forfeiture imposed, the sound-producing device shall be returned to its rightful owner.
  - (4) The Village may dispose of any impounded sound-producing device or, following the procedure for an abandoned vehicle under § 342.40, Wis. Stats., any impounded vehicle which has remained unclaimed for a period of 90 days after disposition of the forfeiture action.
  - (5) This subsection does not apply to a radio, electric sound-amplification device or other sound-producing device on a motorcycle.

- (6) Notwithstanding Subsections **A(1)** to **(5)** above, the Village authorizes a law enforcement officer, at the time of issuing a citation for a violation of § 346.94(16), Wis. Stats., or a local ordinance in strict conformity with § 346.94(16), Wis. Stats., or any other local ordinance prohibiting excessive noise, to seize any radio, electric sound-amplification device or other sound-producing device used in the commission of the violation, if the person charged with such violation is the owner of the radio, electric sound-amplification device or other sound-producing device and has three or more prior convictions within a three-year period of § 346.94(16), Wis. Stats., or a local ordinance in strict conformity with § 346.94(16), Wis. Stats., or any other local ordinance prohibiting excessive noise.
- (7) The Village may impound a vehicle violating Subsection **A(6)** for not more than five working days to permit the Village or its authorized agent to remove the radio, electric sound-amplification device or other sound-producing device if the vehicle is owned by the person charged with the violation and the sound-producing device may not be easily removed from the vehicle. Upon removal of the sound-producing device, an impounded vehicle shall be returned to its rightful owner upon payment of the reasonable costs of impounding the vehicle and removing the sound-producing device.
- (8) Any seized sound-producing device under Subsection **A(6)** shall be treated in substantially the manner provided in §§ 973.075(3), 973.076 and 973.077, Wis. Stats., for property realized through the commission of any crime, except that the sound-producing device shall remain in the custody of the applicable law enforcement agency; a district attorney or Village Attorney, whichever is applicable, shall institute the forfeiture proceedings; and, if the sound-producing device is sold by the law enforcement agency, all proceeds of the sale shall be retained by the Village.
- (9) The Village may, following the procedure for an abandoned vehicle under § 342.40, Wis. Stats., dispose of any impounded vehicle which has remained unclaimed for a period of 90 days after disposition of the forfeiture action.
- (10) This subsection does not apply to a radio, electric sound-amplification device or other sound-producing device on a motorcycle.

B. Vehicle owner's liability for radios or other electric sound-amplification devices.

- (1) The owner of a vehicle involved in a violation of § 346.94(16), Wis. Stats., shall be presumed liable for the violation as provided in this section. Notwithstanding the previous sentence, no owner of a vehicle involved in a violation of § 346.94(16), Wis. Stats., may be convicted under this section if the person operating the vehicle or having the vehicle under his or her control at the time of the violation has been convicted for the violation under this section or under § 346.94(16), Wis. Stats.
- (2) Any member of the public who observes a violation of § 346.94(16), Wis. Stats., may prepare a written report indicating that a violation has occurred. If possible, the report shall contain the following information:
  - (a) The time and the approximate location at which the violation occurred.
  - (b) The license number and color of the motor vehicle involved in the violation.
  - (c) Identification of the motor vehicle as an automobile, station wagon, motor truck, motor bus, motorcycle or other type of vehicle.
- (3) Report.
  - (a) Within 24 hours after observing the violation, a member of the public may deliver a report containing all of the information in Subsection **B(2)** to a traffic officer of the county or municipality in which the violation occurred. A report which does not contain all of the information in Subsection **B(2)** shall nevertheless be delivered and shall be maintained by the county or municipality for statistical purposes. Within 48 hours after receiving a report containing all of the information in Subsection **B(2)**, the traffic officer shall

investigate the violation and may prepare a uniform traffic citation under § 345.11, Wis. Stats., and, within 72 hours after receiving such report, any traffic officer employed by the authority issuing the citation may personally serve it upon the owner of the vehicle.

- (b) If with reasonable diligence the owner cannot be served under Subsection **B(3)(a)**, service may be made by leaving a copy of the citation at the owner's usual place of abode within this state in the presence of a competent member of the family who is at least 14 years of age and who shall be informed of the contents thereof. Service under this paragraph may be made by any traffic officer employed by the authority issuing the citation and shall be performed within 72 hours after a report containing all of the information in Subsection **B(2)** was delivered to a traffic officer under Subsection **B(3)(a)**.
  - (c) If with reasonable diligence the owner cannot be served under Subsection **B(3)(a)** or **(b)** or if the owner lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner's last-known address. Service under this paragraph shall be performed by posting the certified mail within 72 hours after a report containing all of the information in Subsection **B(2)** was delivered to a traffic officer under Subsection **B(3)(a)**. Except for owners who live outside of the jurisdiction of the issuing authority, service under this paragraph may not be performed unless service under Subsection **B(3)(a)** and **(b)** has been attempted.
- (4) Defenses to the imposition of liability under this section include:
- (a) That a report that the vehicle was stolen was given to a traffic officer before the violation occurred or within a reasonable time after the violation occurred.
  - (b) If the owner of the vehicle provides a traffic officer employed by the authority issuing the citation with the name and address of the person operating the vehicle or having the vehicle under his or her control at the time of the violation and sufficient information for the officer to determine that probable cause does not exist to believe that the owner of the vehicle was operating the vehicle or having the vehicle under his or her control at the time of the violation, then the owner of the vehicle shall not be liable under this section or under § 346.94(16), Wis. Stats.
  - (c) If the vehicle is owned by a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee, and the lessor provides a traffic officer employed by the authority issuing the citation with the information required under § 343.46(3), Wis. Stats., then the lessee and not the lessor shall be liable under this section or under § 346.94(16), Wis. Stats.
  - (d) If the vehicle is owned by a dealer, as defined in § 340.01(11), Wis. Stats., but including the persons specified in § 340.01(11)(a) to (d), Wis. Stats., and at the time of the violation the vehicle was being operated by or was under the control of any person on a trial run, and if the dealer provides a traffic officer employed by the authority issuing the citation with the name, address and operator's license number of the person operating the vehicle or having the vehicle under his or her control on a trial run, then that person, and not the dealer, shall be liable under this section or under the applicable provision of § 346.94(16), Wis. Stats.
  - (e) Notwithstanding § 346.94(16)(b)6, Wis. Stats., this section does not apply to the operation of a motorcycle.

C. Authority to regulate radios or other electric sound-amplification devices.

- (1) Notwithstanding § 346.94(16), Wis. Stats., the Village provides that, except as provided in § 347.38(1), Wis. Stats., no person may operate or park, stop or leave standing a motor vehicle while using a radio or other electric sound-amplification device emitting sound from the vehicle that is clearly audible under normal conditions from a distance of 50 or more feet, unless the electric sound-amplification device is being used to request assistance or warn

against an unsafe condition. Any person violating this subsection may be punishable as provided in § 480-33.

[Amended 10-4-2010]

- (2) Subsection **C(1)** may not apply to any of the following:
- (a) The operator of an authorized emergency vehicle when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm.
  - (b) The operator of a vehicle of a public utility, as defined in § 11.40(1)(a), Wis. Stats.
  - (c) The operator of a vehicle that is being used for advertising purposes.
  - (d) The operator of a vehicle that is being used in a community event or celebration, procession or assemblage.
  - (e) The activation of a theft alarm signal device.
  - (f) The operator of a motorcycle being operated outside of a business or residence district.

## § 480-32. School pedestrian mall.

- A. A pedestrian mall is created on North State Street between East Park Street and East Bluff Street whereby vehicular traffic on the street will be closed during school hours, 8:00 a.m. to 3:45 p.m. weekdays only, pursuant to § 66.0905, Wis. Stats.
- B. All responsibility and costs for creating and maintaining movable code-approved control devices shall be paid by the Westfield School District.
- C. Creation of such pedestrian mall shall not constitute a discontinuance or vacation of such street or public way under § 66.1003 or 236.43, Wis. Stats.

### § 480-32.1. Golf carts.

[Added 7-1-2019]

- A. Purpose. The purpose of this section is to establish operation of golf cars within the Village limits.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

#### **GOLF CART**

Is designed as a motorized vehicle with four wheels which is not designed to be operated at a speed of up to 25 miles per hour. Said golf cart is generally designed to carry two to four persons, including the driver.

- C. Standard equipment regulations. Each golf cart shall be equipped with the following operational items in good working order before being operated on any Village street:
  - (1) Brakes.
  - (2) Headlights.
  - (3) Tail lights.
  - (4) Rear view mirror.
  - (5) Slow-moving vehicle sign on rear of cart.

- D. Proof of liability insurance. As part of the permit process, the owner of the golf cart must provide a certificate of insurance listing the company, policy term, and minimum limits of liability of \$100,000 per person, \$300,000 per accident and \$5,000 medical before a permit will be issued.
- E. Operational regulations. Each operator of a golf cart shall comply with the following:
- (1) Each operator of a golf cart must have a valid driver's license.
  - (2) All occupants, including the driver, shall comply with seat belt regulations, if said golf cart was originally equipped with seat belts.
  - (3) All riders must remain seated when the golf cart is in motion.
  - (4) Golf carts may be operated on Village streets between April 1 and December 1 of each calendar year, from 30 minutes after sunrise until 30 minutes before sunset.
  - (5) Golf carts may not be operated on Village streets during inclement weather such as rain, snow, fog or when visibility is 500 feet or less.
  - (6) No golf cart shall exceed 25 miles per hour.
  - (7) Golf carts shall operate in a single file on the far-right side of the roadway, with the flow of traffic. Headlights and taillights must be in operation at all times, day or night.
  - (8) No item can be towed by a golf cart.
  - (9) No operator/person shall leave or allow any golf cart owned or operated by him/her to remain unattended on any public street, highway or public property while the motor is running or with the starting key left in the ignition.
  - (10) Each golf cart shall be operated in compliance with the Village motor vehicle ordinances and/or Wisconsin motor vehicle statutes.
  - (11) Golf carts shall only be operated on Village streets which have a posted speed limit of 25 miles per hour or less, but may not travel on State Highway 73 (Main Street).
  - (12) Golf carts shall obey all posted traffic signs.
  - (13) Golf carts shall yield the right-of-way to all other vehicular traffic and pedestrians
  - (14) Golf carts shall display a Village of Neshkoro sticker prominently on the left front fender.
  - (15) Golf carts must pass inspection and have a Village of Neshkoro permit.
- F. Permits.
- (1) The permit, notwithstanding the date of purchase, shall be valid only from April 1 to December 1 during the calendar year of purchase.
  - (2) Unless previously revoked within a one-year period, permits may be issued by the Village Clerk to owners upon:
    - (a) Completion of an application form.
    - (b) Payment of a \$20 annual permit fee.
    - (c) Proof of a valid driver's license (to be kept on file at the Clerk's office).
    - (d) Proof of insurance (to be kept on file at the Clerk's office).
    - (e) Successful inspection by the Chief of Police.
  - (3) Following inspection, owners may request a permit by submitting a completed application form, certificate of insurance, proof of a valid driver's license and a permit fee to the Village of Neshkoro.

G. Violations and penalties. Violation of this section is punishable by any of the following:

- (1) Loss of operator's permit for one year.
- (2) As provided by Village ordinances.
- (3) As provided in Wisconsin statutes.

## Article V. Enforcement and Penalties

### § 480-33. Violations and penalties.

A. Forfeiture penalty. The penalty for violation of any provision of this chapter shall be a forfeiture as hereafter provided, together with court costs and fees prescribed by § 814.63(1) and (2) or 814.65(1), Wis. Stats., the penalty assessment for moving traffic violations, and the driver improvement surcharge imposed by §§ 757.05 and 346.655, Wis. Stats., where applicable. Payment of the judgment and applicable court costs, fees, assessments and surcharges may be suspended by the sentencing court for not more than 60 days. Any person 18 years of age or older who shall fail to pay the amount of the forfeiture, court costs, any penalty assessment or driver surcharge or other penalty imposed for violation of any provision of this chapter may, upon order of the court entering judgment therefor and having jurisdiction of the case, be imprisoned until such forfeiture, costs and assessment are paid, but not exceeding 90 days.

B. Other sanctions.

- (1) By court. Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes to suspend or revoke the operating privileges of the defendant, order the defendant to submit to assessment and rehabilitation programs or to attend traffic safety school in addition to payment of a monetary penalty or in lieu of imprisonment.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (2) By municipality. No person who has been convicted of a violation of any provision of this chapter shall be issued a license or permit by the Village, except a dog license, until the forfeiture imposed for such violation and any penalty assessment, court costs and fees or surcharge is paid.

C. Forfeitures for violation of uniform moving traffic regulations. Forfeitures for violations of any moving traffic regulation set forth in the Wisconsin Statutes adopted by reference in § **480-1** shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable Wisconsin Statute, including any variations or increases for subsequent offenses; provided, however, that this subsection shall not be construed to permit prosecution under this chapter for any offense described in Chs. 341 to 349, Wis. Stats., for which an imprisonment penalty or fine may be imposed upon the defendant.

D. Forfeitures for parking violations.

- (1) Forfeitures for uniform statewide parking, stopping and standing offenses. Minimum and maximum forfeiture for violation of nonmoving traffic violations adopted by reference in § **480-1** as described in Chs. 341 to 349, Wis. Stats., shall be as found in the current edition of the Revised Uniform State Traffic Deposit Schedule.

- (2) Penalty for other parking violations. The forfeiture for violation of parking regulations in §§ **480-13** through **480-22**, except for §§ **480-20** and **480-21**, shall be \$25.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (3) Forfeitures for violations of §§ **480-20** and **480-21**.

- (a) First offense: Not less than \$25 nor more than \$100.<sup>[3]</sup>  
*[3] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (b) Second offense: Not less than \$35 nor more than \$200.
- E. Other violations. Any person who shall violate any provision of this chapter for which a penalty is not otherwise established shall be subject to a forfeiture of not less than \$25 nor more than \$200 for the first offense and not less than \$35 nor more than \$500 for the second offense within two years.<sup>[4]</sup>  
*[4] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 480-34. Enforcement.

### A. Enforcement procedures.

- (1) How enforced. This chapter shall be enforced in accordance with the applicable provisions of the Wisconsin Statutes and this section.
- (2) Applicable court procedures. Except where otherwise specifically provided by the laws of the State of Wisconsin or this Code, the traffic regulations in this Code shall be enforced in accordance with the provisions of § 345.20(2)(b) and Ch. 800, Wis. Stats.

### B. Citations.

- (1) Uniform citation and complaint. The Wisconsin uniform traffic citation and complaint described and defined in the Wisconsin Statutes shall be used for enforcement of all provisions of this chapter except those provisions which describe or define nonmoving traffic violations and violations of §§ 346.71 through 346.73, Wis. Stats. Violations of §§ 346.71 through 346.73, Wis. Stats., shall be reported to the District Attorney and the Wisconsin uniform traffic citation shall not be used in such cases except upon written request of the District Attorney.
- (2) Parking citations. The Village Attorney and Chief of Police shall recommend to the Village Board a citation for use in enforcing the nonmoving traffic offenses in this chapter. Such citation shall be used for enforcement of nonmoving traffic regulations created or adopted by this chapter, including violations of nonmoving traffic regulations defined and described in the Wisconsin Statutes adopted by reference in § 480-1, and all provisions regarding nonmoving traffic violations in this chapter. The citation for nonmoving traffic violations shall contain a notice that the person cited may discharge the forfeiture for violation of a nonmoving traffic regulation and penalty thereof by complying with Subsection **C(2)** of this section. Nonmoving traffic citations may be issued by law enforcement officers or by Board-authorized civilian employees of the Village.

### C. Deposits and stipulations.

- (1) Uniform traffic offenses.
  - (a) Who may make. Persons arrested or cited for violation of moving traffic offenses created by this chapter shall be permitted to make deposits and stipulations of no contest or be released by the arresting officer in accordance with the applicable provisions of the Wisconsin Statutes. Stipulations of guilt or no contest may be made by persons arrested for violations of this chapter in accordance with § 66.0114(1)(b), Wis. Stats., whenever the provisions of § 345.27, Wis. Stats., are inapplicable to such violations. Stipulations shall conform to the form contained in the uniform traffic citation and complaint under § 345.11, Wis. Stats.
  - (b) Delivery or mailing of deposit and stipulation. Any person stipulating guilt or no contest under the preceding subsection must make the deposit required under § 345.26, Wis. Stats., or, if the deposit is not established under such statute, shall deposit a forfeited

penalty as provided in the schedule established by the Chief of Police and approved by the Village Board. Deposits, including those for parking or nonmoving violations, shall be brought or mailed to the Clerk of Court as directed by the arresting officer.

(2) Nonmoving traffic offenses.

- (a) Direct payment of penalty permitted. Persons cited (summons not issued) for violation of nonmoving traffic offenses described and defined in this chapter may discharge the penalty thereof and avoid court prosecution by mailing or forwarding within five days of the issuance of the citation to the Village office the minimum forfeiture specified for the violation. When payment is made as provided in this paragraph, no court costs shall be charged.
- (b) Court prosecution. If the alleged violator does not deliver or mail a deposit as provided in Subsection **C(2)(a)** within 15 days of the date of the citation, the Chief of Police shall forward a copy of the citation to the Village Attorney for prosecution.
- (c) Registration suspension. If the alleged violator does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified on the citation, within 28 days after the citation is issued, the Village may ask the Wisconsin Department of Transportation to suspend the registration of the vehicle involved or refuse registration of any vehicle owned by the person pursuant to the provisions of § 345.28(4), Wis. Stats., and Subsection **C(3)** below.
- (d) Bond. Any official authorized to accept deposits under § 345.26, Wis. Stats., or this section shall qualify by taking the oath prescribed by § 19.01, Wis. Stats.

(3) Notice of demerit points and receipt. Every officer accepting a forfeited penalty or money deposit under this section shall receipt therefor in triplicate, as provided in § 345.26(3)(b), Wis. Stats. Every officer accepting a stipulation under the provisions of this section shall comply with the provisions of §§ 343.28, 345.26(1)(a) and 345.27(2), Wis. Stats., and shall require the alleged violator to sign a statement of notice in substantially the form contained on the uniform traffic citation and complaint promulgated under § 345.11, Wis. Stats.

(4) Registration suspension program.

- (a) The Village shall participate in the Wisconsin Department of Transportation Traffic Violation and Registration Program, as set forth in § 345.28, Wis. Stats., and Ch. Trans 128, Wis. Adm. Code, and all amendments or changes thereto.
- (b) The Chief of Police is hereby designated as a delegated authority for purposes of §§ 85.13 and 345.28, Wis. Stats., and Ch. Trans 128, Wis. Adm. Code. The Chief of Police is authorized to perform, on behalf of the Village, all functions required of a local authority under said statutes and code, including, but not limited to:
  - [1] Preparing and completing all forms and notices, notifying the Wisconsin Department of Transportation of unpaid citations for nonmoving traffic violations;
  - [2] Specifying whether the registration of vehicles involved in unpaid citations for nonmoving traffic violations should be suspended and/or whether registration should be refused for any vehicle owned by persons with unpaid citations for nonmoving traffic violations;
  - [3] Determining the method by which the Village will pay the Wisconsin Department of Transportation for administration of the program; establishing the effective date for participation; and
  - [4] Taking such other action as is necessary to institute and continue participation in the Wisconsin Department of Transportation Traffic Violation and Registration Program.

- (c) In addition to all applicable fines and court costs, the cost of using the Wisconsin Department of Transportation Traffic Violation and Registration Program shall be assessed as permitted by § 345.28(4)(d), Wis. Stats. The Police Department may refuse to notify the Wisconsin Department of Transportation of payment on a citation until all applicable fines and costs, including costs assessed under the preceding sentence, are paid.
- (d) This subsection shall not be interpreted as requiring that all unpaid citations for nonmoving traffic violations be processed through the Wisconsin Department of Transportation Traffic Violation and Registration Program. The Village's participation in such program shall be in addition to any and all other means legally available to enforce such citations.

## Article VI. All-Terrain Vehicles and Off-Road Motor Vehicle Operation

### § 480-35. State all-terrain vehicle laws adopted.

The provisions describing and defining regulations with respect to all-terrain vehicles in the following enumerated subsections of § 23.33, Wis. Stats., and any future amendments or revisions, are hereby adopted by reference and made part of this section as if fully set forth herein. Any acts required to be performed by the following statutory subsections or which are prohibited by such statutory subsections are required to be performed by this section or are prohibited by this section:

23.33(1)	Definitions [including Subsections (a) through (n)]
23.33(2)	Registration
23.33(3)	Rules of Operation [including Subsections (a) through (i)]
23.33(4)	Operation On or Near Highway [including Subsections (a) through (e)]
23.33(5)(a) and (c)	Age Restrictions
23.33(6)	Equipment Requirements [including Subsections (a) through (e)]
23.33(7)	Accidents [including Subsections (a) and (b)]

### § 480-36. All-terrain vehicles and utility vehicles.

[Amended 9-8-2014 by Ord. No. 480-38]

#### A. Intent.

- (1) The Village of Neshkoro, Marquette County, Wisconsin, adopts the following section for the operation of all-terrain vehicles/utility vehicles upon the roadway(s) listed in Subsection **C**.
- (2) Following due consideration of the recreational value to connect trail opportunities and weighted against possible dangers, public health, liability aspects, terrain involved, traffic density and history of automobile traffic, this section has been created.

#### B. Statutory authority.

- (1) This route is created pursuant to village authorization as authorized by § 23.33(8)(b), Wis. Stats.
- (2) The applicable provisions of § 23.33, Wis. Stats., regulating ATV operation pursuant to routes are adopted.

#### C. Routes.

- (1) Road(s) to be open for ATV/UTV routes are as follows:

North on 20th Avenue from the township line, east on South Street to its end at Highway 73. From South Street to South Montello Street, north to West Wall Street, east to South West Street, north to West Wall Street, crossing Highway 73 to East Wall Street, then north on State Street to East Pearl Street, east to the Village/town line.

- (2) ATVs may access the designated trail by the most direct route to and from their place of residence.  
[Added 2-2-2015]

- D. Conditions. As a condition for the use of this route, the following conditions shall apply to all operators and passengers:

- (1) All ATV/utility vehicle operators shall operate at no more than 35 miles per hour.
- (2) All ATV/utility vehicle operators shall ride single file on the extreme right side of roadways.
- (3) All ATV/utility vehicle operators shall only ride on the paved surface of roadways.
- (4) Routes must be signed in accordance with Wis. Admin. Code NR 64.12, and NR. 64.12(7)c.
- (5) Routes will be open for public ATV/UTV usage daily during the following time periods: 5:00 a.m. through 11:00 p.m.

- E. Enforcement. This section shall be enforced by any law enforcement officer authorized to enforce the laws of the State of Wisconsin.

- F. Penalties. Wisconsin State all-terrain vehicle penalties as found in § 23.33(13)(a), Wis. Stats., are adopted by reference.

- G. Severability.

- (1) The provision of this section shall be deemed severable, and is expressly declared that the county and Village would have passed the other provisions of this section irrespective of whether or not one or more provisions may be declared invalid. If any provision of this section or the application to any person or circumstances is held invalid, the remainder of the section and the application of such provisions to other persons or circumstances shall not be deemed affected.
- (2) This section can be terminated by the Board if it is deemed there are serious violations/issues with this ATV/UTV route.

- H. Effective date. This section becomes effective on publication and posting for one year on a trial basis and can be terminated (as noted above) at any time. This section will be reviewed again in one year from the date signed below. The Village Clerk shall properly publish or post this section as required under § 60.80, Wis. Stats.

## § 480-37. Minibikes and self-propelled vehicles regulated.

- A. Definitions. The following definitions shall be applicable in this section:

### **HIGHWAY**

All public ways and thoroughfares and bridges on the same. It includes the entire highway right-of-way width, not limited to the actual traveled portion, but also includes the shoulders, ditches and other areas adjacent thereto.

### **MINIBIKE**

Any motorized vehicle primarily used for transportation or sport, including, but not limited to, motorcycles, off-the-road trail bikes and motorized bicycles.

### **MOTORIZED VEHICLE**

Any self-propelled device in, upon or by which any person or property is or may be transported.

### **SELF-PROPELLED VEHICLES**

Any motorized vehicle primarily used for off-the-road use, including but not limited to go-carts, all-terrain vehicles and all other vehicles not registered pursuant to Ch. 341, Wis. Stats., but not snowmobiles.

- B. Operation of minibikes and self-propelled vehicles. No person shall operate a minibike or self-propelled vehicle in the Village of Neshkoro in the following manner:
- (1) At a rate of speed that is unreasonable or imprudent under the circumstances.
  - (2) In any careless way so as to endanger the person or property of another.
  - (3) While under the influence of intoxicating liquor, fermented malt beverages, narcotics or other controlled substances.
  - (4) In such a way that the exhaust of the motor makes an excessive or unusual noise.
  - (5) Without a functioning muffler.
  - (6) Upon any public highway, street or alley, or upon any sidewalk or parkway in the Village of Neshkoro unless such vehicle is registered as required by Ch. 341, Wis. Stats., and its operation and operator are specifically permitted to operate the said vehicle by the Wisconsin Statutes.
  - (7) Upon any slide, ski or skating area, except for the purposes of serving the area or crossing the places where marked.
  - (8) Upon any lands owned, operated or leased by the Village of Neshkoro.
  - (9) Upon a cemetery, burial ground, school or church property, without the express consent of the owner.
- C. Liability of parent or guardian. No parent or guardian of any child under the age of 18 years shall authorize or permit such child to violate any of the provisions of this section. Any child under the age of 18 years who shall operate a minibike or self-propelled device shall be presumed to be operating said vehicle under the authority of a parent or guardian.
- D. Violations and penalties. Any person who shall violate this section shall, upon conviction thereof, forfeit for each offense not less than \$25 nor more than \$200, together with the costs of prosecution, and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail not to exceed 30 days.

## **Chapter 500. Zoning**

[HISTORY: Adopted by the Village Board of the Village of Neshkoro 6-6-2005 (Title 13, Ch. 1, of the 1999 Code). Amendments noted where applicable.]

### **GENERAL REFERENCES**

General penalty — See § 1-4.

Board of Appeals — See § 15-2.

Plan Commission — See § 15-5.

Adult uses and massage establishments — See Ch. 165.

Animals — See Ch. 173.

Building construction — See Ch. 200.

Construction site erosion control — See Ch. 226.

Driveways — See Ch. 238.

Floodplain and shoreland-wetland zoning — See Ch. 270.

Historic preservation — See Ch. **300**.  
Property maintenance — See Ch. **396**.  
Sewers — See Ch. **420**.  
Solid waste — See Ch. **438**.  
Streets and sidewalks — See Ch. **445**.  
Subdivision of land — See Ch. **450**.

## Article I. Introduction; Definitions

### § 500-1. Authority.

These regulations are adopted under the authority granted by §§ 61.35 and 62.23(7), Wis. Stats.

### § 500-2. Short title.

This chapter shall be known as, referred to or cited as the "Zoning Code, Village of Neshkoro, Wisconsin."

### § 500-3. Purpose.

The purpose of this chapter is to promote the health, safety, prosperity, aesthetics and general welfare of the Village of Neshkoro.

### § 500-4. Intent.

It is the general intent of this chapter to:

- A. Regulate and restrict the use of all structures, lands and waters;
- B. Regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways;
- C. Secure safety from fire, flooding, panic and other dangers;
- D. Provide adequate light, air, sanitation and drainage;
- E. Prevent overcrowding; avoid undue population concentration;
- F. Facilitate the adequate provision of public facilities and utilities;
- G. Stabilize and protect property values;
- H. Further the appropriate use of land and conservation of natural resources;
- I. Preserve and promote the beauty of the Village of Neshkoro;
- J. To prohibit uses, buildings or structures incompatible with the character of development within specified zoning districts;
- K. To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
- L. Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;

- M. Further the maintenance of safe and healthful water conditions;
- N. Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- O. Provide for and protect a variety of suitable business and manufacturing sites;
- P. Protect the traffic-carrying capacity on existing and proposed arterial streets and highways;
- Q. Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the Village of Neshkoro;
- R. Provide for the administration and enforcement of this chapter; and to provide penalties for the violation of this chapter.

## § 500-5. Abrogation and greater restrictions.

Unless specifically stated, it is not otherwise intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

## § 500-6. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

## § 500-7. Effective date.

This chapter and the Zoning Map of the Code of Ordinances in book form entitled "Code of Ordinances of the Village of Neshkoro, Wisconsin," as revised, shall be and hereby is adopted as the general zoning ordinance and zoning map in and for the Village of Neshkoro, Wisconsin.

