

CHAPTER 13 ZONING CODE

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CHAPTER 13 ZONING CODE

SECTION 13.01 Authority.

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

SECTION 13.02 General Purpose.

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

SECTION 13.03 Intent and Purpose in View.

The general intent and purpose of this Chapter is to regulate and restrict the use of all structures, lands and waters and to:

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

- (o) Protect the traffic-carrying capacity of existing and proposed streets and highways;
- (p) Implement municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the Village;
- (q) Provide for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

SECTION 13.04 Abrogation and Greater Restrictions.

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

SECTION 13.05 Interpretation.

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

SECTION 13.06 Severability and Non-liability.

- (a) If a court of competent jurisdiction adjudges any section, clause, provision or portion of this Chapter unconstitutional or invalid, the remainder of this Chapter shall not be affected thereby.
- (b) If any application of this Chapter to a particular structure, land or water is judged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.

SECTION 13.07 Repeal.

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

SECTION 13.08 Jurisdiction and General Provisions.

- (a) **Jurisdiction.** The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the Village of Arlington. The provisions of this Chapter shall be held to be the minimum requirements for carrying out the intent and purpose of this Chapter.
- (b) **Compliance.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit issued pursuant to § 13.77

of this Chapter and without full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.

- (c) **District Regulations to be Complied With.** Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.
- (d) **Relationship with Other Laws.** Where the conditions imposed by any part of this Chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Chapter or any other laws, ordinances, resolutions, rules or regulations of any kind, the regulations which are more restrictive (or impose higher standards or requirements) shall be enforced.

SECTION 13.09 Use Regulations.

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

- (a) **Permitted Uses.** Permitted uses, being the principal uses, specified for a district.
- (b) **Accessory Uses.** Accessory uses and structures as specified are permitted in any district but not until their principal structure is present or under construction.
- (c) **Conditional Uses.**
 - (1) Conditional uses and their accessory uses are considered special uses requiring, Plan Commission authorization, review, public hearing and Village Board final approval.
 - (2) Conditional uses, when replaced by permitted uses, shall terminate. In such case, the re-establishment of any previous conditional use, or establishment of new conditional use shall require Plan Commission review, public hearing, and final approval by the Village Board.
 - (3) Conditional uses authorized by the Village Board shall be established for a period of time to a time certain or until a future happening or event at which time the same shall terminate.
 - (4) Conditional uses authorized by the Village Board shall not be subject to substitution with other conditional uses, either regular or limited, whether of similar type or not, without Plan Commission review and Village Board approval.
- (d) **Classification of Unlisted Uses.** Any use not specifically listed as a permitted use or a conditional use in the districts established in § 13.14 shall be considered to be prohibited except as may be otherwise specifically provided hereinafter. In case of any question as to the classification of an unlisted use, the question shall be submitted to the Village Board for determination, following a recommendation from the Plan Commission, in accordance with the following procedure:
 - (1) **Application.** Application for determination for classification of an unlisted use shall be made in writing to the Village Clerk and shall include a detailed

description of the proposed use and such other information as may be required by the Plan Commission and Village Board to facilitate the determination.

- (2) **Investigation.** The Plan Commission shall make or have made such investigation as it deems necessary in order to compare the nature and characteristics of the proposed use with those of the uses specifically listed in the Chapter and to recommend its classification. The Commission shall make recommendation to the Village Board as to whether the classification of the unlisted use is a permitted use, conditional use or prohibited use in one or more of the districts established in § 13.14.
- (3) **Determination.** The determination of the Village Board shall be rendered in writing within sixty (60) days from the application and shall include findings supporting the conclusion.
- (4) **Effective Date of Determination.** At the time of the determination of the classification of the unlisted use by the Village Board, the classification of the unlisted use shall become effective.

SECTION 13.10 Site Regulations.

- (a) **Street Frontage.** All lots shall abut upon a public street or approved private road or way. Each lot shall have a minimum frontage of sixty (60) feet; however, to be buildable, the lot shall comply with the frontage requirements of the zoning district in which it is located, unless the lot is a substandard lot of record as of August 9, 2010. If a lot is substandard as of August 9, 2010, then the lawful non-conforming lot existing as of August 9, 2010, may be continued and built upon although its size or location does not conform with the lot width, lot area, yard, and access provisions of this chapter.
- (b) **Street Yard Setbacks for Corner Lots.** Any lot that abuts streets on more than one side of the lot must have the street yard setback required for the appropriate zoning district on each side of the lot that abuts a street.
- (c) **Principal Structures.** All principal structures shall be located on a lot. Not more than one principal building or use and its accessory buildings or uses may be located on 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, parking requirements, or require a minimum separation distance between structures.
- (d) **Dedicated Street.** All lots shall abut a public street or approved private road or way, which is constructed to applicable standards. 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.** Any front yard, side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in

the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts that abut the district boundary line.

- (f) **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 the Village of Arlington. 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 certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability to the Village Board. Thereafter, the Village Board may affirm, modify or withdraw its determination of unsuitability.
- (g) **Preservation of Topography.** In order to protect property owners from possible damage due to changes 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 alter the existing drainage or topography in any way so as to adversely affect the adjoining properties or which would result in increasing any portion of the slope to a ratio greater than one and one-half horizontal to one vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owners of the adjoining properties and with the approval of the Village Board. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.
- (h) **Decks.** For purposes of this Chapter, decks and porches shall be considered a part of a building or structure.
- (i) **Vacated Streets.** Whenever any street, alley, easement or public way is vacated by official action, the land being vacated shall be automatically placed in the same zoning district as the parcel to which the vacated land reverts. If more than one zoning district in a single parcel abuts land being vacated, the Village Board shall determine, after receiving a recommendation from the Plan Commission, the zoning of the land being vacated.
- (j) **Platting.** All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features of proper subdivision and land platting.
- (k) **Dwelling Units.** No cellar, basement or unfinished home, garage, tent, trailer or accessory building shall, at any time, be used as a dwelling unit. Basements shall not be used as dwelling units, except where specifically designed for such use through proper damp-proofing, fire-protecting walls and other requirements as may be required by the Building Code.

SECTION 13.11 Obstructions.

Every part of the required area of a yard shall be open to the sky unobstructed, except for accessory buildings and the ordinary projections of sills, cornices and ornamental features. In addition, the following obstructions are also permitted:

- (a) Fire escapes may project into a required yard area not more than five (5) feet.
- (b) An open terrace or uncovered porch may extend into the required setback for the front yard and/or rear yard a distance of six (6) feet provided the floor is not higher than four (4) feet above grade.
- (c) Steps four (4) feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley.
- (d) Awnings and canopies may extend into the required yard a distance not to exceed four (4) feet.
- (e) Chimneys, provided they do not extend more than two (2) feet into a required yard.
- (f) Recreational equipment.
- (g) Clothes lines and other similar laundry drying equipment.
- (h) Overhanging eaves and gutters projecting into the yard for a distance not exceeding forty percent (40%) of the required yard width or three (3) feet, whichever is less.

SECTION 13.12 Modifications.

- (a) **Height.** The district height limitations provided elsewhere in this Chapter may be exceeded, but such modification shall be in accord with the following:
 - (1) Architectural Projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys are exempt from the height limitations of this Chapter.
 - (2) Special Structures, such as elevator penthouses, gas tanks, grain elevators, scenery lots, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, are exempt from the height limitations of this Chapter.
 - (3) Essential Services, such as utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Chapter.
 - (4) Communication Structures, such as radio and television transmission and relay towers, aerials and observation towers, shall not exceed in height three times its distance from the nearest lot line.
 - (5) Where public or semipublic facilities such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations are proposed that exceed a district's maximum height requirement, height limits for such facilities shall be determined by the Village Board and shall be specified in a development agreement for the project.
- (b) **Yards.** The yard requirements provided elsewhere in this Chapter may be modified as follows:

- (1) Architectural Projections, such as chimneys, flues, sills, eaves, belt courses, ornaments, landings, fire escapes, and other architectural features permitted by § 13.11, may project into any yard as allowed in that section.
 - (2) Accessory Uses and detached accessory structures are permitted in the rear yard only; they shall not be closer than ten (10) feet to the principal structure, shall not exceed eighteen (18) feet in height at its highest peak, shall not occupy more than thirty percent (30%) of the rear yard area and shall not be closer than three (3) feet to any lot line nor five (5) feet to any alley line.
 - (3) Essential Services, such as utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.
 - (4) Landscaping and Vegetation are exempt from the yard requirements of this Chapter.
- (c) **Additions.** Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.
- (d) **Average Street Yards.** The required street yards may be decreased in any residential or business districts to the average of the existing street yards of the abutting structures on each side but in no case less than fifteen (15) feet in any residential district.

SECTION 13.13 Reduction or Joint Use.

- (a) No lot, yard, parking area, building area or other space shall be reduced in area or dimensions so as not to meet the provisions of this Chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.
- (b) No yard or other open space allocated to a structure or parcel of land shall be used to satisfy yard, other open spaces, or minimum lot area requirements for any other structure or parcel.

SECTION 13.14 Establishment of Districts.

- (a) **Districts.** For purposes of this Chapter, present and future, provision is hereby made for the division of the Village of Arlington into the following basic zoning districts:
 - (1) R-1 Low Density Single-Family Residential District
 - (2) R-2 Medium Density Single-Family Residential District
 - (3) R-3 High Density Single-Family Residential District
 - (4) M-1 Multi-Family Residential District
 - (5) M-2 Two-Family (Duplex) Residential District
 - (6) C-1 Conservancy District
 - (7) B-1 General Commercial District
 - (8) B-2 Highway Commercial District
 - (9) I-1 Business Park/Industrial District

- (10) I-2 Industrial District
- (11) Wellhead Protection Overlay District

SECTION 13.15 Annexations to Village.

- (a) Unless the annexation petition requests otherwise annexations to the Village shall be placed in the R-I Single-Family District. The zoning classification for the annexed parcel shall be finalized as part of the annexation process. Upon adoption of the annexation ordinance the Village zoning ordinance shall be amended as required by state statutes and this chapter.
- (b) At any time following the filing of a Petition for Annexation by a non-governmental entity, the Village may require the applicant to enter into a Review Agreement in a form approved by the Village Engineer and Village Attorney, as provided for in Section 13.31(d) of this Chapter.

SECTION 13.16 Zoning Map.

- (a) The Village of Arlington is hereby divided into Zoning Districts as shown upon a map designated as the Official Zoning Map of the Village of Arlington, and made a part of this Chapter. The Official Zoning Map and all notations, references and other information shown thereon are a part of this Zoning Code and shall have the same force and effect as if the matters and information set forth by said map were fully described herein. The Official Zoning Map shall be properly attested and kept on file along with the text of the Official Zoning Regulations in the office of the Village Clerk of the Village of Arlington. Every five (5) years, the Zoning Map shall be examined, reviewed in detail, verified and approved by the Village Board. The date of this action shall be noted on the Zoning Map.
- (b) The District Boundaries shall be determined by measurement from and as shown on the Official Zoning Map, and in case of any question as to the interpretation of such boundary lines, the Village Board shall interpret the map according to the reasonable intent of this Zoning Code. Unless otherwise specifically indicated or dimensioned on the map, the district boundaries are normally lot lines; section, quarter section or sixteenth section lines; or the center lines of streets, highways, railways or alleys.

SECTION 13.17 Rules for Interpretation of District Boundaries.

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

- (a) Boundaries indicated as approximately following the center line of streets, highways or alleys shall be construed to follow such center line.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

- (c) Boundaries indicated as approximately following Village boundaries shall be construed as following Village boundaries.
- (d) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (e) Boundaries indicated as parallel to or extensions of features indicated in the preceding shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

SECTION 13.18 R-1 Low Density 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 Uses.** The following uses of land are permitted in the R-1 District:
 - (1) Single-Family detached dwellings, excluding all mobile homes; for purposes of this chapter, modular homes are included in the definition of single-family dwelling.
 - (2) Modular homes complying with all of the following requirements and limitations:
 - a. The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length.
 - b. The home shall be installed on an approved foundation system in conformity with the Uniform Dwelling Code. The wheels and axles shall be removed. The enclosed foundation system shall be approved by the Building Inspector; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
 - c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
 - d. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.
 - e. The home shall have overhanging eaves and such other design features required of all new single-family dwellings located within the Village of Arlington.
 - (3) Accessory uses and buildings subject to the provisions of § 13.71.
 - (4) Signs as permitted by this Chapter.
 - (5) Foster family care.
- (c) **Conditional Uses.** The following are conditional uses in the R-1 District:
 - (1) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
 - (2) Utilities (electric substations, telephone switching stations, gas regulators, etc.)
 - (3) Bed and breakfast inns.

- (4) Churches and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and workshops.
 - (5) Public Utility structures, except those incompatible with the characteristics of the district.
 - (6) Home occupations and professional home offices.
 - (7) Other 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.
 - (8) Agricultural and gardening uses, except those incompatible with the characteristics of the district, such as the raising of livestock.
 - (9) Parks and playgrounds.
 - (10) Golf courses and private clubs.
 - (11) Barbering and beauty culture.
 - (12) Nursery schools.
- (d) **Area, Height and Yard Requirements.**
- (1) **Lot.**
 - a. Area: Minimum twelve thousand one hundred fifty (12,150) square feet.
 - b. Width: Minimum ninety (90) feet.
 - (2) **Building Height.** Maximum thirty-five (35) feet.
 - (3) **Yards.**
 - a. Street: Minimum thirty (30) feet.
 - b. Rear: Minimum thirty (30) feet.
 - c. Side: Minimum eight (8) feet each side.

SECTION 13.19 R-2 Medium Density 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 medium dwelling unit per acre density.
- (b) **Permitted Uses.** The following uses of land are permitted in the R-2 District:
 - (1) Single-family detached dwellings, excluding all mobile homes; for purposes of this chapter, modular homes are included in the definition of single-family dwelling.
 - (2) Modular homes complying with all of the following requirements and limitations:
 - a. The home shall be a double wide of a least twenty-four (24) feet in width and thirty-six (36) feet in length.
 - b. The home shall be installed on an approved foundation system in conformity with the uniform building code. The wheels and axles must be removed. The enclosed foundation system shall be

approved by the Building Inspector 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 two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.
- e. The home shall have, overhanging eaves and such other design features required of all new single-family dwellings located within the Village of Arlington.

(3) Accessory uses and buildings subject to the requirements of § 13.71.

(4) Signs as permitted by this Chapter.

(5) Foster family care.

(c) **Conditional Uses.** The following are conditional uses in the R-2 District:

(1) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.

(2) Utilities (electric substations, telephone switching stations, gas regulators, etc.)

(3) Bed and breakfast inns.

(4) Churches and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and workshops.

(5) Public utility structures, except those incompatible with the characteristics of the district.

(6) Agricultural and gardening uses, except those incompatible with the characteristics of the district, such as the raising of livestock.

(7) Parks and playgrounds.

(8) Golf courses and private clubs.

(9) Barbering and beauty culture.

(10) Nursery schools.

(11) Home occupations and professional home offices.

(12) Other 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.

(d) **Area, Height and Yard Requirements.**

(1) **Lot.**

a. Area: Minimum nine thousand six hundred (9,600) square feet.

b. Width: Minimum eighty (80) feet.

(2) **Building Height.** Maximum thirty-five (35) feet.

(3) **Yards.**

a. Street: Minimum twenty-five (25) feet.

b. Rear: Minimum twenty-five (25) feet.

c. Side: Minimum Eight (8) feet each side.

SECTION 13.20 R-3 High Density 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 dwelling unit per acre density similar to the older neighborhoods in the Village.
- (b) **Permitted Uses.** The following uses of land are permitted in the R-3 District:
 - (1) Single-family detached dwellings, excluding all mobile homes; for purposes of this Chapter, modular homes are included in the definition of single-family dwelling.
 - (2) Modular homes complying with all of the following requirements and limitations:
 - a. The home shall be a double wide of a least twenty-four (24) feet in width and thirty-six (36) feet in length.
 - b. The home shall be installed on an approved foundation system in conformity with the uniform building code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector 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 two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.
 - e. The home shall have overhanging eaves and such other design features required of all new single-family dwellings located within the Village of Arlington.
 - (3) Accessory uses and buildings subject to the provisions of § 13.71.
 - (4) Signs as permitted by Village ordinances.
 - (5) Foster family care.
- (c) **Conditional Uses.** The following are conditional uses in the R-3 District:
 - (1) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
 - (2) Utilities (electric substations, telephone switching stations, gas regulators, etc.)
 - (3) Bed and breakfast inns.
 - (4) Churches and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and shops.
 - (5) Public utility structures, except those incompatible with the characteristics of the district.
 - (6) Agricultural and gardening uses, except those incompatible with the characteristics of the district, such as the raising of livestock.

- (7) Parks and playgrounds.
 - (8) Planned residential developments.
 - (9) Golf courses and private clubs.
 - (10) Barbering and beauty culture.
 - (11) Nursery schools.
 - (12) Home occupations and professional home offices.
 - (13) 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.
- (d) **Area, Height and Yard Requirements.**
- (1) **Lot.**
 - a. Area: Minimum seven thousand two hundred (7,200) square feet.
 - b. Width: Minimum sixty (60) feet.
 - (2) **Building Height.** Maximum thirty-five (35) feet.
 - (3) **Yards.**
 - a. Street: Minimum twenty-five (25) feet.
 - b. Rear: Minimum twenty-five (25) feet.
 - c. Side: Minimum six (6) feet each side.

SECTION 13.21 M-1 Multi-Family Residential District.

- (a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of multi-family dwelling units.
- (b) **Permitted Uses.** The following uses of land are permitted in the M-1 District:
 - (1) Accessory uses and buildings subject to the requirements of § 13.71.
 - (2) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
 - (3) Foster family care.
 - (4) Home occupations and professional home offices.
 - (5) Two-family dwellings.
 - (6) Multi-family dwellings.
 - (7) Signs as permitted by this Chapter.
 - (8) 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 conditional uses in the M-1 District:
 - (1) Parks and playgrounds.
 - (2) Multiple family dwellings.
 - (3) Golf courses and private clubs.
 - (4) Barbering and beauty culture.
 - (5) Lodge and Fraternal Buildings.
 - (6) Nursing home.
 - (7) Nursery schools and day care centers.
 - (8) Retirement homes.
 - (9) Utilities.
 - (10) Schools and churches.