## § 500-8. Definitions.

For the purposes of this chapter, the following terms shall have the meanings indicated:

### **ACCESSORY BUILDING**

A subordinate building or portion of the main building, the use of which is purely incidental to that of the main building, not including a garage as defined herein.

### **ACCESSORY USE**

A use subordinate in nature, extent or purpose to the principal use of the building or lot.<sup>[1]</sup>

### **ADAPTIVE REUSE**

Any use representing compatible and appropriate change of a previously existing structure.<sup>[2]</sup>

### **ALLEY**

A way which affords only a secondary means of access to abutting property and which is not less than 30 feet wide.<sup>[3]</sup>

### **ALTERNATIVE SUPPORT STRUCTURE**

A water tower, silo, utility pole, light pole, smokestack, electrical transmission tower, building or other similar structure of at least 50 feet in height, and used as a structural base, stand, pedestal, or physical support for one or more wireless telecommunications facilities.

**APARTMENT**

A portion of a residential or commercial building used as a separate housing unit.

**APARTMENT HOUSE**

See "dwelling, multiple."

**ARTERIAL STREET**

A public street connecting arterial highways and thus intended to serve heavier volume and higher speed through traffic. Primary arterial streets typically interconnect state trunk highways whereas secondary arterial streets interconnect county trunk highways.

**BOARDINGHOUSE**

A building other than a hotel where meals or lodging and meals are served for compensation for not more than six persons.

**BUILDING**

A structure having a roof and intended for the shelter, housing or enclosure for persons, animals or chattel.

**BUILDING AREA**

The total living space available for a designated use as found within the exterior walls of a building at the floor levels, or within the perimeter walls at the floor levels of an apartment in a multifamily structure, excluding unfinished basements and attics, breezeways, garages, porches and common use space such as stairs, elevators, corridors, utility and laundry rooms.

**BUILDING, ALTERATIONS OF**

Any change or rearrangement of the supporting members, such as bearing walls, beams, columns or girders of a building; an addition to a building; or movement of a building from one location to another.

**BUILDING, FRONT LINE OF**

A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.

**BUILDING, HEIGHT OF**

The vertical distance measured from the mean elevation of the finished grade at the street yard face of the structure, to the top of the roof eave fascia or lowest level of roofing material, whichever is less restrictive.

**BUILDING, PRINCIPAL**

A building in which is conducted the main use of the lot on which said building is located.

**BUSINESS**

Includes the business and general manufacturing uses and districts as herein defined.

**CARPORT**

See "garage."

**CLINIC**

A building used by a group of doctors for the medical examination or treatment of persons on an outpatient or nonboarding basis only.

**CLUB**

A building owned, leased or hired by a nonprofit association of persons who are bona fide members, the use of which is restricted to said members and their guests.

### **COLLECTOR STREET**

A public street intended to collect residential and/or commercial/industrial traffic from minor streets and drives and to direct this traffic to an arterial system of roads and streets. Collector streets typically provide a continuous route for intermediate traffic volumes operating at moderate speeds.

### **CO-LOCATION**

The clustering of multiple antennas, dishes or similar telecommunications facilities or devices operated by different service providers but located on a single, freestanding wireless telecommunications facility or alternative support structure.

### **COMMUNITY LIVING ARRANGEMENT**

As defined in § 46.03(22), Wis. Stats. The establishment of a community living arrangement shall be in conformity with applicable sections of the Wisconsin Statutes, including §§ 46.03(22), 59.69(15), 62.23(7)(i), and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.<sup>[4]</sup>

### **CONDITIONAL USE**

A use of land, water or building which is allowable only after the issuance of a special permit by the Village Board under conditions specified in this chapter.

### **CONFORMING USE**

Any lawful use of a building or lot which complies with the provisions of this chapter.

### **COURT**

An open, unoccupied space other than a yard, on the same lot with a building, and which is bounded on two sides by the building.

### **CURB BREAK**

Any interruption or break in the line of a street curb in order to connect a driveway to a street or otherwise to provide vehicular access to abutting property.

### **CURB LEVEL**

The level of the established curb in the front of the building, measured at the center of such front.

### **DAY-CARE CENTER**

A place or home which provides care for four or more children under the age of seven years for less than 24 hours a day and is licensed as provided for in § 48.65, Wis. Stats.

### **DRIVEWAY**

An open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.<sup>[5]</sup>

### **DWELLING**

A detached building designed and used exclusively as a single-family residence, or a single-family residence incorporated into a multifamily complex of dwelling units. Does not include: boardinghouse or lodging house; motels or hotels; cabins, tents, travel trailer, or recreational vehicles; or mobile homes not securely attached to a permanent foundation with wheels and axles removed and thus taxed as a single-family dwelling.

### **DWELLING GROUP**

A group of two or more multifamily dwellings occupying a lot in one ownership with any two or more dwellings having any yard or court in common.

### **DWELLING, MULTIPLE**

A building or portion thereof used or designated as a residence for three or more families as separate housekeeping units, including apartments, attached townhouses and condominiums.

#### **DWELLING, ONE-FAMILY**

A building designed, arranged or used for and occupied exclusively by one family, whether attached, detached or semiattached. Shall include specially designed buildings covered by earth and manufactured homes.

#### **DWELLING, TWO-FAMILY**

A building designed, arranged or used for, or occupied exclusively by, two families living independently of each other.

#### **EMERGENCY SHELTERS**

Public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare; fire; flood; windstorm; riots or invasions.

#### **ESSENTIAL SERVICES**

Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, television, steam, water, sanitary sewerage, stormwater drainage, and conventional, nonwireless telephonic communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings, wireless telecommunications facilities, or wireless telecommunications support facilities.

#### **FAMILY**

Persons who live together in one dwelling unit as a single housekeeping entity.

#### **FARM**

Land consisting of five acres or more on which produce, crops, livestock or flowers are grown primarily for off-premises consumption, use or sale.

#### **FINISHED BASEMENT**

That portion of a structure located partially below the adjoining lot grade and provided with: two or more exits and sufficient windows to be naturally ventilated and illuminated, and thus considered as livable space.

#### **FLOOR AREA**

The total usable space available within the perimeter walls on all floors of a building including interior corridors, stairs, elevators, passageways, and finished basements serving the primary function of the building. Unfinished basements and attics, unheated porches and breezeways, garages and maintenance shops are excluded from floor area determinations.

#### **FLOOR AREA RATIO (MULTIFAMILY RESIDENCES)**

The minimum area of a building lot expressed as a function of the floor area of the structure to be placed or erected thereon. For example, a building with floor area of 2,000 square feet placed on a twelve-thousand-square-foot lot computes as a floor area ratio (FAR) of six. With a required FAR of five, the same two-thousand-square-foot building could be placed on a ten-thousand-square-foot lot.

#### **FOSTER FAMILY HOME**

The primary domicile of a foster parent which is for four or fewer foster children and which is licensed under § 48.62, Wis. Stats., and amendments thereto.

#### **FREESTANDING WIRELESS TELECOMMUNICATIONS FACILITY**

A self-supporting telecommunications tower or other self-supporting wireless telecommunications facility that is not mounted or otherwise attached to an alternative support structure. A tower using

guy wires shall be considered a freestanding wireless telecommunications facility.

## **FRONTAGE**

All of the property abutting on one side of a street measured along the street line or waterway.<sup>[6]</sup>

## **GARAGE**

A building or portion thereof primarily designed or used exclusively for parking or temporary storage of self-propelled vehicles.

## **GARAGE, PUBLIC**

A building other than a private or storage garage used for the care, repair or storage of self-propelled vehicles or where such vehicles are left for remuneration, hire or sale. This includes premises commonly known as gasoline stations or service stations.

## **GASOLINE STATION**

Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances; sale of motor vehicle accessories; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.

## **GROUP FOSTER HOME**

Any facility operated by a person required to be licensed by the State of Wisconsin under § 48.62, Wis. Stats., for the care and maintenance of five to eight foster children.

## **HISTORICALLY SIGNIFICANT STRUCTURE**

Any structure listed or eligible for listing in the National Register of Historic Places or any other structure at least 75 years old and determined by the Village Board to have historic, architectural or economic value to Village.

## **HOME OCCUPATION**

Any business or profession carried on only by a member of the immediate family residing on the premises, carried on wholly within the principal building thereto, and meeting the standards of § 500-40.

## **HOTEL**

A building occupied as the more or less temporary abiding place of individuals who are lodged, with or without meals, and in which there are more than six sleeping rooms, usually occupied singly, and no provision made for cooking in the individual apartments.

## **HOUSE TRAILER**

A non-self-propelled vehicle, containing living or sleeping accommodations, which is designed and used for highway travel.

## **HUD CODE**

Enacted in 1976 by the federal government to establish minimum construction and safety standards for factory-built dwellings, these standards are enforced by the Federal Department of Housing and Urban Development and thus referred to as the "HUD Code."

## **JUNKYARD**

An open space where waste, used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber, tires and bottles. "Junkyard" also includes an auto wrecking yard but does not include uses established entirely within enclosed buildings.

## **LOADING AREA**

A completely off street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley.

**LOT**

A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use, and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this chapter.

**LOT, CORNER**

A lot abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 135° or less, measured on the lot side.

**LOT COVERAGE (EXCEPT RESIDENTIAL)**

The area of a lot occupied by the principal building or buildings and accessory buildings including any driveways, parking areas, loading areas, storage areas and walkways.

**LOT COVERAGE (RESIDENTIAL)**

The area of a lot occupied by the principal building or buildings and accessory buildings.

**LOT, INTERIOR**

A lot situated on a single street which is bounded by adjacent lots along each of its other lines.

**LOT LINES AND AREA**

The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

**LOT, REVERSED CORNER**

A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

**LOT, SUBSTANDARD**

A parcel of land held in separate ownership, having frontage on a public street or other approved means of access, occupied or intended to be occupied by a principal building or structure, together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas or other open space provisions of this chapter pertaining to the district wherein located.

**LOT, THROUGH**

A lot having a pair of opposite lot lines along two or more parallel public streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

**LOT WIDTH**

The width of a parcel of land measured at the rear of the specified street yard.

**LOT, ZONING**

A single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership or control.

**MANUFACTURED HOME**

A structure certified and labeled as a manufactured home under 42 U.S.C. §§ 5401 through 5426, which, when placed on the site:

- A. Is set on an enclosed continuous foundation in accordance with § 70.043(1), Wis. Stats., and Ch. Comm 26, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;
- B. Is installed in accordance with the manufacturer's instructions;
- C. Is properly connected to utilities;

- D. Is a dwelling consisting of one or more post-1976, factory-built units in compliance with HUD Code standards and transported to the home site over the public roads and streets using removable tongues, wheels and axles, and/or dollies, and then assembled, placed and secured on a single-family lot in accordance with the manufacturer's recommendations and/or the pertinent provisions of the Village Building Code. (Manufactured homes typically have shingled roofs with three in 12 or steeper slopes, horizontal lap siding or vertical board and batten siding and a unit width of at least 14 feet; for the purpose of this chapter, a manufactured home placed in a mobile home park shall be deemed a "mobile home"); and
- E. Meets other applicable standards of this chapter.

**MARQUEE or CANOPY**

A roof-like structure of permanent nature which projects from the wall of a building.

**MINOR STREET**

A public right-of-way, not less than 66 feet wide, providing direct access to abutting property and serving low volumes of low-speed traffic.<sup>[7]</sup>

**MOBILE HOME**

As set forth in § 500-92.

**MOTEL**

A series of attached, semiattached or detached sleeping units for the accommodation of transient guests.

**MOTOR FREIGHT TERMINAL**

A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate and interstate shipment by motor truck.

**MOTOR VEHICLE**

Any passenger vehicle, truck, truck trailer, trailer or semitrailer propelled or drawn by mechanical power.

**NONCONFORMING BUILDING OR STRUCTURE**

Any building or structure which does not comply with all of the regulations of this chapter or of any amendment hereto regulating any building or structure for the zoning district in which such building or structure is located.

**NONCONFORMING USE**

Any use of land, buildings or structures which does not comply with all of the regulations of this chapter or of any amendment hereto governing uses for the zoning district in which such use is located.

**NURSERY**

Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.

**NURSERY SCHOOL**

Any building used routinely for the daytime care and education of preschool-age children and including all accessory buildings and play areas other than the child's own home or the homes of relatives or guardians.

**NURSING HOME**

Any building used for the continuous care, on a commercial or charitable basis, of persons who are physically incapable of caring for their own personal needs.

**PARKING AREA, SEMIPUBLIC**

An open area other than a street, alley or place used for temporary parking of more than four self-propelled vehicles and available for public uses, whether free, for compensation, or as an accommodation for clients or customers.

#### **PARKING SPACE**

An off-street space available for the parking of a motor vehicle and which is exclusive of passageways and driveways appurtenant thereto and giving access thereto.

#### **PLANNED RESIDENTIAL DEVELOPMENT**

A tract of land which contains or will contain two or more principal buildings, developed under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas.

#### **PROFESSIONAL HOME OFFICES**

Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions, where the office does not exceed the standards in § **500-40** and only one nonresident person is employed.

#### **PROPERTY LINES**

The lines bounding a platted lot, as defined herein.

#### **PUBLIC WAY**

Any sidewalk, street, alley, highway or other public thoroughfare.

#### **RAILROAD RIGHT-OF-WAY**

A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

#### **SCHOOL, COMMERCIAL**

A school limited to special instruction, such as business, art, music, trades, handicraft, dancing or riding.

#### **SCHOOL, PRIVATE**

An elementary or intermediate school other than a parochial school, giving regular instruction, capable of meeting the requirements of state compulsory education laws and approved as such, and operating at least five days a week for a normal school year and supported by other than public funds, but not including a school for persons who are developmentally disabled or a college or other institution of higher learning.<sup>[8]</sup>

#### **SIGNS**

See Article **VII**, Signs, of this chapter.<sup>[9]</sup>

#### **STORY**

That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between such floor and the ceiling next above it.

#### **STORY, HALF**

A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

#### **STREET**

A public or private thoroughfare which affords the principal means of access to abutting property.

#### **STRUCTURAL ALTERATIONS**

Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.

## **STRUCTURE**

Anything constructed or erected, the use of which requires location on the ground or that it be attached to something having a location on the ground.

## **TRAVEL HOME**

A vehicle designed to be towed or self-propelled over the public roads and streets and constructed in a manner to provide living space and thus serve as a temporary residence or sleeping place for one to six persons.

## **UNFINISHED BASEMENT**

The unfinished portion of a structure located mostly below grade without sufficient exits or natural lighting and ventilation to be considered as livable space.

## **USE**

The use of property is the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of standards of this chapter.

## **USE, CONDITIONAL**

See definition for "conditional use."

## **USE, PERMITTED**

A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.

## **USE, PRINCIPAL**

The main use of land or buildings as distinguished from a subordinate or accessory use. A principal use may be "permitted" or "conditional."

## **VENDING MACHINE**

A retail business device, electrically or manually operated, used by the general public to obtain dairy products, cigarettes, foodstuffs or other merchandise without entering a public shop, store, market or other such building.

## **VISION CLEARANCE**

No obstruction to traffic visibility, such as structures, trees, shrubs or parked vehicles, shall be permitted in a vision triangle, as defined herein, between the heights of 2 1/2 feet and 10 feet above the mean curb grade or mean center line grade where streets are without curbs.<sup>[10]</sup>

## **VISION TRIANGLE**

A triangular space at the corner of a lot abutting two existing or proposed intersecting streets or alleys and bounded by a diagonal line connecting points on such street right-of-way lines at a distance as specified and measured from their intersection. No fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of 2 1/2 feet and 10 feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining the points along said street lines from the point of intersection, as follows:<sup>[11]</sup>

- A. Alley: 10 feet; minor street: 15 feet.
- B. Secondary arterial street: 25 feet.
- C. Collector street: 20 feet.
- D. Primary arterial street: 30 feet.

## **WIRELESS TELECOMMUNICATIONS FACILITY**

A facility that consists of or includes one or more antennas, antenna arrays, telecommunications towers, microwave relay systems, satellite dish antennas of at least 36 inches in diameter, or other similar communications devices used for transmitting, receiving or relaying radio, microwave, digital, cellular or other wireless telecommunications signals. For the purposes of this chapter, wireless telecommunications facilities shall not include conventional, nonwireless telephone poles (unless also serving as an alternative support structure), residential satellite dishes less than 36 inches in diameter, residential television antennas, and amateur radio facilities.

## **WIRELESS TELECOMMUNICATIONS SUPPORT FACILITY**

Any and all ancillary structures, mechanicals, shelters, devices or equipment, other than attached antennas, that are incidental or accessory to the operation of a wireless telecommunications facility.

## **YARD**

An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation as permitted. The front and rear yards extend the full width of the lot.

## **YARD, FRONT**

A yard extending across the width of the lot with minimum depth as specified and measured as a horizontal distance between the front or street property line and a line parallel thereto through the nearest point of the principal structure. Street/front yards shall be maintained free of structures, obstacles, sight obstructions and related man-made facilities other than the overnight parking of motor vehicles in defined driveways.

## **YARD, REAR**

A yard extending along the full length of the rear lot line between the side lot lines.

## **YARD, SIDE**

A yard extending along a side lot line from the front yard to the rear yard.

## **YARD, CORNER SIDE**

A side yard which adjoins a public street.

## **YARD, INTERIOR SIDE**

A side yard which is located immediately adjacent to another zoning lot or to an alley separating such yard from another zoning lot.

## **YARD, STREET**

Yard abutting a street. (See "yard, front.")

## **YARD, STREET SIDE**

A second yard on the side of a corner lot abutting two or more streets at their intersection. Street side yards have widths equal to or greater than ordinary side yards to assure safe sight distances for intersecting traffic flows.

## **YARD, TRANSITIONAL**

That yard which must be provided on a zoning lot in a business district which adjoins a zoning lot in a residential district, or that yard which must be provided on a zoning lot in a manufacturing district which adjoins a zoning lot in either a residential or business district.

## **ZONING DISTRICT**

An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

[1] *Editor's Note: The original definition of "acre, net," which immediately followed this definition, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: The original definition of "advertising sign, outdoor," which immediately followed this definition, was moved to § 500-56 and the original definition of "advertising structure, outdoor," which*

- immediately followed, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [4] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [5] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [6] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [7] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [8] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [9] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [10] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [11] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article II. General Provisions

### § 500-9. Jurisdiction and compliance.

- A. Jurisdiction. The jurisdiction of this chapter shall include all lands and water within the corporate limits of the Village of Neshkoro, Marquette County, Wisconsin.
- B. Compliance. No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full compliance with the provisions of this chapter and all other applicable Village, county and state regulations.
- C. District regulations to be complied with. Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.

### § 500-10. Use restrictions.

The following use restrictions and regulations shall apply:

- A. Principal uses. Only those principal uses specified for a district, their essential services and the following shall be permitted in that district:
- B. Unclassified or unspecified uses. Unclassified or unspecified uses may be permitted by the Village Board, provided that such uses are similar in character to the principal uses permitted in the district.
- C. Performance standards. Performance standards listed in Article **VIII** shall be complied with by all uses in all districts.
- D. Conditional uses. Provisions applicable to conditional uses generally:
- (1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and recommendation of the Plan Commission and approval by the Village Board in accordance with Article **IV** of this chapter, excepting those existent at time of adoption of the Zoning Code.
  - (2) Those existing uses which are classified as "conditional uses" for the district(s) in which they are located at the time of adoption of this chapter require no action by the Village Board to continue as valid conditional uses, and the same shall be deemed to be "regular" conditional uses.
  - (3) Proposed change from permitted use in a district to conditional use shall require review, public hearing and approval by the Village Board in accordance with Article **IV**.

- (4) Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s) or establishment of new conditional use(s) shall require review, public hearing and approval by the Village Board in accordance with Article IV.
- (5) Provisions in this chapter relating generally to conditional uses shall, except when in conflict with specific provisions relating to either regular or limited conditional uses (which specific provision would then control), be deemed to be applicable to both regular and limited conditional uses.
- (6) Conditional uses authorized by Village Board resolution shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
- (7) Conditional uses authorized by the Village Board shall not be subject to substitution with other conditional uses, either regular or limited, whether similar type or not, without Board approval and the procedures required in Article IV.

E. Uses not specified.

- (1) Uses not specified in this chapter which are found by the Village Board to be sufficiently similar to specified permitted uses for a district shall be allowed by the Zoning Administrator.
- (2) Uses not specified in this chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Village Board following public hearing and approval in accordance with Article IV.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 500-11. Reduction or joint use.

- A. Required area. No lot, yard, parking area, building area or other required space shall be reduced in size or dimension so as not to meet the provisions of this chapter.
- B. Joint use. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be included as part of a yard or open space required for another building.

## § 500-12. Site regulations.

- A. Site suitability. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Village Board by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Village Board, in applying the provisions of the section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Village Board may affirm, modify or withdraw its determination of unsuitability.
- B. Street frontage. All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of 60 feet; however, to be buildable, the lot shall comply with the frontage requirements of the zoning district in which it is located.
- C. Principal structures. All principal structures shall be located on a lot. Only one principal structure shall be located, erected or moved onto a lot. The Village Board may permit as a conditional use more than one principal structure per lot in any district where more than one such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the

Village Board may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.

- D. Dedicated street. No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- E. Lots abutting more restrictive districts. The street yard setbacks in the less restrictive district shall be modified for a distance of not less than 60 feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.
- F. Preservation of topography. In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than two horizontal to one vertical within a distance of 10 feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Village Board; or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion:
- G. Decks. For purposes of this chapter, decks shall be considered a part of a building or structure.
- H. Lots abutting two streets. Where a lot abuts on two or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.
- I. Double-frontage lots. Buildings on through lots and extending from street to street may have waived the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard, provided that the setback requirements on both streets be complied with.
- J. Preexisting lots. Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record as such at the time of the passage of this chapter, such lot may be occupied by one family.
- K. Open yards. Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than two feet.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article III. Zoning Code

### § 500-13. Zoning districts designated.

For the purpose of this chapter, the Village of Neshkoro is hereby divided into the following 13 zoning districts:

A-1	Agricultural District
B-1	Downtown Business District
B-2	General Business District
C-1	Conservancy District
M-1	Manufacturing District
I-1	Institutional District

R-1	Single-Family Residential District
R-1-A	Single-Family Residential District
R-2	One- and Two-Family Residential District
R-2-A	One- and Two-Family Residential District
R-3	Multiple-Family Residential District
R-3-A	Multiple-Family Residential District
WT	Wastewater Treatment District

## § 500-14. District boundaries.

- A. Zoning Map. The boundaries of the districts enumerated in § **500-13** above are hereby established as shown on a map entitled "Zoning Map, Village of Neshkoro, Wisconsin," which is adopted by reference and made a part hereof. The map shall bear upon its face the attestation of the Village President and the Village Clerk-Treasurer and shall be available to the public in the office of the Village Clerk-Treasurer.
- B. Boundary lines. The boundaries shall be construed to follow corporate limits, U.S. Public Land Survey lines, lot or property lines, center lines of streets, highways, alleys, easements and railroad rights-of-way, or such lines extended, unless otherwise noted on the Zoning Map.
- C. Vacation. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- D. Annexations and consolidations. Annexations to or consolidations with the Village subsequent to the effective date of this chapter shall be placed in the R-1-A Residential District unless the annexation ordinance temporarily places the land in another district.
- E. Residential district designation; special nonconforming variance.
  - (1) Any block which has not been improved by any structure therein is classified and zoned as being in the R-1 Residential District, and no business, commercial, light or heavy manufacturing shall be established, conducted or carried on in such block. Any block which is improved with residences and dwellings shall be known as being in the R-1 Residential District, and no business, commercial, light or heavy manufacturing shall be established, conducted or carried on in such block except for those businesses, etc., which are existing in the residential district at the time of adoption of this chapter.
  - (2) Residents that wish to apply for an annual variance from the provisions of Subsection **E(1)** above shall submit a written variance request to the Village Board along with signatures of all adjoining landowners stating their approval. Residents must apply on an annual basis for the variance (prior to the regular January Board meeting) but need submit the adjoining landowners' signatures only the first time.
- F. Zoning district boundaries. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts shown on the zoning district map, the following shall apply:
  - (1) Where the district boundaries are depicted as approximately following the center lines of streets or highways, center lines of streams, drainageways or street or highway right-of-way lines, such center lines or right-of-way lines shall be construed to be such boundaries.
  - (2) Where district boundaries are so depicted that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
  - (3) Where district boundaries are so depicted that they are approximately parallel to the center lines of streets, highways or railroads or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the

Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.

- (4) Where district boundaries are so depicted that they approximately follow section lines, quarter section lines or other government survey lines, or that they approximately follow political subdivision lines such as county lines, town lines or corporate limits, such government survey lines or political subdivision lines shall be construed to be said district boundaries.
- (5) Where a district boundary line, as appearing on the Zoning Map, divided a lot in single ownership at the time of enactment of this chapter, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 500-15. A-1 Agricultural District.

A. Purpose. This district is intended to provide for farming, other agricultural activities, conservancy uses, recreational activities and related uses in those areas in which existing non-farm residential development is not of dominant significance, but with adequate regulatory standards to protect the future potential of the area for its most suitable development.

B. Permitted uses.

(1) Any use permitted in the C-1 District.

(2) Point system.

(a) All normal farming uses, including the keeping or raising of farm animals, on not less than five acres, provided that the number of animals kept or raised shall be restricted pursuant to a formula in which each parcel may not exceed 25 points per acre, computed as follows:

<b>Class of Family of Animals</b>	<b>Points Awarded Per Animal</b>
Avian (birds)	1
Ovine (animals resembling sheep)	5
Caprine (animals resembling goats)	5
Llama (wild and domesticated South African ruminants which relate to camels)	5
Porcine (swine and related animals)	20
Bovine (ox, cow or related animals)	20
Equine (horse, or horse-family-type animals)	20

(b) Example: A five-acre farmette has a total of 125 points, which would allow an owner to have:

3 horses	x	20 points	=	60
2 pigs	x	20 points	=	40
25 chickens	x	1 point	=	<u>25</u>
				125

(c) For a farming use to be permitted or the point system applied to a parcel of land, the entire parcel must be under common ownership. In other words, parcels under different owners may not be combined to attain the minimum five acres or to gain eligibility for more points even if leased or utilized by the same person.

(3) Cemeteries.

- (4) Churches.
  - (5) Commercial gardens, orchards, greenhouses.
  - (6) Home occupations. See § **500-40** for special standards and regulations.
  - (7) Public parks, playgrounds and recreational or community center buildings and grounds.
  - (8) Reconstruction and remodeling of and addition to existing single-family residences.
  - (9) The second or greater wireless telecommunications facility located on an alternative support structure already supporting a wireless telecommunications facility or on a preexisting wireless telecommunications facility, with wireless telecommunications support facilities allowed as permitted accessory uses, all per the requirements of Article **X**.
- C. Conditional uses.
- (1) All conditional uses in the C-1 District.
  - (2) New construction of single-family residences on minimum one-half-acre lots.
  - (3) Extraction of sand, gravel and other raw materials.
  - (4) The first wireless telecommunications facility located on an alternative support structure only, per the requirements of Article **X**.
- D. Prohibited uses. No structures are permitted except those using essential services accessory to the principal permitted use, and all uses not specifically permitted are prohibited.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- E. Review requirements. In light of the State of Wisconsin changing requirements for the Department of Natural Resources and wastewater treatment regulations and the specific area of land affected by this district, this section shall be reviewed by the Village of Neshkoro as required.<sup>[2]</sup>  
*[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 500-16. B-1 Downtown Business District.

- A. Purpose. The B-1 District is intended to:
- (1) Provide for present and future commercial activities within the traditional downtown business area of the Village;
  - (2) Accommodate community service functions, public and quasi-public land-use needs at a central location;
  - (3) Permit residential units above established businesses in accordance with Village building codes and zoning requirements;
  - (4) Protect the commercial character of the district by prohibiting the incursion of incompatible land use.
- B. Permitted uses. The following uses of land are permitted in the B-1 District:
- (1) Accounting, auditing and bookkeeping firms or services.
  - (2) Advertising agencies, consumer credit reporting, news agencies, and employment agencies.
  - (3) Antique stores and secondhand stores.
  - (4) Banks and other financial institutions.
  - (5) Barbershops, beauty shops and hairdressers.