- (11) Government, cultural and public buildings or uses such as fire and police stations, community centers. Libraries, public emergency shelters and museums.
 - (12) Home occupations and professional home offices.
 - (13) Agricultural and gardening uses, except those incompatible with the characteristics of the district, such as the raising of livestock.
- (d) **Area, Height and Yard Requirements.**
- (1) **Lot.**
 - a. Area: Minimum eight thousand four hundred (8,400) square feet.
 - b. Width: Minimum eighty (80) feet.
 - (2) **Building Height.** Maximum thirty-five (35) feet.
 - (3) **Yards.**
 - a. Street: Minimum twenty (20) feet.
 - b. Rear: Minimum twenty (20) feet.
 - c. Side: Minimum Six (6) feet each side.
 - (4) **Open Space.** There shall be at least one (1) square foot of open space for every 2.2 feet of gross floor area.

SECTION 13.22 M-2 Two-Family (Duplex) Residential District.

- (a) **Purpose.** The purpose of this District is to provide the opportunity for construction and maintenance of two-family dwelling units.
- (b) **Permitted Uses.** The following uses of land are permitted in the M-2 District:
 - (1) Attached zero lot line or common wall construction single-family dwellings.
 - (2) Two-family dwellings.
 - (3) Signs as permitted by this Chapter.
 - (4) Accessory uses and buildings subject to the requirements of § 13.71.
 - (5) Original single family homes that are currently being used as Upper/Lower Flats may return to single family upon written notification to the Village Clerk.
- (c) **Conditional Uses.** The following are conditional uses in the M-2 District:
 - (1) Parks and playgrounds.
 - (2) Professional home offices.
 - (3) Golf courses and private clubs.
 - (4) Barbering and beauty culture.
 - (5) Utilities.
 - (6) Schools and churches.
 - (7) Government, cultural and public buildings or uses such as fire and police stations, community centers. libraries, public emergency shelters and museums.
 - (8) Home occupations and professional home offices.
 - (9) Nursery schools.
 - (10) Agricultural activities.
 - (11) Retirement homes.
 - (12) Agricultural and gardening uses, except those incompatible with the characteristics of the district, such as the raising of livestock.

- (d) **Lot, Building and Yard Requirements.**
 - (1) **Lot Frontage.** Minimum forty (40) feet (each unit.)
 - (2) **Lot Area.** Minimum of ten thousand five hundred (10,500) square feet and minimum of five thousand two hundred fifty (5,250) square feet for each unit.
 - (3) **Principal Building.**
 - a. Front Yard: Minimum twenty (20) feet.
 - b. Side Yards: Zero feet on one (1) side and minimum of Six (6) feet on the other side. (If street side of a corner lot, a minimum of sixteen (16) feet).
 - c. Rear Yard: Minimum twenty (20) feet.
 - (4) **Garages.** One (1) private garage with up to two (2) stalls per dwelling unit, not exceeding three hundred twelve (312) square feet per stall.
 - (5) **Building Height.** Maximum thirty-five (35) feet.
 - (6) **Percent of Lot Coverage.** Maximum forty percent (40%).
 - (7) **Floor Area Per Dwelling Unit.** Minimum eight hundred forty (840) square feet.
- (e) **Additional Requirements.**
 - (1) Each unit shall have separate sewer and water lateral connections.
 - (2) A minimum one (1) hour fire rated wall assembly division separating living areas from the lowest level to flush against the underside of the roof is required between each dwelling unit. Further, each dwelling unit shall have its own walls, so as to create a situation where no common walls are present.

SECTION 13.23 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.** The following uses of land use are permitted in the C-1 District:
 - (1) Farming and related agricultural uses when conducted in accordance with conservation standards.
 - (2) Forest and game management.
 - (3) Hunting, fishing and hiking.
 - (4) Parks and recreation areas; arboreta; botanical gardens; greenways.
 - (5) Stables.
 - (6) Non-residential buildings used solely in conjunction with the raising of waterfowl or fish.
 - (7) Harvesting of wild crops.
 - (8) Recreation related structures not requiring basements.
- (c) **Conditional Uses.** The following are conditional uses in the C-1 District:
 - (1) Animal hospitals, shelters and kennels.

- (2) Archery and firearm ranges, sports fields and skating rinks.
 - (3) Land restoration, flowage, ponds.
 - (4) Golf courses and clubs.
 - (5) Ski hills and trails.
 - (6) Recreation camps.
 - (7) Public and private campgrounds.
 - (8) Riding stables.
 - (9) Governmental, cultural and public buildings or uses.
 - (10) Utilities.
 - (11) Hunting and fishing clubs.
 - (12) Farm structures.
- (d) **Area, Height and Yard Requirements.**
- (1) **Lot.**
 - a. Area: Minimum one and one-half (1-1/2) acres.
 - b. Width: Minimum one hundred fifty (150) feet.
 - (2) **Building Height.** Maximum thirty-five (35) feet.
 - (3) **Yards.**
 - a. Street: Minimum twenty (20) feet.
 - b. Rear: Minimum twenty (20) feet.
 - c. Side: Minimum twenty (20) feet except structures used for the housing or shelter of animals must be one hundred (100) feet from lot lines.

SECTION 13.24 B-1 General Commercial District.

- (a) **Purpose.** The B-1 General Commercial District is intended to provide an area for the business, financial, professional, and commercial needs of the community, especially those which can be most suitably located in a compact and centrally located business district.
- (b) **Permitted Uses.** The following uses of land are permitted in the B-I District:
 - (1) Paint, glass and wallpaper stores.
 - (2) Hardware stores, department stores, variety stores, general merchandise stores, general grocery stores, supermarkets, fruit and vegetable stores, delicatessens, meat and fish stores and miscellaneous food stores.
 - (3) Candy, nut or confectionery stores, dairy products stores, including ice cream stores.
 - (4) 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.
 - (5) Clothing and shoe stores.
 - (6) Furniture, home furnishings, floor covering and upholstery shops/stores.
 - (7) Restaurants, lunch rooms and other eating places, except drive-in type establishments.
 - (8) Taverns, bars and other drinking places subject to license by Village Board.

- (9) Drug store, pharmacies, liquor, antique and secondhand stores.
- (10) Sporting goods stores and bicycle shops.
- (11) Stationery, jewelry, clock stores, camera and photographic supply stores, gift, novelty and souvenir shops.
- (12) Florist shops.
- (13) Tobacco and tobacco supply stores.
- (14) News dealers and newsstands.
- (15) Wholesale merchandise establishments, but only for retail items listed in this section; e.g., would allow wholesale camera sales.
- (16) Banks and other financial institutions.
- (17) Offices of insurance companies, agents, brokers and service representatives.
- (18) Offices of real estate agents, brokers, managers and title companies.
- (19) Miscellaneous business offices, heating and plumbing supplies, retail laundry and dry cleaning outlets, including coin-operated laundries and dry cleaning establishments, commonly called laundromats and launderettes.
- (20) Tailor shops, dressmaker shops and garment repair shops, but not garment pressing establishments, hand laundries, or hat cleaning and blocking establishments.
- (21) Photographic studios and commercial photography establishments.
- (22) Barbershops, beauty shops and hairdressers.
- (23) Shoe repair shops and shoe shine parlors.
- (24) Trade and contractor offices (office only.)
- (25) Advertising agencies, consumer credit reporting, news agencies, employment agencies.
- (26) Duplicating, blueprinting, photocopying, addressing, mailing, mailing list and stenographic services; small print shops.
- (27) Computer services.
- (28) Commercial parking lots, parking garages, parking structures.
- (29) Watch, clock and jewelry repair services.
- (30) Motion picture theaters, not including drive-in theaters.
- (31) Miscellaneous retail stores.
- (32) Offices/clinics of physicians and surgeons, dentists and dental surgeons, osteopathic physicians, optometrist and chiropractors, but not veterinarian's office.
- (33) Law offices.
- (34) The offices, meeting places, and premises of professional membership associations.
- (35) Civic, social, and fraternal associations.
- (36) Business associations, labor unions and similar labor organizations.
- (37) Political organizations.
- (38) Churches and offices for religious organizations.
- (39) Offices for charitable organizations or other non-profit membership organizations.
- (40) Offices for engineering and architectural firms or consultants.

- (41) Offices for accounting, auditing and bookkeeping firms or services.
 - (42) Professional, scientific, or educational firms, agencies, offices, or services, but not research laboratories or manufacturing operations.
 - (43) The offices of governmental agencies and post offices.
 - (44) Public transportation passenger stations, taxicab company offices, taxicab stands.
 - (45) Telephone office.
 - (46) Establishments engaged in the retail sale of automobiles, trailers, mobile homes, or campers.
 - (47) Stores for the sale and installation of tires, batteries, mufflers or other automotive accessories, and automobile repair services.
 - (48) Dwelling units, provided that 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.
- (c) **Conditional Uses.** The following are permitted as conditional uses in the B-1 District; provided that no nuisance shall be caused 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 sidewalks, or other conditions generally regarded as nuisances; and provided that where operations necessary or incident to the proper performance of these services of occupations would tend to afford such nuisances, area, facilities, barriers, or other devices shall be provided in such a manner that the public is effectively protected from any and all such nuisances.
- (1) Miscellaneous repair shops and related services.
 - (2) Garment pressing establishments, hand laundries, hat cleaning and blocking shops and coin-operated dry cleaning establishments.
 - (3) Establishments engaged in the publishing and printing of newspapers, periodicals or books.
 - (4) Wholesale farm supplies.
 - (5) Establishments engaged in the daily or extended-term rental or leasing of house trailers, mobile homes or campers.
 - (6) 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.
 - (7) Establishments for the washing, cleaning or polishing of automobiles, including self-service car washes.
 - (8) Agricultural and gardening uses, except those incompatible with the characteristics of the district, such as the raising of livestock.
 - (9) Outdoor or enclosed smoking shelters.
- (d) **Lot, Yard and Building Requirements.**
- (1) **Lot Frontage.** Minimum sixty (60) feet.
 - (2) **Lot Area.** Minimum six thousand (6,000) square feet.
 - (3) **Building Height.** Maximum forty-five (45) feet.

- (4) **Percent of Lot Coverage.** Maximum ninety percent (90%).

SECTION 13.25 B-2 Highway Commercial District.

- (a) **Purpose.** The purpose of this District is to encourage the growth and development of business activities and establishments which require highway frontage and exposure due to their automobile and vehicular orientations.
- (b) **Permitted Uses.** The following uses of land are permitted in the B-2 District:
- (1) Establishments engaged in the retail sale of automobiles, trailers, mobile homes, or campers.
 - (2) Stores for the sale and installation of tires, batteries, mufflers or other automotive accessories, and automobile repair services.
 - (3) Gasoline service stations; provided, further, that all gasoline pumps, storage tanks and accessory equipment must be located at least thirty (30) feet from any existing or officially proposed street line.
 - (4) Hotels, motor hotels, motels, tourist courts, tourist rooms, etc.
 - (5) Automobile and truck retail services.
 - (6) Lodges and fraternal buildings.
 - (7) Nursing homes.
 - (8) Nursery and day care centers.
 - (9) Retirement homes and assisted living facilities.
 - (10) Drive-in food and beverage establishments.
 - (11) Drive-thru banks.
 - (12) Vehicle sales and service.
 - (13) Governmental, cultural, and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
 - (14) Restaurants, bars, taverns or a combination thereof.
 - (15) Schools and churches.
- (c) **Conditional Uses.** The following are conditional uses in the B-2 District:
- (1) Amusement activities.
 - (2) Candy, nut and confectionery sales.
 - (3) Gift novelty and souvenir sales.
 - (4) Night clubs and dance halls.
 - (5) Animal hospital, shelters and kennels.
 - (6) Public assembly uses.
 - (7) Commercial recreation facilities.
 - (8) Off-season storage facilities.
 - (9) Drive-in theaters.
 - (10) Public parking lots.
 - (11) Taxi stands.
 - (12) Sewage disposal plants.
 - (13) Utilities.
 - (14) Mobile homes sales.

- (15) Agricultural and gardening uses, except those incompatible with the characteristics of the district, such as the raising of livestock.
- (16) Outdoor or enclosed smoking shelters.
- (d) **Area, Height and Yard Requirements.**
 - (1) **Lot.**
 - a. Area: Minimum one-half (1/2) acre.
 - b. Width: Minimum ninety (90) feet.
 - (2) **Building Height.** Maximum thirty-five (35) feet.
 - (3) **Yards.**
 - a. Front: Minimum forty (40) feet (may include parking).

SECTION 13.26 I-1 Business Park/Industrial District.

- (a) **Purpose.** The I-1 Business Park/Industrial District is established to provide an aesthetically attractive working environment conducive to the development of offices, non-nuisance type manufacturing operations and research and development institutions. The essential purpose of this District is to achieve development which is an asset to the owners, neighbors and the Village, and to promote and maintain desirable economic development in a park-like setting.
- (b) **Permitted Uses.** The following uses of land are permitted in the I-1 District:
 - (1) Warehousing or distribution operations, not including predominantly retail sales to customers on site.
 - (2) Offices of construction firms, shops, display rooms and enclosed storage.
 - (3) Laboratories, research, development and testing, and manufacturing and fabrication in conjunction with such research and development and operations.
 - (4) Service uses, including computer and data processing services, miscellaneous business services, offices (business and professional) and communication services.
 - (5) Telecommunications facilities.
- (c) **Conditional Uses.** The following are conditional uses in the I-1 District:
 - (1) Public utilities and public services.
 - (2) Conference centers and hotel facilities.
 - (3) Ancillary retail sale and service operations that serve employees within the business park.
 - (4) Any permitted or conditional use as set forth in Section 13.24, 13.25 or 13.27 of this Chapter.
- (d) **Lot, Yard and Building Requirements.**
 - (1) **Lot frontage.** Minimum one hundred (100) feet.
 - (2) **Lot Area.** Fifteen thousand (15,000) square feet.
 - (3) **Building Height.** Maximum of one hundred (100) feet.
- (e) **Design Standards.** Design standards in the I-1 District shall include as a minimum the following:

- (1) All uses shall comply with Village performance standards for air pollution, fire, explosive hazards, glare, heat, liquid and solid wastes, noise and vibration, odors, radioactivity, electrical disturbances and refuse.
- (2) All business except off-street parking and loading and outside storage areas shall be conducted within completely enclosed buildings.
- (3) The building coverage on any lot shall not exceed sixty-five percent (65%), nor be less than ten percent (10%).
- (4) All areas not covered by buildings or parking lots shall be appropriately landscaped.
- (5) All lots abutting residentially zoned districts shall be screened as required by Section 13.27(e).
- (6) The Village may require the land owner to enter into restrictive covenants to enforce the provisions of this Section.

SECTION 13.27 I-2 Industrial District.

- (a) **Purpose.** This District is intended to provide an area for manufacturing, industrial and agribusiness activities. It is also intended to provide an area for a variety of uses which require relatively large installations, facilities or land areas, or which would create or tend to create conditions of public or private nuisance, hazard, or other undesirable conditions, or which for these or other reasons may require special safeguards, equipment, processes, barriers, or other forms of protection, including spatial distance, in order to reduce, eliminate, or shield the public from such conditions.
- (b) **Permitted Uses.** The following uses of land are permitted in the I-2 District:
 - (1) The outdoor storage of industrial products, machinery, equipment, or other materials, provided that such storage be enclosed by a fence or other manner of screening no less than six (6) feet or more than eight (8) feet in height.
 - (2) Railroads, including rights-of-way, railroad yards, and structures normally incident to the operation of railroads, including station houses, platforms, and signal towers.
 - (3) Wholesale establishments and warehouses.
 - (4) Building construction contractors.
 - (5) Highway passenger and motor freight transportation.
 - (6) Light Industry and Service Uses:
 - a. Automotive body repair.
 - b. Automotive upholstery.
 - c. Commercial bakeries.
 - d. Commercial greenhouses.
 - e. Distributors.
 - f. Printing and Publishing.
 - g. Trade and Contractor facilities.
 - h. Office space.
 - i. Painting Services.

- j. Retail sales and service such as retail and surplus outlet stores, and restaurants and food service facilities established in conjunction with a permitted manufacturing or processing facility.
- (7) Public Facilities and Uses:
 - a. Governmental, cultural and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
 - b. Schools and churches.
- (8) Telecommunication and wireless communication facilities.
- (c) **Conditional Uses.** The following are conditional uses within the I-2 District. In addition to the factors and criteria set forth in this chapter, the Plan Commission shall evaluate each application for a conditional use permit considering such matters as the creation of nuisance conditions for the public or the users of nearby areas, the creation of traffic hazards, the creation of health hazards, the creation of noise and/or odor hazards, and other potential nuisances as outlined in this Chapter. Conditional uses are as follows:
 - (1) Manufacturing establishments, usually described as factories, mills or plants, in which raw materials are transformed into finished products, and establishments engaged in assembling component part of manufactured products.
 - (2) Other industrial or commercial activities which possess the special problem characteristics described above relating to the creation of hazards or nuisance conditions.
 - (3) Cleaning, pressing, dyeing.
 - (4) Agriculture Related Industry and Service Uses:
 - a. Production of natural and processed cheese.
 - b. Production of shortening, table oils, margarine and other edible fats and oils.
 - c. Production of condensed and evaporated milk.
 - d. Wet milling of corn.
 - e. Production of creamery butter.
 - f. Drying and dehydrating fruits and vegetables.
 - g. Preparation of feed for animal and fowl.
 - h. Creameries.
 - i. Production of flour and other grain mill products; blending and preparing of flour.
 - j. Fluid milk processing.
 - k. Production of frozen fruits, fruit juices, vegetables and other specialties.
 - l. Fruit and vegetable sauces and seasoning, and salad dressing preparation.
 - m. Poultry and small game dressing and packing, provided that all operations be conducted within an enclosed building.
 - n. Production of sausages and other meat products providing that all operations conducted within an enclosed building.