- (6) Bars and taverns.
- (7) Bookstores, not including adult books.
- (8) Camera and photographic supply stores.
- (9) Candy, nut or confectionery stores.
- (10) Churches.
- (11) Clothing and shoe stores.
- (12) Commercial parking lots, parking garages, parking structures.
- (13) Computer services.
- (14) Dairy products stores, including ice cream stores.
- (15) Department stores, variety stores, general merchandise stores.
- (16) Drugstores and pharmacies.
- (17) Duplicating, blueprinting, photocopying, addressing, mailing, mailing list and stenographic services; small print shops.
- (18) Engineering and architectural firms or consultants.
- (19) Existing residential developments, including dwelling units above established businesses, provided they comply with the Village building codes and the basic provisions of the R-3 Residential Zoning District as set forth herein.
- (20) Florist shops.
- (21) Furniture, home furnishings, floor covering and upholstery shops/stores.
- (22) General grocery stores, supermarkets, fruit and vegetable stores, delicatessens, meat and fish stores and miscellaneous food stores.
- (23) Gift, novelty and souvenir shops.
- (24) Governmental, cultural and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
- (25) Hardware stores.
- (26) Heating and plumbing supplies.
- (27) Jewelry and clock stores.
- (28) Law offices.
- (29) Liquor stores.
- (30) Miscellaneous business offices.
- (31) Miscellaneous retail stores.
- (32) Motion-picture theaters, not including drive-in theaters.
- (33) News dealers and newsstands.
- (34) Offices/clinics of physicians and surgeons, dentists and dental surgeons, osteopathic physicians, optometrists and chiropractors, but not veterinarians' offices.
- (35) Offices of insurance companies, agents, brokers and service representatives.

- (36) Offices of real estate agents, brokers, managers and title companies.
- (37) Paint, glass and wallpaper stores.
- (38) Photographic studios and commercial photography establishments.
- (39) Professional, scientific or educational firms, agencies, offices or services, but not research laboratories or manufacturing operations.
- (40) Public transportation passenger stations, taxicab company offices, taxicab stands, but not vehicle storage lots or garages.
- (41) Restaurants, lunch rooms and other eating places, except drive-in-type establishments.
- (42) Retail bakeries, including those which produce some or all of the products sold on the premises, but not including establishments which manufacture bakery products primarily for sale through outlets located elsewhere or through home service delivery.
- (43) Retail laundry and dry cleaning outlets, including coin-operated laundries and dry cleaning establishments, commonly called laundromats and laundrettes. Tailor shops, dressmakers' shops, and garment repair shops, but not garment pressing establishments, hand laundries, or hat cleaning and blocking establishments.
- (44) Schools and licensed day-care centers.
- (45) Shoe repair shops and shoe shine parlors.
- (46) Sporting goods stores and bicycle shops.
- (47) Stationery stores.
- (48) Telephone and telegraph offices.
- (49) The offices, meeting places, churches and premises of professional membership associations; civic, social and fraternal associations; business associations, labor unions and similar labor organizations; political organizations; religious organizations; charitable organizations; or other nonprofit membership organizations.
- (50) The second or greater wireless telecommunications facility located on an alternative support structure already supporting a wireless telecommunications facility or on a preexisting wireless telecommunications facility, with wireless telecommunications support facilities allowed as permitted accessory uses, all per the requirements of Article X.
- (51) Tobacco and smokers' supplies stores.
- (52) Trade and contractors' offices (office only).
- (53) Watch, clock and jewelry repair services.
- (54) Wholesale merchandise establishments, only for retail items listed herein, e.g., Subsection **B(8)** would allow wholesale camera sales.

C. Conditional uses. The following are permitted as conditional uses in the B-I District, provided that no nuisance shall be afforded to the public through noise, the discharge of exhaust gases from motor-driven equipment, unpleasant odors, smoke, steam, harmful vapors, obnoxious materials, unsightly conditions, obstruction of passage on the public street or sidewalk, or other conditions generally regarded as nuisances; and provided that, where operations necessary or incident to the proper performance of these services or occupations would tend to afford such nuisances, areas, facilities, barriers or other devices shall be provided in such a manner that the public is effectively protected from any and all such nuisances. These uses shall be subject to the consideration of the Village Board:

- (1) All residential uses developed subsequent to the effective date of this chapter, including residential units above established business places.
- (2) Establishments engaged in daily or extended-term rental or leasing of house trailers, mobile homes or campers.
- (3) Establishments engaged in daily or extended-term rental or leasing of passenger automobiles, limousines or trucks, without drivers, or of truck trailers or utility trailers.
- (4) Establishments engaged in the publishing and printing of newspapers, periodicals or books.
- (5) Establishments engaged in the retail sale of automobiles, trailers, mobile homes, or campers.
- (6) Establishments engaged in the washing, cleaning or polishing of automobiles, including self-service car washes.
- (7) Farm supplies; wholesale trade.
- (8) Funeral homes.
- (9) Garment pressing establishments, hand laundries, hat cleaning and blocking shops.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (10) Gasoline service stations; provided, further, that all gasoline pumps, storage tanks and accessory equipment must be located at least 30 feet from any existing or officially proposed street line.
- (11) Hotels, motor hotels, motels, tourist courts, tourist rooms, etc.
- (12) Miscellaneous repair shops and related services.
- (13) Stores for the sale and installation of tires, batteries, mufflers or other automotive accessories.
- (14) The first wireless telecommunications facility located on an alternative support structure only, per the requirements of Article X.

D. Height, area and other restrictions.

- (1) Lot size.
  - (a) Minimum width: 40 feet or building width plus required side yards.
  - (b) Minimum area: 4,000 square feet or building first floor area plus required yards and parking.
- (2) Building.
  - (a) Maximum height: three stories or 35 feet.
  - (b) Minimum floor area: as required to serve business needs.
- (3) Yards. Minimum: not required; if provided: five feet.
- (4) Uses on different floors. No dwelling shall be permitted below the second floor, and business uses are not permitted on any floor above the ground floor except in those buildings or structures where dwelling units are not established.

## § 500-17. B-2 General Business District.

- A. Purpose. The purpose of this district is to encourage the growth and development of business activities on the exterior of the community, as well as establishments which generally desire or

need highway frontage and exposure due to their automobile and vehicular orientations.

B. Permitted uses.

- (1) All uses permitted in the B-1 District shall be permitted uses in the B-2 District.
- (2) Commercial establishments selling used, secondhand or reconditioned merchandise.
- (3) Funeral homes.

C. Conditional uses. The following are specific conditional uses in this district:

- (1) All conditional uses permitted in the B-1 District.
- (2) Adult-oriented establishments, as defined in § **165-2** of this Code.
- (3) Amusement activities.
- (4) Animal hospital, veterinary offices, animal shelters and kennels.
- (5) Automobile and truck retail services.
- (6) Automobile repair services.
- (7) Commercial recreation facilities.
- (8) Commercial sales and services requiring outdoor storage yards; truck terminals; and transshipment depots.
- (9) Drive-in food and beverage establishments.
- (10) Drive-in theaters.
- (11) Establishments or facilities for the sale, rental, service, repair, testing, demonstration or other use of motorcycles, motorized bicycles, go-carts, snowmobiles, aircraft, motorboats, other watercraft, or any other motorized vehicles or their components.
- (12) Mobile home sales and service, subject to the limitations set forth in § **500-91D** of this chapter.
- (13) Motor carrier facilities.
- (14) Nursery and garden centers.
- (15) Nursing homes.
- (16) Off-season consumer storage facilities or mini warehousing.
- (17) Planned business developments. See § **500-42** for special standards and regulations.
- (18) Public assembly uses.
- (19) Residential dwelling units.
- (20) Retirement homes.
- (21) Seasonal roadside stands for the sale of farm produce only.
- (22) Sewage disposal plants.
- (23) Utilities.
- (24) Wholesale merchandise establishments.

D. Height and area requirements.

- (1) Lot size (existing parcels).
  - (a) Minimum width: 150 feet.
  - (b) Minimum area: 25,000 square feet.
- (2) Lot size (newly subdivided parcels).
  - (a) Minimum width: 150 feet.
  - (b) Minimum area: 1/2 acre.
- (3) Building.
  - (a) Maximum height: three stories or 35 feet.
  - (b) Maximum floor area: as required.
- (4) Yards.
  - (a) Minimum street yard: 40 feet. (Parking may be permitted as a conditional use in street yards.)
  - (b) Minimum side yard: 20 feet.
  - (c) Minimum rear yard: 20 feet.

## § 500-18. C-1 Conservancy District.

- A. Purpose. The purpose of this district is to preserve, protect and maintain the natural environment and character of areas exhibiting significant natural resource features which contribute to the productive, recreational or aesthetic value of the community.
- B. Permitted uses.
  - (1) Development of open space uses such as parks, hiking trails, ski trails, bridle paths, fishing ponds, picnic areas, greenways, and wildlife preserves.
  - (2) Forest and game management.
  - (3) Harvesting of wild crops such as marsh hay, ferns, moss, watercress, wild rice, berries, fruits or seeds; sustained yield forestry; or raising of wildlife.
  - (4) Hunting, fishing and hiking.
  - (5) Nonresidential buildings used solely in conjunction with the raising of water, fowl or fish.
  - (6) Parks and recreation areas; arboreta; botanical gardens; greenways.
  - (7) Preservation and/or controlled use of existing trees, shrubs and plants; prairie grasses; wildlife habitat and nesting areas; wetlands and drainageways; floodplains and shorelands.
  - (8) Preservation of areas of scenic, historic or scientific value.
  - (9) Recreation-related structures not requiring basements.
  - (10) Soil and water conservation programs, approved and administered by a governmental agency.
  - (11) Stables.
  - (12) The second or greater wireless telecommunications facility located on an alternative support structure already supporting a wireless telecommunications facility or on a preexisting

wireless telecommunications facility, with wireless telecommunications support facilities allowed as permitted accessory uses, all per the requirements of Article X.

(13) Utilities.

(14) Uses similar and customarily incidental to any of the above.

C. Conditional uses.

(1) Agricultural cropping, and grazing with confining fences.

(2) Animal hospitals, shelters and kennels.

(3) Any building construction incidental to a permitted use.

(4) Any filling, dredging, stream channel modification, or earthmoving involving more than 1,000 square yards in area.

(5) Archery and firearm ranges, sports fields and skating rinks.

(6) Farm structures.

(7) Golf courses and clubs.

(8) Governmental, cultural and public buildings or uses.

(9) Hunting and fishing clubs.

(10) Land restoration, flowage and ponds.

(11) Planned residential developments. See § 500-42 for special standards and regulations.

(12) Professional home offices.

(13) Public and private campgrounds.

(14) Recreation camps.<sup>[1]</sup>

[1] *Editor's Note: Original subsection (c)(15), Riding stables, which immediately followed this use, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

(15) Sewage disposal plants.

(16) Ski hills and trails.

(17) The first wireless telecommunications facility located on an alternative support structure only, per the requirements of Article X.<sup>[2]</sup>

[2] *Editor's Note: Original subsection (c)(19), Utilities, which immediately followed this use, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

(18) Yacht clubs and marina.

D. Area, height and yard requirements.

(1) Lot.

(a) Area: minimum one acre.

(b) Width: minimum 150 feet.

(2) Building height: maximum 35 feet.

(3) Other structures' height: maximum 1/2 the distance from the structure's nearest lot line.

(4) Yards.

- (a) Street: minimum 40 feet.
- (b) Rear: minimum 20 feet.
- (c) Side: minimum 20 feet, except structures used for the housing of shelters of animals must be 100 feet from lot lines.

## § 500-19. M-1 Manufacturing District.

- A. Purpose. The purpose of the M-1 District is to preserve lands best suited for industrial development because of location, area, topography, transportation, highway access, utilities and/or relation to other land uses.
- B. Permitted uses.
  - (1) Manufacture, packaging or warehousing, without open storage, of products such as appliances, confections, cosmetics, electrical and electronic devices, instruments, jewelry, pharmaceuticals, and toiletries;
  - (2) Packaging, processing, production, warehousing or wholesaling of products, without open storage, from agricultural crops and produce; furs and leathers; glass, metals, paper, plastic, textiles, wood and related materials of local origin;
  - (3) Service industries, without open storage, such as automotive repairs and restorations; bakeries; breweries; bottling of beverages; commercial cleaners, pressers and dyers; greenhouses; laboratories; machine shops; painting; printing and publishing; storage and sale of lumber and related construction materials;
  - (4) Open space uses such as agricultural crops and parks, parking lots, recreational facilities, greenways and related open space uses.
  - (5) The second or greater wireless telecommunications facility located on an alternative support structure already supporting a wireless telecommunications facility or on a preexisting wireless telecommunications facility, with wireless telecommunications support facilities allowed as permitted accessory uses, all per the requirements of Article X.
- C. Conditional uses.
  - (1) Animal hospitals, kennels and related animal facilities;
  - (2) Commercial processing of milk products, feeds, fowl or animals;
  - (3) Commercial service facilities such as fueling stations, garages, automotive repair shops, truck terminals, transshipment depots, provided such services are related to the manufacturing district users and/or employees;
  - (4) Open storage yards associated with a permitted use;
  - (5) Outdoor storage and manufacturing areas, such as recycling facilities, scrap yards, salvage yards, wrecking or demolition yards;
  - (6) Public and quasi-public uses, such as pretreatment sewage plants, pumping stations, water supply facilities; fire protection devices; utility services; and related public facilities; and
  - (7) The first wireless telecommunications facility located on an alternative support structure only, per the requirements of Article X.
- D. Height and area requirements.
  - (1) Lot size.
    - (a) Minimum width: 200 feet.

- (b) Minimum area: 50,000 square feet.
- (2) Building.
  - (a) Maximum height: three stories or 35 feet.
  - (b) Minimum floor area: as required.
- (3) Yards.
  - (a) Minimum street yard: 30 feet.
  - (b) Minimum side yard: 20 feet.
  - (c) Minimum rear yard: 40 feet.

## § 500-20. I-1 Institutional District.

### A. Purpose. The purpose of the I-1 District is:

- (1) To identify and delineate properties devoted to existing recreational, institutional and/or governmental use, particularly areas of one acre or more in size;
- (2) To identify, delineate and reserve properties set forth in the Village Comprehensive Plan as essential to future recreational, institutional and/or governmental development within the community.

### B. Permitted uses.

- (1) Public parks, play fields, playgrounds and related recreational developments; arboretums, wildlife preserves, soil and water conservation practices; churches, community centers, libraries, governmental offices, museums, police and fire stations;
- (2) Public, parochial and private elementary and secondary schools, including preschools, and licensed day-care centers, provided all principal structures and uses are not less than 50 feet from any lot line; and
- (3) The second or greater wireless telecommunications facility located on an alternative support structure already supporting a wireless telecommunications facility or on a preexisting wireless telecommunications facility, with wireless telecommunications support facilities allowed as permitted accessory uses, all per the requirements of Article X.

### C. Conditional uses.

- (1) Archery and/or firearm ranges, golf courses, gymnasiums, riding academies, music and/or dance halls, stadiums, swimming pools, zoological and/or botanical gardens;
- (2) Water supply and/or wastewater treatment facilities; utility services and facilities; recycling operations and facilities, transportation terminals; cemeteries and crematories; penal and/or correctional institutions; sanitariums, religious, charitable and/or related institutions; and
- (3) The first wireless telecommunications facility located on an alternative support structure only, per the requirements of Article X.

### D. Height and area restrictions.

- (1) Lot size.
  - (a) Minimum width: 100 feet or building width plus required yards.
  - (b) Minimum area: ground floor area plus yards and parking space.

- (2) Building.
  - (a) Maximum height: three stories or 35 feet.
  - (b) Floor area: as required to serve needs.
- (3) Yards, minimum: 20 feet.

## § 500-21. R-1 Single-Family Residential District.

- A. Purpose. The purpose of this district is to provide the opportunity for construction and maintenance of primarily single-family detached dwelling units at a low dwelling-unit-per-acre density.
- B. Permitted principal uses. The following uses of land are permitted in the R-1 Residential District:
  - (1) Single-family detached dwellings, excluding all mobile homes, and their accessory structures; for purposes of this chapter, manufactured homes are included in the definition of single-family dwelling.
  - (2) Manufactured homes complying with all of the following requirements and limitations:
    - (a) The home shall be a double-wide of at least 24 feet in width and 36 feet in length and no older than four years of age.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
    - (b) The home shall be installed on an approved foundation system in conformity with the Uniform Building Code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector and/or Village Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
    - (c) The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
    - (d) The home shall be covered by a roof pitched at a minimum slope of three inches in 12 inches, which is permanently covered with nonreflective material.
    - (e) The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the Village of Neshkoro.
    - (f) Conform with the Wisconsin Uniform Dwelling Code.
  - (3) Cemeteries of two acres or less area adjacent to a church.
  - (4) Community living arrangements and day-care centers which have a capacity for eight or fewer persons.
  - (5) Foster family care.<sup>[2]</sup>

[2] *Editor's Note:*
  - (6) Home occupations and professional home offices, only if meeting the requirements of § **500-40C**.<sup>[3]</sup>

[3] *Editor's Note: Original subsection (b)(6), Home occupations and professional home offices, was combined with original subsection (b)(7) in this subsection at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (7) Public buildings, except sewage plants, garbage incinerators, warehouses, garages, shops and storage yards.

- (8) Public parks, playgrounds and recreational or community center buildings and grounds.
- (9) Water storage facilities and their accessory uses.
- (10) The second or greater wireless telecommunications facility located on an alternative support structure already supporting a wireless telecommunications facility or on a preexisting wireless telecommunications facility, with wireless telecommunications support facilities allowed as permitted accessory uses, all per the requirements of Article **X**.
- (11) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.

C. Conditional uses. The following are permitted as conditional uses within the R-1 District:

- (1) Adaptive reuse of historically significant structures.
- (2) Barbering and beauty culture.
- (3) Bed-and-breakfast establishments. See § **500-39** for special standards and regulations.
- (4) Churches, governmental and community service facilities.
- (5) Community living arrangements and preschool and day-care facilities.  
[Amended 10-4-2010]
- (6) Dog kennels.
- (7) Golf courses and private clubs.
- (8) Home occupations. See § **500-40** for special standards and regulations.
- (9) Planned residential developments. See § **500-42** for special standards and regulations.
- (10) Public utility structures, except those incompatible with the characteristics of the district.
- (11) Schools (excluding preschools or day-care facilities).
- (12) Sewage disposal facilities.
- (13) The first wireless telecommunications facility located on an alternative support structure only, per the requirements of Article **X**.
- (14) Utilities (electric substations, telephone switching stations, gas regulators, etc.).

D. Height and area restrictions.

- (1) Lot size.
  - (a) Minimum width: 66 feet.
  - (b) Minimum area: 8,712 square feet.
- (2) Building.
  - (a) Maximum height: 25 feet.
  - (b) Minimum floor area: 900 square feet.
- (3) Yards.
  - (a) Minimum street yard: 20 feet.
  - (b) Minimum rear yard: 25 feet.
  - (c) Minimum side yard: 10 feet.

- (d) Garages and accessory structures may be placed in the required rear or side yards, but not closer than seven feet to the rear or side lot line without permission from the Village Board.

[Added 2-4-2008; amended 11-3-2014; 2-2-2015]

## § 500-22. R-1-A Single-Family Residential District.

- A. Purpose. The purpose of this district is to provide the opportunity for construction and maintenance of primarily single-family detached dwelling units at a lower dwelling-unit-per-acre density than the R-1 District.
- B. Permitted principal uses. All permitted uses in the R-1 District are permitted in the R-1-A District.
- C. Conditional uses. All conditional uses in the R-1 District are permitted as conditional uses within the R-1-A District.
- D. Height and area restrictions.
  - (1) Lot size (existing and newly subdivided parcels).
    - (a) Minimum width: 100 feet.
    - (b) Minimum area: 1/2 acre.
  - (2) Building.
    - (a) Maximum height: 25 feet.
    - (b) Minimum floor area: 1,200 square feet.
  - (3) Yards.
    - (a) Minimum street yard: 30 feet.
    - (b) Minimum rear yard: 25 feet.
    - (c) Minimum side yard: 20 feet.

## § 500-23. R-2 One- and Two-Family Residential District.

- A. Purpose. The purpose of this district is to provide the opportunity for construction and maintenance of primarily two-family dwelling units.
- B. Permitted uses.
  - (1) Two-family dwellings (duplex).
  - (2) Any permitted principal use in the R-1 District.
- C. Conditional uses.
  - (1) Conditional uses permitted in the R-1 District.
- D. Height and area restrictions.

	<b>One-Family Dwelling</b>	<b>Two-Family Dwelling</b>
<b>Lot Size</b>		
Minimum width (feet)	75	100
Minimum area (square feet)	8,712	12,000

	<b>One-Family Dwelling</b>	<b>Two-Family Dwelling</b>
<b>Building</b>		
Maximum height (feet)	25	25
Minimum floor area (square feet)	900	850 per unit
<b>Yards</b>		
Minimum street yard (feet)	20	20
Minimum rear yard (feet)	25	25
Minimum side yard (feet)	10	10
Minimum street side yard (feet)	15	15

## § 500-24. R-2-A One- and Two-Family Residential District.

- A. Purpose. The purpose of this district is to provide the opportunity for construction and maintenance of primarily two-family dwelling units at a lower dwelling-unit-per-acre density than the R-2 District.
- B. Permitted uses. All permitted uses in the R-2 District are permitted in the R-2-A District.
- C. Conditional uses. All conditional uses in the R-2 District are permitted as conditional uses within the R-2-A District.
- D. Height and area restrictions.

	<b>One-Family Dwelling</b>	<b>Two-Family Dwelling</b>
<b>Lot size (existing and newly subdivided parcels)</b>		
Minimum width (feet)	100	100
Minimum area (acre)	1/2	1/2
<b>Building</b>		
Maximum height (feet)	25	25
Minimum floor area (square feet)	1,200	1,000 per unit (1-bedroom unit; add 100 square feet per additional bedroom in a unit)
<b>Yards</b>		
Minimum street yard (feet)	30	30
Minimum rear yard (feet)	25	25
Minimum side yard (feet)	20	20
Minimum street side yard (feet)	25	25

## § 500-25. R-3 Multiple-Family Residential District.

- A. Purpose.
  - (1) To delineate areas where more compact residential development, including condominiums and rental apartments, has occurred or will likely occur in accordance with the Village Comprehensive Plan;

- (2) To protect the residential character of the district by prohibiting by incursion incompatible land uses.

B. Permitted uses.

- (1) Multifamily buildings consisting of not more than 16 dwelling units;
- (2) Two-family dwellings including manufactured homes;
- (3) Accessory structures occupying not more than 20% of the rear yard;
- (4) Greenways and open space; agricultural crops;
- (5) Home occupations, only if meeting the requirements of § **500-40C**;
- (6) Neighborhood parks and playgrounds;
- (7) Preschool and day-care facilities serving not more than 25 children;
- (8) Schools (excluding preschools or day-care facilities); and
- (9) The second or greater wireless telecommunications facility located on an alternative support structure already supporting a wireless telecommunications facility or on a preexisting wireless telecommunications facility, with wireless telecommunications support facilities allowed as permitted accessory uses, all per the requirements of Article **X**.

C. Conditional uses.

- (1) Multifamily buildings providing more than 16 dwelling units;
- (2) Bed-and-breakfast establishments;
- (3) Campgrounds;
- (4) Churches;
- (5) Governmental, cultural, and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums;
- (6) Home occupations. See § **500-40** for special standards and regulations;
- (7) Hospitals;
- (8) Mobile home parks;
- (9) Nursing homes;
- (10) Offices/clinics of physicians and surgeons, dentists and dental surgeons, osteopathic physicians, optometrists and chiropractors, but not veterinarians' offices;
- (11) Planned residential developments including clusters of condominiums and/or for-rent apartments. See § **500-42** for special standards and regulations;
- (12) Preschool and day-care facilities serving more than 25 children; and
- (13) The first wireless telecommunications facility located on an alternative support structure only, per the requirements of Article **X**.

D. Height and area restrictions.

	<b>Two-Family Dwelling</b>	<b>Multifamily Dwelling</b>
<b>Lot Size</b>		
Minimum width (feet)	100	100

	<b>Two-Family Dwelling</b>	<b>Multifamily Dwelling</b>
Minimum area (square feet)	12,000	14,000 (or, if larger, 4 times the floor area)
<b>Building</b>		
Maximum height (feet)	25	30
Minimum floor area (square feet)*	750	750
<b>Yards</b>		
Minimum street yard (feet)	20	20
Minimum rear yard (feet)	25	25
Minimum side yard (feet)	10	20
Minimum street side yard (feet)	15	15

\*Per one-bedroom unit; add 100 square feet per additional bedroom.

## § 500-26. R-3-A Multiple-Family Residential District.

### A. Purpose.

- (1) To delineate areas where more compact residential development, including condominiums and rental apartments, has occurred or will likely occur in accordance with the Village Comprehensive Plan;
- (2) To protect the residential character of the district by prohibiting by incursion incompatible land uses;
- (3) To provide for a lower dwelling-unit-per-acre density than the R-3 District.

### B. Permitted uses. All permitted uses in the R-3 District are permitted in the R-3-A District.

### C. Conditional uses. All conditional uses in the R-3 District are permitted as conditional uses within the R-3-A District.

### D. Height and area restrictions.<sup>[1]</sup>

	<b>Two-Family Dwelling</b>	<b>Multifamily Dwelling</b>
<b>Lot size (existing and newly subdivided parcels)</b>		
Minimum width (feet)	100	100
Minimum area (acres)	1/2	1/2
<b>Building</b>		
Maximum height (feet)	25 feet	30 feet
Minimum floor area (square feet per unit)*	1,000	1,000
<b>Yards</b>		
Minimum street yard (feet)	30	30
Minimum rear yard (feet)	25	25
Minimum side yard (feet)	20	25
Minimum street side yard (feet)	25	25

\*Per one-bedroom unit; add 100 square feet per additional bedroom.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 500-27. WT Wastewater Treatment District.

- A. Purpose. The Wastewater Treatment District delineates that area where the principal use will be as a site for the wastewater stabilization lagoons and other wastewater treatment facilities for the Village of Neshkoro. This Wastewater Treatment District is created to meet the requirements of § NR 110.15(3)(d), Wis. Adm. Code. That section prescribes standards for the separation distances of sewage treatment facilities and other property. An existing "mechanical" plant must have a five-hundred-foot separation from adjacent residential and business development. In reviewing requests for conditional uses, the Village will utilize the standard of review that will require said conditional use to be compatible with any present and future wastewater treatment facility in the described Wastewater Treatment District.
- B. Permitted uses. The sewage treatment facilities will be inclusive but not limited to stabilization lagoons, mechanical treatment facilities and effluent holding and polishing ponds and all other related structures or mechanical devices necessary to treat wastewater, including all essential uses to operate the sewage treatment facilities.
- C. Conditional uses. The following conditional uses may be allowed if they will not be unreasonably affected by the proximity of the stabilization ponds and treatment plant and will not interfere with any future expansion needs of the ponds or plant:
- (1) Additions, enlargements, remodeling and replacement of lawful nonconforming structures existing at the time of the creation of this district and not changing the principal use of the structure.
  - (2) Construction, additions, enlargement, remodeling and replacement of accessory structures with a use customarily incidental to the principal use of any lawful nonconforming structure or use existing at the time of the creation of this district and located on and proximate to such nonconforming structure or use. For example, for a nonconforming residential structure, a garage.
- D. Prohibited uses. No structures are permitted except those using essential services accessory to the principal permitted use, and all uses not specifically permitted are prohibited.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- E. Review requirements. In light of the State of Wisconsin changing requirements for the Department of Natural Resources and wastewater treatment regulations and the specific area of land affected by this district, this section shall be reviewed by the Village of Neshkoro as required.<sup>[2]</sup>  
*[2] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## Article IV. Conditional Uses

### § 500-28. Statement of purpose.

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

### § 500-29. Authority of the Village Board; requirements.

- A. The Village Board hereby authorizes the Zoning Administrator to issue a conditional use permit after review, public hearing and recommendation from the Plan Commission and approval from the Village Board, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this chapter and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. The Plan Commission and the Village Board, in their respective recommendation and findings, shall further specify the delimiting reason(s) or factors which resulted in the recommendation for issuing or the issuing of a permit for a conditional use. Such final Board action, and the resulting conditional use permit, shall specify the period of time for which effective, if specified; the name of the permittee; the location and legal description of the affected premises. Prior to the granting of a conditional use, the Plan Commission and the Village Board shall make their respective recommendations and findings based upon the evidence presented that the standards herein prescribed are being complied with.
- B. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Village Board upon its finding that these are necessary to fulfill the purpose and intent of this chapter.
- C. Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

## § 500-30. Initiation of conditional use.

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

## § 500-31. Application for conditional use.

An application for a conditional use shall be filed on a form prescribed by the Village. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in § 500-34 hereinafter. The Plan Commission or Village Board may require such other information as may be necessary to determine and provide for enforcement of this chapter, including a plan showing contours and soil types; high-water mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

## § 500-32. Hearing on application.

All requests for conditional uses shall ultimately be to the Village Board or the Village Board can, on its own motion, apply conditional uses when applications for rezoning come before it. Upon receipt of the application and statement referred to in § 500-31 above, the Plan Commission shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Plan Commission is governed by. The Plan

Commission shall make its recommendation to the Village Board, which shall take final action of approval or denial.

## § 500-33. Notice of hearing on application.

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 notice under Ch. 985, Wis. Stats. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Plan Commission, and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within 100 feet of the boundaries of the properties affected, said notice to be sent at least 10 days prior to the date of such public hearing. Upon recommendation from the Plan Commission, the Village Board shall, within 45 days thereafter, take formal action.

## § 500-34. Standards for conditional uses.

A. Standards. No application for a conditional use shall be recommended by the Plan Commission or granted by the Village Board unless all of the following conditions are present:

- (1) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use, and the proposed use is compatible with the use of adjacent land.
- (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (6) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
- (7) That the proposed use does not violate floodplain regulations governing the site.
- (8) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
- (9) That when applying the above standards to any new construction of a building or an addition to an existing building, the Village Board shall bear in mind the statement of purpose for the zoning district, such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

B. Additional considerations. In addition, in recommending or passing upon a conditional use permit, the Plan Commission and Village Board shall also evaluate the effect of the proposed use upon:

- (1) The maintenance of safe and healthful conditions.
- (2) The prevention and control of water pollution, including sedimentation.
- (3) Existing topographic and drainage features and vegetative cover on the site.
- (4) The location of the site with respect to floodplains and floodways of rivers and streams.

- (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
- (6) The location of the site with respect to existing or future access roads.
- (7) Its compatibility with uses on adjacent land.
- (8) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

## § 500-35. Denial of application for conditional use permit.

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

## § 500-36. Conditions and guarantees.

The following conditions shall apply to all conditional uses:

- A. Conditions. Prior to the granting of any conditional use, the Village Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community and to secure compliance with the standards and requirements specified in § **500-34** above. In all cases in which conditional uses are granted, the Village Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:

- (1) Landscaping;
- (2) Type of construction;
- (3) Construction commencement and completion dates;
- (4) Sureties;
- (5) Lighting;
- (6) Fencing;
- (7) Operational control;
- (8) Hours of operation;
- (9) Traffic circulation;
- (10) Deed restrictions;
- (11) Access restrictions;
- (12) Setbacks and yards;
- (13) Specified sewage disposal and water supply systems;
- (14) Planting screens;
- (15) Increased parking; or
- (16) Any other requirements necessary to fulfill the purpose and intent of this chapter.

- B. Site review. In making its decision to recommend or to take final action, the Plan Commission and Village Board, respectively, shall evaluate each application and may request assistance from any source which can provide technical assistance. The Plan Commission and Village Board may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.
- C. Alteration of conditional use. No alteration of a conditional use shall be permitted unless reviewed by the Plan Commission and approved by the Village Board.
- D. Architectural treatment. Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Village Board may require the use of certain general types of exterior construction materials.
- E. Sloped sites; unsuitable soils. Where slopes exceed 6% and/or where a use is proposed to be located on areas indicated as having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided that clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.
- F. Conditional uses to comply with other requirements. Conditional uses shall comply with all other provisions of this chapter except as noted herein.

## § 500-37. Validity of conditional use permit.

Where a conditional use application has been approved or conditionally approved, such approval shall become null and void within 24 months of the date of the approval unless the use is commenced, construction is underway or the current owner possesses a valid building contract under which construction is commenced within six months of the date of issuance and is being diligently prosecuted. Approximately 45 days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Village Board may extend such permit for a period of 90 days for justifiable cause, if application is made to the Village Board at least 30 days before the expiration of said permit.

## § 500-38. Complaints regarding conditional uses.

The Village Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use; the elimination, removal or discontinuance of any violation of a condition imposed prior to approval; or violation of any other provision of this chapter. Upon written complaint by any citizen or official, the Village Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in § 500-34 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in § 500-33 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Village Board may, in order to bring the subject conditional use into compliance with the standards set forth in § 500-34 or conditions previously imposed by the Village Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that standards in § 500-34 will be met, the Village Board may revoke the subject conditional approval and direct the Zoning Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the

decision of the Village Board shall be furnished to the current owner of the conditional use, in writing, stating the reasons therefor.

## § 500-39. Bed-and-breakfast establishments.

If a bed-and-breakfast establishment is allowed as a permitted or conditional use in any district, the following additional standards and requirements shall apply:

- A. Definition. "Bed-and-breakfast establishment" means any place of lodging that provides four or fewer rooms for rent for more than 10 nights in a twelve-month period, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.
- B. State standards. Bed-and-breakfast establishments shall comply with the standards of Ch. DHS 197, Wis. Adm. Code.

## § 500-40. Home occupations.

- A. Intent. The intent of this section is to provide a means to accommodate a small, family, home-based business or professional home office as a conditional use without the necessity of a rezone into a business district. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary.
- B. Restrictions on home occupations. Home occupations allowed as a permitted or conditional use in any of the residential districts are subject to the requirements of the district in which the use is located, in addition to the following:
  - (1) The home occupation shall be conducted only within the enclosed area of the dwelling unit or an attached garage.
  - (2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.
  - (3) No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.
  - (4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
  - (5) Only one sign may be used to indicate the type of occupation or business. Such sign shall not be illuminated and shall comply with district sign regulations.
  - (6) The use shall not involve the use of commercial vehicles for more than occasional delivery of materials to or from the premises.
  - (7) (Reserved)<sup>[1]</sup>
    - [1] *Editor's Note: Former Subsection B(7), relating to the percentage of the property that may be devoted to the occupation, was repealed 11-3-2014.*
  - (8) The home occupation is restricted to a service-oriented business; the manufacturing of items or products or the sale of items or products on the premises is prohibited.
  - (9) The types and number of equipment or machinery may be restricted by the Village Board.
  - (10) Sale or transfer of the property shall cause the conditional use permit to be null and void.

(11) Under no circumstances shall a vehicle repair or bodywork business qualify as a home occupation.

(12) No more than one nonresident employee may be employed at the home occupation.

- C. Permitted use exception. A home occupation may be maintained in any residential district as a permitted use, as opposed to a conditional use, only if the standards of Subsection **B** above are complied with, and no sign is erected or maintained regarding the home occupation, no more than one nonresident person works on the premises, no customers regularly come to the house, and the business is service-oriented and not engaged in retail trade.

## § 500-41. Campgrounds.

If campgrounds are allowed as a permitted or conditional use in any district, the campgrounds shall conform to the following standards:

- A. The minimum size of any campground shall be 60 acres in gross area.
- B. The maximum number of travel trailers or campsites shall be 15 per acre, as computed from the gross area of the park or campgrounds, and in no case shall the square feet of each site be less than 3,000 square feet.
- C. Before beginning operation of any camp, 50% of the sites and 100% of the facilities shall be completed.
- D. All campgrounds shall have a boundary zone of 40 feet between any campsite and any lot line.
- E. The minimum width of roads within a campground shall be 30 feet.
- F. All access roads to and from the campgrounds shall be well-lighted and hard-surfaced with bituminous concrete or equal materials.
- G. Every campground shall conform to all applicable state laws until they are amended, and then apply as amended.
- H. All wiring within a camp must conform to state electrical codes.
- I. Designated spots on each site will be marked or constructed for outside cooking or the building of campfires, and no fires will be allowed outside of these designated areas.

## § 500-42. Planned unit development.

- A. Intent.

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

(2) The unified and planned development of a site in single, partnership or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Ch. 703, Wis. Stats., (condominiums) may be permitted by the Village upon specific petition under

Subsection **G** in this section and after public hearing, with such development encompassing one or more principal uses or structures and related accessory uses or structures, when all regulations and standards as set forth in this section have been met.

- B. Types of planned unit developments. This article contemplates that there may be residential, business or manufacturing planned unit developments.
- C. General requirements for planned unit developments. A planned unit development shall be consistent in all respects to the expressed intent of this section and to the spirit and intent of this chapter; shall be in conformity with the adopted Comprehensive Plan (comprehensive land use and thoroughfare plan), neighborhood plan or any adopted component thereof; and shall not be contrary to the general welfare and economic prosperity of the community.
- D. Physical requirements for planned unit developments.
  - (1) Minimum area requirements. Areas designated as planned unit developments shall contain a minimum development area as follows:

<b>Principal Uses</b>	<b>Minimum Area of PUD (acres)</b>
Residential PUD	3
Business PUD	5
Manufacturing PUD	10

- (2) Density requirements (lot area, width and yard requirements). The district area, width and yard requirements of the basic use district may be modified; however, in no case shall the average density in a residential district exceed the number of dwelling units that would have been permitted if the planned unit development regulations had not been utilized.
    - (3) Building height and area requirements.
      - (a) Buildings in a planned unit development shall not exceed the height permitted in the basic use district.
      - (b) Buildings in a planned unit development shall have a minimum area that is equal to or greater than that required in the basic use district.
    - (4) Single parcel, lot or tract. The planned unit development shall be considered as one tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract and be so recorded with the County Register of Deeds.
- E. Requirements as to public services and facilities.
  - (1) The development site shall be provided with adequate drainage facilities for surface waters and stormwaters.
  - (2) The site will be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the development.
  - (3) No undue constraint or burden shall be imposed on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm drainage, and maintenance of public areas by the developments.
  - (4) The streets and driveways on the site of the development shall be adequate to serve the residents of the development and, in the case of public dedicated streets, will meet the minimum standards of all applicable ordinances or administrative regulations of the Village.
  - (5) Public water and sewer facilities shall be provided.

- F. Subsequent land division. The division of any land or lands within a planned unit development for the purpose of change or conveyance of ownership may be accomplished pursuant to the land division/subdivision regulations of the Village when such division is contemplated.<sup>[1]</sup>
- [1] *Editor's Note: See Ch. 450, Subdivision of Land.*
- G. Procedural requirements for planned unit developments.
- (1) Pre-petition conference. Prior to the official submission of the petition for the approval of a planned unit development, the owner or his/her agent making such petition shall meet with the Plan Commission or its staff to discuss the scope and proposed nature of the contemplated development.
  - (2) Petition for approval. Following the pre-petition conference, the owner or his agent may file a petition with the Village Clerk-Treasurer for approval of a planned unit development. Such petition shall be accompanied by a review fee of \$25, as well as incorporate the following information:
    - (a) Informational statement. A statement which sets forth the relationship of the proposed PUD to the Village's adopted Comprehensive Plan (comprehensive land use and thoroughfare plan), neighborhood plan, or any adopted component thereof, and the general character of and the uses to be included in the proposed PUD, including the following information:
      - [1] Total area to be included in the PUD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
      - [2] A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
      - [3] A general outline of the organizational structure of a property owners' or management's association, which may be proposed to be established for the purpose of providing any necessary private services.
      - [4] Any proposed departures from the standards of development as set forth in the Village zoning regulations, land subdivision ordinance, other Village regulations or administrative rules, or other universal guidelines.
      - [5] The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.
    - (b) A general development plan, including:
      - [1] A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.
      - [2] The location of public and private roads, driveways, sidewalks and parking facilities.
      - [3] The size, arrangement and location of any individual building sites and proposed building groups on each individual site.
      - [4] The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
      - [5] The type, size and location of all structures.
      - [6] General landscape treatment.
      - [7] The existing and proposed location of public sanitary sewer, water supply facilities and stormwater drainage facilities.

[8] The existing and proposed location of all private utilities or other easements.

[9] Existing topography on the site with contours at no greater than two-foot intervals.

[10] Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.

[11] If the development is to be staged, a staging plan.

[12] A plan showing how the entire development can be further subdivided in the future.

- (3) Public hearing. The Plan Commission shall hold public hearing on the petition and make a formal recommendation for final action to the Village Board in the manner provided in Article **IV** for conditional uses.

H. Basis for approval of the petition for planned unit development.

- (1) Requirements. The Plan Commission and Village Board, in making their respective recommendation or determination approving a petition for planned unit development, shall find as follows:

- (a) That the general requirements made and provided in Subsection **C** will be met;
- (b) That the applicable physical requirements made and provided in Subsection **D** will be met; and
- (c) That the requirements as to public services and facilities made and provided in Subsection **E** will be met.

- (2) Proposed construction schedule. The Plan Commission and Village Board, in making their respective recommendation or determination, shall consider the reasonableness of the proposed construction schedule and any staging plan for the physical development of the proposed PUD, commencement of the physical development within one year of approval being deemed reasonable.

- (3) Residential PUD considerations. The Plan Commission and Village Board, in making their respective recommendation or determination as to a proposed residential planned unit development, shall further consider whether:

- (a) Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.
- (b) The total net residential density within the planned unit development will be compatible with the Village Comprehensive Plan (comprehensive land use and thoroughfare plan), neighborhood plan, or components thereof, and shall be compatible with the density of the district wherein located.
- (c) Structure types will be generally compatible with other structural types permitted in the underlying basic use district. To this end, structure type shall be limited as follows:

[1] Planned residential developments in the R-1 or R-2 Districts shall not exceed four dwelling units per structure.

[2] Planned residential developments in the R-3 District shall not exceed 16 dwelling units per structure.

- (d) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities if privately owned.

- (e) Provision has been made for adequate, continuing fire and police protection.

- (f) The population density of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
  - (g) Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.
- (4) Business PUD considerations. The Plan Commission and Village Board, in making their respective recommendation and determination as to a proposed business planned unit development, shall further consider whether:
- (a) The economic practicality of the proposed development can be justified.
  - (b) The proposed development will be served by off-street parking and truck service facilities in accordance with this chapter.
  - (c) The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities such as fire and police protection, street maintenance, water, sanitary sewer and stormwater drainage and maintenance of public areas.
  - (d) The locations of entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern of the surrounding neighborhood.
  - (e) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.
- (5) Manufacturing PUD considerations. The Plan Commission and Village Board, in making their respective recommendation and determination as to a proposed manufacturing planned unit development, shall further consider whether:
- (a) The operational character and physical plant arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.
  - (b) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water sanitary sewer and stormwater drainage and maintenance of public areas.
  - (c) The proposed development will include provision for off-street parking and truck service areas in accordance with this chapter and will be adequately served by easy-access rail and/or arterial highway facilities.
  - (d) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.
- I. Determination of disposition of the petition.
- (1) General. The Village Board, following public hearing and recommendation of the Plan Commission thereon and after due consideration, shall either deny the petition, approve the petition as submitted or approve the petition subject to any additional conditions and restrictions the Village Board may impose.
  - (2) Approval. The general and detailed approvals of a planned unit development shall be based on and include, as conditions thereto, the building, site and operational plans for the development as approved by the Village Board.

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

## § 500-43. Wind energy systems.

### A. Permit required.

- (1) Approval required. No owner shall, within the Village, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- (2) Separate permit required for each system. A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the system, structures, use and property described in the permit.
- (3) Basis of approval. The Plan Commission and Village Board, in making their respective recommendation or determination, shall consider the effect of such grant on the health, general welfare, safety and economic prosperity of the Village and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor, and such other factors as would be appropriate to carry out the intent of this chapter.
- (4) Definitions. "Wind energy systems" shall mean windmills which are used to produce electrical or mechanical power.

### B. Specific requirements regarding wind energy systems.

- (1) Additional standards. Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall satisfy the requirements of this section in addition to those found elsewhere in this article.
- (2) Application. Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served, showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one premises, the plat of survey shall show

all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.

- (3) Construction. Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than 40 pounds per square foot in area.
- (4) Noise. The maximum level of noise permitted to be generated by a wind energy conversion system shall be 50 decibels, as measured on a dB(A) scale, measured at the lot line.
- (5) Electromagnetic interference. Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (6) Location and height. Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this chapter; however, all such systems over 75 feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- (7) Fence required. All wind energy conversion systems shall be surrounded by a security fence not less than six feet in height. A sign shall be posted on the fence warning of high voltages.
- (8) Utility company notification. The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

## Article V. Nonconforming Uses

### § 500-44. Existing nonconforming uses.

- A. Continuation. Except as otherwise specially provided in this chapter, the lawful nonconforming use of land existing at the time of the adoption or amendment of this chapter may be continued although the use does not conform with the provisions of this chapter; provided, however:
  - (1) Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this chapter.
  - (2) The total lifetime structural repairs or alterations shall not exceed 50% of the assessed value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this chapter.
  - (3) Substitution of new equipment may be permitted by the Village Board if such equipment will reduce the incompatibility of the nonconforming use with the neighboring use.

(4) A nonconforming use may be changed to any use permitted in the same use district as that in which the use existing is permitted according to the provisions of this chapter, provided when a use district is changed, any existing, nonconforming use in such changed district may be continued or changed to a use permitted in the same use district as that in which the existing use is permitted, provided all other regulations governing the new use are complied with.

B. Abolishment or replacement of existing nonconforming use. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water shall conform to the provisions of this chapter. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy or other calamity to the extent of more than 50% of its current assessed value, it shall not be restored except so as to comply with the use provisions of this chapter. A nonconforming structure damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation after March 2, 2006, may be restored in accordance with the provisions of § 62.23(7)(hc), Wis. Stats.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 500-45. Existing nonconforming structures and lots.

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

## § 500-46. Changes and substitutions.

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

## Article VI. Miscellaneous Regulations

### § 500-47. Traffic visibility.

On a corner lot in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision clearance, as defined in § 500-8, in the vision triangle, as defined in § 500-8.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 500-48. Loading requirements.

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

Use	Floor Area (square feet)	Loading space
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<b>Use</b>	<b>Floor Area (square feet)</b>	<b>Loading space</b>
Retail, wholesale warehouse, service manufacturing and industrial establishments	3,000 to 20,000	1
	20,000 to 50,000	2
	50,000 to 90,000	3
	90,000 to 150,000	4
	Each additional 50,000	1
Motels, schools, offices, hospitals, places of public assembly	5,000 to 30,000	1
	30,000 to 80,000	2
	80,000 to 150,000	3
	Each additional 25,000	1
Funeral homes	2,000 to 8,000	1
	8,000 to 20,000	2

- B. Multiple or mixed uses. Where a building is devoted to more than one use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.
- C. Location. Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within 30 feet of the nearest point of intersection of two streets or require any vehicle to back into a public street.
- D. Design standards. Each off-street loading space shall have a width of at least 12 feet, a length of at least 40 feet, and a vertical clearance of at least 14 feet. Dimensions for loading spaces in connection with funeral homes shall be reduced to 10 feet in width, 20 feet in length, and eight feet in vertical clearance. All loading berths shall be completely screened from residential properties by building walls or a uniformly painted solid fence, wall or door, or any combination thereof, not less than eight feet in height.
- E. Surfacing. All open off-street loading berths shall be improved with a compacted gravel base, not less than six inches thick, surfaced with not less than two inches of asphalt or treated with some comparable all-weather dustless material.
- F. Utilization. Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- G. Central loading. Central loading facilities may be substituted for loading berths on the individual zoning lots, provided the following conditions are fulfilled:
- (1) Each zoning lot served shall have direct access to the central loading area without crossing streets or alleys at grade.
  - (2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.)
  - (3) No zoning lot served shall be more than 300 feet removed from the central loading area.
  - (4) The tunnel or ramp connecting the central loading area with the zoning lot served shall be not less than seven feet in width and have a clearance of not less than seven feet.

## § 500-49. Parking requirements.

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

- A. Access. Adequate access to a public street shall be provided for each parking space.
- B. Design standards. Each required off-street parking space shall have a stall width of at least nine feet and a stall length of at least 17 feet. Such space shall have a vertical clearance of at least 6 1/2 feet. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: Aisles shall be not less than 24 feet wide for 90° parking, 18 feet wide for 60° parking, 15 feet wide for 45° parking (angle shall be measured between center line of parking space and center line of aisle), and 12 feet wide for parallel parking. For parallel parking, the minimum length of the parking space shall be increased to 23 feet. No parking area of more than two spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than five spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- C. Location.
  - (1) Off-street parking is permitted in side and rear yards of all districts but shall not be closer than five feet to a side lot line nor closer than 10 feet from a street right-of-way.
  - (2) Off-street parking in the R-1, R-2 and R-3 Residential Districts is permitted in the front yard on a paved driveway, providing the driveway conforms to the requirements in §§ **238-1** and **238-2** and such parking does not intrude into a required vision triangle.
- D. Surfacing. All open off-street parking areas, except a single parking space accessory to a single-family dwelling, shall be surfaced with a dustless all-weather material capable of carrying a wheel load of 4,000 pounds (normally, a two-inch blacktop on a four-inch base or five inches of portland cement will meet this requirement). Any parking area for more than five vehicles shall have the aisles and spaces clearly marked.
- E. Landscaping requirements.
  - (1) Landscaping. All public and private off-street parking areas which serve five vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this chapter shall be provided with accessory landscape areas totaling not less than 10% of the surfaced area. The minimum size of each landscape area shall not be less than 100 square feet.
  - (2) Location. Location of landscape areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance by the property owner, shall be subject to approval by the Zoning Administrator.
  - (3) Plans. All plans for such proposed parking areas, at the discretion of the Zoning Administrator, shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.
  - (4) Special residential requirements. Those parking areas for five or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density, or other effective means, built and maintained at a minimum height of five feet. Where a solidly constructed decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five feet from said lot line. Said fence shall be located a minimum of one foot from the said lot line.

(5) Street setback area. No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.

F. Use restrictions.

(1) Repair and service. No major motor vehicle repair work or extensive service of any kind shall be permitted in association with unenclosed parking facilities provided in residence districts. Disabled vehicles shall be removed from parking areas.

(2) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three footcandles measured at the lot line.

G. Number of stalls. Number of parking stalls required for newly created parking lots are shown in the following table:<sup>[2]</sup>

<b>Use</b>	<b>Minimum Parking Required</b>
Single-family dwellings	1 stall for each dwelling unit
Multifamily dwellings	1.5 stalls for each dwelling unit
Housing for the elderly	0.75 space for each dwelling with 1/2 of these spaces to be built before occupancy and the balance of which spaces shall be reserved until such time as the Village Board may order them installed
Rest and nursing homes, group and retirement homes	1 stall for each 4 beds plus 1 stall for each 3 employees
Travel trailer parks and campgrounds	1 stall per trailer or campsite plus 0.5 stall per unit at convenient locations
Hotels, motels, bed-and-breakfast establishments	1 stall for each guest room plus 1 stall for each 3 employees
Sororities, lodges, clubs, dormitories, rooming houses and boardinghouses	1 stall for each bed plus 1 stall for each 3 employees
Institutions	1 stall for each 5 beds plus 1 stall for each 3 employees
Medical and dental clinics	3 stalls for each doctor
Churches, theaters, community centers vocation and night schools, and other places of public assembly	1 stall for each 6 seats
Secondary and elementary schools, Jr. and Sr. high schools, and other educational facilities	1 stall for each 2 employees plus 1 stall for each 5 students 15 years of age or older
School gyms, auditoriums, stadia	1 stall for each 8 seats
Restaurants, bars, places of entertainment, repair shops, retail and service stores	1 stall for each 200 square feet of floor area
Manufacturing and processing plants laboratories and warehouses	1 stall for every 3 employees; number of employees shall be construed to mean the maximum number on the premises at one time
Funeral parlors	5 stalls for each chapel or parlor plus 1 stall for each 2 employees
Financial institutions, business, government and professional offices	1 stall for each 400 square feet of floor area and 1 stall for each 2 employees

Use	Minimum Parking Required
Motor vehicle sales (new and used)	1 space for each 600 square feet of floor area used plus one space for each 900 square feet of outdoor display area for each motor vehicle to be displayed. (This requirement does not include service stations — see below.)
Automobile repair garages and service stations	1 space for each employee plus 1 space for each 250 square feet of floor area used for repair work
Bowling alleys	5 spaces for each alley

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- H. Uses not listed. In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.
- I. Handicapped parking requirements. In addition to any other requirements relating to parking spaces contained in this Code, the provisions contained in §§ 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.
- J. Changes in buildings or use. Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of 50% or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- K. Off-lot parking.
  - (1) Required off-street parking spaces shall be located on the same lot with the principal use or, when this requirement cannot be met, such parking spaces may be located off lot, provided the parking spaces are located in the same district. Off-lot parking spaces shall also be held in fee simple ownership by the owner of the use requiring such parking or be leased or rented through a written agreement satisfactory to the Village Attorney.
  - (2) Off-lot parking spaces for residential uses shall be within 300 feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within 300 feet of the entrance of the establishment.
  - (3) Accessory parking may be located in residential districts, provided that said lots or property are immediately adjacent to a business or manufacturing zoning district.
  - (4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of 10 feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

## § 500-50. Highway access.

- A. Private access restricted. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street, without permission of the highway agency that has access control jurisdiction.
- B. Public or private access prohibited. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:
  - (1) Freeways, interstate highways and their interchanges or turning lanes nor to intersection of interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes.

- (2) Arterial streets intersecting another arterial street within 100 feet of the intersection of the right-of-way lines.
- (3) Streets intersecting an arterial street within 50 feet of the intersection of the right-of-way lines.
- C. Public access barriers. Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- D. Temporary access. Temporary access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed 12 months.

## § 500-51. Storage and parking of recreational vehicles.

- A. Definitions pertaining to recreational vehicles. For purposes of this section, the following definitions shall apply:

### **BOAT**

Every description of watercraft used or capable of being used as a means of transportation on water.

### **BOAT OR SNOWMOBILE TRAILER**

A vehicle on which a boat or snowmobile may be transported and which is towable by a motor vehicle. When removed from the trailer, a boat or snowmobile, for purposes of this article, is termed an "unmounted" boat or snowmobile.

### **RECREATIONAL VEHICLE**

Any of the following:

#### **(1) TRAVEL TRAILER**

A vehicular, portable structure built on a chassis and on wheels, that is between 10 and 36 feet long, including the hitch, and eight feet or less in width; designated to be used as a temporary dwelling for travel, recreation, vacation or other uses and towed by a car, station wagon or truck. It includes so-called "fifth-wheel" units.

#### **(2) PICKUP COACH**

A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, vacation or other uses.

#### **(3) MOTOR HOME**

A portable, temporary dwelling to be used for travel, recreation, vacation or other uses, constructed as an integral part of a self-propelled vehicle.

#### **(4) CAMPING TRAILER**

A canvas or folding structure mounted on wheels and designed for travel, recreation, vacation or other uses.

#### **(5) CHASSIS MOUNTS, MOTOR HOMES AND MINI MOTOR HOMES**

Recreational structures constructed integrally with a truck or motor van chassis and incapable of being separated therefrom.

#### **(6) CONVERTED AND CHOPPED VAN**

Recreational structures which are created by altering or changing an existing auto van to make it a recreational vehicle.

- B. Permitted parking or storage of recreational vehicles. In all residential and business districts provided for in this chapter, it is permissible to park and store a recreational vehicle or boat and

boat trailer on private property in the following manner:

- (1) Parking is permitted inside any enclosed structure which structure otherwise conforms to the zoning requirements of the particular zoning district where located.
- (2) Parking is permitted outside in the side yard or rear yard, provided it is not nearer than five feet to the lot line.
- (3) Parking is permitted outside on a hard-surfaced or well-drained gravel driveway, provided:
  - (a) Space is not available in the rear yard or side yard, or there is no reasonable access to either the side yard or rear yard.
  - (b) A corner lot is always deemed to have reasonable access to the rear yard.
  - (c) A fence is not necessarily deemed to prevent reasonable access.
  - (d) Inside parking is not possible.
  - (e) The unit is parked perpendicular to the front curb.
- (4) The body of the recreational vehicle or boat must be at least 15 feet from the face of any curb.
- (5) No part of the unit may extend over the public sidewalk or public right-of-way.
- (6) Parking is permitted only for storage purposes. Recreational vehicles or boats shall not be:
  - (a) Used for dwelling purposes, except for overnight sleeping for a maximum of 14 days in any one calendar year. Cooking is not permitted at any time.
  - (b) Permanently connected to sewer lines, waterlines or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
  - (c) Used for storage of goods, materials or equipment other than those items considered to be part of the unit or essential for its immediate use.
- (7) Notwithstanding the above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.
- (8) The recreational vehicle or boat shall be owned by the resident on whose property the unit is parked for storage.

## Article VII. Signs

### § 500-52. Purpose.

The purpose of these sign regulations is to establish minimum standards; to encourage the effective use of signs as a means of communication in the Village; to maintain and enhance the aesthetic environment and the Village's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effects of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations. The sign ordinance codified in this article is adopted under the zoning authority of the Village.