- o. Corn shelling, hay baling and threshing services.
 - p. Grist mill services.
 - q. Horticultural services.
 - r. Canning of fruits, vegetables, preserves, jams and jellies.
 - s. Canning of specialty foods.
 - t. Grain elevators and bulk storage of feed grains.
 - u. Fertilizer production, sales, storage, mixing and blending.
 - v. Sales or maintenance of farm implements and related equipment.
 - w. Animal hospitals, shelters and kennels.
 - x. Veterinarian services.
- (5) Any permitted or conditional use as allowed in Sections 13.24, 13.25 or 13.26 of this Chapter.
- (d) **Lot, Yard and Building Requirements.**
- (1) **Lot Frontage.** One hundred (100) feet.
 - (2) **Lot Area.** Minimum fifteen thousand (15,000) square feet.
 - (3) **Front Yard.** Forty (40) feet.
 - (4) **Side Yards.** Forty (40) feet.
 - (5) **Rear Yard.** Forty (40) feet.
 - (6) **Building Height.** Maximum of one hundred fifty (150) feet.
 - (7) **Percentage of Lot Coverage.** Maximum seventy percent (70%).
- (e) **Required Buffer Strips in Industrial Districts.** Where an Industrial District abuts a Residential District, there shall be provided along any rear, side or front line coincidental with any industrial-residential boundary, a buffer strip not less than forty (40) feet in width as measured at right angles to said lot line. Plant materials at least six (6) feet in height of such variety and growth habits as to provide a year-round, effective visual screen when viewed from the Residential District shall be planted in the exterior twenty-five (25) feet abutting the Residential District. If the required planting screen is set back from the industrial-residential boundary, the portion of the buffer strip facing the Residential District shall be attractively maintained. Fencing may be used in lieu of plant materials to provide said screening. The fencing shall be not less than six (6) nor more than eight (8) feet in height, and shall be of such materials as to effectively screen the industrial area. The exterior twenty-five (25) feet of the buffer strip shall not be devoted to the parking of vehicles or storage of any material or accessory uses. The interior fifteen (15) feet may be devoted to parking of vehicles.

SECTION 13.28 Groundwater Protection Overlay District.

- (a) **Groundwater Protection Overlay District.** A Groundwater Protection Overlay District around each Village well is hereby created to institute land use regulations and restrictions within a defined area which contributes water directly to a municipal water supply and thus promotes public health, safety, and welfare. The district is intended to protect the groundwater recharge area for the existing or future municipal water supply from contamination.
- (b) **Purpose and Authority.**

- (1) **Purpose.** The residents of the Village of Arlington depend exclusively on groundwater for its safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this Section is to institute land use regulations and restrictions protecting the municipal water supply of the Village of Arlington and to promote the public health, safety and general welfare of the Village residents.
 - (2) **Authority.** Statutory authority of the Village to enact these regulations was established by the Wisconsin Legislature in 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added groundwater protection, in § 59.97(l) and § 62.23(7)(c), Wis. Stats., to the statutory authorization for county and municipal planning and zoning to protect the public health, safety and welfare. In addition, under § 62.23(7)(c), Wis. Stats., the Village has the authority to enact this Section, effective in the incorporated areas of the Village, to encourage the protection of groundwater resources.
- (c) **Application of Regulations.** The regulations specified in this section shall apply to the incorporated areas of the Village of Arlington and to the extraterritorial plat approval jurisdiction area that lies within the recharge areas for municipal water supply wells, and are in addition to the requirements of the underlying zoning district, if any. If there is a conflict between the requirements of this Overlay District and the zoning district, the more restrictive provision shall apply.
- (d) **Definitions.** In this Section:
- (1) **Aquifer.** A saturated permeable geologic formation that contains and will yield significant quantities of water.
 - (2) **Conditional Use.** Land use or development that either by design or operation requires additional technical or regulatory review and permitting in order to exist within defined areas of a groundwater protection district.
 - (3) **Design Standards.** Regulations that apply to the development of structures and infrastructure within a designated groundwater protection district.
 - (4) **Five-year Time of Travel.** The zone of contribution up gradient of the well, the outer boundary from which it is determined or estimated that groundwater will take five years to reach a pumping well. For Well #2, the Five Year Time of Travel is a circle with a radius of one thousand four hundred eighty-three (1,483) feet from the center of the well. For Well #3, the Five Year Time of Travel is a circle with a radius of seven hundred seventy-two (772) feet from the center of the well. For Well #4, the Five-Year Time of Travel is a circle with a radius of twenty six hundred feet (2600) feet from the center of the well.
 - (5) **Municipal water supply.** The municipal water supply of the Village of Arlington.
 - (6) **Operating Standards.** Regulations that apply to land use activities and business practices within a designated groundwater protection district.

- (7) **Permitted Use.** Land use or development that by design or operation is allowed without further technical or regulatory review within defined areas of a groundwater protection district.
- (8) **Person.** Person means an individual, partnership, association, corporation, municipality or state agency, or other legal entity.
- (9) **Recharge area.** The area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supplies groundwater to a well.
- (10) **Regulated Substances.** Chemicals and chemical mixtures that are health hazards. Health hazards for chemicals and chemical mixtures are typically identified on Material Safety Data Sheets (MSDS) available from the substance manufacturer or supplier. Substances packaged for consumption for humans or animals are not considered regulated substances. Regulated substances include:
- a. Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, irritants, corrosives, sensitizers, hepato-toxins, agents that act on the hematopoietic system, reproductive toxins, and agents which damage the lungs, skin, eyes, or mucous membranes as defined in 29 CFR 1910.1200, Appendix A, "Health Hazard Definitions (Mandatory)."
 - b. Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.
 - c. Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and comprises one percent (1.0%) or greater of the composition on a weight per unit weight basis.
 - d. Mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one tenth of one percent (0.1%) or greater of the composition on a weight per unit weight basis.
 - e. Ingredients of mixtures prepared within the Groundwater Protection Overlay District in cases where such ingredients are health hazards but comprise more than one tenth of one percent (0.1%) of the mixture on a weight per unit weight basis if carcinogenic, or more than one percent (1.0%) of the mixture on a weight per unit weight basis if non-carcinogenic.
 - f. Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids used in equipment or for transmission of electric power to homes and businesses).
- (11) **Zone of Contribution.** A groundwater recharge area that is the source of water for a well. The zone of influence due to well pumping that overlies the cone of depression may extend beyond the zone of contribution.
- (12) **Zone of Influence.** The area of land above the hydraulic heads around a well caused by the withdrawal of water (cone of depression).

For Well No. 2, the zone of influence is a circle with a radius of 1135 feet from the center of the wellhead. For Well No. 3, the zone of influence is a circle with a radius of 851 feet from the center of the wellhead. For Well No. 4, the zone of influence is a circle with a radius of 2800 feet.

- (e) **Zones.** The Groundwater Protection Overlay District is divided into Zone A and Zone B as follows:
 - (1) **Zone A.** Zone A is an area which is the greater of the Zone of Influence or the Five-Year Time of Travel for each of the Village wells.
 - (2) **Zone B.** Zone B is as described on the attached Exhibit A.
- (f) **Groundwater Protection Overlay Districts Boundaries.** The boundaries of each Zone of the Groundwater Protection Overlay District shall be shown on the Village of Arlington zoning map.
- (g) **Permitted Uses.**
 - (1) The following permitted uses in Zone A are subject to the separation distance requirements equal to the separation requirements set forth of Chapter NR 811 of Wisconsin Administrative Code for new wells for the same sources of contamination, the prohibited uses set forth in subsection (h), and the applicable design and operational standards set forth in subsection (k):
 - a. Public and private parks and playgrounds, provided there are no on-site wastewater disposal systems or holding tanks.
 - b. Wildlife and natural and woodland areas.
 - c. Biking, hiking, skiing, natural, equestrian and fitness trails.
 - d. Municipally sewerred residential developments, but not residential developments with private on-site sewage treatment systems.
 - e. Routine tillage, planting, and field management operations in support of agricultural crop production, where nutrients from legume, manure, and commercial sources are accounted for and credited toward crop nutrient need. The combination of all nutrient sources applied or available on individual fields may not exceed University of Wisconsin or United States Department of Agriculture soil test recommendations for that field.
 - (2) The following permitted uses in Zone B are subject to the separation distance requirements equal to the separation requirements set forth of Chapter NR 811 of Wisconsin Administrative Code for new wells for the same sources of contamination, the prohibited uses set forth in subsection (h), and the applicable design and operational standards set forth in subsection (k):
 - a. All of the uses permitted in Zone A.
 - b. Public parks and playgrounds, with on-site sanitary systems discharged to a holding tank or municipal sewer.
 - c. Single-family residences on a minimum lot of two (2) acres with a private on-site sewage treatment system receiving less than eight thousand (8,000) gallons per day, which meets the County and

State health standards for the effluent, and is in conformance with COMM 83, Wis. Adm. Code.

- d. Residential use of above ground LP gas tanks for heating, not to exceed one thousand (1,000) gallons.
- e. Commercial and industrial establishments that are municipally sewerred and whose aggregate use, storage, handling and/or production of Regulated Substances does not exceed twenty (20) gallons or one hundred sixty (160) pounds at any time. A limited exclusion from these volume and weight limitations is authorized for non-routine maintenance or repair of property or equipment. The aggregate of Regulated Substances in use, storage, handling, and/or production may not exceed fifty (50) gallons or four hundred (400) pounds at any time. A limited exclusion from these volume and weight limitations is also authorized for each medical and research laboratory use, provided however, Regulated Substances shall be stored, handled or used in containers not to exceed five (5) gallons or forty (40) pounds of each substance and the aggregate inventory of Regulated Substances shall not exceed two hundred fifty (250) gallons or two thousand (2,000) pounds. A limited exclusion from these volume and weight limitations is also authorized for Regulated Substances which are cleaning agents, provided such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and provided the aggregate inventory of such cleaning agents shall not exceed one hundred (100) gallons or eight hundred (800) pounds at any time. Citrus based, biodegradable cleaners are not considered a regulated substance. In no case shall Regulated Substances claimed under this exclusion include hydrocarbon or halogenated hydrocarbon solvents.

(h) **Prohibited Uses.**

- (1) The following uses are prohibited in Zone A, and may be allowed only by conditional use permit in Zone B. These uses are prohibited based on the high probability that activities routinely associated with these uses (storage, use and handling of potential pollutants) may cause groundwater contamination:
 - a. Asphalt products manufacture or storage.
 - b. Buried hydrocarbon, petroleum or hazardous chemical storage tanks. (Hazardous chemicals are identified by OSHA criteria under 40CFR Part 370.)
 - c. Bus or truck terminals.
 - d. Cemeteries.
 - e. Chemical manufactures (Standard Industrial Classification Major Group 28).
 - f. Coal storage.

- g. Dry cleaning businesses.
- h. Electroplating businesses.
- i. Exterminating businesses.
- j. Industrial lagoons and pits.
- k. Landfills and any other solid waste facility, except post-consumer recycling.
- l. Manure and animal waste storage or spreading.
- m. All mining including sand and gravel pits.
- n. Motor vehicle services, including filling and service stations, repair, renovation and body working, including municipal garages and construction equipment storage facilities.
- o. Nurseries and greenhouses.
- p. Pesticide and fertilizer dealer, transfer or storage facilities.
- q. Paint and coating manufacturing.
- r. Printing and duplicating businesses.
- s. Private on-site wastewater treatment systems or holding tanks receiving eight thousand (8,000) gallons per day or more.
- t. Railroad yards and maintenance stations.
- u. Recycling facilities.
- v. Rendering plants and slaughterhouses.
- w. Salt or deicing material storage.
- x. Salvage or junk yards.
- y. Septage or sludge spreading, storage or treatment.
- z. Septage, wastewater, or sewage lagoons.
- aa. Stockyards and feedlots.
- bb. Stormwater infiltration basins without pre-treatment, including vegetative filtration and/or temporary detention.
- cc. Wood preserving operations.
- dd. Agricultural atrazine application.
- ee. Other uses determined by the Village Board of Trustees to represent a threat to the viable future use of Village well as a public water supply.

(i) **Classification of Use; Application and Appeal Procedure.**

- (1) Classification of a use as being permitted, prohibited or conditional shall be determined upon an application submitted to the Village Clerk. The application shall be in writing and shall describe in detail the use, activities and structures proposed along with the quantities, use of storage and handling of all regulated substances. A scaled site map showing all building and structure footprints, driveways, loading docks, sidewalks, parking lots, storage yards and any other information deemed necessary for determination. The Village Clerk shall make a preliminary decision regarding the classification and acceptability of a use within thirty (30) days of the submittal of the application.
- (2) Following the preliminary classification of a proposed use, the application shall be forwarded to the Plan Commission for review and

recommendation to the Village Board for final approval or denial in accordance with the following procedure:

- a. Investigation: The Plan Commission and its consultants shall make or have made such investigations as necessary in order to compare the nature and characteristics of the proposed use with those that are permitted, conditional or prohibited.
- b. The Plan Commission shall make recommendation to the Village Board for final determination whether the use will be permitted, prohibited or conditionally allowed.

(j) **Conditional Use Permits.**

- (1) All requests for a Conditional use permit shall be submitted in writing to the Village Clerk for a review of permit application materials. The request will then, if properly prepared, be forwarded to the Plan Commission for inclusion on the agenda of the next Plan Commission meeting.
- (2) Any person may request a conditional use permit for certain uses, activities and structures within Zone B of the Groundwater Protection Overlay District not prohibited in subsection (h) of this section.
- (3) Use, storage, handling or production processing of Regulated Substances in excess of quantities outlined in subsection (g)(2) of this section may be conditionally allowed in Zone B of the Groundwater Protection Overlay District.
- (4) The review procedure shall be as set forth in subsection (i)(2) of this section. The Conditional Use Permit Application shall include:
 - a. A site plan map set showing all building and structure footprints, driveways, sidewalks, parking lots, stormwater management structures, groundwater monitoring wells, and 2-foot ground elevation contours. The plan set should also include: building plans (must include floor plans of typical floors and denote all entrances, exits, loading docks, building service areas, etc.), storage areas for Regulated Substances, grading plans showing existing and proposed grades and contours, proposed surface water drainage patterns, catch basin and storm sewer locations, connections to existing utilities and a construction site erosion control plan. The site plan set shall be developed in accordance with the Design Standards established for the Goundwater Protection Overlay District as defined in subsection (k) of this section.
 - b. An operational plan and/or other documentation which describes in detail the use, activities, and structures proposed. The operational plan shall be developed in accordance with the Operational Standards established for the Groundwater Protection Overlay District as defined in section (k) of this section.
 - c. An environmental risk assessment report prepared by a licensed environmental professional which details the risk to, and potential impact of, the proposed use, activities, and structures on groundwater quality.

- d. An operational safety plan, which details the operational procedures for material processes and containment, best management practices, stormwater runoff management, and groundwater monitoring as required.
 - e. A contingency plan which addresses in detail the actions that will be taken should a contamination event caused by the proposed use, activities, or structures occur.
- (5) The person making the request shall reimburse the Village for consultant fees and investigation expenses associated with this review at the invoiced amount, plus administrative costs.
- (6) All conditional use permits granted shall be subject to provisions that will include environmental and safety monitoring determined necessary to afford adequate protection of the public water supply. These provisions shall include, but not be limited to:
- a. Provide current copies of all federal, state and local facility operation approval or certificates and on-going environmental monitoring results to the Village.
 - b. Establish environmental or safety structures and/or monitoring to include an operational safety plan, material processes and containment, operations monitoring, best management practices, stormwater runoff management, and groundwater monitoring.
 - c. Replace equipment or expand the use of equipment in a manner that improves the environmental and safety technologies being utilized.
 - d. Prepare, file and maintain a current contingency plan which details the response to any emergency which occurs at the facility, including notifying municipal, county and state officials. A current copy of the Plan shall be provided to the Village.
- (7) Review of Conditional Use Permit Applications.
- a. The Plan Commission shall consider all of the following factors:
 1. The Village's responsibility, as a public water supplier, to protect and preserve the health, safety and welfare of its citizens.
 2. The degree to which the proposed land use practice, activity or facility may seriously threaten or degrade groundwater quality in the Village of Arlington or the Village's recharge area.
 3. The economic hardship which may be faced by the landowner if the application is denied.
 4. The availability of alternative options to the applicant, and the cost, effect and extent of availability of such alternative options.
 5. The proximity of the applicant's property to other potential sources of contamination.

6. The then existing condition of the Village's groundwater public water wells and well fields, and the vulnerability to further contamination.
 7. The direction of flow of groundwater and other factors in the area of the applicant's property which may affect the speed of the groundwater flow, including topography, depth of soil, extent of aquifer, depth to water table and location of private wells.
 8. Any other hydrogeological data or information which is available from any public or private agency or organization.
 9. The potential benefit, both economic and social, from the approval of the applicant's request for a permit.
- b. Any exemptions granted will be made conditional and may include environmental and/or safety monitoring which indicates whether the facility may be emitting any releases or harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs. The Plan commission may require that a bond be posted for future monitoring and cleanup costs if deemed necessary at the time of granting an exemption.
- c. The Plan Commission shall require the applicant to enter into a Review Agreement pursuant to Sec. 13.31(d) which provides that the applicant shall be solely and exclusively responsible for any and all costs associated with the application, including all of the following:
1. The cost of an environmental impact study so required by the Village or its designee.
 2. The cost of groundwater monitoring or groundwater wells if required by the Village or its designee.
 3. The costs of an appraisal for the property or other property evaluation expense if required by the Village or its designee.
 4. The costs of Village's employees' time associated in any way with the application based on the hourly rate paid to the employee multiplied by a factor, determined by the Village, representing the Village's costs for expenses, benefits, insurance, sick leave, holidays, overtime, vacation and other similar benefits.
 5. The cost of Village equipment employed.
 6. The cost of mileage reimbursed to the Village employees.
 7. The fees of Village consultants at the invoice amount plus administrative costs for oversight, review and documentation.
- (8) The Conditional Use Permit will become effective only after any costs incurred during the Conditional Use Permit application review are satisfied by the applicant.

- (9) Conditional use permits are non-transferable. In a case of business or property transfer, the new owner is responsible for applying for a new conditional use permit subject to subs. (1)–(7) of this Section.

(k) **Design and Operational Standards.**

- (1) The following Design Standards apply to permitted land use activities within all Groundwater Protection District zones:
- a. All parking lots and driveways shall be paved with asphalt or concrete, except for farm access roads.
 - b. All storm water retention/infiltration ponds shall, at a minimum, use a forebay design intended to maximize natural filtration. The forebay designs shall include spill containment measures, initial and secondary detainment weirs and/or outfall control valves.
 - c. Stormwater and sanitary sewer mains must meet separation distance requirements equal to the separation requirements set forth of Chapter NR 811 of Wisconsin Administrative Code for new wells for the same sources of contamination.
 - d. Sanitary sewer service laterals and private sewer mains must be pressure tested in place to meet current State of Wisconsin Department of Natural Resources requirements for public sewers.
- (2) The following Operational Standards apply to permitted land use activities within all Groundwater Protection District zones:
- a. No outdoor storage of product, material, or equipment other than that approved through the conditional use permitting process shall be allowed. Any designated outdoor storage area shall be an impervious surface paved with concrete or asphalt and have secondary containment when applicable.
 - b. Regulated Substances associated with paving, the pouring of concrete, or construction for which all necessary permits have been obtained may be handled in the Groundwater Protection Overlay District, provided such Regulated Substances are present at a construction site for which permits have been issued and do not pose a real and present danger of contaminating surface and/or groundwater. For the onsite storage of fuel for vehicles or other equipment, which may be associated with such construction activity, the fuel storage containers shall be secondarily contained. Regulated Substances not used in the construction process and all wastes generated during construction shall be removed from the construction site not later than at the time of the completion of the construction. If construction activity has ceased for thirty (30) days, all Regulated Substances shall be removed from the site until such time as the construction activity is to resume.
 - c. The use of deicing salt or other chemical deicing materials shall be minimized and used only when threats to safety occur.
- (3) The following Design Standards apply to Conditional Use activities within

Zone B of the Groundwater Protection District:

- a. All design standards listed in subsection (k)(1) of this Section.
 - b. Facilities that handle Regulated Substances shall have a minimum of one loading/unloading area designated for the handling of Regulated Substances. The designated loading/unloading area shall be designed with spill and/or runoff containment that is connected to a municipal sanitary sewer lateral. The loading/unloading area shall be designed to minimize precipitation or stormwater run on from entering the sanitary sewer. Regulated Substances may be loaded/unloaded only in a designated handling area.
 - c. Storage areas for Regulated Substances shall be designed with secondary containment capable of controlling one hundred twenty-five percent (125%) of the maximum design capacity of the liquid storage area.
 - d. Facilities involved in the handling of Regulated Substances will, when determined necessary by the Village staff, prepare a groundwater monitoring plan.
 - e. All rail spurs used to handle Regulated Substances shall be designed to minimize infiltration and convey runoff to a stormwater conveyance system. Rail car loading/unloading areas used to handle Regulated Substances shall be designed with spill and/or runoff containment that is connected to a municipal sewer lateral. The loading/unloading area shall be designed to minimize precipitation or stormwater run on from entering the sanitary sewer.
- (4) The following Operational Standards apply to Conditional Use activities within Zone B of the Groundwater Protection District:
- a. All Operational Standards listed in Section (k)(2).
 - b. Except in the case of seasonal discontinuation of operation, the owner or operator of any non-residential property that becomes unoccupied or has discontinued operation for a period of thirty (30) consecutive days shall remove all Regulated Substances from the property, except those approved to be exclusively used for heating, cooling, and providing electrical lighting for the premises, within thirty (30) days after the date upon which the property initially became unoccupied or the operation discontinued. The owner or operator shall secure the Regulated Substances on the property until they have been removed. The owner or operator shall notify the Village Building Inspector in writing of the date of the cessation of operation or the property becoming unoccupied no later than the day upon which the operation actually ceases or the property becomes unoccupied, and such notification shall include the owner's name, phone number, and address and the operator's name, phone number, and forwarding address.
 - c. Truck, truck trailer, rail car, or tank truck loading and unloading

procedures for Regulated Substances shall meet the minimum requirements of the U.S. Department of Transportation (DOT) and Wisconsin DOT.

- d. No truck, trailer, rail car, or tank truck shall be used for onsite storage of Regulated Substances. Regulated Substances shall be transferred from the delivery vehicle to the Regulated Substance storage area as soon as feasibly possible.
- e. Loading and unloading procedures for Regulated Substances shall occur in designated loading/unloading areas. Warning signs and chock blocks shall be provided in the loading and unloading area to prevent premature vehicular departure.
- f. Daily visual inspections of Regulated Substances shall be conducted to check for container damage or leakage, stained or discolored storage surfaces in all storage areas, excessive accumulation of water in outdoor curbed areas, and to ensure that dike drain valves are securely closed in outdoor curbed areas.
- g. Storage areas for Regulated Substances shall have access restricted to properly authorized and trained personnel.
- h. Companies shall provide adequate training to ensure that established operational safety plans and contingency plans are understood by all authorized personnel.
- i. Companies using or producing Regulated Substances shall have an adequate quantity of spill response equipment and supplies onsite to contain and cleanup spills of Regulated Substances.
- j. Annual spill prevention briefings shall be provided to authorized personnel by company management to ensure adequate understanding of the operational safety and contingency plans. These briefings shall highlight any past spill events or failures and recently developed precautionary measures. Records of these briefings shall be kept for documentation purposes.
- k. Instructions and phone numbers for reporting spills to the Village of Arlington Fire Department and other local, State, and Federal agencies shall be posted in all areas where Regulated Substances are handled.

(l) **Requirements for Existing Facilities.**

- (1) Existing facilities within the Groundwater Protection Overlay District at the time of enactment of such district which use, store, handle, or produce Regulated Substances in excess of quantities outlined in subsection (g)(2), and all other facilities which are considered a prohibited use in subsection (h) of this section, or a conditional use in subsection (i) of this section, all of which are incorporated herein as if fully set forth, shall be subject to the following requirements.
 - a. Such facilities which exist within the district at the time of enactment of a district shall provide copies of all current, revised or new federal, state and local facility operation approvals, permits or

certificates; operational safety plans; and on-going environmental monitoring results to the Village.

- b. Such facilities which exist within the district at the time of enactment of a district shall have the responsibility of devising, filing and maintaining, with the Village, a current contingency plan which details how they intend to respond to any emergency which may cause or threaten to cause environmental pollution that occurs at their facility, including notifying municipal, county and state officials.
- c. Such facilities cannot engage in or employ a use, activity, or structure listed in subsection (h), or in subsection (k), which they did not engage in or employ at the time of enactment of a district, and can only expand, replace in kind or rebuild those present uses, activities, equipment, or structures on the site or property of record associated with the facility at the time of enactment of a district, and in a manner that improves the environmental and safety technologies already being utilized. No existing use, activity, or structure listed as a prohibited use or conditional use shall be expanded, replaced in kind, or rebuilt unless a conditional use permit is granted for such expansion, replacement, or rebuilding. This subsection does not apply to normal maintenance or minor repairs.
- d. Such facilities as defined in this subsection cannot change the quantity or type of Regulated Substances handled, used or stored by the facility at the time of enactment of a district unless a conditional use permit is granted for such change in quantity or type.

(m) **Changing Technology.**

- (1) The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by a particular use considered to be of a high risk for pollution to the groundwater resource. As the technology of uses may change to low or non-risk materials or methods, upon petition from such use, after conferring with the Department of Natural Resources Area Water Engineer or other expert opinion, and after appropriate public notice and hearing, the Village, through appropriate procedures and actions to change the provisions of the Zoning Code, may remove from the designated prohibited uses such uses as are demonstrated convincingly that they no longer pose a groundwater pollution hazard.
- (2) In dealing with uses which attempt to become permissible, under the terms of this district, by continuing to utilize pollutant materials but altering their processing, storage and handling, it is not the intention to accept alternate or reduced hazards as the basis for making a use permissible. It is the intention to continue a prohibition on such uses until the technology of the use removes reliance upon the pollutant materials or processes

deemed to be a groundwater hazard.

(n) **Enforcement and Penalty.**

- (1) **Penalty.** Any person who violates neglects or refuses to comply with any of the provisions of this Section shall be subject to a penalty as provided in Section 13.79 of this Chapter.
- (2) **Injunction.** The Village of Arlington may, in addition to any other remedy, seek injunction or restraining order against the party alleged to have violated the provisions herein, the cost of which shall be charged to the defendant in such action.
- (3) **Notice of Violation.**
 - a. Any person found in violation of any provisions of this section will be served with a written notice stating the nature of the violation and providing reasonable time for compliance.
 - b. The notice shall be served in the manner provided by the law for the service of civil processes. Where the address of the violator is unknown, service may be made upon the owner of the property involved at the tax-mailing address of the owner as shown on the County tax record.
- (4) **Inspections.** Subject to applicable provisions of law, the Village Clerk or her/his designee shall be permitted to enter private property at any reasonable time, with reasonable cause or with prior notification, for such purposes as inspection, observation, measurement, sampling, and records examination pertaining to the requirements of this Section to ensure that activities are in accordance with the provisions of subsections (j) through (l) of this Section. Upon request of the entity which is the subject of the inspection, and if permitted by the State Public Records Law, information obtained as a result of the inspection shall be maintained as confidential. If the owner or tenant does not consent to the entry of the appointed individual for the above stated purposes, the Village Board may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter said property.
- (5) **Vandalism.** No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, property, or equipment which is a part of or used in conjunction with water facilities of the Village and/or any other protected public water supply, or which results in the violation of subsections (j) through (l) of this Section.
- (6) **Subject Area.** The area subject to the provisions of this Section is the Groundwater Protection Overlay District as shown on the official Zoning Map of the Village of Arlington and as legally described in subsection (f).
- (7) **Determination of Applicability.** It shall be the responsibility of any person owning real property and/or owning or operating a business within the Groundwater Protection District to make a determination of the applicability of subsections (g) through (l) of this section as they pertain to the property and/or business, and to make required applications. Failure

to do so shall not excuse any violation of said Sections.

(8) **Management.**

- a. No persons shall place, deposit, or permit to be deposited, store, process, use, produce, dispose of, transport, or discharge any Regulated Substance on public or private property within the Groundwater Protection District or in any area under the jurisdiction of said Groundwater Protection District, except as provided by law, statute, ordinance, rule or regulation.
- b. Any violation of subsection (h) of this Section is hereby determined to be a nuisance.

(9) **Spills, Leaks or Discharges.**

- a. Any person with direct knowledge of a spill, leak or discharge of a Regulated Substance within the Groundwater Protection District shall, if such spill, leak or discharge escapes containment or contacts a non-impervious ground surface and is not immediately and completely remediated, give notice to the Chief of the Arlington Fire Department utilizing the countywide 911 service and the Village Clerk or the operator on-duty at the affected or potentially affected well by telephone within thirty (30) minutes. The notification shall include at a minimum, the location of the incident, name and telephone number of the contacting party, date and time thereof, type of substance(s), concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate other local, State, and Federal reporting obligations.
- b. Any entity or person who spills, leaks or discharges said substance(s) shall be liable for any reasonable expense, loss or damages incurred by the Village of Arlington in response to such an incident, in addition to the amount of any fines imposed on account thereof under State and Federal law; said entity or person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of reoccurrence of such spills, leaks or discharges as soon as practicable following the incident, but no later than one hundred eighty (180) days after the incident.

- (10) **Cleanup Costs.** As a substitute for, and in addition to any other action, the Village of Arlington may commence legal action against both the person who releases the contaminants and the owner of the facility whereupon the contaminants were released to recover the costs of cleanup, together with the costs of prosecution. Any person who causes the release of any contaminants which may endanger or contaminate the municipal water supply system associated with a Groundwater Protection Overlay District shall immediately cease such discharge and immediately initiate clean up satisfactory to the Village of Arlington and applicable state and federal regulatory agencies. The person who releases such

contaminants and the person who owns the facility whereon the contaminants have been released shall be jointly and severally responsible for the cost of cleanup, consultant, or other contractor fees, including all administrative costs for oversight, review and documentation, including the Village employees, equipment, and mileage.

SECTION 13.29 Conditional Uses – Statement of Purpose.

Conditional use requirements are based upon the division of the Village into zoning districts the intent is to create within districts in which the use of land and buildings and the density 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 in 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 defined as conditional uses.

SECTION 13.30 Grant of Permanent or Limited Conditional Use.

- (a) The Plan Commission may recommend to the Village Board to authorize the Village Clerk to issue a conditional use permit for either permanent or limited conditional use after review and public hearing, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to not be hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Prior to the granting of a conditional use, the Plan Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with. In the instance of the granting of a limited conditional use, the Plan Commission in its findings shall further specify the limiting reason(s) or factors, which resulted in the Village Board issuing a limited rather than permanent conditional use. The resulting conditional use permit, when, for limited conditional use, shall specify the period of time for which it is effective.
- (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 Plan Commission 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.

SECTION 13.31 Procedures for Obtaining Conditional Use.

- (a) **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 upon the land for which a conditional use is sought may file an application for a conditional use in the zoning district in which such land is located.
- (b) **Application for Conditional Use.** An application for a conditional use shall be filed on a form prescribed by the Village Clerk along with the filing fee, which shall be set by the Village Board by resolution. Such applications shall be forwarded to the Plan Commission upon receipt by the Village Clerk. Such applications shall include where applicable:
 - (1) A statement in writing by applicant along with adequate evidence showing that the proposed conditional use shall conform to the criteria set forth in § 13.33.
 - (2) Names and addresses of the applicant, owner of the property and all property owners of record within two hundred (200) feet.
 - (3) Description of the subject property by lot, block and recorded subdivision or by metes and bounds; address of the property; type of structure; proposed operation or use of the structure or site; and the zoning district within which the subject property lies.
 - (4) Plat of survey prepared by a registered land surveyor showing all of the information required for a building permit.
 - (5) Additional information as may be required from time to time by the Plan Commission.
- (c) **Plans.** In order to secure information upon which to base its determination, the Plan Commission may require the applicant to furnish, in addition to the information set forth above, the following information:
 - (1) A plan of the area showing contours, soil types, high water mark, groundwater conditions, bedrock, slope and vegetation cover;
 - (2) Location of buildings, parking areas, traffic access, driveways, walkways, open spaces, landscaping and lighting;
 - (3) Plans for buildings, sewage disposal facilities, water supply systems and arrangements of operations;
 - (4) Specifications for areas of proposed filling, grading, lagooning or dredging;
 - (5) Other pertinent information necessary to determine if the proposed use meets the requirements of this Chapter.
- (d) **Payment of Costs and Fees; Review Agreement.**
 - (1) At any time following the filing of an application, the Plan Commission may require the applicant to enter into a Review Agreement in a form approved by the Village Engineer and Village Attorney. The purpose of such agreement shall be, among other things, to obligate the applicant to pay all of the Village's administrative costs and fees, including, but not limited

to, those of the Village Engineer and Village attorney, incurred in the review of the application. Guarantee of payment may be required in a form acceptable to the Village Attorney, consistent with the provisions set forth in (2) below.

- (2) The applicant shall reimburse the Village for all administrative costs incurred as required by this ordinance as the same shall be billed from time-to-time by the Village Clerk. To secure applicant's performance, The Plan Commission shall require one of the following;
 - a. The Applicant deposit with the Village Clerk, in escrow, funds sufficient to assure performance of the promise or guarantee of reimbursement. The Village may draw upon the escrow from time-to-time as necessary to reimburse the Village for fees and expenses incurred. If at any time monies in the escrow are insufficient to pay expenses incurred by the Village for the administrative costs incurred, the Plan Commission may require the Developer to deposit additional amounts within fifteen (15) days of written demand, or further review and evaluation of the proposed conditional use shall be delayed or terminated until payment is made; or
 - b. Deposit with the Village in an appropriate form a Letter of Credit which meets the approval of the Village Engineer and Village attorney in an amount to be set by the Plan Commission. Applicant shall pay the Village within fifteen (15) days of billing, and upon default, the Village may draw on the Letter of Credit.
- (3) Payment of all administrative costs shall be a condition of any application being granted. Further, should the applicant abandon the project and the amount of the escrow or covered by the Letter of Credit is insufficient to cover all of the Village's administrative costs, the Applicant shall immediately reimburse the Village within fifteen (15) days of final billing. The Review Agreement shall provide that in the event of default by the Applicant, in addition to any other remedies to which the Village may be entitled, the Village shall recover from Applicant all of its costs in enforcing this Agreement, including actual attorney fees, and may elect to collect the costs as a special charge upon the next tax roll on the land which was the subject of the application pursuant to the authority of Section 66.0627, Wis. Stats.
- (4) If there are funds remaining in escrow over and above the administrative costs incurred by the Village after completion of all review up to the granting or denial of the application, or abandonment of the project by applicant, whichever comes first, the Village shall refund the remaining monies in escrow to applicant in a timely fashion. If a Letter of Credit is in place at such time, it shall be released provided all fees are paid to date.

SECTION 13.32 Hearing on Application.

- (a) All requests for conditional uses shall be made to the Plan Commission for investigation and recommendation to the Village Board. Upon receipt of the application and statement required by § 13.31, 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 Plan 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 shall, by rule, prescribe from time to time.
- (b) Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 Notice under Chapter 985 of the Wisconsin Statutes. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the members of the Village Board and Plan Commission, and the owners of record as listed in the office of the Village Clerk who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the properties affected, said notice to be sent at least fourteen (14) days prior to the date of such public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.
- (c) Following the public hearing, the Plan Commission shall review and investigate the application for a conditional use; and shall make its report and recommendation to the Village Board within ninety (90) days of a matter being referred.

SECTION 13.33 Decision Criteria.

In making a determination on an application for a conditional use, the Plan Commission shall consider all relevant factors specified in other sections of this chapter including standards for specific requirements for certain land uses and activities. The Plan Commission shall also consider the following criteria:

- (a) **Compatibility.** The compatibility of the proposed use with existing development within three hundred (300) feet of the proposed use and within five hundred (500) feet along the same street and development anticipated in the foreseeable future within the neighborhood and conditions that would make the use more compatible.
- (b) **Consistency with Comprehensive Plan.** The relationship of the proposed use to the objectives of the Village Comprehensive Plan, as amended from time to time.
- (c) **Importance of Services to the Community.** The importance of the services provided by the proposed facility to the community, if any, and the requirements of the facility for certain locations, if any, and without undue inconvenience to the developer, and the availability of alternative locations equally suitable.
- (d) **Neighborhood Protections.** 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 shall be compatible with the use of adjacent lands.