### § 500-53. Scope.

This article shall be binding upon the owner of any property upon which a sign is placed, upon any lessee of such property and upon any person who constructs or maintains signs within the Village. This

article governs all signs currently in use and those hereinafter installed in the Village, subject to § 500-68 regarding nonconforming signs.

## § 500-54. Applicability.

- A. A sign may be erected, placed, established, painted, created or maintained in the Village only in conformity with the standards, procedures, exemptions and other requirements of this article.
- B. The effect of this article as more specifically set forth is:
  - (1) To establish a permanent system to allow a variety of types of signs in all zoning districts, subject to the standards and permit procedures of this article;
  - (2) To allow certain signs that are small, unobtrusive and incidental to the principal use of respective lots on which they are located, subject to the substantive requirements of this article, but without the requirements for a permit;
  - (3) To prohibit all signs not expressly permitted by this article;
  - (4) To establish reasonable fees; and
  - (5) To provide for enforcement of the provisions of this article.

## § 500-55. Interpretations.

Words and phrases used in this article shall have the meaning set forth in § 500-56. Words and phrases not defined in this article but defined in other ordinances of the Village shall be given the meaning set forth in such ordinances. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

## § 500-56. Definitions.

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meanings given in this section:

### **ABANDONED/OBSOLETE SIGN**

A sign which identifies, displays information about or otherwise relates to a purpose, event or business that has not existed or operated for a period of 60 days, or otherwise is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first.

### **ADVERTISING SIGN, OUTDOOR**

A structural poster panel or painted sign, either freestanding or attached to the outside of a building, for the purpose of conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premises upon which located.<sup>[1]</sup>

### **AREA IDENTIFICATION SIGN**

A sign to identify a common area containing a group of structures or a single structure, such as a residential subdivision, mobile home park, apartment complex, industrial park or shopping center, located at the entrance or entrances of the area, and consisting of a freestanding sign or a fence or wall or archway with letters or symbols affixed thereto, and which does not advertise any premises or lot as vacant or for sale, lease or auction of such property.

### **BANNER**

Any sign of lightweight fabric or similar material that is mounted to a pole or a building at one or more edges. National flags, state or municipal flags, or the official flag of any institution or

business shall not be considered banners.

### **BEACON**

A stationary or revolving light which flashes or projects illumination in any manner which is intended to attract or divert attention; except, however, this term is not intended to include any kind of lighting device which is required or necessary under the safety regulations of the Federal Aviation Administration or any other federal, state or local agency.

### **BUILDING INSPECTOR**

An agent of the Village of Neshkoro authorized to permit, inspect, approve or deny construction within the Village and the authorized government representative on sign issues.

### **BUILDING MARKER**

Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of metal or other permanent material.

### **BUILDING MEMORIAL/DATE SIGN**

A sign, not exceeding eight square feet in display area, which indicates the name of a building, dedication of the building to a person or persons, when cut into any masonry surface or when constructed of metal or other permanent material and affixed flat against a structure.

### **BULLETIN SIGN**

Any sign erected by a charitable, educational or religious institution or a public body which is erected upon the same property as the institution for purposes of announcing events which are held on the premises and contains no commercial message.

### **CANOPY SIGN**

Any sign that is a part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door entrance, window or outdoor service area. A marquee is not a canopy.

### **COMMERCIAL MESSAGE**

Any sign wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service, sale or sales event or other commercial activity.

### **CONSTRUCTION SIGN**

Any sign which alerts persons of construction or demolition activities for a project or which describes the project or the contractors involved.

### **CROP/SEED IDENTIFICATION SIGN**

A sign which is placed on a lot with a planted crop for the purpose of identifying the type and/or brand of crop or seed planted at that location. Crop/seed identification signs shall not be considered temporary signs for the purposes of this article and are not subject to the temporary sign limitations described hereunder.

### **DISPLAY SURFACE**

The net geometric area enclosed by the display surface of the sign including outer extremities of all letters, characters and delineations; provided, however, "display surface area" shall not include the structural supports for freestanding signs.<sup>[2]</sup>

### **ERECT**

To build, construct, attach, hang, place, suspend or affix.

### **FLAG**

Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of government, political subdivision or other entity.

**FLASHING SIGN**

An illuminated sign on which artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use.

**FREESTANDING SIGN**

A sign which is supported by structures or supports in or upon the ground and/or is independent of support from any building, and includes portable message board signs.

**GARAGE/YARD SALE SIGN**

Any sign which advertises a private sale of personal property used to dispose of personal household possessions. Not for the use of any commercial venture.

**HIGHWAY**

As defined in § 340.01(22), Wis. Stats., or as amended.

**HISTORICAL MARKERS**

Commemorative plaques, memorial tablets or emblems of historical nature, not exceeding eight square feet in display surface area.

**HOME OCCUPATION SIGN**

A sign erected in conjunction with and on the premises of a home occupation.

**ILLUMINATED SIGN**

Any sign which has characters, letters, figures, designs or outline illuminated directly or indirectly by electric lights or luminous tube.

**INCIDENTAL SIGN**

A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking," "no trespassing," "no dumping," "entrance," "loading only," "telephone," "warning," "beware of dog" and other similar directives.

**JOINT IDENTIFICATION SIGN**

A sign which serves as common or collective identification for a group of persons or businesses operating on the same lot or subdivision (e.g., shopping center, office complex, etc.). Such sign may name the persons or businesses included but carry no other advertising matter.

**LEASE**

An agreement by which a property owner conveys, usually for a specified rent to other persons, permissions to erect and maintain an advertising sign upon his or her property.

**LOT**

Any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record, which is recognized and intended as a unit for the purposes of transfer of ownership.

**MARQUEE**

A permanent roof-like structure projecting beyond a building wall at an entrance, and generally designed and constructed to provide protection against the weather.

**MARQUEE SIGN**

Any sign attached to and made part of a marquee.

**NEW DEVELOPMENT SIGN**

A sign erected to advertise the vacancy, sale or lease of parcels or mobile homes within a new residential or commercial subdivision or development or a mobile home park.

**NONCONFORMING SIGN**

A sign existing at the effective date of the adoption or amendment of this article which is not in conformance with the terms of this article.<sup>[3]</sup>

#### **OFF-PREMISES DIRECTIONAL SIGN**

A sign the main purpose of which is to direct pedestrian or vehicular traffic to businesses or locations located elsewhere than upon the same lot where such sign is displayed.

#### **OFF-PREMISES SIGN**

A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed. The term "off-premises sign" shall include an outdoor advertising sign (billboard) on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial or noncommercial message.

#### **OPEN HOUSE SIGN**

A temporary sign utilized to identify an open house for real estate which is for sale, lease or auction.

#### **PENNANT**

Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string usually in series, designed to move in the wind.

#### **PERSON**

Includes any person, firm, partnership, association, corporation, limited liability company, company or organization, singular or plural, of any kind.

#### **POLITICAL SIGN**

A sign used in connection with a local, state or national election or referendum which shows support for a candidate or issue.

#### **PROJECTING SIGN**

Any sign that shall be affixed at an angle or perpendicularly to the wall of any building in such a manner to read perpendicularly or at an angle to the wall on which it is mounted.

#### **REAL ESTATE SIGN**

A temporary sign placed upon property for the purpose of advertising to the public the sale, lease or auction of such property, and which excludes new development signs.

#### **ROOF SIGN**

Any sign, including but not limited to wall signs or projecting signs, erected and constructed wholly on and over the roof of a building, supported by the roof structure.

#### **SETBACK**

The distance from the property line to the nearest part of the applicable building, structure or sign, measured perpendicularly to the property line.

#### **SHOPPING CENTER**

A cohesive unit of stores or other commercial businesses arranged and constructed according to a plan and contained within a separate parcel of land.

#### **SIGN**

Includes every device, frame, letter, figure, character, mark, plane, point, design, picture, logo, stroke, stripe, trademark, mural or reading matter which is used or intended to be used to attract attention or convey information.

#### **SKELETON CUTOUT LETTER SIGN**

A sign made entirely of skeleton cutout letters attached to or painted on a building or structure.

## SPECIAL EVENT SIGN

Any temporary sign utilized for special events of charitable or service organizations.

## TEMPORARY SIGN

Any sign intended to be displayed for a period of not more than 60 days in a twelve-month period or until construction or sale of property is completed, including, but not limited to, real estate, open house, political, construction and special event signs, banners, yard cards, decorative-type displays or anything similar to the aforementioned.

## WALL SIGN

Any sign that shall be affixed parallel to the wall or printed on the wall of any building in such a manner as to read parallel to the wall on which it is mounted. For the purposes of this article, any sign display surface that is affixed flat against the sloping surface of a mansard roof shall be considered a wall sign. Any sign that is affixed to the building marquee, building awning or a building canopy shall also be considered a wall sign.

## YARD CARD

Any sign, pictures, symbol or combination thereof, designed to be temporarily placed on a residential or commercial lot, for purposes of commemorating a personal event such as a birthday, graduation or anniversary.

- [1] *Editor's Note: This definition originally appeared in § 500-8 and was moved to this section at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [2] *Editor's Note: The original definition of "district or zoning districts," which immediately followed this definition, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II); see "zoning district" in § 500-8.*
- [3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 500-57. Permit required.

- A. Permit required. Except for those signs listed in §§ 500-58 and 500-59, no sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally or substantively altered without a sign permit or being in conformity with the provisions of this article. The sign shall also meet all of the structural requirements of the Village and state building codes, and electrical codes if illuminated. Routine maintenance shall not require a new permit under this section. Back-to-back signs shall constitute one sign within the meaning of this section. Except for business vehicles containing typical business signage which are actively used on a daily basis for business purposes, signs affixed to or painted on vehicles or trailers shall not be used to circumvent this section or this article.
- B. Application. Before any sign for which a permit is required by this section is erected, there shall be submitted an application to the Village Board (the form for which is to be provided by the Village Board), which must include the written consent of the owner of the land upon which the sign is to be located that permission has been so granted, a scale drawing of the proposed sign indicating its location on the premises (a site plan) and its relationship to other structures and property lines, a computation of the display area as defined in this article, information about the materials used, illumination, wiring, height above grade, distance from lot lines, any other information reasonably requested from the Village Board or the Plan Commission, and the applicable fee for the sign permit, which shall be established by the Village Board and on file in the Village Clerk-Treasurer's office.  
[Amended 11-3-2014]
- C. Permit issuance procedures and sign design review. If the application is complete and the sign conforms to all requirements of this article, the following action shall be taken:
  - (1) If the sign is equal to or less than 32 square feet in display surface area, the Village Board shall issue a permit.  
[Amended 11-3-2014]

- (2) If the sign is larger than 32 square feet in display surface area, the sign permit application shall be reviewed by the Plan Commission.
- (3) The Village Board shall attend the applicable portions of all meetings of the Village and submit its comments or any applicable evidence, as such relate to each application, for the Commission's consideration and decision in accordance with this article.  
[Amended 11-3-2014]

- (4) The Plan Commission shall review all applications within 30 days of submittal of the application to the Commission from the Village Board. The Commission shall review the applications and apply the established permit issuance factors and sign design review guidelines prescribed in Subsections **D** and **E** below. If the Commission cannot act to approve, deny or to agree with the applicant to extend the time within the thirty-day review period, the permit shall be deemed to have been approved, and the Village Board shall issue the permit if the application otherwise conforms to the requirements of this article.  
[Amended 11-3-2014]

D. Permit issuance factors. In reviewing a sign permit application, the Village Board and/or Plan Commission may consider the following factors in deciding whether or not to grant the issuance of a sign permit (see also Subsection **E** below):  
[Amended 11-3-2014]

- (1) Whether the sign is designed, installed and maintained to promote the surrounding environment desired by the general public, pursuant to the objectives of proper design and zoning criteria.
- (2) Whether the sign is designed, constructed, installed or maintained in such a manner that it does not endanger public safety or traffic safety.
- (3) Whether the sign is legible and visible in the circumstances in which it is to be used.
- (4) Whether the sign, including size, height, illumination and location, is respectful of reasonable rights of other advertisers whose messages are displayed in the area.
- (5) Whether the sign is in compliance with the provisions of this article.
- (6) Whether the sign is in compliance with the provisions of the Village of Neshkoro Code or applicable county, state or federal laws, ordinances and regulations, including, but not limited to, laws, ordinances and regulations relating to traffic safety, traffic visibility setbacks, and zoning.

E. Sign design review guidelines. In addition to the criteria established in Subsection **D** above, the following sign design review guidelines shall be used by the Plan Commission in acting on sign permit applications and by the Board of Appeals in acting on appeals, variance or special exception permit requests:

- (1) Any signage affixed to a building should be dimensioned and located in such a manner that it fits the building's architectural features and proportions.
- (2) All signs should be designed to fit the zoning status and character of the surrounding area. Special consideration should be made where proposed signage is located on or adjacent to locally identified historic structures or publicly owned recreation and conservancy areas. Signage in special planning areas, such as the downtown, will be required to conform to the planned dominant architectural theme of the area. Signage in or abutting residential properties should be designed and located so as not to create a residential nuisance.
- (3) As a general guideline and where feasible, ground-mounted, freestanding signs larger than six square feet shall be located at least 100 feet apart.
- (4) Signs illuminated by floodlight or spotlights must be positioned in such a manner that none of the light spills over onto an adjoining property or glares or shines into the eyes of motorists or

pedestrians and may not exceed three footcandles at the lot line.

- (5) As a general guideline, the number of colors and materials should be kept to a minimum.
  - (6) Landscape features will be encouraged as part of all ground-mounted, freestanding signs. Landscape plantings or other landscape materials will not be counted as part of the allowable signage area.
- F. Time period for permit issuance or referral for review by applicable commission. All sign permit applications shall be reviewed by the Village Board, which shall deny or grant such applications or refer the application to the Plan Commission within 10 business days of receipt of the completed application and payment of the fee. If the sign meets the requirements of this article, all other ordinances of the Village, and the approval of the Plan Commission if required as established herein, the Village Board shall issue a permit therefor.  
[Amended 11-3-2014]
- G. Written reasons for denial required. If the sign permit is denied by the Village Board or Plan Commission, a written notice of the denial shall, within five days, be provided to the applicant, together with a brief written statement of the reasons for the denial.  
[Amended 11-3-2014]
- H. Permit not defense for unlawful sign nor acceptance of liability to Village. No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign, nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign. Further, acceptance of fees for a sign permit hereunder shall not be deemed an assumption of any liability by the Village, and the owner of any building or structure upon which a sign is erected shall be liable for any damages and injuries that may be caused to person or property by the erection of such sign.
- I. Inspection. The applicant shall, upon completion of the installation, relocation or alteration of the sign, notify the Village Board, a designee of which may enter the premises to inspect whether the sign complies with the regulations of this article.  
[Amended 11-3-2014]
- J. Appeals. Any decision of the Village Board or Plan Commission under this article may be appealed to the Board of Appeals. A request for an appeals hearing shall be made in writing to the Village Board within 30 days of the date of permit denial.  
[Amended 11-3-2014]
- K. Majority vote required for Board of Appeals. A majority vote of the Board of Appeals is required to modify the earlier determination of the Village Board or Plan Commission.  
[Amended 11-3-2014]
- L. Permit revocations. A sign permit may be revoked by the Village Board in the event that the applicant has failed to comply with the provisions of these regulations or any conditions that may have accompanied the permit at the time of granting.  
[Amended 11-3-2014]
- M. Appeal of revocation. The holder of a revoked sign permit may appeal such revocation action to the Board of Appeals. A request for an appeals hearing shall be made in writing to the Village Board within 30 days of the date of the original permit revocation.  
[Amended 11-3-2014]
- N. Removal after revocation of permit. Upon any permit revocation or failure to prevail before the Board of Appeals, the sign(s) subject to such revoked permits shall be removed by the licensee within 30 days of such revocation, unless the sign is causing an imminent threat to public safety, whereby the sign shall be immediately removed.
- O. Revocation not cause for reimbursement of fees. Revocation shall not give cause to a right of total or partial reimbursement of license fees paid.

- P. Criteria for Board of Appeals decisions. The Board of Appeals may authorize, upon appeal, in specific cases, issuance of a sign permit when such decision will not be contrary to the public interest, where owing to special conditions a literal enforcement of this article will result in unnecessary hardship and so that the spirit of the Sign Ordinance shall be observed and substantial justice done. No Board of Appeals decision shall have the effect of allowing in any district a sign or permit standards significantly lower than those required by state law or this article. [Amended 10-4-2010]
- Q. Stay pending appeal. An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Village Board certifies to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in its opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Appeals or by a court of record on application, on notice to the Village Board and on due cause shown. [Amended 11-3-2014]
- R. Time periods for sign construction. Any sign permit issued by the Village Board shall be null and void and automatically revoked in the event that construction, installation or manufacture of the sign has not been commenced within 180 days from the date of the issuance of such permit. If work authorized by such permit is suspended or abandoned for a period of 30 days any time after the work is commenced, the original permit shall become null and void. A new permit shall first be obtained to complete the work, and a new permit fee shall be required. [Amended 11-3-2014]
- S. Change in sign user or premises owner. Whenever there is a change in the sign user or owner of the subject premises on which the sign is located, the new sign user or new premises owner shall forthwith notify the Village Board of the change. [Amended 11-3-2014]
- (1) The design and information contained within the display surface area of the sign may be changed without the need for a new permit, unless:
- (a) The sign is to be structurally altered in any way, except for routine maintenance and repair.
  - (b) The sign is expanded, moved or relocated on the same premises.
  - (c) The number of colors in the sign display is increased.
  - (d) The types of materials utilized in the sign construction are changed.
  - (e) There is a change in use of the subject premises.
  - (f) The sign was previously an abandoned/obsolete sign.
  - (g) The sign is out of compliance with this article, unless the sign is a legal nonconforming sign.
- (2) If there is no need for a new permit, the previous permit, if any, shall be immediately assigned to the new user or premises owner, as applicable, as reflected in the Village Board's records. [Amended 11-3-2014]

## § 500-58. Exemptions.

The following signs are exempt from the provisions of this article and require no sign permit:

- A. Public informational signs, historical markers, notices, traffic signs or signals, street signs or railroad signs or any other safety-related signs placed by a utility or any unit of government.
- B. Any sign placed by an authorized governmental entity or agency.

- C. Religious (such as Christmas or Hanukkah) or other seasonal decorations with no commercial message.
- D. Any public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance.
- E. Interior signs not visible from the exterior, and other signs not visible by the public.

## § 500-59. Exemptions from a sign permit only.

The following types of signs shall be permitted without a sign permit, subject to all general requirements for location, size, number and the like as specified herein and subject to all Village and state building code requirements and electrical code requirements if illuminated:

- A. All signs set forth under § **500-58** above.
- B. Address numbers.
- C. Residential nameplates.
- D. Real estate signs.
- E. Construction signs.
- F. The flag or insignia, not exceeding 200 square feet, of any government, religious or fraternal organization.
- G. Yard cards.
- H. Historical markers.
- I. Building memorial signs.
- J. Building markers.
- K. Political signs.
- L. Crop/seed identification signs.
- M. Bulletin signs.
- N. Incidental signs.
- O. Garage/yard sale signs.
- P. Special event signs.

## § 500-60. Signs prohibited.

The following types of signs are not permitted in any district:

- A. Signs which create a hazard or a dangerous distraction or obstruction to vehicular traffic or are a nuisance to adjoining residential property.
- B. Signs which unreasonably block the view by the public of preexisting signs on adjacent or neighboring properties.
- C. Signs which resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices, or signs which obstruct or interfere with the effectiveness of such devices.

- D. Flashing signs, including running marquees, except which provide public, noncommercial information such as the time, date, temperature, news and investment information.
- E. Signs which obstruct or interfere with traffic visibility.
- F. Signs lighted in such a way as to cause glare or impair driver visibility upon public rights-of-way.
- G. Rotating, alternating, swinging signs or devices, and any sign, device or part of such sign or device which changes physical position by movement or gives the illusion of such change of physical position, except such signs which provide public, noncommercial information such as the time, date, temperature, news and investment information.
- H. Signs, or any part thereof (including sign anchors, braces or guide rods), which are attached, fastened or anchored to any fire escape, fire ladder or standpipe.
- I. Signs, or any part thereof (including sign anchors, braces or guide rods), erected, relocated or maintained so as to hinder or prevent ingress and egress from public or private driveways, parking lots or fire escapes or through a door, doorway or window or other opening intended to provide light, air, ingress or egress for any building as required by law. This section shall not prohibit the temporary closure of and signing of public or private drives for the purpose of preventing trespassing.
- J. Signs which hinder or prevent pedestrian traffic on a sidewalk or so as to hinder or prevent the raising or placing of ladders against the building by the fire department as necessity therefor may require.
- K. Off-premises signs, except for off-premises directional signs subject to Wisconsin Department of Transportation and other necessary state or federal approval as such relates to off-premises directional signs placed on state or federal highways.

## § 500-61. General requirements.

- A. All signs not exempted under § **500-58** above shall comply with the following requirements, unless otherwise stated in another section of this Code.
  - (1) Abandoned/obsolete signs. Abandoned/obsolete signs shall be required to be immediately removed.
  - (2) Beacons. Beacons may be utilized only temporarily for special events and shall be placed not more than one hour before the special event commences and must be removed not more than one hour after the special event is complete. Further, beacons may not be utilized on the same lot more than 14 days in any twelve-month period. There shall be no more than two beacons on one lot at any given time.
  - (3) Bulletin signs. Bulletin signs shall have a display surface area not exceeding eight square feet, shall not be illuminated, and there shall be no more than one bulletin sign per lot.
  - (4) Canopy signs. Canopy signs shall be located on the premises being served and shall only display the owner's name or business name. The display surface area of one canopy sign shall not occupy more than 30% of the vertical face area of such canopy. No canopy shall be less than 10 feet in height from the grade below the sign. No sign shall be installed directly above or below the canopy.
  - (5) Construction signs. Construction signs shall not be illuminated. Each lot may have one construction sign which shall not exceed eight square feet in display surface area for single- and two-family residence construction and 32 square feet in display surface area for multiple-family residence and nonresidence construction. Further, each lot may have up to four additional construction signs which shall not exceed four square feet in display surface area for all types of construction. All construction signs shall be removed not more than 10 days

after construction is complete. There shall be no more than five construction signs on a lot. In addition to the owner and/or tenant, the general contractor for the construction site shall be responsible for compliance with this provision.

- (6) Crop/seed identification signs. Crop/seed identification signs shall be limited to four square feet in display surface area each.
- (7) Defacing property and unauthorized signage. No person, firm or corporation shall post or otherwise fasten any paper or other material, paint, stencil or write any number, sign, name or any disfiguring mark on any public sidewalk, curb, gutter, street, post, pole or tree, nor shall any of said objects be defaced in any manner, unless sanctioned by the provisions of this article or other provisions of the Village Code or by the Village Building Inspector in carrying out the provisions of this article or any public work or construction.
- (8) Extension above buildings. No sign shall extend above the high point or peak of the roof, wall or parapet of the building or structure to which it is attached, except for roof signs and/or projecting signs, which may extend up to, but not more than, five feet above such high point or peak of the roof, wall or parapet of the building or structure to which it is attached.
- (9) Externally illuminated signs. Externally illuminated signs, including floodlighting, shall illuminate only the immediate area of the sign, concentrating light upon the sign without radiating light upon adjacent public or private property as to interfere with the comfort and repose of those residing in the neighborhood dwellings or constituting a traffic hazard or detriment to traffic safety.
- (10) Freestanding area identification and joint identification sign number limitation. The number of cumulative freestanding area identification signs and freestanding joint identification signs shall be determined according to the following formula, but in no case shall exceed the number of public highway entrances to an applicable residential subdivision, apartment complex, industrial park, business park or shopping center.

**Size of Premises**

(containing residential subdivision, apartment complex, industrial park, business park or shopping center)

	<b>Number of Signs Allowed</b>
Less than 1 acre	1
1 acre up to 4 acres	2
Larger than 4-acre lot	2, plus 1 additional sign for each additional 4 acres of lot area, or portion thereof.

- (11) Freestanding sign number limitations. Excluding temporary freestanding signs with a display surface area of eight square feet or less, freestanding area identification signs and freestanding joint identification signs, the number of freestanding signs allowed on a lot shall be determined according to the following formula:

<b>Lot Size</b>	<b>Number of Signs Allowed</b>
Less than 1 acre	1
1 acre up to 4 acres	2
Larger than 4-acre lot	2, plus – only if the parcel abuts on more than 2 highways – 1 additional sign for each additional 4 acres of lot area, or portion thereof.

- (12) Freestanding sign size limitations and setbacks. Any individual display surface of a freestanding sign shall not exceed 150 square feet, and the total vertical height including structural supports shall not exceed 18 feet with all measurements being measured from the adjacent grade, and if the sign is placed above a public right-of-way or public or private

sidewalk, driveway or parking lot, the bottom of the sign shall be no less than 10 feet above the grade below. Except for temporary signs with a display surface area of eight square feet or less, freestanding signs shall be set back from side and rear lot lines at least 10 feet and shall not be subject to a front lot line setback requirement, unless greater setbacks are required for signs located near state or federal highways under federal or state laws or regulations. Except for temporary signs with a display surface area of eight square feet or less, no freestanding sign may be installed within 50 feet of the intersection of two or more local highways, nor within 500 feet of the intersection of two or more state or federal highways, unless a greater setback is required for state or federal highways under federal or state laws or regulations. Temporary freestanding signs with a display surface area of eight square feet or less shall be set back from the side and rear lot lines at least six feet and shall not be subject to a front lot line setback requirement, unless greater setbacks are required for signs located near state or federal highways under federal or state laws or regulations.

- (13) Garage/yard sale signs. Garage/yard sale signs shall be placed no earlier than three days before the sale and no later than one day following the sale. Garage/yard sale signs shall not be illuminated and shall not exceed eight square feet in display surface area. There shall be no more than one garage/yard sale sign on a lot. Further, there may not be placed more than four additional garage/yard sale off-premises directional signs throughout the Village for the same garage or yard sale.
- (14) Gross display surface area limitations for signs fastened to buildings. With the exception of temporary signs with a display surface area of eight square feet or less and roof signs, the total gross sign display surface area of any signs fastened to one side or face of a building or structure shall not exceed  $\frac{1}{5}$  of the total square foot area of the face of the building on which they are placed. The total gross sign display surface area of roof signs shall not exceed  $\frac{1}{10}$  of the total square foot area of the face of the roof side on which they are placed and in no case shall be more than 100 square feet. On lots of one acre or less where the building or structure area is less than 20% of the lot area, the allowed gross sign display surface area per lot shall be determined by the Building Inspector or the Plan Commission. In no case shall the gross sign display surface area for all signs attached to all buildings on one lot exceed 150 square feet.
- (15) Home occupation signs. Home occupation signs shall have a display surface area not exceeding four square feet, shall be limited to the name of the home occupation and a logo, and shall not be illuminated. There shall be no more than one home occupation sign per lot. Home occupation signs shall not be projecting signs, roof signs, canopy signs, marquee signs, banners or pennants. Home occupation signs may not utilize flags, balloons, streamers or other similar media in their display. Freestanding home occupation signs shall not be higher than six feet above grade.
- (16) Incidental signs. Individual incidental signs shall not exceed eight square feet in display surface area but may be unlimited in number.
- (17) Internally illuminated signs. Internally illuminated signs shall illuminate only the immediate area of the sign, concentrating light within the sign without radiating light upon adjacent public or private property so as to interfere with the comfort and repose of those residing in the neighboring dwellings or constituting a traffic hazard or detriment to traffic safety.
- (18) Marquee signs. Marquee signs may be placed on marquees only if the marquee does not project more than eight feet, measured at a right angle from the building to which it is attached, the sign is at least 10 feet above grade below the sign, and the sign does not extend more than three feet above or one foot below the marquee.
- (19) Neon light or gas illuminated signs. Neon light or gas illuminated signs shall be viewable only through a window in a building, and the display surface area of the sign shall not exceed  $\frac{1}{2}$  of the viewable area of the window.
- (20) New development signs. New development signs shall not exceed 20 square feet in display surface area, shall be removed no later than two years after the initial placement, and shall

not be illuminated.

- (21) Off-premises directional signs. Off-premises directional signs shall not exceed eight square feet in display surface area and shall include only the business or location name and/or logo(s), as well as applicable directional information. There shall be no more than two off-premises directional signs on one lot at any given time. However, this limitation on the number of signs per lot shall not apply to off-premises directional signs directing viewers to a business located within a designated public works construction area.
- (22) Open house signs. Open house signs shall not be illuminated and shall not exceed eight square feet in display surface area for single- and two-family residences and 32 square feet in display surface area for multiple-family residences and nonresidences and shall only be displayed for a period from 8:00 a.m. to 8:00 p.m. on the day of the open house. There shall be no more than two open house signs on a lot. Further, no more than four off-premises directional open house signs may be placed within the Village limits for any one parcel of real estate. In addition to the owner and/or tenant, the principal broker and/or real estate company, if applicable, shall be responsible for compliance with this provision.
- (23) Political signs.
  - (a) Political signs shall be subject to the same regulations as temporary signs described in Subsection **A(29)** below, except there shall be no time limit on the placement of political signs on private property.
  - (b) Portable political signs shall be allowed on Village property or highways, only if directly held or supported by a person for purposes of demonstrating or exercising free speech rights, and so long as such demonstration is otherwise in compliance with all other federal, state and local laws, ordinances and regulations.
- (24) Projecting signs. No part of any projecting sign shall be less than 10 feet above the grade below and shall not project out from a structure more than 30 inches, measured at a right angle from the structure to which the sign is attached. Projecting signs shall be allowed to project into a Village right-of-way, so long as the sign is designed, constructed, installed and maintained in such a manner that it does not endanger public safety or traffic safety and does not block the view by the public of signs on adjacent or neighboring properties.
- (25) Real estate signs. Real estate signs shall not be illuminated and shall not exceed eight square feet in display surface area for single- and two-family residences and 32 square feet in display surface area for multiple-family residences and nonresidences and shall be removed not more than 10 days after a transaction is complete. Except for open house signs, there shall be no more than two real estate signs on a lot. In addition to the owner and/or tenant, the principal broker and/or real estate company, if applicable, shall be responsible for compliance with this provision.
- (26) Signs must face highway, public parking lot, driveway, river or navigable waterway. All signs, whether attached to or detached from a building or structure, shall be located only on those sides of a building or structure which face on a highway, public parking lot or driveway, or river or other public navigable waterway.
- (27) Skeleton cutout letter signs. Skeleton cutout letter signs shall be located on the building or structure being served and shall only be permitted on the cornice, lintel, window or panel of the building or structure.
- (28) Special event signs. Special event signs shall be removed no later than 48 hours after the event to which they apply has ended. Special event signs shall not be illuminated and shall not exceed 32 square feet in display surface area.
- (29) Temporary signs. Except for real estate, construction and political signs, temporary signs shall be displayed not more than 60 days in a twelve-month period. There shall be no more than 10 temporary signs of any kind on a lot, excluding temporary signs which exceed eight square

feet in display surface area, which are regulated under Subsection **A(11)** and **(14)** above. No temporary sign of any kind shall be erected in any street right-of-way or less than six feet from a side or rear lot line.

(30) Vision setback lines. Vision setback lines at public sidewalk rights-of-way or at the intersections of highways and public or private driveways shall not be less than 10 feet unless otherwise specifically stated in this article.

(31) Wall sign extension beyond buildings. No wall sign shall extend beyond the building to which it is attached more than 12 inches. Further, if such extension is more than three inches beyond the building to which the wall sign is attached and is above a public right-of-way or public or private sidewalk, driveway or parking lot, the bottom of the sign shall be no less than 10 feet above the grade below.

(32) Yard cards. A yard card must be removed no later than two days after initial placement of the yard card, and may not be illuminated. In addition to the owner and/or tenant, the retailer or business who placed the sign, if applicable, shall be responsible for compliance with this provision.

## § 500-62. Signs allowed in all districts.

The following signs shall be allowed in all zoning districts.

- A. Temporary signs, including real estate, political, construction signs and banners, yard cards, decorative-type displays or anything similar to the aforementioned, but excluding other temporary signs displaying a commercial message.
- B. Address numbers.
- C. The flag or insignia of any government, religious or fraternal organization.
- D. Yard cards.
- E. Historical markers.
- F. Building memorial signs.
- G. Building markers.
- H. Bulletin signs.
- I. Special event signs.
- J. Incidental signs.<sup>[1]</sup>

[1] *Editor's Note: Original subsection (k), Political signs, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 500-63. Signs allowed in business and manufacturing districts.

The following signs shall be allowed in business and manufacturing districts.

- A. All signs allowed under § **500-62** above.
- B. All other types of signs not prohibited under § **500-60** above, subject to the following regulations and prohibitions, which may further restrict or expand the general sign requirements listed under § **500-61** above.
  - (1) Signs for businesses located above the first floor level, in the B-1 Downtown Business District only, shall be prohibited, except for area identification signs, joint identification signs and

business or professional nameplates located inside of windows or which are painted upon windows (such as skeleton cutout letter signs) above the first floor level of any building or structure side facing a highway or public parking lot or driveway, and which has a display surface of 50% or less of the window area.

- (2) The use of banners, pennants, flags, balloons, streamers or other similar media for advertising shall be prohibited except for special promotions lasting not more than 14 days.
- (3) Garage/yard sale signs shall be prohibited.

## § 500-64. Signs allowed in residential districts.

Except as stated in Subsection H(8) below, illuminated signs shall be prohibited in residential districts. Only the following signs shall be allowed in residential districts:

- A. All signs allowed under § **500-62** above.
- B. Residential nameplates.
- C. Home occupation signs.
- D. New development signs.
- E. Area identification and joint identification signs.
- F. Private garage/yard sale signs.
- G. Crop/seed identification signs if crops are currently planted on the property.
- H. Signs placed in conjunction with and on the same lot as a permitted business in a residential district (i.e., churches, hospitals, clinics, day-care centers, etc.) (excluding home occupations), subject to the general requirements as set forth in § **500-61** above for the applicable type of sign(s) utilized, as if the business was located in a business or manufacturing district, except as follows:
  - (1) The total gross sign display surface area of any signs fastened to one side or face of a building or structure shall not exceed 1/10 of the total square foot area of the face of the building on which they are placed. On lots of one acre or less where the building or structure area is less than 20% of the lot area, the allowed gross sign display surface area per lot shall be determined by the Building Inspector or Plan Commission, as applicable. However, in no case shall the gross sign display surface area for all signs attached to all buildings on one lot exceed 100 square feet for lots up to four acres, and 150 square feet for lots of four acres or more.
  - (2) No sign shall extend above the high point or peak of the roof, wall or parapet of the building or structure to which it is attached.
  - (3) Roof signs are prohibited.
  - (4) No wall sign shall extend beyond the building to which it is attached.
  - (5) Projecting signs are prohibited.
  - (6) Any individual display surface of a freestanding sign shall not exceed 50 square feet and the total vertical height including structural supports shall not exceed 10 feet with all measurements being measured from the adjacent grade.
  - (7) Excluding freestanding area identification signs and freestanding joint identification signs, the number of freestanding signs shall be limited to one for lots up to four acres and two for lots of four acres or more.

- (8) Illuminated and neon light or gas illuminated signs are prohibited, except signs illuminated by floodlight or spotlight shall be allowed under a special exception permit granted by the Board of Appeals.
- (9) Business- or commercial-related temporary signs, banners, pennants, flags, balloons, streamers or other similar media for advertising may be utilized only for special events and shall be placed not more than one hour before the special event commences and must be removed not more than one hour after the special event is complete. Further, these types of signs may not be utilized on the same lot more than 14 days total in any twelve-month period.

## § 500-65. Signs allowed in agricultural districts.

Only the following signs shall be allowed in agriculture districts.

- A. All signs allowed under § **500-62** above.
- B. All other types of signs not prohibited under § **500-60** above, subject to the following regulations and prohibitions, which may further restrict or expand the general sign requirements listed under § **500-61** above.
  - (1) The gross sign display surface area for all signs attached to all buildings on one lot shall not exceed 150 square feet for lots up to four acres and 300 square feet for lots of four acres or more.
  - (2) Projecting signs shall not be subject to any specific height restrictions, except for general structural height limitations for the applicable zoning district, and may project out from a structure not more than 36 inches, measured at a right angle from the structure to which the sign is attached.
  - (3) Any individual display surface of a freestanding sign shall not exceed 100 square feet and the total vertical height including structural supports shall not exceed 20 feet with measurement being measured from the adjacent grade.
  - (4) Illuminated and neon light or gas illuminated signs are prohibited, except signs illuminated by floodlight or spotlight shall be allowed under a special exception permit granted by the Board of Appeals.

## § 500-66. Signs allowed in conservancy districts.

Except as stated in Subsection E(8) below, illuminated signs shall be prohibited in a conservancy district. Only the following signs shall be allowed in conservancy districts:

- A. All signs allowed under § **500-62** above.
- B. New development signs, either as part of a conditional use permit for the principal use or under a separate conditional use permit if the principal use is a permitted or legal nonconforming use.
- C. Area identification and joint identification signs, either as part of a conditional use permit for the principal use or under a separate conditional use permit if the principal use is a permitted or legal nonconforming use.
- D. Crop/seed identification signs if crops are currently planted on the property, either as part of a conditional use permit for the principal use or under a separate conditional use permit if the principal use is a permitted or legal nonconforming use.
- E. Either as part of a conditional use permit for the principal use or under a separate conditional use permit if the principal use is a permitted or legal nonconforming use, signs placed in conjunction with and on the same lot as a permitted, conditional or legal nonconforming business in a

conservancy district (i.e., animal hospitals, shelters, kennels, etc.), subject to the general requirements as set forth in § 500-60 above for the applicable type of sign(s) utilized, as if the business was located in a business or manufacturing district, except as follows:

- (1) The total gross sign display surface area of any signs fastened to one side or face of a building or structure shall not exceed 1/10 of the total square foot area of the face of the building on which they are placed. On lots of one acre or less where the building or structure area is less than 20% of the lot area, the allowed gross sign display surface area per lot shall be determined by the Building Inspector or Plan Commission, as applicable. However, in no case shall the gross sign display surface area for all signs attached to all buildings on one lot exceed 100 square feet for lots up to four acres and 150 square feet for lots of four acres or more.
- (2) No sign shall extend above the high point or peak of the roof, wall or parapet of the building or structure to which it is attached.
- (3) Roof signs are prohibited.
- (4) No wall sign shall extend beyond the building to which it is attached.
- (5) Projecting signs are prohibited.
- (6) Any individual display surface of a freestanding sign shall not exceed 50 square feet and the total vertical height including structural supports shall not exceed 10 feet with all measurements being measured from the adjacent grade.
- (7) Excluding freestanding area identification signs and freestanding joint identification signs, the number of freestanding signs shall be limited to one for lots up to four acres and two for lots of four acres or more.
- (8) Illuminated and neon light or gas illuminated signs are prohibited, except signs illuminated by floodlight or spotlight shall be allowed under a special exception permit granted by the Board of Appeals.
- (9) Business- or commercial-related temporary signs, banners, pennants, flags, balloons, streamers or other similar media for advertising may be utilized only for special events and shall be placed not more than one hour before the special event commences and must be removed not more than one hour after the special event is complete. Further, these types of signs may not be utilized on the same lot more than 14 days total in any twelve-month period.

## § 500-67. Construction and maintenance of signs.

- A. Wind pressures and deadload requirements. Except for temporary signs, all signs shall be designed and constructed to withstand wind pressure of not less than 40 pounds per square foot of display surface area and shall be constructed to receive deadloads as required in Village or state building codes or other laws, regulations or ordinances.
- B. Maintenance and safety. The person responsible for any sign shall keep such sign in good maintenance and repair, which includes restoring, repainting or replacement of a worn or damaged legally existing sign to its original condition, and shall maintain the premises on which the sign is erected in a clear, sanitary and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds and tall grass.
- C. Supporting members or braces. The supporting members or braces of all signs shall be constructed of galvanized iron, properly treated wood, steel, copper, brass or other noncorrosive material. All signs requiring attachment to a building or other structure shall be attached by such noncorrosive metal bolts, anchors, cable or other metal attachments as shall ensure permanent and safe construction and shall be maintained free from rust or other defects. Unless otherwise authorized by the Building Inspector, every means of device used for attaching any sign to a

building or structure shall extend through the walls or roof of the building or structure and shall be securely anchored by wall plates or nuts to the inside of the walls or bearing on the underside of two or more roof or ceiling joists in accordance with instructions given by the Building Inspector.

- D. Authority of Building Inspector. The Building Inspector shall, upon 30 days' written notice sent by certified mail to all persons responsible for compliance, have the authority to repair a sign not in compliance with this article, have it removed or otherwise bring the sign into compliance with this article. However, if the sign creates an immediate threat to the safety of the public, the Building Inspector may forego the thirty-day notice requirement above. The costs incurred by the Village for said repairs, removal or other activities shall be an obligation of the persons responsible for compliance. Any sign and all structural supports which are removed shall be retained by the Village for no longer than 30 days after removal and, if not claimed by the owner, shall be disposed of by the Village in any manner authorized by law. Further, the Village shall retain a lien in the removed sign and structural supports to secure the obligation of the responsible persons for payment of removal and storage costs. The Village may also, in its sole discretion, add any costs incurred by the Village hereunder as a special charge to the real estate tax bill for the applicable property pursuant to § 66.0627, Wis. Stats., as applicable.

## § 500-68. Nonconforming signs.

- A. Any sign located in the Village on the date of adoption or amendment of this article, or located in an area annexed to the Village hereafter, which does not conform with the provisions of this article, is a nonconforming sign and may be continued, except as provided below:<sup>[1]</sup>

- (1) The sign may not be structurally altered in any way except for normal maintenance and repair.
- (2) The sign may not be expanded, moved or relocated on the same premises.
- (3) The number of colors in the sign display may not be increased.
- (4) The types of materials utilized in the sign construction may not be changed.
- (5) The sign may not be reestablished after a change in use.
- (6) The sign may not be reestablished after it becomes an abandoned/obsolete sign.
- (7) The sign may not be out of compliance with § 500-67 herein.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. An otherwise legal nonconforming sign to which any of the above actions in Subsection **A** occur shall be immediately deemed an illegal nonconforming sign and be subject to immediate removal. The Building Inspector shall send all persons responsible for compliance an order demanding the sign be removed or that the person obtain a valid permit for the new sign, subject to all requirements of this article. If the persons responsible for compliance fail to remove the illegal nonconforming sign or obtain a valid sign permit for the sign hereunder within 30 days after receiving such order from the Building Inspector, the Building Inspector shall have the authority to remove the illegal nonconforming sign. The costs incurred by the Village for said removal shall be an obligation of the persons responsible for compliance. Any sign and the structural supports so removed shall be retained by the Village for no longer than 30 days after removal and, if not claimed by the owner, shall be disposed of by the Village in any manner authorized by law. Further, the Village shall retain a lien in the removed sign and structural supports to secure the obligation of the responsible persons for payment of removal and storage costs. The Village may also, in its sole discretion, add such removal and storage costs as a special charge to the real estate tax bill for the applicable property pursuant to § 66.0627, Wis. Stats., as applicable.
- C. The design and information contained within the display surface area of a legal nonconforming sign may be altered, such as for a new business name or logo, without making the sign an illegal nonconforming sign so long as none of the actions listed in Subsection **A** occur.

- D. Nonconforming signs shall be included for purposes of all calculations necessary to determine gross square footage or number of signs for the purposes of permitting the construction or erection of new signs.

## § 500-69. Action against violators.

In the case of any violation of any provision of this article, the Plan Commission, Village Board, the Building Inspector, the Zoning Administrator, or any other law enforcement officer may institute appropriate action or proceeding to enjoin violation of this article. Further, for sign permit applicants who begin to erect, improperly alter, or complete the erection or construction of any sign requiring a permit hereunder without a permit, the fee for an after-the-fact sign permit for said applicant for the applicable sign shall be double the normal sign permit fee.

## § 500-70. Violations and penalties.

Any person, firm or corporation who fails to comply with any provision of this article shall, upon conviction thereof, be subject to the general penalty provisions in § 1-4 of the Code. Each day a violation exists or continues shall constitute a separate offense.

## Article VIII. Performance Standards

### § 500-71. Intent.

It is the intent of this article to use performance standards for the regulation of uses to facilitate a more objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects. This chapter permits specific uses in specific districts and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. No structure, land or water shall hereafter be used except in compliance with the district regulations and with the following environmental performance standards.

### § 500-72. Noise.

The volume, intensity and/or frequency of sound generated by a permitted use shall comply with the following standards:

- A. Objectionable sounds of an intermittent nature shall be controlled, muffled or otherwise abated so as to not be a nuisance to adjacent uses.
- B. The volume of sound inherently, consistently and/or recurrently generated by a permitted business or manufacturing use, as measured by a sound level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association, shall not exceed the values set forth in the following tables:

<b>Frequency Range (cycles/second)</b>	<b>Table-A Sound Level (decibels)</b>	<b>Table-B Sound Level (decibels)</b>
0 to 74	72	79
75 to 149	67	74
150 to 299	59	66
300 to 599	52	59
600 to 1,199	46	53

<b>Frequency Range (cycles/second)</b>	<b>Table-A Sound Level (decibels)</b>	<b>Table-B Sound Level (decibels)</b>
1,200 to 2,399	40	47
2,400 to 4,799	34	41
4,800 and above	32	39

Table A shall apply to any sound measured at any point in a residential district; any nighttime sound occurring between 10:00 p.m. and 6:00 a.m.; any sound of impulsive character, e.g., hammering; or any sound of periodic character, e.g., hum or screech.

Table B shall apply to all other sounds generated by a business or manufacturing use as measured at the zoning district Boundaries.

## § 500-73. Vibration.

- A. 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 normal 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.
- B. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

## § 500-74. Glare and heat.

No unsanctioned activity shall emit glare or heat that is visible or measurable outside its premises, except activities in the manufacturing district which may emit direct or sky-reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

## § 500-75. Odor.

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor, as determined under § NR 429.03(2), Wis. Adm. Code.

## § 500-76. Fire and explosive hazards.

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

## § 500-77. Air pollution.

- A. No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chs. NR 401 through 499,

Wis. Adm. Code.

- B. No activity or operation shall be established or maintained which by reason of its nature causes emission of any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or property. In no case shall any activity emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas, nor any color visible smoke equal to or darker than No. 2 on the Ringelmann Chart described in the United States Bureau of Mines Information Circular 7718 in any manufacturing district.

## § 500-78. Hazardous pollutants.

- A. Pollutants. No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Chs. NR 401 through 499, Wis. Adm. Code.
- B. Liquid or solid wastes. No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute or harm the quantity or quality of any water supply; can cause the emission of dangerous or offensive elements; can overload the existing municipal utilities; or can injure or damage persons or property.

## § 500-79. Radioactivity and electrical disturbances.

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

## § 500-80. Refuse.

All waste material, debris, refuse or garbage not disposed of through the public sanitary sewerage system shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.

# Article IX. Signal-Receiving Antennas; Towers

## § 500-81. Signal-receiving antennas.

- A. Purpose. This section regulating the placement of signal-receiving antennas is adopted to:
  - (1) Provide uniform regulation of all signal-receiving antenna devices;
  - (2) Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals;
  - (3) Protect the public from injury from antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the antenna; and
  - (4) Provide for placement of such antennas in locations that preserve access to rear property areas by fire-fighting apparatus and emergency personnel.
- B. Permit required. No owner shall, within the Village of Neshkoro, build, construct, use or place any type of signal-receiving antenna unit a permit shall have first been obtained from the Zoning

Administrator unless excepted under the definition of "signal-receiving antenna" below.

- C. Definitions. For purposes of this section, the following definitions shall have the meanings stated in this subsection:

**OWNER**

The holder of record of an estate in possession in fee simple or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of at least one owner shall be considered an owner.

**SIGNAL-RECEIVING ANTENNA**

Any apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. This definition includes all types of signal-receiving antennas, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHF television antennas, and AM, FM, ham and short-wave radio antennas, regardless of the method of mounting. Small diameter (thirty-six-inch or less) television dish antennas are exempt from the permit requirements of this article.

- D. Application. Application for a signal-receiving antenna permit shall be made in writing to the Zoning Administrator or Village Clerk-Treasurer. With such application, there shall be submitted a fee as determined by the Village Board and a sufficient set of mounting plans and specifications, including a general plot plan showing the location of the proposed signal-receiving antenna with respect to streets, lot lines and buildings.

- (1) Prior to the issuance of a permit for the installation of a satellite television antenna, all owners of property adjoining that of the applicant shall be notified of the application together with copies of any plans or other material filed with the application deemed appropriate. Each property owner shall have 10 days to object to the installation of said antenna.
- (2) If any adjoining property owner objects to the installation of said antenna, no permit shall be issued, and the application, plans and any objection thereto shall be referred to the Board of Appeals under Article **XIV** of this chapter.

- E. Installation standards. Signal-receiving antennas installed in any zoning district within the Village shall comply with the following provisions:

(1) Setbacks.

- (a) Any signal-receiving antenna and its mounting post shall be located a minimum of 15 feet from any property line.
- (b) Subject to the provisions herein, signal-receiving antennas shall only be located in the rear yard of any lot. If reasonable reception of signals is not possible with a rear yard placement due to the physical characteristics of the lot and area, the signal-receiving antenna shall be placed in the side yard of the lot. In the event that reasonable reception of signals is not possible by locating the signal-receiving antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of structures on the property. For corner lots, a side yard is only a yard that does not face a street.
- (c) If side yard, front yard or roof mounting is requested, the Zoning Administrator shall determine where reasonable reception is possible, based on evidence provided by the person seeking to erect or construct the antenna.

- (2) Mounting. Signal-receiving antennas attached to the wall or roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all imposed loading and complies with applicable state and local building code requirements. The Zoning Administrator may require engineering calculations.

- (3) Diameter. The diameter of signal-receiving antenna shall not exceed 10 feet, and six feet for a roof-mounted antenna, except for systems used to provide community antenna television services. Dish-type antennas larger than five feet in diameter shall be of an open mesh design.
  - (4) Height.
    - (a) A ground-mounted signal-receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may not exceed 10 feet in height, as measured from the ground to the highest point of the antenna.
    - (b) A roof-mounted antenna may not exceed eight feet in height above the surrounding roofline as measured from the lowest point of the existing roofline.
  - (5) Wind pressure. All signal-receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of 80 miles per hour.
  - (6) Electrical installations. Electrical installations in connection with signal-receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the signal-receiving antenna to the receivers shall be installed underground unless installation site conditions preclude underground. If a signal-receiving antenna is to be used by two or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All signal-receiving antennas shall be grounded against direct lightning strikes.
  - (7) Temporary placement. No portable or trailer-mounted signal-receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five days. However, such trial placement shall be in accordance with all provisions of this section. Failure to comply shall result in a citation being issued for violation of this section. Any person making such temporary placement shall first give written notice to the Zoning Administrator of the date when such placement shall begin and end.
  - (8) Advertising. No form of advertising or identification, sign or mural is allowed on the signal-receiving antenna other than the customary manufacturer's identification plates.
  - (9) Interference with broadcasting. Signal-receiving antennas shall be filtered and/or shielded so as to prevent the emission or reflection of electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the signal-receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
  - (10) Compliance with federal regulations. The installation and use of every signal-receiving antenna shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder.
  - (11) Aesthetic considerations. Signal-receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.
  - (12) Color. The color of any satellite dish shall be such that it blends into its surroundings and shall be approved by the Zoning Administrator as part of the application.
- F. Variances. Requests for variances from the standards established by this section may be made to the Board of Appeals.
- G. Enforcement.

- (1) It shall be unlawful to construct, use, build or locate any signal-receiving antenna in violation of any provisions of this section. In the event of any violation, the Zoning Administrator, Village Board or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this section.
- (2) Any person, firm or corporation who fails to comply with the provisions of this section shall, upon conviction, be subject to the general penalty found in § 1-4 of the Code.

## Article X. Wireless Telecommunications Facilities

### § 500-82. Purpose.

The purpose of this article is to provide a thorough and consistent set of standards for the siting and installation of wireless telecommunications facilities in the various zoning districts in which they may be allowed and more generally to protect the public health, safety, welfare, aesthetics and natural environment of the Village in such a manner that does not unduly interfere with the placement and construction of said facilities. More specifically, the intent of this article is to:

- A. Mitigate the potential for adverse visual impacts caused by wireless telecommunications facilities through design and siting standards.
- B. Ensure that a business environment characterized by high service quality, competition and nondiscrimination prevails with regard to wireless telecommunications services in a manner consistent with the Federal Telecommunications Act of 1996.
- C. Establish a clear process for obtaining necessary permits for wireless telecommunications facilities that adequately protect the interests of the citizens of the Village while minimizing the burden of compliance to service providers.
- D. Protect environmentally and aesthetically sensitive areas of the Village by restricting the design, height, location and operation of wireless telecommunications facilities in these areas and by promoting their disguise, camouflage, screening or other design treatments intended to minimize their obtrusiveness.
- E. Encourage use of multiple-antenna alternative support structures such as buildings and water towers as an alternative to stand-alone, single-use, single-provider structures, and require good-faith attempts for co-location of facilities.

### § 500-83. Applicability.

The requirements of this article shall apply to all new wireless telecommunications facilities that had not received a building permit prior to adoption of this article. Wireless telecommunications facilities which preexist this article or have been legally permitted prior to its adoption shall not be required to meet the requirements contained herein. This article is not intended to regulate residential satellite dishes that are 36 inches or less in diameter, residential television antennas, or amateur radio facilities. This article shall not be construed as to override additional or more stringent federal or State of Wisconsin requirements, including but not limited to any regulations or restrictions imposed by the State Bureau of Aeronautics, the Federal Communications Commission (FCC), or the Federal Aviation Administration (FAA).

### § 500-84. Areas where allowed.

Article III identifies the zoning districts in which wireless telecommunications facilities may be allowed and what types of facilities are allowed as permitted or conditional uses. In no case shall a wireless telecommunications facility be located in or on districts or sites listed on the State or National Register

of Historic Places, or within environmental corridors, wetlands, floodplains or critical species habitats mapped by the Southeastern Wisconsin Regional Planning Commission, Wisconsin Department of Natural Resources, or through more detailed field surveys.

## § 500-85. Type of approval required.

In zoning districts where they are allowed, the first wireless telecommunications facility to be located on an alternative support structure and all new freestanding wireless communication facilities shall require a conditional use permit and shall meet the standards in this article and Article **IV** to obtain approval. In zoning districts where they are allowed, the second or greater wireless telecommunications facility to be located on an alternative support structure already supporting a wireless telecommunications facility or on a preexisting wireless telecommunications facility shall be allowed as a permitted use, except that any addition or extension to an existing wireless telecommunications facility that adds more than 10 feet to the overall height of the existing facility or alternative support structure shall require a conditional use permit. In zoning districts where wireless telecommunications facilities are allowed, wireless telecommunications support facilities shall be allowed as permitted accessory uses upon the establishment of the principal facility.

## § 500-86. Required application submittal information.

With the application for conditional use permit for a wireless telecommunications facility, the petitioner shall submit all information required under Article **IV**, along with the following additional information:

- A. The identity, legal status, signature and contact information of the carrier, service provider, petitioner and landowner.
- B. FCC license and registration numbers, if applicable.
- C. A report prepared by a Wisconsin-licensed engineer certifying the structural design of the telecommunications facility and its physical ability to accommodate, either initially or at some time in the future, a total of at least three antenna arrays for separate providers.
- D. In the case of a leased site, a lease agreement, option or binding lease instrument which does not preclude the lessee from entering into subleases on the site at market rates with another co-locating provider(s) and includes the legal description and amount of property leased.
- E. For a proposed wireless telecommunications facility within a one-mile radius of an airport, copies of an affidavit of notification indicating that the airport operator and airport property owner have been notified via certified mail, along with copies of the determination of no hazard from the FAA or any other findings of the Wisconsin State Bureau of Aeronautics, such as they may apply.
- F. Proof of a satisfactory level of liability insurance coverage, with the Village of Neshkoro listed as an additional named insured party.
- G. Certified statement and map prepared by a licensed radio frequency engineer showing the coverage area of the proposed facility.
- H. For a wireless telecommunications facility that requires a conditional use permit, a feasibility analysis that identifies at least three alternative sites, preexisting freestanding wireless telecommunications facilities and/or alternative support structures that could technically support a comparable level of service. The intent of this analysis is to present options to minimize the number, size and adverse environmental impacts of wireless telecommunications facilities. The analysis shall specifically address the potential for co-location on preexisting freestanding wireless telecommunications facilities and the use of alternative support structures. It shall also explain the rationale for selection of the proposed site in view of the relative merits of the alternatives. Approval of the project is subject to the Plan Commission's determination that the chosen site is more advantageous than any other alternative site that is both technically feasible and available

for use. The Plan Commission may choose to independently verify the findings of this analysis at the applicant's expense.