- (e) **Conformance with Other Requirements of the Zoning Ordinance.** The conformance of the proposed development with all provisions of the Zoning Ordinance.
- (f) **Effect on General Welfare.** 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.
- (g) **Orderly Development.** The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for use as permitted in the district.
- (h) **Utilities.** Adequate utilities, access roads, drainage and other necessary site improvements have been or will be provided.
- (i) **Traffic.** Adequate measures have been or will be taken to provide ingress and egress so designed to minimize traffic congestion in the public streets.
- (j) **Storm Water Control.** Adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
- (k) **Liquid Waste.** The amount of liquid waste to be generated and the adequacy of the proposed disposal system.
- (l) **Other Factors.** Other factors pertinent to the proposed use, site conditions, or surrounding area considerations that the Commission feels are necessary for review in order to make an informed and just decision.

SECTION 13.34 Additional Requirements.

In all cases in which conditional uses are granted, the Village Board along with the Plan Commission shall require such evidence and guarantees as it may deem necessary as proof that the conditions granted in connection therewith are being and will be complied with. Such conditions may include but not be limited to the following specifications:

- (a) Landscaping.
- (b) Type of construction.
- (c) Construction commencement and completion dates.
- (d) Sureties.
- (e) Lighting.
- (f) Fencing.
- (g) Hours of operation.
- (h) Traffic circulation.
- (i) Deed restrictions.
- (j) Access restriction.
- (k) Set-backs and yards.
- (l) Specific sewage disposal and water supply systems.
- (m) Planting screens.
- (n) Increased parking.

SECTION 13.35 Denial of Application for Conditional Use Permit.

When a decision to deny a conditional use application is made, the Village Board shall furnish the applicant, in writing when so requested, those standards that are not met and

enumerate reasons the Village Board used in determining that each standard was not met. No application for a conditional use that has been denied wholly or in part shall be resubmitted for a period of twelve (12) months from the date of the denial, except on the grounds that there exists new evidence or a change of conditions since the decision by the Village Board.

SECTION 13.36 Alteration of Conditional Use.

No alteration of a conditional use shall be permitted unless approved by the Plan Commission.

SECTION 13.37 Validity of Conditional Use Permit.

Where the Village Board has approved an application for a conditional use, such approval shall become null and void following twelve (12) months from the date of the Board's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within 6 months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. At least forty-five (45) days prior to the revocation of conditional use such permit; the Village Clerk shall notify the holder by certified mail of such revocation. The Plan Commission may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Plan Commission at least thirty (30) days before the expiration of said permit.

SECTION 13.38 Complaints Regarding Conditional Uses.

The Plan Commission with the Village Boards' authority shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all conditional uses approved by the Village Board. Such authority shall be in addition to the enforcement authority of the Village Clerk to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, or the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the conditional use is being violated. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in § 13.32 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Plan Commission may, in order to bring the subject conditional use into compliance with the standards set forth in §§ 13.33 and 13.34 or other conditions previously imposed, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. Additionally, the offending party may be subject to a forfeiture as set forth in this Chapter. In the event that no reasonable modification of such conditional use can be made in order to assure that standards of §§ 13.33 and 13.34 will be met, the Plan Commission may revoke the subject conditional approval and direct the Village Clerk and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Plan Commission shall be

furnished to the current owner of the conditional use in writing stating the reasons therefore.

SECTION 13.39 Bed and Breakfast Establishments.

- (a) **As Conditional Use.** Bed and breakfast establishments shall be considered conditional uses and may be permitted in Residential Districts pursuant to the requirements §§ 13.29-13.34.
- (b) **Definitions.**
 - (1) “Bed and Breakfast Establishment” means any place of lodging that provides six or fewer rooms for rent for more than ten (10) nights in a twelve (12) month period, is the owner’s personal residence, is occupied by the owner or agent at the time of rental and in which the only meal served to guests is breakfast.
 - (2) “Agent” shall mean the person designated by the owner as the person in charge of such establishment and whose identity shall be filed in writing with the Village Clerk upon issuance of the permit and updated five (5) days prior to a designated agent taking charge.
- (c) **Regulations.**
 - (1) **Compliance with State Standards.** All bed and breakfast establishments and licensees shall be subject to and comply with Chapters HSS 195 and 197, Wis. Admin. Code, as amended from time to time, relating to bed and breakfast establishments and hotels, motels and tourist rooming houses.
 - (2) **Registry.** Each bed and breakfast establishment shall provide a register and require all guests to register their true names and addresses before being assigned quarters. The register shall be kept intact and available for inspection by the Village Clerk for a period of not less than one (1) year.
- (d) **Permit Required.**
 - (1) **Village Permit Required.** In addition to the permit required by HSS 197, Wisc. Admin. Code, before opening for business every bed and breakfast establishment shall obtain a conditional use permit.
 - (2) **Application Requirements.** The following is required to be furnished at the time an application is filed for a conditional use permit in addition to the other application requirements of §§ 13.29-13.34.
 - a. Site plan showing location and size of buildings, parking areas and signs.
 - b. Number, surfacing and size of parking stalls.
 - c. Number, size and lighting of signs.
 - (3) **Display of Permit.** Any permit issued by the Village Clerk shall be conspicuously displayed in the bed and breakfast establishment.
- (e) **Off-Street Parking Required.** A Permit shall be issued only to an establishment that provides a minimum of one improved off-street parking space for each room offered for occupancy. Bed and breakfast establishments shall not be subject to the other requirements of this Chapter with respect to traffic, parking and access.

- (f) **On-site Signs.** Total signage shall be limited to a total of twelve (12) square feet and shall be lighted downward, and in such manner and nature as to not alter or deteriorate the nature of the surrounding neighborhood. Bed and breakfast establishments shall not be subject to the other requirements of this Chapter with respect to signs.
- (g) **Termination of Permit.** A bed and breakfast conditional use permit shall terminate upon the sale or transfer of the property. The Plan Commission shall review make a recommendation to the Village Board to conditionally approve or disapprove an application submitted by a person anticipating the purchase of premises for such use. A permit issued in accordance with Subsection (d) above shall be valid until terminated by action of the Village Clerk for violation of the provisions of §§ 13.29-13.34, or of State of Wisconsin regulations as set forth in Chapter HSS 195 or HSS 197, Wis. Admin. Code, or as above provided.

SECTION 13.40 Nonconforming Uses Structures and Lots.

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

SECTION 13.41 Abolishment or Replacement.

- (a) **Termination.** If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure or land shall conform to the provisions of this Chapter.
- (b) **Building Damaged or Destroyed.** Where a building located in a district restricted against its use has been destroyed by fire, violent wind, vandalism, flood, ice, snow, mold or infestation, the same may be rebuilt to the size and use that it had immediately before the damage or destruction occurred in a manner which

continues to be nonconforming under the current zoning code. Any public utility located in a restricted district shall be permitted to rebuild, alter or enlarge in any commercial or industrial district as the interest of the public demands.

SECTION 13.42 Changes and Substitutions.

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

SECTION 13.43 Substandard Lots of Record.

- (a) **Substandard Lots.** In a residential district, a one family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record in the County Register of Deed's office before March 14, 2011. Such lot or parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this Chapter. If in separate ownership, all the district requirements shall be complied with insofar as practical but shall not be less than the following:

Lot:	Width: Minimum forty (40) feet
Area:	Minimum four thousand six hundred (4,600) square feet
Building:	Height: Maximum thirty (30) feet
Yards:	Street: Minimum twenty-five (25) feet; the second street yard on corner lots shall be not less than ten (10) feet
	Rear: Minimum twenty-five (25) feet
	Side: Minimum sixteen percent (16%) of the frontage, but not less than five (5) feet.

- (b) **Substandard M-1 or M-2 District Lots.** In an M-1 or M-2 Multi-Family Residential District, a multi-family structure and its accessory structures may be erected on any legal lot or parcel of record in the County Register of Deed's office before March 14, 2011, with the minimum yard requirements as follows:

Yards:	Street: Minimum ten (10) feet -- on corner lots, the side street yard shall not be less than ten (10) feet
	Rear: Minimum ten (10) feet
	Side: Minimum ten (10) feet

Providing all other requirements set forth in the M-1 Multi-Family Residential District and other pertinent sections are complied with.

SECTION 13.44 Traffic Visibility Triangle.

- (a) **Purpose.** The purpose of this Section is to alleviate or prevent congestion of public rights-of-way so as to promote the safety and general welfare of the public by establishing minimum requirements for the provision of vehicular visibility.
- (b) **Requirement.**
 - (1) No obstructions are permitted between two and one half (2 ½) feet and ten (10) feet above the plane through the main curb grade within the triangular space formed by existing or proposed intersecting street or railroad right-of-way lines and a line connecting points on the right-of-way lines as follows:
 - a. Fifty feet (50) along the right-of-way of any street from its intersection with a railroad right-of-way.
 - b. Twenty-five (25) feet along the right-of-way of all other public streets.
 - c. Twenty-five (25) feet along the right-of-way of all private roads and drives as specified by the Village Engineer.
 - (2) Within said triangular area, no signs, parking spaces, structures, or earthwork in excess of thirty (30) inches and no vegetation, fencing, or other such obstructions between thirty (30) inches and ten (10) feet in height shall be permitted above either of the center-line elevations of said two streets.
- (c) **Depiction on required site plan.** Any and all visibility triangles located on a property shall be depicted as to their location and configuration on any site plan required for the future development of the subject property.

SECTION 13.45 Loading Requirements.

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

<u>Uses</u>	<u>Square Feet of Gross Floor Area</u>	<u>Required Off-Street Loading Spaces</u>
School		1
Hospital	Under 10,000	None
	From 10,000 - 30,000	1
	For each additional 30,000 or major fraction thereof	1 Additional
Funeral Home		1
Office, hotel, retail, service wholesale, ware-	Under 10,000	None
	From 10,000 - 25,000	1
	From 25,001 - 40,000	2

house, manufac-	From 40,001 - 60,000	3
turing, processing or repairing uses	From 60,001 - 100,000	4

- (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 thirty (30) feet of the nearest point of intersection of two (2) streets or require any vehicle to back into a public street.
- (d) **Surfacing.** All open off-street loading berths shall be improved with a compacted gravel base, not less than seven (7) inches thick, surfaced with not less than two (2) inches of asphalt or treated with some comparable all-weather dustless material.
- (e) **Size.** An individual loading space shall be at least fifteen (15) feet wide by seventy (70) feet long and have a minimum high clearance of sixteen (16) feet.
- (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 three hundred (300) feet removed from the Central Loading Area.
 - (4) The tunnel or ramp connecting the Central Loading Area with the zoning lot served shall be not less than seven feet in width and have a clearance of not less than seven (7) feet.

SECTION 13.46 Parking Requirements.

The off-street parking provisions of this Chapter shall apply to all buildings and structures erected after March 14, 2011. Accessory parking shall be according to the provisions of this Section. Where an intensity of the use of any building structure or premises shall be increased, additional parking to match the increased intensity of use shall be provided, or wherever an existing building or structure is converted to a new use, parking shall be provided according to the requirements of the new use. All new nonresidential parking lots and all alterations of existing lots shall be subject to the

approval of the Plan Commission. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, 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.** Each off-street parking space shall open directly upon an aisle or driveway designed to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.
- (b) **Design Standards.** Each parking space shall not be less than one hundred eighty (180) square feet in area, eighteen (18) feet in length and ten (10) feet in width, exclusive of aisles and access drives. No parking area of more than two (2) spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than five (5) spaces shall be sufficiently screened in the form of un-channeled parking areas and shall be avoided by interior landscaping and safety islands.
- (c) **Location.**
 - (1) All parking spaces required herein shall be located on the same lot with the building or use served, and shall be located not more than four hundred (400) feet from the principal use.
 - (2) Off-street parking is permitted in all yards of all districts except in the non-driveway front yards of single-family and duplex residence districts, but this parking shall not be closer than five (5) feet to a side lot line or rear lot line or closer than fifteen (15) feet to a right-of-way. No parking space or driveway, except in residential districts, shall be closer than twenty-five (25) feet to a residential district lot line.
 - (3) Off-street parking in the single-family and duplex residence districts is permitted in the front yard in the driveway, even though closer than five (5) feet to a side lot line.
- (d) **Surfacing.** All 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 four thousand (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 (5) vehicles shall have the aisles and spaces clearly marked. Compacted stone or gravel may be used only with the approval of the Plan Commission.
- (e) **Landscaping.**
 - (1) **Accessory Landscape Area.** All public and private off-street parking areas which serve four vehicles or more, are located within fifteen (15) feet of any lot line or public right-of-way, and are created or redesigned and rebuilt subsequent to March 14, 2011 shall be provided with accessory landscape areas totaling not less than ten percent (10%) of the surfaced area. The

minimum size of each landscape area shall not be less than one hundred (100) square feet.

- (2) **Location.** Location of accessory landscape areas, plant materials and protection afforded the plantings, including curbing and provision for maintenance by the property owner, shall be subject to approval by the Plan Commission.
- (3) **Plans.** All plans for such proposed parking areas, 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.** 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 (5) feet. Where a solidly constructed decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five (5) feet from said lot line. Said fence shall be located a minimum of two (2) feet from the said lot line.
- (5) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in Residential Districts.
- (6) **Lighting.** Any lighting used to illuminate off-street parking areas shall be directed downward, and away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) foot-candles measured at the lot line.
- (7) **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) **Curbs.** Curbs or barriers shall be installed a minimum of four (4) feet from a property line so as to prevent parked vehicles from extending over any lot lines.
- (g) **Number of Stalls.** Number of parking stalls required are shown in the following table:

<u>Use</u>	<u>Minimum Parking Required</u>
Single-family dwellings	2 stalls for each dwelling unit
Multi-family dwellings	1.5 stalls for each dwelling unit
Hotels and motels	1 stall for each guest room plus 1 stall for each 3 employees
Hospitals, clubs, lodges, lodging and	1 stall for each 2 beds plus 1 stall for

boarding houses	each 3 employees
Sanitariums, institutions, assisted living facilities and nursing homes	1 stall for each 5 beds plus 1 stall for each 3 employees
Medical and dental clinics	3 stalls for each doctor
Churches, theaters, auditoriums, community centers, vocational and night schools and other places of public assembly	1 stall for each 5 seats
Colleges, secondary and elementary schools	1 stall for each 2 employees
Restaurants, bars, places of entertainment, repair shops, retail and service stores	1 stall for each 150 square feet of area
Manufacturing and processing plants, laboratories and warehouses	1 stall for each 3 employees
Financial institutions; business, governmental and professional offices	1 stall for each 300 square feet of floor area
Funeral Homes	1 stall for each 100 square feet of floor space
Bowling alleys	5 stalls for each alley

- (h) **Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar, shall apply, as determined by the Plan Commission.
- (i) **Computing Requirements.** In computing the number of spaces required, the following rules shall govern:
- (1) Floor space shall mean the gross floor area of the specific use.
 - (2) For structures containing more than one use, the required number of spaces shall be computed by adding the number of spaces required for each use.
- (j) **Combined Uses.** Two (2) or more uses may provide required off-street parking spaces in a common parking facility less than the sum of the spaces required for each use individually, provided such uses are not operated during the same hours. The following conditions must be met for any joint use:
- (1) The proposed joint parking space is within five hundred (500) feet of the use it will serve.

- (2) The users shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.
 - (3) An agreement approved by the Village Board, executed by the parties concerned, for joint use of off-street parking facilities shall be filed with the Village Clerk. Said instrument may be a three-party agreement, including the Village and all private parties involved. Such instrument shall first be approved by the Village Attorney.
- (k) **Handicapped Parking Requirements.** In addition to any other requirements relating to parking spaces contained in this Chapter, 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.
- (l) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of twenty-five percent (25%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use is enlarged to the extent of fifty percent (50%) or more in the floor area, said building or use shall then comply with the parking requirements set forth in the district in which it is located.
- (m) **Off-Lot Parking.**
- (1) Required off-street parking spaces shall be located on the same lot with the principal use, or such parking spaces may be located off-lot provided the parking spaces are located in the same district and not over five hundred (500) feet from the principal use. In cases where off-street parking facilities are permitted on land other than the same lot as the principal use, such facilities shall be in the same possession as the lot occupied by the use to which the parking facilities are necessary or in the possession of the controller of the principal use to which the parking facilities are accessory. Such possession shall be by deed or easement whereby the owner of the land on which the parking facilities are to be located shall be bound by a covenant filed and recorded in the Office of the County Register of Deeds requiring such owner, his heirs or assigns to maintain the required facilities for the duration of the use served.
 - (2) Off-lot parking spaces for residential uses shall be within two hundred fifty (250) feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within four hundred (400) feet of the entrance of the establishment.
 - (3) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial or industrial zoning district.
 - (4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

- (n) **Signs.** Signs located in parking areas necessary for orderly operation of traffic movement shall be permitted in addition to others permitted in this Chapter.

SECTION 13.47 Highway Access.

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

SECTION 13.48 Storage and Parking of Recreational Vehicles.

- (a) **Definitions.** For purposes of this Section, the following definitions shall apply:
 - (1) **Mobile Home** is a structure, transportable in one or more sections, which is eight (8) body feet or more in width and is thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. Length of a mobile home means the distance from the exterior of the front wall (nearest to the exterior of the drawbar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space and such distance includes expandable rooms, but not bay windows, porches, drawbars, couplings, hitches, wall and roof extensions, or other attachments. Width of a mobile home means the distance from the exterior of one side wall to the exterior of the opposite side wall where such walls enclose living or other interior space and such distance includes expandable rooms, but not bay windows, porches, wall and roof extensions or other attachments.
 - (2) **Recreational Vehicle** is any of the following:
 - a. **Travel Trailer** is a vehicular, portable structure built on a chassis and on wheels that is between ten (10) and thirty-six (36) feet long, including the hitch, and eight (8) 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.