- I. For a wireless telecommunications facility that requires a conditional use permit, a performance bond in the amount of \$20,000 naming the Village as obligee, as security for the potential future removal of abandoned or inactivated facilities.
- J. For a wireless telecommunications facility that would be set back from any property line or principal building a distance less than the height of the facility, including the height of any alternative support structure, an analysis prepared by a licensed structural engineer demonstrating that the facility would not pose a threat to the public, existing principal buildings, or adjacent properties in the event of failure.
- K. The amount and location of any fuel proposed to be stored on site.
- L. Any other information that the Zoning Administrator or Village Clerk-Treasurer may deem necessary.

## § 500-87. Co-location and use of alternative support structures.

- A. In its review of alternative sites considered by the petitioner, the Plan Commission shall prioritize reasonable alternatives that involve co-locating the new facility on an existing freestanding wireless telecommunications facility or locating the new facility on an alternative support structure, such as a tall building, water tower, smokestack or electrical transmission tower. Co-location or use of an alternative support structure shall not be required on any facility or structure not structurally designed to accommodate a new wireless telecommunications facility.
- B. All freestanding wireless telecommunications facilities issued a conditional use permit after the effective date of this article, known hereinafter as "host facilities," shall make available space for the co-location of telecommunications antennas or antenna arrays for at least two additional competing wireless telecommunications providers, including space for wireless telecommunications support facilities. This requirement does not apply if the owner or operator of the host facility can demonstrate, to the satisfaction of the Plan Commission, that the placement of the additional antennas or equipment would impair or disrupt, for a significant period of time, the service provided by the host facility.
- C. Where a wireless telecommunications facility provider proposes to utilize an alternative support structure, the provider shall make available space for the co-location of telecommunications antennas or antenna arrays for at least two additional competing wireless telecommunications providers and shall thereafter be considered a host facility. If the Plan Commission determines, based on evidence supplied by the applicant, that the proposed facility or alternative support structure is not structurally sound or not otherwise appropriate for additional antennas or arrays, the Commission may waive this requirement.
- D. All new wireless telecommunications facilities and sites shall be designed to promote sharing of both tower space and ancillary facilities such as access roads, parking areas, buildings and utilities.
- E. The owner or operator of the host facility shall make co-location space reasonably available to other competing providers at prevailing market lease rates for the industry. Failure to comply with this provision shall be grounds for revocation of the conditional use permit.
- F. Alternative support structures must be at least 50 feet in height to be considered for the addition of a wireless telecommunications facility, not including the height of any architectural projections. The Plan Commission may deny the placement of numerous wireless telecommunications facilities on a single alternative support structure if it determines that such placement would have a negative aesthetic, architectural, public safety, or operational impact.

- G. Wireless telecommunications facilities located on alternative support structures shall be considered accessory uses.

## § 500-88. Structural, design and aesthetic standards.

All wireless telecommunications facilities shall be designed and sited in such a manner to minimize or avoid adverse safety, aesthetic or environmental effects per the following requirements:

- A. Compliance with all applicable restrictions. All wireless telecommunications facilities shall comply with all Village, state and federal regulations, restrictions, codes, standards and power density limits, including other Village zoning ordinance standards.
- B. Materials. Wireless telecommunications facilities shall be constructed of metal or other nonflammable material, and freestanding facilities shall be self-supporting monopoles or lattice towers, unless otherwise permitted by the Plan Commission. Material color shall blend with surroundings.
- C. Placement. All wireless telecommunications facilities and support facilities shall be located and installed in such a manner to minimize disturbance to, take advantage of, or locate behind existing topography and vegetation to minimize visual impact on surrounding properties and public rights-of-way. No wireless telecommunications facility shall be placed in a location that would physically obstruct or otherwise interfere with the full use of other wireless telecommunications facilities, residential satellite dishes, residential television or radio antennas, or amateur radio facilities.
- D. Setback. The minimum setback of a new wireless telecommunications facility from all property lines and principal buildings on the site shall equal the height of the wireless telecommunications facility, including the height of any alternative support structure. A setback below this minimum may be considered by the Plan Commission based on submittal of a structural engineering analysis demonstrating that the facility would not pose a threat to the public, existing principal buildings, or adjacent properties in the event of failure. All wireless telecommunications support facilities shall be set back from property lines the same distance as required for principal buildings in the zoning district.
- E. Height. The maximum height above existing grade for any freestanding wireless telecommunications facility, including all antennas, shall be 250 feet. Any wireless telecommunications facility mounted on an alternative support structure may extend no greater than 50 feet above the height of an alternative support structure that is less than 200 feet in height, or no greater than 10 feet above the height of an alternative support structure that is 200 feet in height or greater. The Plan Commission may approve waivers to such height limitations if necessary to facilitate co-location of facilities.
- F. Wireless telecommunications support facilities. All wireless telecommunications support facilities shall be located within enclosed buildings or fully screened rooftop locations. Such accessory buildings shall not exceed 15 feet in height and 1,200 square feet in area, unless otherwise permitted by the Plan Commission to facilitate co-location. The design and exterior surfacing of all such buildings or rooftop screening structures shall be in harmony with the existing or desired architecture for the area. The exterior walls of all such buildings shall be masonry, stone, stucco, precast concrete, or other similar surface.
- G. Signage. No commercial message or signage shall be allowed at or on any wireless telecommunications facility, wireless telecommunications support facility, or site used for a wireless telecommunications facility.
- H. Driveways. Access driveways shall be surfaced in accordance with the requirements of Chapter **238** of the Code.
- I. Landscaping and fencing. The site including the wireless telecommunications facility shall be attractively landscaped, with particular emphasis on landscaping near buildings, tower foundations, and driveways. New vegetation for screening purposes shall be a minimum of five

feet in height upon planting and shall be located on the outside of any required fencing. The base of all freestanding wireless telecommunications facilities shall be enclosed with security fencing, unless the applicant provides other acceptable improvements designed to secure the base of the facility (tower) from public access.

## § 500-89. Abandonment and removal.

Any wireless telecommunications facility not continuously operating for a period of 12 months shall be considered abandoned and shall be removed (along with its wireless telecommunications support facilities) within 90 days of receiving an order to remove from the Zoning Administrator. The cost of removal and site restoration shall be borne entirely by the permit holder. In the event that the permit holder fails to remove the facility, the Village may cash the required performance bond and remove the facility and all support facilities itself.

## § 500-90. Compliance.

- A. All wireless telecommunications facilities granted a conditional use permit approval after the effective date of this article shall remain in compliance with approved plans, conditions of approval, the provisions of this article as they existed at the time of permit approval, and applicable standards of Article **IV**. The permit holder shall be responsible for the continued maintenance and/or replacement of all buildings, fencing, landscaping and other site improvements.
- B. The permit holder for all wireless telecommunications facilities granted conditional use permit approval after the effective date of this article shall file an annual report with the Zoning Administrator demonstrating continued compliance with approved plans, conditions of approval, the provisions of this article as they existed at the time of permit approval, and the standards of Article **IV**. The petitioner shall also demonstrate that the term of any performance bond or liability insurance policy required under § **500-86I** shall remain in effect for at least two years from the date the annual report is submitted. Such report shall be filed within 30 days of the original month of conditional use permit approval.
- C. Failure to comply with Subsections **A** and **B** above may be grounds for revocation of the permit, penalties pursuant to § **1-4** of the Code, or both.

## Article XI. Mobile Homes

### § 500-91. Intent; where mobile home parks permitted.

- A. Mobile home parks may be established only as a conditional use in the R-3 District and in accordance with the procedures, requirements and limitations set forth in this article. Within such mobile home parks, mobile homes, with such additional supporting uses and occupancies as are permitted herein, may be established, subject to the requirements and limitations set forth in these and other regulations.
- B. For purposes of this article, a manufactured home is not a mobile home.
- C. It is the intent of this article to recognize mobile homes constructed prior to October 1, 1974, as distinct and different from units designated as "mobile homes" within the definitions of this article and to prohibit units not meeting the requirements for mobile homes as defined herein. Mobile homes meeting the requirements of the One- and Two-Family Dwelling Code only shall not be permitted in a mobile home park except as a conditional use. Permits may be obtained only after approval by the Village Board.

- D. No person shall park, locate or place any mobile home outside of a licensed mobile home park in the Village of Neshkoro, except that unoccupied mobile homes may be parked outside of an enclosed structure for a period not exceeding one month on the lawfully situated premises of a licensed mobile home dealer for the purposes of sale display, or on the lawfully situated premises of a mobile home service business for purposes of servicing or making necessary repairs.

## § 500-92. Definitions.

- A. The following definitions are used in this article:

### **FOUNDATION SIDING**

A fire- and weather-resistant, prefinished material surrounding the entire perimeter of a home and completely enclosing a space between the exterior wall of such home and the ground. Foundation siding shall be properly vented, harmonious and compatible with the house, and installed within 60 days from the date of placement on site.

### **MOBILE HOME COMMUNITIES (PARKS)**

Mobile home communities/parks are distinguished from subdivisions lacking common facilities and continuing management services. The latter would be controlled by general subdivision regulations, which would apply also to mobile home subdivisions without common open space or continuing management.<sup>[1]</sup>

### **MOBILE HOME SUBDIVISION**

A parcel of land platted for subdivision according to all requirements of the Comprehensive Plan, designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by mobile homes.

### **PRIMARY EXPOSURE**

Open areas adjacent to the front wall (or main entrance) of a dwelling unit.

### **RESIDENTIAL MOBILE HOME**

A single-family dwelling built on or after October 1, 1974, in accordance with the ANSI Code (American National Standards Institute) or in accordance with the HUD Code (U.S. Department of Housing and Urban Development), both of which govern the heating and cooling systems, electrical systems, fire safety, body and frame construction, thermal protections and plumbing systems. All said homes shall bear the proper approved Wisconsin insignia as required by any state statute or administrative code. "Mobile home" also means a dwelling which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances, except that a mobile home is not deemed a mobile home if the assessable value of such additions, attachments, annexes, foundations and appurtenances equals or exceeds 50% of the assessable value of the mobile home. The term "mobile home" shall not include a factory-built structure meeting the following requirements:

- (1) Intended to be set on a foundation by virtue of its construction.
- (2) Which is normally transported only once, from the factory to the construction site.
- (3) Which, from its very beginning, is designed to be permanently affixed to land.

### **SECONDARY EXPOSURE**

Open areas adjacent to side and rear walls of a dwelling unit.

[1] *Editor's Note: See Ch. 450, Subdivision of Land.*

- B. In addition to the above definitions, definitions contained in § 66.0435, Wis. Stats., shall also be applicable.

## § 500-93. Mobile home occupancy permits.

- A. Mobile homes legally located and occupied on premises outside of a licensed mobile home park prior to the enactment of this article may be continued in such location, provided that the owner of the premises on which such unit is located shall apply to the Village Clerk-Treasurer within 60 days after the original effective date of this article for a use permit showing the date on which such use and occupancy commenced, the names of the owner and occupants and that such use and occupancy is otherwise in conformity with the applicable laws and regulations of the state and Village. Such nonconforming use shall be automatically terminated upon a discontinuance for any reason for 12 consecutive months or if the total structural repairs and alterations to the mobile home exceed 50% of the net value.
- B. The owner or occupant of a mobile home shall, within five days after entering of a licensed mobile home park or removing to another park within the Village, obtain a permit from the Village Clerk-Treasurer. Such permits shall be issued only for mobile homes which bear a seal, stamp or certificate of the manufacturer guaranteeing that the mobile home is constructed in accordance with the standards of the American National Standards Institute Book A119.1, as originally existing, or, if amended, as amended.
- C. Nothing herein shall prevent the owner of a mobile home under Subsection **A** hereof from replacing the mobile home with a newer model, provided that the replacement unit meets all applicable standards of construction in the industry existing as of the date of replacement not at the date of manufacture of the replacement unit.

## § 500-94. Minimum number of lots or spaces.

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

## § 500-95. Permitted and permissible uses and structures.

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

- A. One-family detached mobile homes (residential mobile home). In mobile home communities, recreational vehicles shall not be occupied as living quarters and sales lots shall not be permitted, but dwellings may be sold on lots they occupy in residential use.
- B. Permitted accessory uses and structures. Uses and structures that are customarily accessory and clearly incidental to permitted principal uses and structures shall be permitted, except for those requiring specific approval as provided below.

## § 500-96. Mobile home park developer's permit.

- A. No person shall construct or extend any mobile home park or mobile home park building or facility within the limits of the Village without first securing a mobile home park developer's permit from the Village. Such permits shall be issued by the Village Clerk-Treasurer upon approval by the governing body.

- B. Applications for mobile home park developer's permits shall be filed with the Village Clerk-Treasurer with sufficient copies for the Village Clerk-Treasurer to forward one each to the Building Inspector and Fire Inspector, who shall investigate and review said application to determine whether the applicant, the premises on which said park will be located and the proposed design and specifications thereof and all buildings proposed to be constructed thereon will comply with the applicable regulations, ordinances and laws of the state and Village and report their findings in writing to the governing body within 60 days. Such reports shall be considered by the governing body before any permit is issued hereunder. Failure of any officer or body to report within the allotted time shall be deemed a favorable recommendation.
- C. Applications for a mobile home park developer's permit shall be accompanied by a fee as set by the Village Board to cover the cost of investigation and processing, plus regular building permit fees for all buildings or structures to be erected within the proposed park.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). The current Fee Schedule is on file in the Village office.*
- D. Applications shall be made on forms furnished by the Village Clerk-Treasurer and shall include the following information:
- (1) Name and address of applicant.
  - (2) Location and legal description of the proposed park, addition, modification or extension.
  - (3) A complete plot plan showing compliance with all applicable provisions of this article and the municipal building code and zoning and subdivision ordinances.
  - (4) Complete preliminary engineering plans and specifications, including a scale drawing of the proposed park, showing, but not limited to:
    - (a) Plans and specifications of all utilities, including sewerage collection and disposal, stormwater drainage, water and electrical distribution and supply, refuse storage and collection, lighting, telephone and television antenna systems.
    - (b) Location and width of roadways and walkways, buffer strips, recreational and other common areas.
    - (c) The location of mobile home stands with the mobile home spaces, including a detailed sketch of at least one typical mobile home space and stand therein.
    - (d) Landscape plan showing all plantings.
    - (e) Plans and specifications of all park buildings and structures.
  - (5) Interest of applicant in proposed mobile home park or extension thereof. If owner of tract is a person other than the applicant, a duly verified statement by the owner that the applicant is authorized by him to construct and maintain the proposed park, addition, modification or extension, and make the application.
  - (6) Written statements describing proposed park operations, management and maintenance, including proposed fees and charges and other requirements to be imposed on park occupants by the park operator.
- E. Final engineering plans and specifications complying with the provisions of this article and the zoning regulations and any modifications or conditions imposed by the governing body shall be submitted to the Village Clerk-Treasurer and checked by the proper municipal officials for compliance before the license is issued.

## § 500-97. Standard requirements for mobile home parks, additions or extensions.

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

- A. Ch. Comm 26, Wis. Adm. Code, as now existing or hereafter amended, is hereby made a part of this article and incorporated herein by reference as if fully set forth, except that such regulations shall not be deemed to modify any requirement of this article or any other applicable law or ordinance of the state or Village.
- B. Mobile home spaces shall be a minimum of 50 feet wide and 100 feet in depth, have a setback of 20 feet from all street rights-of-way, and have a side yard setback of 10 feet, except that driveways may extend to within four feet of a property line. Accessory structures, such as awnings, cabanas, storage cabinets, carports, windbreaks or attached porches shall be considered part of the unit for purposes of determining compliance with this provision. No mobile home site shall be rented for a period of less than 30 days. There shall be two surfaced automobile parking spaces for each mobile home. Unless adequately screened by existing vegetative cover, a mobile home park shall be screened around its outer perimeter by a planting of hedges or trees capable of reaching a height of 15 feet or more, the individual trees to be such a number and so arranged that within 10 years they will have formed a screen equivalent in opacity to a solid fence or wall. Such permanent planting shall be grown or maintained to a height of not less than 15 feet when mature.
- C. No mobile home park shall be laid out, constructed or operated without Village sanitary sewer service.
- D. All liquid wastes originating at units, service or other buildings shall be discharged into a sewerage system extended from and connected with the public sewerage system. Such systems shall comply with all provisions of the state code and Village ordinances relating to plumbing and sanitation. Each individual space shall be provided with a three-inch watertight sewer connection protected from damage by heaving and thawing or parking of the unit and located within the rear 1/3 of the stand, with a continuous grade which is not subject to surface drainage, so constructed that it can be closed when not in use and trapped in such a manner that it can be kept odor-free.
- E. Adequate provision shall be made for the disposal of solid and liquid wastes in a manner approved by the Village Board. Open burning of waste or refuse is prohibited.
- F. All television cable systems, electrical and telephone distribution lines and oil or gas piping serving the park or spaces therein shall be installed underground. Distribution systems shall be new and all parts and installations shall comply with all applicable federal, state and local codes.
- G. Each space shall be provided with direct electrical service of not less than 100 amperes for 220 volt service.<sup>[1]</sup>

[1] *Editor's Note: Original subsection (h), pertaining to off-street parking spaces, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- H. Condition of soil, groundwater level, drainage and topography shall not create hazards to the property, health or safety of occupants of mobile home spaces or living units. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property within or without the park to hazards.
- I. Exposed ground surfaces in all parts of every mobile home park shall be paved or covered with stone screenings or other solid material or protected with a vegetative growth that is capable of preventing soil erosion and eliminating objectionable dust.
- J. The ground surface in all parts of every mobile home park shall be graded and equipped to drain all surface water in a safe, sanitary and efficient manner.
- K. All parks shall be furnished with individual outdoor lot lighting of 25 watts to 60 watts so spaced and equipped with luminaries placed for the safe movement of pedestrians and vehicles at night.

- L. All mobile home spaces shall abut upon a street. All streets shall be provided with a smooth, hard and dense surface which shall be well drained under normal use and weather conditions for the area. Pavement edges shall be curbed and protected to prevent raveling of the wearing surface and shifting of the pavement base. Grades of streets shall be sufficient to ensure adequate surface drainage but not more than 8%, provided a maximum grade of 12% may be used if approved by the Village Board as safe and designed to avoid traffic hazards. Streets shall be at approximately right angles within 100 feet of an intersection. Intersections of more than two streets at one point shall not be allowed. A distance of at least 150 feet shall be maintained between center lines of offset intersecting streets.
- M. All parks shall be provided with pedestrian walks between individual mobile homes, park streets and community facilities of not less than three feet in width. Grade and surfacing of walks shall be approved by the Village Board as safe and comparable to sidewalks in other areas of the municipality subject to similar usage, except that, as an alternative, inverted curbing may be used which provides approximately three feet of concrete walking area adjacent to the curbline.
- N. All mobile home parks shall have a greenbelt or buffer strip not less than 10 feet wide along all boundaries. Unless adequately screened by existing vegetative cover, all mobile home parks shall be provided within such greenbelt or buffer strip with screening of natural growth or screen fence, except where the adjoining property is also a mobile home park. Compliance with this requirement shall be made within five years from the granting of the mobile home park developer's permit. Screening or planting requirements may be waived or modified by the governing body if it finds that the exterior architectural appeal and functional plan of the park, when completed, will be materially enhanced by modification or elimination of such screen planting requirements.
- O. Mobile home park operators shall, at the time of approval, pay the park development fees required for conventional subdivisions in Chapter **450** of this Code.
- P. Single-family nondependent mobile homes and approved accessory structures included in the original plans and specifications or revisions thereof, parks, playgrounds, open space, off-street parking lots, one park office and service buildings for exclusive use of park residents shall be the only permitted uses in mobile home parks, provided the Village Board may approve the following uses when designed and limited to exclusive use of park residents:
  - (1) Laundromats.
  - (2) Clubhouses and facilities for private, social or recreation clubs.
  - (3) Swimming pools.
- Q. No signs shall be erected in mobile home parks, except as permitted in Article **VII** of this chapter.  
**[2]**  
**[2]** *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- R. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home space. Entrances to parks shall be designed to minimize congestion and traffic hazards and allow free movement of traffic on adjacent streets.

## § 500-98. Mobile home park operator's license.

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

- C. The annual fee for a mobile home park license shall be as set by the Village Board; such fee shall also be paid upon the renewal of such license. Licenses may be transferred during a license year for a fee as prescribed by § 66.0435(3)(b), Wis. Stats.<sup>[1]</sup>
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). The current Fee Schedule is on file in the Village office.*
- D. Licenses granted under this section shall be subject to revocation or suspension by the governing body for cause in accordance with § 66.0435(2), Wis. Stats., and the procedures in that section shall be followed. "Cause," as used in this subsection, shall include but not be limited to:
- (1) Failure or neglect to abide by the requirements of this article or the laws or regulations of the State of Wisconsin relating to mobile home parks and their operation.
  - (2) Conviction of any offense under the laws of the state or ordinances of the Village relating to fraudulent or misleading advertising or deceptive practices regarding the sale or renting of mobile homes or the leasing or rental of mobile home spaces or sale, lease or operation of park facilities.
  - (3) Operation or maintenance of the mobile home park in a manner inimical to the health, safety or welfare of park occupants or the inhabitants of the Village, including, but not limited to, repeated violations of laws or ordinances relating to health, sanitation, refuse disposal, fire hazards, morals or nuisances.
  - (4) Transfer or sale of an ownership interest in any mobile home space or the underlying land other than to another eligible licensee. Such action shall also subject the owner of the underlying land to all requirements of the state or municipal subdivision control laws and regulations regardless of the size or number of lots or spaces so transferred or sold.
- E. Except as provided in Subsection F of this section, no mobile home park license shall be granted for any premises or to any person not meeting the following standards and requirements:
- (1) All standards and requirements set forth in § **500-99**, except as specifically waived or modified in writing by the Village Board and endorsed on the mobile home developer's permit. This requirement includes a valid certificate from the Wisconsin Department of Commerce that the park complies with the provisions of Ch. Comm 26, Wis. Adm. Code, applicable thereto.
  - (2) Mobile home parks should be used only for the parking and occupancy of single-family nondependent mobile homes and accessory structures and appurtenances and uses.
  - (3) Applicant shall file with the Village Board certificates certifying that all equipment, roads, sanitary facilities, water facilities and other equipment and facilities, including roads, have been constructed or installed in the park as required by this article and are in required operating condition at the time of said application. In addition, the Building Inspector and the Fire Inspector shall inspect or cause to be inspected each application and the premises to determine compliance with all applicable laws, regulations and ordinances applicable thereto. These officials shall furnish the Village Board, in writing, the information derived from such investigation and a statement as to whether the applicant and the premises meet the requirements of the department for whom the officer is certifying.
  - (4) Location and operation of the park shall comply with all zoning and land use ordinances of the state and Village.
- F. Mobile home parks in existence and operating under a valid mobile home park license upon the effective date of this article, including parks in areas hereafter annexed to the Village, shall be exempt from the requirements hereof relating to land use and occupancy, provided such use and occupancy complies with the applicable laws and ordinances in effect at the time of issuance of the original license but shall file application for a mobile home park developer's nonconforming use permit and comply with all other provisions of this article within six months after the effective date hereof, provided that an existing mobile home park having a density in excess of that

provided in § 500-99 shall not increase its density and shall be operated in other respects in accordance with this article. The governing body may extend the time for compliance as herein required upon such conditions as it shall determine necessary to protect the health, safety and welfare of park occupants or inhabitants of the Village. All extensions, modifications or additions to lawfully licensed existing parks or facilities or structures therein shall comply with this article.

## § 500-99. Operation of mobile home parks; responsibilities of park management.

- A. In every mobile home park there shall be located an office of the attendant or person in charge of said park. A copy of the park license and of this article shall be posted therein, and the park register shall, at all times, be kept in said office.
- B. The attendant or person in charge and the park licensee shall operate the park in compliance with this article and regulations and ordinances of the Village and state and their agents or officers and shall have the following duties:
  - (1) Maintain a register of all park occupants, to be open at all times to inspection by state, federal and municipal officers, which shall show:
    - (a) Names and addresses of all owners and occupants of each mobile home.
    - (b) Number of children of school age.
    - (c) State of legal residence.
    - (d) Dates of entrance and departure of each mobile home.
    - (e) Make, model, year and serial number or license number of each mobile home and towing or other motor vehicles and state, territory or country which issued such licenses.
    - (f) Place of employment of each occupant, if any.
  - (2) Notify park occupants of the provisions of this article and inform them of their duties and responsibilities and report promptly to the proper authorities any violations of this article or any other violations of law which may come to their attention.
  - (3) Report to Village law enforcement officials all cases of persons or animals affected or suspected of being affected with any dangerous communicable disease.
  - (4) Supervise the placement of each mobile home on its stand which includes securing its stability and installing all utility connections and tiedowns.
  - (5) Maintain park grounds, buildings and structures free of insect and rodent harborage and infestation and accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.
  - (6) Maintain the park free from growth of noxious weeds.
  - (7) Maintain the park free of litter, rubbish and other flammable materials; provide portable fire extinguishers of a type approved by the Fire Inspector in all locations designated by the Fire Inspector and maintain such extinguishers in good operating condition and cause every area within the park designated as a fire lane by the Fire Inspector to be kept free and clear of obstructions.
  - (8) Check to ensure that every mobile home unit has furnished, and in operation, a substantial, flytight, watertight, rodentproof container for the deposit of garbage and refuse in accordance with the ordinances of the Village.

- (9) Provide for the sanitary and safe removal and disposal of all refuse and garbage at least weekly. Removal and disposal of garbage and refuse shall be in accordance with the laws of the State of Wisconsin and the ordinances and regulations of the municipality.
- (10) Allow inspections of park premises and facilities at reasonable times by municipal officials or their agents or employees as provided by § **500-101B** of this article.

## § 500-100. Responsibilities and duties of mobile home park occupants.

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

## § 500-101. Additional regulations.

- A. Wrecked, damaged or dilapidated mobile homes shall not be kept or stored in a mobile home park or upon any premises in the Village. The Building Inspector or Village Board shall determine if a mobile home is damaged or dilapidated to a point which makes it unfit for human occupancy. Such mobile homes are hereby declared to be a public nuisance. Whenever the Building Inspector or Village Board so determines, he or it shall notify the licensee or landowner and owner of the mobile home in writing that such public nuisance exists within the park or on lands owned by him, giving the findings upon which the determination is based, and shall order such home removed from the park or site or repaired to a safe, sanitary and wholesome condition of occupancy within a reasonable time, but not less than 30 days.

- B. Authorized representatives of the Village Board are authorized and directed to inspect mobile home parks not less than once in every twelve-month period to determine the health, safety and welfare of the occupants of the park and inhabitants of the Village as affected thereby and the compliance of structures and activities therein with this article and all other applicable laws of the state and ordinances of the Village.
- C. Fires in mobile home parks shall be made only in stoves and other cooking or heating equipment intended for such purposes. Outside burning is prohibited except by permit and subject to requirements or restrictions of the Fire Chief.
- D. All plumbing, building, electrical, oil or gas distribution, alterations or repairs in the park shall be in accordance with the regulations of applicable laws, ordinances and regulations of the state and municipalities and their authorized agents, and may be performed by a professional mobile home service technician.
- E. All mobile homes in mobile home parks shall be skirted unless the unit is placed within one foot vertically of the stand with soil or other material completely closing such space from view and entry by rodents and vermin. Areas enclosed by such skirting shall be maintained free of rodents and fire hazards.
- F. No person shall construct, alter or add to any structure, attachment or building in a mobile home park or on a mobile home space without a permit from the Building Inspector. Construction on or addition or alteration to the exterior of a mobile home shall be of the same type of construction and materials as the mobile home affected. This subsection shall not apply to addition of awnings, antennas or skirting to mobile homes. Accessory structures on mobile home spaces shall comply with all setbacks, side yard and rear yard requirements for mobile home units.
- G. Storage under mobile homes is prohibited.

## § 500-102. Compliance with plumbing, electrical and building ordinances.

All plumbing, electric, electrical, building and other work on or at any mobile home park under this article shall be in accordance with the ordinances of the Village and the requirements of the state plumbing, electrical and building codes and the regulations of the Department of Commerce. Licenses and permits granted under this article grant no right to erect or repair any structure, to do any plumbing work or to do any electric work.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 500-103. Standards for general site planning for mobile home communities.

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

- A. Principal vehicular access points. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Merging and turnout lanes and/or traffic dividers shall be required where existing or anticipated heavy flows indicate need. In general, minor streets shall not be connected with streets outside the district in such a way as to encourage the use of such minor streets by substantial amounts of through traffic. No lot within the community shall have direct vehicular access to a street bordering the development.
- B. Access for pedestrians and cyclists. Access for pedestrians and cyclists entering or leaving the community shall be by safe and convenient routes. Such ways need not be adjacent to or limited to the vicinity of vehicular access points. Where there are crossings of such ways and vehicular

routes at edges of planned developments, such crossings shall be safely located, marked and controlled, and where such ways are exposed to substantial vehicular traffic at edges of communities, safeguards may be required to prevent crossings except at designated points. Bicycle paths, if provided, shall be so related to the pedestrianway system that street crossings are combined.

- C. Protection of visibility for automotive traffic, cyclists and pedestrians. At intersections of any streets, public or private, the provisions of § **500-47** shall apply and are hereby adopted by reference.
- D. Ways for pedestrians and/or cyclists in exterior yards. In any exterior yard, required or other, ways for pedestrian and/or cyclists may be permitted, if appropriately located, fenced or landscaped to prevent potential hazards arising from vehicular traffic on adjacent streets or other hazards and annoyances to users or to occupants of adjoining property. When otherwise in accord with the requirements concerning such ways set forth above, approved ways in such locations shall be counted as common recreation facilities and may also be used for utilities easements.
- E. Internal relationships. The site plan shall provide for safe, efficient, convenient and harmonious groupings of structures, uses and facilities, and for appropriate relation of space inside and outside buildings to intended uses and structural features. In particular:
  - (1) Streets, drives and parking and service areas. Streets, drives and parking and service areas shall provide safe and convenient access to dwellings and community facilities and for service and emergency vehicles, but streets shall not be so laid out as to encourage outside traffic to traverse the community, nor occupy more land than is required to provide access as indicated, nor create unnecessary fragmentation of the community into small blocks. In general, block size shall be the maximum consistent with use, the shape of the site and the convenience and safety of the occupants.
  - (2) Vehicular access to streets. Vehicular access to streets from off-street parking areas may be direct from dwellings if the street or portion of the street serves 50 units or less. Determination of units served shall be based on normal routes anticipated for traffic. Along streets or portions of streets serving more than 50 dwelling units or constituting major routes to or around central facilities, access from parking and service areas shall be so combined, limited, located, designed and controlled as to channel traffic conveniently, safely and in a manner that minimizes marginal traffic friction, and direct vehicular access from individual dwellings shall generally be prohibited.
  - (3) Ways for pedestrians and cyclists; use by emergency, maintenance or service vehicles.
    - (a) Walkways shall form a logical, safe and convenient system for pedestrian access to all dwellings, project facilities and principal off-street pedestrian destinations. Maximum walking distance in the open between dwelling units and related parking spaces, delivery areas and trash and garbage storage areas intended for use of occupants shall not exceed 100 feet.
    - (b) Walkways to be used by substantial numbers of children as play areas or routes to school, bus stops or other destinations shall be so located and safeguarded as to minimize contacts with normal automotive traffic. If an internal walkway system is provided away from streets, bicycle paths shall be incorporated in the walkway system. Street crossings shall be held to a minimum on such walkways and shall be located and designated to provide safety and shall be appropriately marked and otherwise safeguarded. Ways for pedestrians and cyclists, appropriately located, designed and constructed, may be combined with other easements and used by emergency, maintenance or service vehicles but shall not be used by other automotive traffic.

## Article XII. Accessory Uses and Structures; Fences; Swimming Pools

## § 500-104. Accessory uses or structures.

- A. Principal use to be present. An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction, unless approved by the Village Board. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.  
[Amended 9-13-2010]
- B. Placement restrictions in residential district. An accessory use or structure in a residential district may be established, subject to the following regulations:  
[Amended 1-9-2006; 2-4-2008; 11-3-2014]
- (1) Garages. Garages, whether attached or detached, shall comply with the dimensional requirements of the zoning district in which located. Garages shall comply with the setback requirements applicable for principal structures on the lot. Garages and accessory structures may not be placed closer than seven feet from the rear or side lot line.
- C. Use restrictions — residential district. Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations, as defined and authorized herein, and shall not be occupied as a dwelling unit.
- D. Use restrictions — nonresidential districts. An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard and shall have setbacks as prescribed in each zoning district.
- E. Reversed corner lots. When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear.
- F. Landscaping and decorative uses. Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area, provided it is not in a vision clearance triangle. Permitted structures and vegetation include flagpoles, ornamental light standards, lawn furniture, sundials, birdbaths, trees, shrubs and flowers and gardens.
- G. Temporary uses. Temporary accessory uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of the permanent structure, may be permitted by the Zoning Administrator and shall be removed within 30 days of occupancy of the project.
- H. Garages in embankments in front yards. Where the mean natural grade of a front yard is more than eight feet above the curb level, a private garage may be erected within the front yard following approval by the Village Board, provided as follows:
- (1) That such private garage shall be located not less than five feet from the front lot line;
- (2) That the floor level of such private garage shall be not more than one foot above the curb level; and
- (3) That at least 1/2 the height of such private garage shall be below the mean grade of the front yard.
- I. Outdoor lighting. Outdoor lighting installations shall not be permitted closer than three feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed 15 feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
- J. Lawn accessories. Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flagpoles, etc., shall be permitted in setback areas but not closer than three feet to an abutting property line other than a street line.

- K. Retaining walls. Retaining walls may be permitted anywhere on the lot; provided, however, that no individual wall shall exceed six feet in height and a terrace of at least three feet in width shall be provided between any series of such walls, and provided, further, that along a street frontage no such wall shall be closer than three feet to the property line.

## § 500-105. Outside storage of firewood.

- A. No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of 14 days from the date of its delivery.
- B. Firewood should be neatly stacked and may not be stacked closer than two feet to any lot line and not higher than six feet from grade, except adjacent to a fence, where firewood can be stacked against the fence as high as the fence. "Fences," as used in this section, shall not include hedges and other vegetation.
- C. All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.
- D. Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code.
- E. Not more than 15% of the side and rear yard may be used for storage of firewood at any one time.

## § 500-106. Fences.

- A. Definitions. For the purpose of this section, the following terms shall have the meanings indicated.

### **ARCHITECTURAL OR AESTHETIC FENCE**

A fence constructed to enhance the appearance of the structure or the landscape.

### **BOUNDARY FENCE**

A fence placed on or within three feet of the property lines of adjacent properties.<sup>[1]</sup>

### **FENCE**

An enclosed barrier consisting of wood, stone or metal intended to prevent ingress or egress. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.

### **PICKET FENCE**

A fence having a pointed post, stake, pale or peg laced vertically with the point or sharp part pointing upward to form a part of the fence.

### **PROTECTIVE FENCE**

A fence constructed to enclose a hazard to the public health, safety and welfare.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- B. Height of fences regulated.

- (1) Except as provided in § 500-47, a fence or wall may be erected, placed or maintained along a lot line on residentially zoned property or adjacent thereto to a height not exceeding six feet above the ground level, except that no fence or wall that is located in a required front or corner side yard shall exceed a height of three feet. Where such lot line is adjacent to a nonresidentially zoned property, there shall be an eight-foot limit on the height of a fence or wall along such lot line.

- (2) No fence or wall shall be erected, placed or maintained along a lot line on any property zoned business or manufacturing adjacent to a residentially zoned property to a height exceeding eight feet.
- (3) In any residential district, no fence or wall shall be erected, constructed or maintained in the vision clearance triangle, as set forth in § 500-47.<sup>[2]</sup>
- <sup>[2]</sup> *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Setback for residential fences. Fences in or adjacent to a residential property may be constructed on lot lines. Fences may be constructed parallel to lot lines but shall not extend into the front setback area as extended to the side lot lines.
- D. Security fences. Security fences are permitted on the property lines in all districts except residential districts but shall not exceed 10 feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- E. Prohibited fences. Except for picket fences, no fence shall be constructed which is of an otherwise dangerous condition or which conducts electricity or is designed to electrically shock or which uses barbed wire; provided, however, that barbed wire may be used in areas zoned for manufacturing if the devices securing the barbed wire to the fence are 10 feet above the ground or height and project toward the fenced property and away from any public area, and barbed wire or electric fences may be used in A-1 Agricultural Districts for the use of keeping permitted animals.
- F. Fences to be repaired. All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.
- G. Temporary fences. Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four-foot intervals. Such fences shall comply with the setback requirements set forth in this section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than 45 days.
- H. Nonconforming fences. Any fence existing on the effective date of this chapter and not in conformance with this section may be maintained, but any alteration, modification or improvement of more than 50% of said fence shall result in the entire fence being brought into compliance with this section.
- I. Location determination. The property owner erecting a fence is solely responsible for ensuring that the fence is located properly on his property and may be maintained without encumbering onto a neighboring property.

## § 500-107. Swimming pools.

- A. Definition. A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than 1 1/2 feet, located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his family and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.
- B. Exempt pools. Storable children's swimming or wading pools, which are so constructed that they may be readily disassembled for storage and reassembled to their original integrity, are exempt from the provisions of this section.<sup>[1]</sup>
- <sup>[1]</sup> *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- C. Permit required. Before work is commenced on the construction or erection of private or residential swimming pools or on any alterations, additions, remodeling or other improvements, an

application for a swimming pool building permit to construct, erect, alter, remodel or add must be submitted in writing to the Building Inspector. Plans and specifications and pertinent explanatory data should be submitted to the Building Inspector at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. The minimum building permit fee pursuant to the Village Building Code shall accompany such application.

D. Construction requirements. In addition to such other requirements as may be reasonably imposed by the Building Inspector, the Building Inspector shall not issue a permit for construction as provided for in Subsection **C** unless the following construction requirements are observed:

- (1) All materials and methods for construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and codes and with any and all ordinances of the Village now in effect or hereafter enacted.
- (2) All plumbing work shall be in accordance with all applicable ordinances of the Village and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method, and in no case shall waters from any pool be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located or in the general vicinity.
- (3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool, shall be in conformance with the state laws and Village ordinances regulating electrical installations.

E. Setbacks and other requirements.

- (1) Private swimming pools shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
- (2) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in this chapter for an accessory building, but in no case shall the waterline of any pool be less than five feet from any lot line.

F. Fence.

- (1) Pools within the scope of this section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool or shall have a cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than four feet in height and so constructed as not to have voids, holes or openings larger than four inches in one dimension. Gates or doors shall be kept locked while the pool is not in actual use.
- (2) The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing or uncovered side walls a minimum of 36 inches high, provided that ladder or stairs access can be restricted.

G. Compliance. All swimming pools existing at the time of passage of this chapter not satisfactorily fenced shall comply with the fencing requirements of this section or when water is placed in the pool.

H. Draining and approval thereof. No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer or septic tank nor to overflow upon or cause damage to any adjoining property. Provisions may be made for draining the contents of any swimming pool

into a storm sewer, but such installation shall be subject to prior approval by the Building Inspector.

- I. Filter system required. All private swimming pools within the meaning of this article must have, in connection therewith, some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.
- J. Dirt bottoms prohibited. All swimming pools of a permanent nature shall have the sides and bottom of a smooth finish, and no sand or dirt bottom shall be permitted.

## Article XIII. Modifications

### § 500-108. Height modifications.

The district height limitations stipulated elsewhere in this chapter may be exceeded under certain conditions, but such modifications shall be in accord with the following:

- A. Architectural projections. Architectural projections such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys are exempt from the height limitations of this chapter.
- B. Special structure height limitations. Special structures, such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, residential satellite dishes less than 36 inches in diameter, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smokestacks, are exempt from the height limitations of this chapter.
- C. Essential services height limitations. Essential services, utilities, water towers, and electric power and communication transmission lines are subject to conditional use permit.
- D. Communications structures height restrictions. With the exception of wireless telecommunications facilities, as defined in § 500-8, communications structures such as radio and television transmission and relay towers, aerial and observation towers, shall not exceed in height three times their distance from the nearest lot line. Wireless telecommunications facilities shall meet the height limitations established in Article X.
- E. Agricultural structures height restrictions. Agricultural structures such as barns, silos and water windmills shall not exceed in height twice their distance from the nearest lot line.
- F. Public facilities height restrictions. Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of 60 feet, provided all required yards are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement.

### § 500-109. Yards modifications.

The yard requirements stipulated elsewhere in this chapter may be modified as follows:

- A. Uncovered stair restrictions. Uncovered stairs, landings and fire escapes may project into any yard, but not to exceed six feet and not closer than three feet to any lot line.
- B. Architectural projection restrictions. Architectural projections, such as chimneys, flues, sills, eaves, belt courses and ornaments, may project into any required yard (setback requirements), but such projection shall not exceed two feet.
- C. Cul-de-sac and curve restrictions. Residential lot frontage on culs-de-sac and curves may be less than 60 feet, provided the width at the building setback line is at least 60 feet and the street frontage is no less than 45 feet.

- D. Essential services exemptions. Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this chapter.
- E. Street yard restrictions. The required street yards may be decreased in any residential or business district to the average of the existing street yards of the abutting structures on each side, but in no case less than 15 feet in any residential district and five feet in any business district.

## Article XIV. Administration

### § 500-110. General administrative system.

- A. This chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and the Zoning Map, and amending the text of this Zoning Chapter require review and action by the Plan Commission or Village Board. A Board of Appeals is provided to assure proper administration of the chapter and to avoid arbitrariness.
- B. Due to the size of the Village of Neshkoro, it may not be feasible to find a suitable person willing to take on the responsibility of being Zoning Administrator on a part-time basis. It is therefore provided that the function of the Zoning Administrator can be delegated to a committee of the Board, to another Village official or a single member of the Board or the Village President. An officer other than a Board member or another employee of the Village may also be designated to handle the duties of Zoning Administrator on a part-time basis in addition to the other duties performed by such person.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

### § 500-111. Zoning Administrator.

The Zoning Administrator shall be the agency or individual appointed by resolution of the Village Board. The duty of the Zoning Administrator shall be to interpret and administer this chapter. The Zoning Administrator shall further:

- A. Issue all zoning permits and make and maintain records, which records shall be maintained in the Village Hall.
- B. Conduct inspections of buildings, structures and use of land to determine compliance with the terms of this chapter.
- C. Maintain permanent and current records of this chapter, including but not limited to, all maps, amendments, conditional uses, variances, appeals and applications therefor.
- D. Provide and maintain a public information function relative to all matters arising out of this chapter.
- E. Receive, file and forward to the Village Clerk-Treasurer, Plan Commission and Village Board all applications for amendments to this chapter.
- F. Receive, file and forward to the Plan Commission and Village Board all applications for conditional uses.
- G. Receive, file and forward to the Board of Appeals all applications for appeals, variances or other matters on which the Board of Appeals is required to act under this chapter and shall attend all Board of Appeals meetings to provide technical assistance when requested by the Village Board.
- H. Initiate, direct and review from time to time a study of the provisions of this chapter and make recommendations to the Village Board not less than once a year.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 500-112. Role of specific Village officials in zoning administration.

- A. Village Board. The Village Board, the governing body of the Village, subject to recommendations by the Plan Commission and the holding of public hearings by said Plan Commission, has ultimate authority to make changes and amendments in zoning districts, the Zoning Map and supplementary floodland zoning map and to amend the text of this chapter. The Board may, in arriving at its recommendation, on occasion of its own volition, conduct its own public hearing, even where not required hereunder, and even when the Plan Commission has already held a public hearing on the same issue.
- B. Plan Commission. The Village Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the Village to the Village Board, other public officials and other interested organizations and citizens. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this chapter, its functions are primarily recommendatory to the Village Board. Recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion of its own volition, conduct its own public hearing, even where not required hereunder.
- C. A Board of Appeals is established to provide an appeals procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this chapter. The Board of Appeals shall be made up according to § 62.23, Wis. Stats.  
[Amended 10-31-2005]
- (1) How constituted. The Board of Appeals shall consist of five members and two alternate members; all shall be residents of the Village.<sup>[1]</sup>  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (2) Appointment. At the May meeting of the Village Board, successors to the members whose terms expire in that year shall be appointed by the Village Board to serve terms beginning the succeeding first day of June.
- (3) Powers and duties: as described in § 62.23, Wis. Stats.

## § 500-113. Zoning permit.

- A. A zoning permit shall be granted or denied in writing by the Zoning Administrator within 30 days of application, and the applicant shall post such permit in a conspicuous place at the site.
- B. The permit shall expire within six months unless substantial work has commenced or within 18 months after the issuance of the permit if the structure for which a permit is issued is not substantially completed; in which case of expiration, the applicant shall reapply for a zoning permit before commencing work on the structure.
- C. Any permit issued in conflict with the provisions of this chapter shall be null and void.  
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 500-114. Violations and penalties.

- A. Violations. It shall be unlawful to use or improve any structure or land or to use water or air in violation of any of the provisions of this chapter. In case of any violation, the Village Board, the Plan Commission, the Zoning Administrator or any property owner who would be specifically

damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this chapter or cause a structure to be vacated or removed.

- B. Remedial action. Whenever an order of the Zoning Administrator has not been complied with within 30 days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Village Board, the Plan Commission, the Zoning Administrator or the Village Attorney may institute appropriate legal action or proceedings.
- C. Penalties. Any person, firm or corporation who fails to comply with the provisions of this chapter or any order of the Zoning Administrator issued in accordance with this chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in § 1-4 of this Code.

## Article XV. Changes and Amendments

### § 500-115. Authority.

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

### § 500-116. Initiation of changes or amendments.

- A. Initiation. A change or amendment may be initiated by the Village Board, Plan Commission, Board of Appeals or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.
- B. Petitions. Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Zoning Administrator and shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
  - (1) A plot plan drawn to a scale of one inch equals 200 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within 200 feet of the area proposed to be rezoned.
  - (2) The owner's names and addresses of all properties lying within 200 feet of the area proposed to be rezoned.
  - (3) Additional information required by the Village Board.
- C. Recommendations. The Zoning Administrator shall cause any petition for change or amendment submitted hereunder to be forwarded to the Plan Commission for its consideration and recommendation. The Plan Commission shall recommend to the Village Board in writing that the petition be granted as requested, modified or denied. A recording of the recommendation in the Plan Commission's official minutes shall constitute the required written recommendation. The Plan Commission shall hold the public hearing as provided for in § 62.23(7)(d), Wis. Stats., prior to making its recommendation.
- D. Village Board's action. Following such hearing and recommendation from the Plan Commission, the Village Board shall vote on the proposed ordinance effecting the proposed change or amendment.

## § 500-117. Protest.

- A. In the event of a protest against amendment to the Zoning Map, duly signed and acknowledged by the owners of 20% or more either of the areas of the land included in such proposed change or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of 3/4 of the full Village Board membership.
- B. In the event of protest against amendment to the text of the regulations of this chapter, duly signed and acknowledged by 20% of the number of persons casting ballots in the last general election, it shall cause a 3/4 vote of the full Village Board membership to adopt such amendment.
- C. To be effective hereunder, any protest must be filed no later than 24 hours prior to the Village Board meeting at which the ordinance effecting the proposed change or amendment is acted upon.

## Article XVI. Appeals

### § 500-118. Appeals to Board of Appeals.

- A. Scope of appeals. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the administrative officer. Such appeal shall be taken within 30 days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Village Board. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken.
- B. Stay of proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- C. Powers of Board of Appeals. In addition to those powers enumerated elsewhere in this Code, the Board of Appeals shall have the following powers:
  - (1) Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Building Inspector.
  - (2) Variances. To hear and grant appeals for variances in accordance with the procedures and requirements of § 500-121.<sup>[1]</sup>  
*[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
  - (3) Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Village Board has made a review and recommendation.
  - (4) Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses, provided no structural alterations are to be made and the Village Board has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.

- (5) Unclassified uses. To hear and grant applications for unclassified and unspecified uses, provided that such uses are similar in character to the principal uses permitted in the district and the Village Board has made a review and recommendation.
- (6) Temporary uses. To hear and grant applications for temporary uses in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses, and the Village Board has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Zoning Board of Appeals and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this chapter shall be required.
- (7) Permits. The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.

## § 500-119. Hearing on appeals.

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

## § 500-120. Decisions of Board of Appeals.

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

## § 500-121. Variances.

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

applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

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

## § 500-122. Review by court of record.

Any person or persons aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of

the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board of Appeals.

## Derivation Table

### Chapter DT. Derivation Table

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and articles of the 1999 Code have been included in the 2010 Code, or the reason for exclusion.

#### § DT-1. Derivation Table of 1999 Code to 2010 Code

NCM	=	Not Code material (legislation is not general or permanent in nature).
REP	=	Repealed effective with adoption of Code; see Ch. 1, Art. II.
NI	=	Not included in Code but saved from repeal.
NLP	=	New legislation is pending.

<b>Chapter/Title From 1999 Code</b>	<b>Location in 2010 Code</b>
Title 1, General Provisions	
Ch. 1, Use and Construction	Ch. 1, Art. I
Ch. 2, Use of Citation	Ch. 22
Title 2, Government and Administration	
Ch. 1, Village Government and Elections	
§§ 2-1-1 and 2-1-5	Ch. 140
§§ 2-1-2 to 2-1-4	Ch. 34
Ch. 2, Village Board	Ch. 140
Ch. 3, Municipal Officers and Employees	Ch. 93
Ch. 4, Boards, Commissions and Committees	Ch. 15
Ch. 5, Ethics Code and Employment	Ch. 41
Title 3, Finance and Public Records	
Ch. 1, Finance	Ch. 50, Art. I
Ch. 2, Special Assessments	Ch. 50, Art. II
Ch. 3, Public Records	Ch. 118
Title 4, Administrative Review Procedures	
Ch. 1, Review of Administrative Determinations	Ch. 7
Title 5, Public Safety	
Ch. 1, Law Enforcement	Ch. 102
Ch. 2, Fire Protection	
§ 5-2-1	Ch. 55
§§ 5-2-2 to 5-2-10	Ch. 260
Ch. 3, Fire Prevention Code; Hazardous Materials	
§ 5-3-1	Ch. 260
§§ 5-3-2 and 5-3-3	Ch. 285
Title 6, Public Works	

<b>Chapter/Title From 1999 Code</b>	<b>Location in 2010 Code</b>
Ch. 1, Grades; Official Map	Ch. <b>445</b> , Art. I
Ch. 2, Streets and Sidewalks	Ch. <b>445</b> , Art. II
Ch. 3, Driveways	Ch. <b>238</b>
<b>Title 7, Licensing and Regulation</b>	
Ch. 1, Licensing of Dogs and Regulation of Animals	Ch. <b>173</b>
Ch. 2, Fermented Malt Beverages and Intoxicating Liquor	Ch. <b>312</b> , Art. I
Ch. 3, Cigarette License	Ch. <b>219</b> , Art. I
Ch. 4, Transient Merchants	Ch. <b>461</b>
Ch. 5, Mobile Homes	REP
Ch. 6, Regulation and Licensing Fireworks	Ch. <b>264</b>
Ch. 7, Street Use Permits	Ch. <b>445</b> , Art. III
Ch. 8, Regulation and Nonmetallic Mining	REP
Ch. 9, Regulation of Large Assemblies of Persons	REP
Ch. 10, Licensing to Pay Local Claims; Appellate Procedures	Ch. <b>337</b>
<b>Title 8, Health and Sanitation</b>	
Ch. 1, Health and Sanitation	
§§ 8-1-1 through 8-6	Ch. <b>396</b> , Art. IV
§§ 8-1-7 through 8-1-12	Ch. <b>293</b>
Ch. 2, Pollution Abatement	Ch. <b>285</b>
Ch. 3, Refuse Collection and Recycling	Ch. <b>438</b>
Ch. 4, Village Cemetery	Ch. <b>213</b>
<b>Title 9, Public Utilities</b>	
Ch. 1, Water Utility Regulations and Rates (Reserved)	NI
Ch. 2, Sewer Utility Regulations and Rates (Reserved)	NI
Ch. 3, Cable Television	Ch. <b>207</b>
<b>Title 10, Motor Vehicles and Traffic</b>	
Ch. 1, Traffic and Parking	Ch. <b>480</b>
Ch. 2, Bicycles	Ch. <b>191</b>
Ch. 3, Snowmobiles	Ch. <b>432</b>
Ch. 4, All-Terrain Vehicles and Off-Road Motor Vehicle Operation	Ch. <b>480</b>
Ch. 5, Abandoned and Junked Vehicles	
§§ 10-5-1 to 10-5-7	Ch. <b>476</b>
§ 10-5-8	Ch. <b>396</b> , Art. III
<b>Title 11, Offenses and Nuisances</b>	
Ch. 1, State Statutes Adopted	Ch. <b>385</b> , Art. I
Ch. 2, Offenses Against Public Safety and Peace	Ch. <b>385</b> , Art. II
Ch. 3, Offenses Against Property	Ch. <b>385</b> , Art. III
Ch. 4, Offenses Involving Alcoholic Beverages	
§§ 11-4-1 and 11-4-9	Ch. <b>312</b> , Art. II
§§ 11-4-2 to 11-4-8	REP
Ch. 5, Offenses by Juveniles	Ch. <b>326</b>

<b>Chapter/Title From 1999 Code</b>	<b>Location in 2010 Code</b>
Ch. 6, Public Nuisances	Ch. <b>368</b>
Ch. 7, Regulation of Lewd and Sexually-Explicit Conduct	Ch. <b>165</b>
Title 12, Parks and Navigable Waters	
Ch. 1, Parks and Recreation	Ch. <b>379</b>
Title 13, Zoning	
Ch. 1, Zoning	Ch. <b>500</b>
Ch. 2, Floodplain Zoning	Ch. <b>270</b>
Ch. 3, Annexations	NCM
Ch. 4, Mobile Homes	Repealed 6-6-2005
Title 14, Subdivision Regulations	
Ch. 1, Subdivision Regulations	Ch. <b>450</b>
Title 15, Building Code	
Ch. 1, Building Code	Repealed 9-13-2004
Ch. 2, Construction Site Erosion Control	Ch. <b>226</b>
Ch. 3, Fair Housing	Ch. <b>252</b>
Ch. 4, Minimum Property Maintenance Code	Ch. <b>396</b> , Art. I
Ch. 5, Commercial Property Exterior Maintenance Code	Ch. <b>396</b> , Art. II
Ch. 6, Grievances Regarding Access to Public Buildings, Programs, Services and Employment	Ch. <b>107</b> , Art. I
Ch. 7, Historic Preservation	Ch. <b>300</b>

## Disposition List

### Chapter DL. Disposition List

The following is a chronological listing of legislation of the Village of Neshkoro adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the original publication of the Code was adopted 2-4-2008.

#### § DL-1. Disposition of legislation.

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
	9-13-2010	Zoning amendment	Ch. <b>500</b>
	10-4-2010	Adoption of Code	Ch. <b>1</b> , Art. II
	11-6-2012	Animals amendment	Ch. <b>173</b>
	11-14-2012	Floodplains	Ch. <b>270</b> , Part 1
Ord. No. 312-24	5-6-2013	Intoxicating liquor and fermented malt beverages: social host regulations	Ch. <b>312</b> , Art. III
Ord. No. 15-6	9-8-2014	Joint Municipal Court	Ch. <b>25</b>
Ord. No. 480-38	9-8-2014	Vehicles and traffic amendment	Ch. <b>480</b>

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
	11-3-2014	Village Board amendment; building construction: land use permit amendment; intoxicating liquor and fermented malt beverages: licensing amendment; property maintenance: lawns and yards amendment; sewers amendment; vehicles and traffic amendment; zoning amendment	Chs. <b>140</b> ; 200, Art. I; 312, Art. I; 396, Art. IV; 420; 480; 500
	12-1-2014	Animals amendment; peace and good order amendment	Chs. <b>173</b> ; 385
	2-2-2015	Sex offender residency restrictions amendment; streets, sidewalks and public grounds amendment; zoning amendment	Chs. <b>424</b> ; 445; 500
	7-7-2015	Sewers amendment	Ch. <b>420</b>
	9-14-2015	Intoxicating liquor and fermented malt beverages: licensing amendment	Ch. <b>312</b> , Art. I
	9-14-2015	Property maintenance: junked vehicles and appliances amendment	Ch. <b>396</b> , Art. III
	3-7-2016	Sex offenders residency restrictions amendment	Ch. <b>424</b>
	7-5-2016	Parks and recreation amendment	Ch. <b>379</b>

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>	<b>Supp. No.</b>
	10-2-2017	Intoxicating Liquor and Fermented Malt Beverages: Licensing Amendment	Ch. <b>312</b> , Art. I	4
	1-14-2019	Village Board Amendment	Ch. <b>140</b>	4
	7-1-2019	Vehicles and Traffic Amendment	Ch. <b>480</b>	4
	8-4-2019	Property Maintenance: Lawns and Yards Amendment	Ch. <b>396</b> , Art. IV	4