- b. **Pick-up Coach** is a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, vacations or other uses.
- c. **Motor Home** is a portable, temporary dwelling to be used for travel, recreation, vacation or other uses, constructed as an integral part of a self-propelled vehicle.
- d. **Camping Trailer** is a canvas or folding structure mounted on wheels and designed for travel, recreation, vacation or other uses.
- e. **Chassis Mounts, Motor Homes and Mini-Motor Homes** are recreational structures constructed integrally with a truck or motor-van chassis and incapable of being separated therefrom.
- f. **Converted and Chopped Vans** are recreational structures which are created by altering or changing an existing auto van to make it a recreational vehicle.
- g. **Boat or Snowmobile Trailer** are vehicles on which a boat or snowmobile may be transported and is towable by a motor vehicle. When removed from the trailer, a boat or snowmobile, for purposes of this Section, is termed an unmounted boat or snowmobile.
- h. **Boat** includes every description of watercraft used or capable of being used as a means of transportation on water.
- i. **All-terrain vehicles** include any engine-driven device that has a net weight of 900 pounds or less, which has a width of 50 inches or less, which is equipped with a seat designed to be straddled by the operator and which is designed by the manufacturer to travel on 3 or more low-pressure tires. A "low pressure tire" is a tire that has a minimum width of six (6) inches that is designed to be inflated with an operating pressure not to exceed ten (10) pounds per square inch as recommended by the manufacturer.
- j. **Utility task vehicles** include any engine-driven device that has a net weight of more than 900 pounds but not more than 1,999 pounds, which has a width of not more than 65 inches, which is equipped with seats for at least 2 occupants and which is designed by the manufacturer to travel on four or more low-pressure tires. A "low pressure tire" is a tire that has a minimum width of six (6) inches that is designed to be inflated with an operating pressure not to exceed ten (10) pounds per square inch as recommended by the manufacturer. Golf carts shall be considered a utility task vehicle for the purposes of this section. Low speed vehicles shall not be considered a utility task vehicle for the purposes of this section.

- (b) **Permitted Parking or Storage of Recreational Vehicles.** In all residential and commercial districts it is permissible to park or store a recreational vehicle on private property in the following manner:

- (1) Parking or storage is permitted at any time inside any enclosed structure.
- (2) Outside parking or storage in any street yard is permitted on a hard-surfaced or well-drained gravel driveway.
- (3) Outside parking or storage is permitted on a hard-surfaced or well-drained gravel pad in the side yard or rear yard provided the recreational vehicle is not nearer than five (5) feet to the any side or rear lot line.
- (4) The body of the recreational vehicle must be at least 15 feet from the face of any curb or the edge of any pavement unless subsection (b)(5) of this section requires that this distance be greater than 15 feet.
- (5) No part of the recreational vehicle may extend over the public sidewalk or public right-of-way.
- (6) Parking is permitted only for storage purposes.
- (7) Recreational vehicles 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, water lines 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.
- (8) No more than two recreational vehicles shall be parked or stored on one property at any one time. Any recreational vehicle parked inside of an enclosed structure shall not be counted against this limit.
- (9) When parked for storage, all wheels or tires of the recreational vehicle shall be chocked to prevent uncontrolled movement.
- (10) The recreational vehicle shall be owned by the occupant on whose property the recreational vehicle is parked for storage.
- (11) Notwithstanding the above, a recreational vehicle 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. Parking for active loading or unloading or preparation for use shall be permitted for up to 72 hours, at which time the recreational vehicle must either be stored in a manner that is compliant with the requirements of this section or be removed from the premises.

SECTION 13.49 Parking of Vehicles on Private Property and on Public Rights-of-Way in Residential Districts.

- (a) **Definition.** For the purpose of this Section, the word “vehicle” shall be defined to mean any motor-driven vehicle (except recreational vehicles defined in Section 13.48(a)(2)) having a factory-rated capacity of over one (1) ton which is used for commercial and/or business purposes.

- (b) **Parking on Private Property.** No person shall park or permit the parking of any vehicle on any property within an R-1, R-2, R-3, M-1 or M-2 Zoning District, except as follows:
 - (1) The parking of one (1) or more such vehicles is permitted providing such vehicles are parked for the purpose of loading or unloading household goods and/or building materials.
 - (2) If the driver or operator of such a vehicle is living in the dwelling on the private property as the owner or the renter of said property, he may park one such vehicle on said property providing it is not parked in the street yard of said property and provided the motor is not running while so parked.
- (c) **Parking of Vehicles on Private Property in the Residential Districts.** No person shall park or permit the parking of any two wheel or larger trailer for commercial, business, or public rental purposes, or any type of construction equipment, on any property within an R-1, R-2, R-3, M-1 or M-2 Zoning District, except for the purpose of loading or unloading household goods and/or building materials.

SECTION 13.50 Regulation of Signs, Billboards and Canopies.

- (a) The purpose of the regulations set forth in Sections 13.50-13.59 is to create the legal framework to regulate, administer and enforce outdoor sign advertising and display. These regulations recognize the need to protect the safety and welfare of the public and the need for well-maintained and attractive sign displays within the community and the need for adequate business identification, advertising and communication.
- (b) These regulations authorize the use of signs visible from public rights-of-way, provided the signs are:
 - (1) Complying with the zoning regulations.
 - (2) Designed, constructed, installed and maintained in such a manner that they do not endanger public safety or traffic safety.
 - (3) Legible, readable and visible in the circumstances in which they are used.
 - (4) Respectful of the reasonable rights of other advertisers whose messages are displayed.

SECTION 13.51 Definitions. The following definitions shall be applicable to Sections 13.50 through 13.59:

- (a) **Abandoned Sign.** A sign which no longer correctly advertises a bona fide business, lessor, owner, product or activity conducted or product available on the premises where the sign is displayed or elsewhere.

- (b) **Area of Copy.** The entire area within a single, continuous perimeter composed of squares, rectangles or circles, which encloses the extreme limits of the advertising message, announcement or decoration of a wall sign.
- (c) **Area of Sign.** The area of the largest single face of the sign within a perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the signs may be placed. If the sign consists of more than one section or module, all areas will be totaled. Any irregular-shaped sign area shall be computed using the actual sign face surface. In the case of wall signs, the area of copy will be used.
- (d) **Billboard.** An off-premises sign as defined in this Section.
- (e) **Bulletin Board and Identification Signs.** Bulletin boards and identification signs for churches, schools and other permitted institutions and nonprofit organizations.
- (f) **Canopy Sign.** Any sign attached to or constructed in, on or under a canopy, marquee or awning.
- (g) **Changeable Message Sign.** A sign such as a manual, electronic or electric controlled time and temperature sign, message center, or reader board where copy changes.
- (h) **Copy Area.** The geometric area in square feet that encloses the actual copy on the sign.
- (i) **Directional Sign.** Any sign which serves to designate the location or direction of any place or area. This includes, but is not limited to, such signs as those identifying restrooms, telephone, parking areas, entrances and exits.
- (j) **Electric Sign.** Any sign containing internal electrical wiring which is attached or intended to be attached to an electrical energy source.
- (k) **Flashing Sign.** Any sign which contains an intermittent or flashing light source or which includes the illusion of intermittent or flashing light by means of animation or an externally mounted intermittent light source, not including changeable message signs.
- (l) **Frontage.** The length of the property line of any one (1) premises parallel to and along each public right-of-way it borders.
- (m) **Grade.** The elevation or level of the street closest to the sign to which reference is made, measured at the street's centerline.
- (n) **Ground Sign.** A sign erected on one (1) or more freestanding supports or uprights and not attached to any building.
- (o) **Gross Area.** The area of a sign determined by using the outside perimeter dimensions of the sign. If the sign consists of more than one modular section, their areas will be totaled. If the modules are formed in the shape of letters or symbols, the rules for Area of Copy apply.
- (p) **Height of Sign.** The vertical distance measured from the grade at the street right-of-way line where the sign is located to the highest point of such sign or structure.
- (q) **Illuminated Sign.** A sign, which is lighted by an artificial light source, either directed upon it or illuminated from an interior source.

- (r) **Integrated Shopping Center.** A grouping of retail stores, businesses or offices in single ownership or under unified control and containing three or more separate businesses.
- (s) **Legal Nonconforming Sign.** A sign that did meet regulations when it was originally installed but does not meet the regulation of this Chapter.
- (t) **Multifaced Sign.** A sign with copy on two (2) or more faces that are legible from more than one (1) direction.
- (u) **Nonconforming Sign.** A sign that does not meet the current regulations of this Chapter.
- (v) **Off-Premises Sign.** A sign which advertises goods, products, facilities or services not on the premises where the sign is located, or directs persons to a different location from which the sign is located.
- (w) **On-Premises Sign.** Any sign identifying or advertising a business, person, activity, goods, products or services located on a premises where the sign is installed and maintained.
- (x) **Portable Sign.** Any sign not permanently attached to the ground or a building.
- (y) **Projecting Sign.** A sign, normally double faced, which is attached to and projects from a structure or building fascia.
- (z) **Roof Sign.** A sign erected upon, against or above a roof.
- (aa) **Sign.** Any emblem, painting, banner, pennant, placard, design, identification, description, illustration or device, illuminated or non-illuminated, to advertise, identify, convey information or direct attention to a product, service, place, activity, person, institution, business of solicitation, including any permanently installed or situated merchandise. Signs shall also include all sign structures.
- (bb) **Sign Contractor.** Any person, partnership or corporation engaged in whole or in part in the erection or maintenance of signs, excluding the business, which the sign advertises.
- (cc) **Sign Structure.** Any device or material, which supports, has supported or is capable of supporting a sign in a stationary position, including decorative covers.
- (dd) **Swinging Sign.** A sign installed on an arm or mast or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.
- (ee) **Wall Sign.** A sign attached to the wall or a building with the face in a parallel plane to the plane of the building wall. This includes signs painted directly on a wall.
- (ff) **Window Sign.** A sign installed in or on a window for purposes of viewing from outside the premises.
- (gg) **Zoning Lot.** A parcel of land considered or treated as a single unit. A zoning lot may or may not correspond with a lot of record.

SECTION 13.52 Permits, Applications, Fees, Issuance and Denial, Appeals, Indemnification.

- (a) **Permit Required.** It shall be unlawful for any person to erect, construct, enlarge or structurally modify a sign or cause the same to be done in the Village of Arlington without first obtaining a sign permit for each such sign from the Village Clerk. A

- permit shall not be required for a change of copy of any sign, nor for the repainting, cleaning and other normal maintenance and repair of the sign and sign structure.
- (b) **Application for a Permit.** Application for a permit shall be filed with the Village Clerk upon forms provided by the Village and shall contain the following information:
- (1) The name, address and telephone number of the sign owner, the property owner, where the sign is or will be located and the contractor of the proposed sign.
 - (2) A site plan with clear and legible drawings describing the nominal dimensions of the proposed sign, and the construction, size, dimensions and kind of materials to be used in such structure. The site plan shall show the buildings on the premises upon which the structure is to be erected and maintained together with locations, setbacks, size and types of existing signs on the premises where the proposed sign is to be located. All dimensions shall be indicated for the sign and the site plan elements.
 - (3) Calculations or evidence showing that the structure and design meets the requirements of these regulations for wind pressure load.
 - (4) Such other information as the Village Clerk may require to show full compliance with this and all other applicable laws of the Village.
 - (5) Signature of the applicant.
 - (6) Check for all required fees.
- (c) **Permit Fees.** Application for a permit shall be filed with the Village Clerk, together with a permit fee for each sign. The fee for any permit shall be, exclusive of any electrical permit, the greater of the fee as set forth in the current Building Fee Schedule of the amount based on the area of the sign as follows:
- (1) On-premises signs visible from a public street shall be calculated on a basis of fifty cents (50¢) per square foot. The calculation of the area of a ground sign, roof sign or projecting sign shall be based on gross area of all faces of the sign. The area of all signs shall be the gross area as calculated herein.
 - (2) The fee for off-premises signs shall be calculated on the basis of sixty cents (60¢) per square foot based on the total area of the sign.
 - (3) Signs installed without a permit are subject to the provisions of § 13.79 and shall be removed after proper notice.
- (d) **Permit Issuance and Denial.** The Village Clerk shall issue a permit for the erection, structural alteration, enlargement or relocation of a sign if the permit application is properly made, all appropriate fees have been made, and the sign complies with the appropriate laws and regulations set forth in this Chapter. If the sign permit is denied by the Village Clerk, he shall give written notice of the denial to the applicant, together with a brief statement of the reasons for the denial, along with the return of all permit fees and papers.
- (e) **Sign Permit Appeal.**
- (1) In the event any of the requirements herein contained cause undue or unnecessary hardship on any person, firm or corporation, a variance from requirements may be applied for to the Board of Zoning Appeals. An application for variance must be made within ten (10) days after receipt of

notice that the sign involved does not conform to this Chapter. In the event that the appeal is not made in writing to the Appeals Board within such ten (10) day period, a variance shall not be granted. The Board of Zoning Appeals shall take action on any variance request within sixty (60) days of receipt of the variance application. The Village Clerk shall comply with and enforce the decision of the Board of Zoning Appeals.

- (2) The Village Clerk's failure to either formally grant or deny a sign permit within fifteen (15) days of the date an application meeting the requirements of this Chapter is filed shall be cause for appeal to the Board of Zoning Appeals.
- (f) **Indemnification for Sign Installation and Maintenance.** All sign contractors and other persons engaging in the installation or maintenance of signs which involve, in whole or in part, the erection, alteration, relocation, maintenance of a sign or other sign work in, over or immediately adjacent to a public right-of-way or public property, when such property is used or encroached upon, shall agree to hold harmless and indemnify the Village, its officers, agents, employees from any and all claims resulting from the erection, alteration, relocation, maintenance of the sign or any other sign work insofar as this Chapter has not specifically directed the placement of the sign.

SECTION 13.53 Legal Nonconforming Signs.

- (a) **Notification of Nonconformance.** Upon determination that a sign is nonconforming, the Village Clerk shall use reasonable efforts to so notify, either personally or in writing, the user or owner of the property on which the sign is located of the following:
 - (1) The sign's nonconformity.
 - (2) Whether the sign is eligible for characterization as a legal nonconforming sign or is unlawful.
- (b) **Signs Eligible for Characterization as Legal Nonconforming.** Any sign located within the Village limits on March 14, 2011 or located in an area annexed to the Village hereafter, which does not conform with the provisions of this Chapter is eligible for characterization as a legal nonconforming sign and is permitted, providing it also meets the following requirements:
 - (1) The sign was covered by a proper sign permit prior to March 14, 2011.
 - (2) No permit was required under applicable law for the sign in question and the sign was, in all respects, in compliance with applicable law on March 14, 2011.
- (c) **Loss of Legal Nonconforming Status.** A sign loses its nonconforming status if one or more of the following occurs:
 - (1) The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this Chapter than it was before alteration.
 - (2) The sign is relocated.

- (3) The sign fails to conform to this Chapter regarding maintenance and repair, abandonment, or dangerous or defective signs.
 - (4) The sign is destroyed by any means to the extent of more than fifty percent (50%) of its fair market value.
 - (5) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Chapter with a new permit secured therefore or shall be removed.
- (d) **Legal Nonconforming Sign Maintenance and Repair.** Nothing in this Chapter shall relieve the owner or user of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this Chapter regarding safety, maintenance and repair of signs.

SECTION 13.54 Removal and Disposition of Signs.

- (a) **Maintenance and Repair.**
 - (1) Every sign, including, but not limited to, those signs for which permits are required, shall be maintained in a safe, presentable and good structural condition at all times, including replacement of defective parts, painting (except when a weathered or natural surface is intended), repainting, cleaning and other acts required for the maintenance of said sign.
 - (2) The Village Clerk shall require compliance with all standards of this Chapter. If the sign is not modified to comply with safety standards outlined in this Chapter, the Village Clerk shall require its removal in accordance with this Section.
- (b) **Abandoned Signs.** All signs or sign messages shall be removed by the owner or lessee of the premises upon which an on-premises sign is located when the business it advertises is no longer conducted or, for an off-premises sign, when lease payments and rental income are no longer provided. If the owner or lessee fails to remove the sign, the Village Clerk shall give the owner sixty (60) days written notice to remove said sign. Upon failure to comply with this notice, the Village may cause removal to be executed, the expenses of which will be assessed on the tax roll to the property on which the abandoned sign is located.
- (c) **Deteriorated or Dilapidated Signs.** The Village Clerk shall cause to be removed any deteriorated or dilapidated signs under the provisions of § 66.0413, Wis. Stats, and any subsequent amendments thereto.

SECTION 13.55 Prohibited Signs. The following signs shall be prohibited within the Village:

- (a) Abandoned Signs.
- (b) Flashing or Moving Signs. Except changeable-message signs are not subject to this restriction.
- (c) Swinging Signs.
- (d) The following Floodlighted or Illuminated Signs are prohibited:

- (1) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of a public right-of-way or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle.
- (2) Signs, which are not effectively shielded as to prevent beams or rays of light from being directed at any residential property or which are of such intensity or brilliance as to cause a public nuisance.
- (3) Signs which are floodlighted or illuminated so that it interferes with the effectiveness of, or obscures an official traffic sign, device or signal.
- (e) The following signs are prohibited which:
 - (1) Bear or contain statements, words or pictures of obscene, pornographic or immoral subjects.
 - (2) Are an imitation of, or resemble in shape, size, copy or color an official traffic sign or signal.

SECTION 13.56 Signs Not Requiring a Permit.

- (a) **Construction Signs.** Two (2) construction signs per construction site are allowed. These signs shall be removed thirty (30) days after completion of construction.
- (b) **Direction and Instructional Non-electric Signs.** Direction and instructional non-electric signs, which provide instruction or direction and are located entirely on a property to which they pertain and do not exceed eight square feet each in area and do not in any way advertise a business. This includes, but is not limited to, such signs as those identifying restrooms, telephone, parking areas, entrances and exits.
- (c) **Bulletin Boards and Identification Signs.** See Section 13.51(e).
- (d) **Government Signs.** Government signs for control of traffic and other regulatory purposes, danger signs, railroad crossing signs and signs of public utilities, including danger and aids to service and safety which are erected by or on the order of a public officer in the performance of his public duty.
- (e) **House Numbers and Name Plates.** Each building in the Village which has a street address shall have the numbers displayed on the front of the building either in numbers or in words spelling out the numbers in such manner that the address can be read from the street, but not exceeding two (2) square feet in area. All units contained within larger buildings shall also have individual addresses clearly displayed.
- (f) **Interior Signs.** Signs located within the interior of any building or structure, which are not visible from the public right-of-way. This does not, however, exempt such signs from the structural, electrical or material specifications of this Chapter.
- (g) **Memorial Signs and Plaques.** Memorial signs or tablets, names of buildings and date of erection, which are cut into masonry surface or inlaid so as to be part of a building, or when constructed of bronze or other noncombustible material not more than four (4) square feet in area.

- (h) **No Trespassing or No Dumping Signs.** No trespassing and no dumping signs not to exceed one and one-half square (1½) feet in area per sign.
- (i) **Public Notices.** Official notices posted by public officers or employers in the performance of their duties.
- (j) **Public Signs.** Signs required as specifically authorized for a public purpose by any law, statute or ordinance.
- (k) **Political and Campaign Signs.** Political and campaign signs on behalf of candidates for public office or measures on election ballots provided that said signs are subject to the following regulations:
 - (1) Said signs may be erected no earlier than sixty (60) days prior to the primary election and shall be removed within seven (7) days following the general election.
 - (2) Each sign, except billboards, shall not exceed sixteen (16) square feet in nonresidential zoning districts and eight (8) square feet in residential zoning districts.
 - (3) No sign shall be located within fifteen (15) feet of the public right-of-way at a street intersection, over the right-of-way, nor on any publicly-owned property.
- (l) **Real Estate Signs.** One (1) real estate sales sign on any lot or parcel, provided such sign is located entirely within the property to which the sign applies and is not directly illuminated.
 - (1) In residential districts and the general commercial district, such signs shall not exceed eight (8) square feet in area and shall be removed within thirty (30) days after the sale, rental or lease has been accomplished.
 - (2) In all other districts such signs shall not exceed thirty-two (32) square feet in area and shall be removed within thirty (30) days after the sale, rental or lease has been accomplished.
- (m) **On-Premises Symbols or Insignia.** Religious symbols, commemorative plaques or recognized historic agencies or identification emblems of religious orders or historic agencies.
- (n) **On-Premises Temporary Signs.** Temporary signs not exceeding four square feet in area pertaining to drives or events of civic, philanthropic, education, religious organizations, provided such signs are posted not more than thirty (30) days prior the event.
- (o) **Vehicular Signs.** Truck, bus, trailer or other vehicles, while operating in the normal course of business which is not primarily the display of signs.

SECTION 13.57 Construction Specifications.

- (a) Every sign or advertising structure hereafter erected shall have marked in a conspicuous place thereon the date of erection, the manufacturer's name, the permit number and the voltage of any electrical apparatus used in connection therewith.

- (b) All signs shall comply with the provisions of the Village of Arlington Building Code and the current National Electrical Code and the additional construction standards hereinafter set forth.
- (c) All ground and roof sign structures shall be self-supporting structures and permanently attached to sufficient foundations.
- (d) Electrical service to ground signs shall be concealed wherever possible.
- (e) All signs, except those attached flat against the wall of a building and those signs of which no portion exceeds a height of three (3) feet and are no greater than nine square feet in area shall be constructed to withstand wind loads as follows, with correct engineering adjustments for the height of the sign above grade.
 - (1) For solid signs, thirty (30) pounds per square foot of the sign and structure.
 - (2) For skeleton signs, thirty (30) pounds per square foot on the total face cover of the letters and other sign surfaces or ten (10) pounds per square foot of the gross area of the sign as determined by the overall dimensions of the sign, whichever is greater.
- (f) No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that could cause wear on supporting members or connections.
- (g) Supports and braces shall be an integral part of the sign design. Angle irons, chain or wires used for supports or braces shall be hidden from public view to the extent technically feasible.

SECTION 13.58 Special Signs.

- (a) **Subdivision Development Signs.** The Village Clerk may issue a special permit for a temporary sign in any zoning district in connection with the marketing of lots or structures in a subdivision, subject to the following restrictions:
 - (1) Such permits may be issued for a period of not more than one (1) year and may be reviewed for additional periods of up to one (1) year and upon written application at least thirty (30) days prior to its expiration.
 - (2) The sign must be located on the property being developed and must comply with all applicable building setback requirements.
 - (3) The sign may not exceed eighty (80) square feet.
 - (4) One (1) sign is allowed for each major street adjacent to the subdivision.
- (b) **Banners and Pennants.** Banners and pennants shall not be used on a permanent basis.
 - (1) They may be permitted as special promotion in a commercial or industrial establishment for a total period not to exceed thirty (30) days and will be allowed in residential zones in conjunction with an open house or model home demonstration conducted by a Realtor for up to five (5) days before the opening of such a demonstration or five (5) days after and not to exceed a total period of thirty (30) days. A special permit must first be obtained from the Village Clerk.
 - (2) Unlighted special civic event banners not exceeding one hundred fifty (150) square feet in area are permissible over a street right-of-way by special

permit from the Village Board after presentation of proof of insurance and acceptable installation specifications.

(c) **Portable Signs.**

- (1) **Permit.** Any person wishing to place a portable sign on his premises or the premises of another shall first obtain a permit from the Village Clerk. Permits shall be issued for a period not to exceed sixty (60) days in any calendar year. Any sign remaining on the premises for more than sixty (60) days in any calendar year shall be deemed to be a permanent sign and shall meet all requirements for a permanent sign.
- (2) **Size.** No portable sign shall exceed thirty-two (32) square feet and no portable sign shall be over seven (7) feet in height from grade level.
- (3) **Setback.** All portable signs shall have a minimum setback from the front property line of ten (10) feet or an additional setback as deemed necessary by the Village Clerk for the safe flow of vehicle or pedestrian traffic.

(d) **Integrated Shopping Center.** For integrated shopping centers in single ownership or under unified control and containing several businesses, the following regulations shall apply:

- (1) Each business or office shall be eligible for one (1) attached sign. The area of such sign shall not exceed, in square feet, two (2) times the lineal front footage of the business or office.
- (2) One (1) ground sign for shopping center identification with the height limitation of thirty (30) feet is permitted. If the shopping center is on a corner, either one (1) corner sign or two (2) signs, one (1) on each street, is permitted. If two (2) signs are installed, they must be placed at least two hundred (200) feet from the lot corner at the intersection. The area of such sign shall not exceed, in square footage, the lineal front footage of the lot or three hundred (300) square feet, whichever is less. No sign shall be closer than ten (10) feet to a property line unless the adjacent property is a residential district, in which case the sign shall be set back twenty-five (25) feet.

(e) **Business Park/Industrial Park.** For business parks or industrial parks which contain several businesses, the following regulations shall apply:

- (1) Each business or office shall be eligible for one (1) attached sign. The area of such sign shall not exceed, in square feet, two (2) times the lineal front footage of the business or office.
- (2) One (1) ground sign for park identification with the height limitation of thirty (30) feet is permitted. If the park is on a corner, either one (1) corner sign or two (2) signs, one (1) on each street, is permitted. If two (2) signs are installed, they must be placed at least two hundred (200) feet from the lot corner at the intersection. The area of such sign shall not exceed, in square footage, the lineal front footage of the lot or three hundred (300) square feet, whichever is less. No sign shall be closer than ten (10) feet to a property line unless the adjacent property is a residential district, in which case the sign shall be set back twenty-five (25) feet.

SECTION 13.59 Permitted Signs.

- (a) **Residential Signs.** Except as provided below, all signs are prohibited in all residential districts. No permit is required for these excepted signs:
- (1) Signs Over Show Windows or Doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two square feet.
 - (2) Real Estate Signs not to exceed eight square feet in area which advertise the sale, rental or lease of the premises upon which said signs are temporarily located.
 - (3) Name, Occupation and Warning Signs not to exceed six (6) square feet located on the premises, provided these signs are unlighted.
 - (4) Bulletin Boards for public, charitable or religious institutions not to exceed twenty (20) square feet in area located on the premises.
 - (5) Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
- (b) **Business and Industrial Signs.** Signs are permitted in business and industrial districts subject to the following restrictions:
- (1) Wall Signs placed against the exterior walls of buildings shall not extend more than twelve (12) inches outside of a building wall surface and shall not exceed five hundred (500) square feet in area for any one (1) premises.
 - (2) Projecting Signs fastened to, suspended from or supported by structures shall not:
 - a. Exceed one hundred (100) square feet in area for any one (1) premises;
 - b. Extend more than six (6) feet into any required yard;
 - c. Extend more than six (6) feet into any public right-of-way or closer than eighteen (18) inches to the back of the curb;
 - d. Be less than five (5) feet from all side lot lines;
 - e. Be less than eight and one-half (8½) feet above the sidewalk grade;
 - f. Be less than fifteen (15) feet above a driveway; and
 - g. Exceed a height of twenty-five (25) feet above the mean centerline street grade.
 - (3) Ground Signs shall not exceed twenty-five (25) feet in height above the mean centerline street grade, and shall meet all yard requirements for the district in which it is located, shall not exceed one hundred (100) square feet on the side nor two hundred (200) square feet on all sides for any one (1) premises.
 - (4) Roof Signs shall not exceed ten (10) feet in height above the roof, shall meet all the yard and height requirements for the district in which it is located and shall not exceed three hundred (300) square feet on all sides for any one (1) premises.
 - (5) Combinations of any of the above signs shall meet all the requirements for the individual sign.

SECTION 13.60 Canopies and Awnings.

- (a) **Canopy and Awning Restrictions.** Canopies and awnings are permitted in all districts subject to the following restrictions: Where a canopy or awning extends over the public right-of-way, it shall not be less than eight and one-half (8 ½) feet above the sidewalk grade, shall not be less than fifteen (15) feet above a driveway and shall not extend more than seven (7) feet into the public right-of-way. The canopy or awning shall meet all the structural requirements of the Village Building Code.
- (b) **Existing Canopies and Awnings.** Canopies and awnings lawfully existing on January 1, 2011, may be continued although the use, size or location does not conform with the provisions of this Section. However, they shall be deemed a nonconforming use or structure, and the provisions of § 13.40 shall apply.

SECTION 13.61 Performance Standards - Commercial and Industrial Developments.

It is the intent to use performance standards for the regulation of commercial and industrial uses to facilitate a more objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects.

SECTION 13.62 Noise.

- (a) No activity in a Commercial or Industrial District shall produce a sound level outside the district boundary that exceeds the following sound level measured by a sound level meter and associated octave band filter:

<u>Octave Band Frequency (Cycles Per Second)</u>	<u>Sound Level (Decibels)</u>
0 to 75	79
75 to 150	74
150 to 300	66
300 to 600	59
600 to 1200	53
1200 to 2400	47
2400 to 4800	41
above 4800	39

- (b) No other activity in any other district shall produce a sound level outside its structure that exceeds the following:

<u>Octave Band Frequency (Cycles Per Second)</u>	<u>Sound Level (Decibels)</u>
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1200	46
1200 to 2400	40
2400 to 4800	34
above 4800	32

- (c) All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

SECTION 13.63 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.

SECTION 13.64 Odor.

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor. For purposes of this Chapter, an odor shall be deemed objectionable when either or both of the following tests are met:

- (a) Upon decision resulting from investigation by the Department of Natural Resources, based upon the nature, intensity, frequency and duration of the odor as well as the type of area involved and other pertinent factors.
- (b) When sixty percent (60%) of a random sample of at least fifty (50) persons exposed to the odor in their place of residence or employment, other than employment at the odor source, claim it to be objectionable and the nature, intensity, frequency and duration of the odor are considered. The random sample contemplated herein shall be completed by the Village Clerk, or a person designated by the Clerk.

SECTION 13.65 Particulate Emissions.

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 Chapter NR 431, Wis. Admin. Code, as amended from time to time.

SECTION 13.66 Visible Emissions.

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 Chapter NR 431, Wis. Admin. Code, as amended from time to time.

SECTION 13.67 Hazardous Pollutants.

No operation or activity shall emit any hazardous substances in such 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 Chapter NR 445, Wis. Admin. Code, as amended from time to time.

SECTION 13.68 External Lighting.

No operation or activity shall produce any intense glare or lighting with the source directly visible beyond any Commercial or Industrial District boundary.

SECTION 13.69 Television and Radio Antennas.

- (a) **Purpose.** This Section regulating the placement of radio and television antennas and is adopted to:
 - (1) Provide uniform regulation of all radio and television antennas;
 - (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

- (b) **Permit Required.** Application for a permit shall be made in writing to the Building Inspector, accompanied by a fee pursuant to the current building fee schedule and a sufficient set of plans and specifications, including a general site showing the location of the proposed tower with respect to streets, lot lines and buildings.
- (c) **Height Restrictions.**
 - (1) No television or radio tower more than twenty (20) feet high measured from the base of its mast or tower to the top of the highest projection from the mast or tower shall be erected until a permit has been applied for and received from the Building Inspector.
 - (2) No radio, television, pole or tower of any type shall be erected in the Village on any property whose height from its base is such as it were to fall or be caused to fall in any direction, it would fall on another property or any power lines, other than the service power lines to buildings on the property erected upon unless structural calculations, drawings, and details are submitted substantiating said tower or pole is adequately guyed, anchored, and supported.

SECTION 13.70 Wind Energy Conversion Systems.

- (a) **Purpose.** The purpose of this Section is to regulate the placement of wind energy conversion systems so that the public health and safety will not be jeopardized.
- (b) **Definition - Wind Energy Conversion System (WECS).** A machine or mechanism that converts the kinetic energy in the wind into a usable form of electrical or mechanical energy, such as a wind turbine or windmill.
- (c) **Conditional Use Permits for Wind Energy Conversion Systems.** Installation of wind energy conversion systems shall require the granting of a conditional use permit and be granted or denied following review and investigation by the Plan Commission in accordance with the requirements of this Section and with the other requirements for Conditional Use permits in this Chapter. WECS are not allowed as a conditional use in Residential or Multi-Family zoning districts.
- (d) **Application.** In considering an application for a conditional use for a WECS, the following information shall be submitted for review and analysis:
 - (1) Three (3) copies of a site plan showing:
 - a. The property lines and physical dimensions of the proposed site for the wind energy conversion system.
 - b. The location, dimensions and types of existing structures and uses on such site.
 - c. The location of all utility lines and structures on the site or within one radius of the total height of the wind energy conversion system.
 - (2) Three (3) copies of written information specifying:
 - a. The height of the proposed wind energy conversion system, including data on tower height, rotor diameter, total height of the tower and rotor, and distance of rotor to ground level.
 - b. The proposed system and schedule for safety inspections and maintenance of the proposed wind energy conversion system.

- c. The proposed procedures to be used in case of abandonment or cessation of use of the proposed wind energy conversion system.
 - (3) Three (3) copies of written certifications and assurances provided by the manufacturers, the owner and the insurer, as appropriate, pertaining to each of the factors identified in items Subsection (e)(6) through (11).
 - (4) Three (3) copies of structural calculations prepared, signed and sealed by a Wisconsin registered architect or engineer certifying compliance with applicable building codes.
 - (5) Three (3) copies of a picture or schematic drawing of the proposed wind energy conversion system.
 - (6) Any further information requested by the Plan Commission which may be required to render a decision.
- (e) **Standards.** In applying the standards and conditions contained herein, the Plan Commission shall consider the following specific factors in connection with an application for a conditional use for a wind energy conversion system:
- (1) Height of the wind energy conversion system, including the rotor, as related to adjacent land uses and height limits for the particular zoning district.
 - (2) Location of the wind energy conversion system on the site and as related to adjacent land uses.
 - (3) Relationship of the wind energy conversion system to public utility structures.
 - (4) Proposed maintenance of the wind energy conversion system.
 - (5) Appropriate procedures upon abandonment or cessation of use of the wind energy system.
 - (6) Safety of the wind energy conversion system, including, but not limited to, its structural integrity, sufficient over speed control limiting the speed of blade rotation to below the design limits of the system, limitation of unauthorized access to the structure, height of rotor sweep from ground level and appropriate protection from electrical hazard. One (1) or more signs may be required to be installed at the base of the tower warning of high voltage and including an emergency phone number and emergency shutdown procedures.
 - (7) Noise created by the wind energy conversion system.
 - (8) Electromagnetic interference produced by the wind energy conversion system.
 - (9) Adequate provision for interconnection with, and parallel generation in connection with, the public electric system, where applicable.
 - (10) Compliance with all applicable Village, state or federal safety construction and electrical codes and other laws, rules and regulations containing requirements for wind energy conversion systems.
 - (11) Liability insurance to be obtained and maintained in force covering the installation and operation of the wind energy conversion system, having a single-limit coverage in the amount of at least one million dollars (\$1,000,000.00).

- (f) **Guy Wires.** Anchor points for guy wires for the WECS tower shall be located within property lines and not on or across any above-ground electric transmission or distribution lines.
- (g) **Setbacks.** The WECS shall be located such that the furthest extension of the apparatus does not cross any site or property line.
- (h) **Abatement.** If a wind energy conversion system or systems are not maintained in operational condition for a period of one year and pose a potential safety hazard, the owner or operator shall take expeditious action to remedy the situation. The Village reserves the authority to abate any hazardous situation and to pass the cost of such abatement onto the owner or operator of the system. If the Village determines that the WECS has been abandoned and poses a safety hazard, the system shall be removed within forty-five (45) days of written notice to the owner or operator of the system.
- (i) **Interpretation.** The provisions of this Section are 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. If the provisions of the Wisconsin Statutes or Wisconsin Administrative Code supersede the provisions of this Section, the provisions of this Section not in contradiction with the Statutes or Administrative Code shall remain in effect.

SECTION 13.71 Accessory Uses or Structures.

- (a) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- (b) **Placement Restrictions - Residential District.** An accessory use or structure in a residential district may be established subject to the following regulations:
 - (1) **Accessory Building Number Limits.** In any residential district, in addition to the principal building, a detached garage or attached garage and one additional accessory building may be placed on a lot.
 - (2) **Attached Accessory Buildings.** All accessory buildings, which are attached to the principal building, shall comply with the yard requirements of the principal building.
 - (3) **Detached Accessory Buildings.** No detached accessory building or private garage shall occupy any portion of the required front yard, and no detached accessory building shall occupy in the aggregate more than fifteen percent (15%) of the required rear yard. Any accessory building, use or structure shall conform to the applicable regulations of the district in which it is located except as specifically otherwise provided herein, except that when an accessory building is located forward of the rear building line of the principal building it shall satisfy the same side yard requirements as the principal building. An accessory building shall not be nearer than ten (10) feet to the principal structure unless the applicable building code regulations

in regard to one hour fire-resistive construction are complied with. In no event can the accessory uses or structures be forward of the front line of the principal structure.

- (c) **Use Restrictions - Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry, except for home occupations as defined herein and shall not be occupied as a dwelling unit. An accessory use or structure may be established in the rear yard or side yard; however it shall not be nearer than three (3) feet to any side or rear lot line.
- (d) **Placement Restrictions - Nonresidential Districts.** An accessory use or structure in a commercial or industrial district may be established in the rear yard or side yard and shall not be nearer than three feet to any side or rear lot line.
- (e) **Reversed Corner Lots.** When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard setback required on the adjacent interior lot.
- (f) **Landscaping and Decorative Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs, flowers and gardens.
- (g) **Temporary Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Village Clerk.
- (h) **Garages in Embankments in Front Yards.** Where the mean natural grade of a front yard is more than eight (8) feet above the curb level, a private garage may be erected within the front yard, provided as follows:
 - (1) That such private garage shall be located not less than five (5) feet from the front lot line;
 - (2) That the floor level of such private garage shall be not more than one (1) foot above the curb level; and
 - (3) That at least one-half ($\frac{1}{2}$) 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 (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
- (j) **Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories, such as pools, fountains, statuary, flag poles, etc., shall be permitted in setback areas but not closer than three 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 (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls and provided further that along a street frontage no such wall shall be closer than three (3) feet to the property line.

SECTION 13.72 Outside Storage of Firewood.

- (a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.
- (b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this section shall not include hedges and other vegetation.
- (c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.
- (d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.
- (e) Not more than twenty percent (20%) of the side and rear yard may be used for storage of firewood at any one time.

SECTION 13.73 Fences and Hedges.

- (a) **Residential Fences.** Fences on or adjacent to residential property shall have a minimum setback of three (3) feet from side and rear property lines and five (5) feet from street right-of-way. Fences in side yards and rear yards shall not exceed a height of six (6) feet above ground level, and shall not exceed a height of four (4) feet above ground level in the front yard. The finished side or decorative side of a fence shall face the adjoining property. Fences on corner lots, or lots abutting any alley or railway, shall also comply with the requirements of § 13.44. The term “fence” includes hedges, shrubbery, or other vegetation, which serves as a barrier to ingress or egress.
- (b) **Security Fences.** Security fences (fences greater than six feet in height) may be constructed on the property lines in all districts, except residential districts. Unless required by other provisions of this Chapter or Code of Ordinances, security fences shall not exceed a height of ten (10) feet above ground level and shall be of the open type, such as woven wire or wrought iron.
- (c) **Prohibited Fences.** No fence shall be constructed which is dangerous or unsightly, or which conducts electricity, or is designed to electrically shock, or which uses barbed wire provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground in height and project toward the fenced property and away from any public area. No woven, twisted, welded, agricultural, or interlaced wire fence shall be located in a residential district.
- (d) **Fences to be Maintained.** All fences shall be maintained and kept safe and in a state of good repair.
- (e) **Temporary Fences.** Fences erected for the protection of plantings, to warn of construction hazard, to control snow drifts, 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. Said fences shall not be erected for more than one hundred twenty (120) days.

SECTION 13.74 Swimming Pools and Hot Tubs.

- (a) **Definition.** A private swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth of water at any point greater than one and one-half (1½) feet located above or below the surface of ground elevation, used or intended to be used solely by the owner or lessee thereof, his family and invitees, 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 swimming pool.
- (b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of thirty-six (36) inches and which are so constructed that they may be readily disassembled for storage and reassembled to their original integrity are exempt from the provisions of this section.
- (c) **Permit Required.** Before work is commenced on the construction or erection of a private swimming pool, or on any alterations, additions, remodeling or other improvements, an application for a swimming pool building permit must be submitted in writing to the Village Building Inspector. Plans and specifications and pertinent explanatory data must be submitted 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. A fee as set forth in the current Building Fee Schedule shall accompany such application.
- (d) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Village Building Inspector, no permit shall be issued unless the following construction requirements are observed:
 - (1) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements shall be in accordance with all state regulations and codes and with all ordinances of the Village.
 - (2) All plumbing work shall be in accordance with all applicable ordinances of the Village and all state codes.
 - (3) All electrical installations, including lighting and heating, 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 private 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 than five (5) feet from any side or rear lot line.
- (f) **Fences.**
 - (1) Private swimming pools which are not within 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 two hundred fifty (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. Fences shall not be less than six (6) feet in height and so constructed as not to have voids, holes or openings larger than four (4) inches in one (1) dimension. Gates or doors shall be kept locked while the pool is not in actual use.
 - (2) A fence is not required where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing a minimum of thirty-six (36) inches above the deck.
- (g) **Compliance.** All private swimming pools existing as of January 1, 2011 shall comply with the fencing requirements when water is placed in the pool.
- (h) **Draining and Approval Thereof.** No private swimming pool shall be constructed to allow water therefrom to drain into any sanitary sewer or septic tank or to flow upon or cause damage to any adjoining property. Provisions may be made for draining the swimming pool into a storm sewer, but such installation shall be subject to prior approval by the Village Clerk. Where a private swimming pool is to be constructed on premises served by a private sewage disposal system, approval of the State Board of Health shall be necessary before construction.
- (i) **Filter System Required.** All private swimming pools shall have a filtration system to assure proper circulation and maintenance of proper bacterial quality.
- (j) **Dirt Bottoms Prohibited.** All private swimming pools shall have sides and bottom of a smooth finish, and no sand or dirt bottom shall be permitted.
- (k) **Hot Tubs.** Except as provided in paragraphs (f) and (g) the regulations of this Section shall also be applicable to all hot tubs.

SECTION 13.75 General Administrative Systems.

This Chapter shall be administered and enforced by the Village Clerk and Building Inspector. Certain considerations, particularly with regard to granting of conditional uses, changes in zoning districts and zoning map, and amending the text of this Chapter may require review and ultimate action by the Plan Commission or Village Board. A Board of Zoning Appeals is provided to assure proper administration of the Chapter and to avoid arbitrariness. The Village Clerk and Building Inspector shall interpret and administer this Chapter and issue, after on-site inspection, all permits required by this Chapter.

- (a) **Duties of Village Clerk.** In enforcing and administering this Chapter, the Village Clerk shall perform the following duties:

- (1) Issue the necessary permits required by the provisions of this Chapter, provided its provisions have been complied with.
 - (2) Keep an accurate record of all permits, numbered in the order of issuance.
 - (3) In case of a violation of a provision of this Chapter, notify in writing the actual violator where known, the owner of the property on which the violation has taken place, and the Village Board, indicating the nature of the violation and the action necessary to correct it.
 - (4) Receive, file and process all applications for conditional uses, variances and amendments to this Chapter.
 - (5) Initiate, direct and review, from time to time, a study of the provisions of this Chapter and make recommendations to the Village Board for investigation and appropriate action.
 - (6) Carry out such additional responsibilities as are hereinafter set forth in this Chapter.
- (b) **Duties of Building Inspector.** In the enforcement of this Chapter, the Building Inspector shall have the following power and authority:
- (1) At any reasonable time and for any proper purpose to enter upon any public or private premises and make inspection thereof.
 - (2) Upon reasonable belief of improper compliance, to revoke any building or occupancy permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this Chapter, such revocation to be in effect until reinstated by the Village Clerk or the Board of Zoning Appeals, or to take any other action directed by the Village Board to insure compliance with, or to prevent violation of, its provisions.

SECTION 13.76 Role of Specific Village Officials in Zoning Administration.

- (a) **Plan Commission.** The 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 Village planning. Under this Chapter, its functions are primarily recommendatory to the Village Board pursuant to guidelines set forth in this Chapter as to various matters, being mindful of the intent and purposes of this Chapter. 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, conduct public hearings. The Plan Commission shall have the power to conduct and hold public hearings on all proposed amendments to this Chapter as provided in § 62.23(7)(d), Wis. Stats.
- (b) **Village Board.** The Village Board, following recommendations by the Plan Commission and the holding of public hearings by said Commission, has authority to make changes and amendments in zoning districts, the zoning map, amend the text of this Chapter and to approve any permit or other action allowed by the terms

of this Chapter. The Village Board may delegate to the Plan Commission the responsibility to hold public hearings as required under this Chapter.

- (c) **Board of Zoning Appeals.** A Board of Zoning Appeals is established to provide an appeal procedure for persons aggrieved by decisions of administrative officers in enforcement of this Chapter.

SECTION 13.77 Zoning and Occupancy Permit.

- (a) No vacant land shall be occupied or used, and no building shall be hereafter erected, structurally altered, relocated, used or occupied until a Zoning and Occupancy Permit has been issued certifying that any such building, use or occupancy complies with the provisions of this Chapter. A like permit shall be obtained before any change is made in the type of use or before any legal nonconforming use is resumed, changed, extended or granted conditional use status.
- (b) Application for such permit shall be made to the Building Inspector prior to or at the same time as the application for a building permit or prior to the commencement of any use not involving a building permit.
 - (1) Such application shall state that the building or proposed use of a building or land complies with all the building and health laws and with the provisions of this Chapter, and a statement by the applicant as to the intended use of the premises and buildings thereon.
 - (2) Within ten (10) days after the notification of the completion of the erection, alteration or relocation of the building or of intent to commence a use, the Village Building Inspector shall make an inspection of the premises and any building thereon and of the intended use thereof, and if the proposed use of the premises complies with the requirements of this Chapter, a Zoning and Occupancy Permit shall be issued.
 - (3) For the purpose of defraying the cost of inspection and administrative processing, such application shall be accompanied by such fee as established by resolution of the Village Board.
- (c) If within twelve (12) months of the date of application no Zoning and Occupancy Permit has been issued, any building permit related thereto shall lapse and the Village Building Inspector shall make immediate investigation to ascertain that no use or occupancy has, in fact, commenced without proper authority. Upon showing valid cause, the Village Building Inspector may grant an extension of such permit for a period not to exceed six months.
- (d) Pending the issuance of a regular permit, a temporary permit may be issued for a period not exceeding six months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants. A temporary permit shall be voided if the building fails to conform to the provisions of this Chapter to such a degree as to render it unsafe for the occupancy proposed.

SECTION 13.78 Site Plan Approval.

- (a) **Site Plan Approval.** All applications for zoning permits for any construction, reconstruction, expansion or conversion, except for one and two family residences in Residential Districts, shall require site plan pre-approval by the Plan Commission with final approval by the Village Board in accordance with the requirements of this Section.
- (b) **Application.** The applicant for a zoning permit shall submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission to determine whether the proposed application meets all the applicable requirements of this Chapter.
- (c) **Administration.** The Building Inspector shall make a preliminary review of the application and plans and refer them, along with a written report of his findings, to the Plan Commission within ten (10) days. The Plan Commission shall review the application and may refer the application and plans to any consultant selected by the Plan Commission to advise whether the application and plans meet all the applicable requirements of this Chapter. Within thirty (30) days of its receipt of the application, the Commission shall make recommendation to the Village Board for direction to Building Inspector to issue or refuse a zoning permit.
- (d) **Requirements.** In acting on any site plan, the Plan Commission shall consider the following:
 - (1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
 - (2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading, and shall satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community. The applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
 - (3) The adequacy of proposed water supplies, drainage facilities and sanitary and waste disposal.
 - (4) The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor contravene the intent or purposes of this Section.
- (e) **Effect on Municipal Services.** Before granting any site approval, the Plan Commission may secure advice from other municipal officials as to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall forward its recommendations to the Village Board. The Village Board shall not issue final approval until the Village Board has entered into an agreement with the applicant regarding the development of such facilities.

SECTION 13.79 Violation 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 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 Village Clerk has not been complied with within 30 days after written notice has been mailed to the owner, the resident agent or occupant of the premises, the Village Board 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 Village Clerk issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture of not more than two hundred dollars (\$200.00), together with the costs of prosecution, including attorney fees. Each and every day during which such violation continues shall be deemed a separate offense.

SECTION 13.80 Changes and Amendments to the Zoning Code; Authority.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Village Board may by ordinance change the district boundaries established by this Chapter and the Zoning Map incorporated herein, 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 and recommendation of the Plan Commission.

SECTION 13.81 Initiation of Changes or Amendments.

The Village Board, the Plan Commission, or any private petitioners may apply for an amendment to the text of this Chapter to the district boundaries hereby established or by amendments hereto in the zoning map made a part of this Chapter.

SECTION 13.82 Procedure for Changes or Amendments.

- (a) **Petitions.**
 - (1) Petitions for any change to the district boundaries and map or amendments to the text regulations shall be addressed to the Village Board and shall be filed with the Village Clerk. The person requesting such action shall provide the following information on the petition:
 - a. Name and street address of the petitioner.
 - b. The lot number of any real estate owned by the petitioner adjacent to the area proposed to be changed.

- c. Legal description of the property to be altered.
 - d. The existing use of all buildings on such land.
 - e. The principal use of all properties within one hundred (100) feet of such land.
 - f. Purpose for which such property is to be used.
 - g. Facts indicating that the proposed change will not be detrimental to the general public interest and the purposes of this Chapter.
 - h. Names and addresses of all abutting and opposite property owners within two hundred (200) feet of the property to be altered.
 - i. Plat of survey, drawn to scale, showing the property to be rezoned, location of structures and property lines within one hundred (100) feet of the parcel.
 - j. Any further information, which may be required by the Plan Commission to facilitate the making of a comprehensive, report to the Village Board.
- (2) Failure to supply such information shall be grounds for dismissal of the petition.
 - (3) A petition for change or amendment submitted by a private property owner shall be prepared and fifteen (15) copies of the petition shall be filed with the Village Clerk and shall be accompanied by the appropriate fee as established by resolution of the Village Board.
 - (4) At any time following the filing of a Petition pursuant to this Section, the Village may require the applicant to enter into a review agreement in a form approved by the Village Attorney as provided for in Section 13.31(d) of this Chapter.
- (b) **Recommendations.** The Village Clerk shall cause the petition to be forwarded to the Plan Commission for its consideration and recommendation. The Plan Commission shall review all proposed amendments to the text and zoning map and shall recommend 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.
 - (c) **Hearings.** The Plan Commission, prior to issuing its recommendation, shall hold a public hearing upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985 of the Wisconsin Statutes. At least ten (10) days prior written notice shall also be given to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment.
 - (d) **Village Board Action.** After consideration of the Plan Commission recommendations, the Village Board shall vote on the proposed ordinance regarding the proposed change or amendment. The Village Board may, on its own motion, apply conditions to the property being rezoned when applications for rezoning come before it.

SECTION 13.83 Protests.

In the event of a protest against amendment to the text of this Chapter or an amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths of the members of the Village Board voting on the proposed change.

SECTION 13.84 Appeals to the Board of Zoning Appeals.

- (a) **Scope of Appeals.** Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any Village administrative officer. For purposes of this Section, "Village administrative officer" is defined as the Village Clerk, Village Building Inspector and Village Engineer. Such appeal shall be taken within thirty (30) days of the determination in question by filing with the administrative officer from whom the appeal is taken and with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by resolution of the Village Board. The official from whom the appeal is taken shall forthwith transmit to the Board of Zoning Appeals all papers constituting the record, upon which the action appealed from was taken.
- (b) **Stay of Proceedings.** An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative officer from whom the appeal is taken certifies to the Board that, by reason of facts stated in the certificate, a stay would cause immediate peril to life or property.
- (c) **Powers of Board of Zoning Appeals.** In addition to the powers enumerated elsewhere in this Chapter, the Board of Zoning 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 an administrative officer in the enforcement of this Chapter.
 - (2) **Special Exceptions.** To hear and decide special exceptions to the terms of this Chapter upon which the Board is required to pass under this Chapter.
 - (3) **Variances.** To authorize in specific cases such variance from the terms of this Chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done.

- (4) **Interpretations.** To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
 - (5) **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 Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without approval from the Board.
 - (6) **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 Plan Commission has made a review and recommendation.
- (d) **Decision and Order.** If a quorum is present, the Board may take action by a majority vote of the members present and a majority vote of those present shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to effect any variation in this Chapter. The grounds of every such determination shall be stated. The Board may modify the order, requirement, decision or determination appealed from, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have all the powers of the official from whom the appeal is taken, and may issue or direct the issuance of a permit.
 - (e) **Review Agreement.** The Board may, at any time an appeal or request for variance is made, require the applicant to enter into a Review Agreement in a form approved by the Village Attorney, as provided for in Section 13.31(d) of this Ordinance.

SECTION 13.85 Hearing on Appeals.

The Board of Zoning Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published not less than seven days prior thereto, cause notice to be given to the appellant or applicant and the administrative officer 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 owners of records of all land within one hundred (100) feet of any part of the building or premises involved in the appeal.

SECTION 13.86 Decisions of Board of Zoning Appeals.

- (a) The Board of Zoning Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of its decision to the applicant and the Village Administrator.
- (b) Conditions may be placed upon any zoning permit ordered or authorized by the Board of Zoning Appeals.

- (c) Variances, substitutions or use permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

SECTION 13.87 Variances.

- (a) **Application for Variance.** The application for a variance shall be filed with the Village Clerk and shall be accompanied by a fee as the Village Board may establish by Resolution. Applications may be made by the owner or lessee of the structure or land to be affected. The application shall then be referred to the Board of Zoning Appeals. The application shall contain the following information:
 - (1) Names and addresses of applicant and all abutting and opposite property owners.
 - (2) Statement that the applicant is the owner, lessee, 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 Board of Zoning Appeals or Village Clerk.
- (b) **Public Hearing.** The Board of Zoning Appeals shall conduct at least one public hearing on the proposed variance. Notice of such hearing shall be given not more than thirty (30) days and not less than ten (10) days before the hearing by publication of a Class 1 notice under Chapter 985 of the Wisconsin Statutes, and by written notice to the parties in interest and the Village Clerk. At the hearing the applicant may appear in person, by agent or by attorney. The Board shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the applicant, Village Clerk and Plan Commission.
- (c) **Standards for Variance.** The Zoning Board of Appeals shall not vary the regulations of this Chapter unless it shall find, upon evidence presented in each specific case that such variance from the terms of the Ordinance as requested will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. The Zoning Board of Appeals shall, from time-to-time, adopt specific criteria to be used in the evaluation of area and use variance requests. These criteria should be reduced to writing and made available for public review at the Village Clerk's Office.
- (d) **Conditions.** The Board of Zoning Appeals 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.
- (e) **Authorized Variances.** Variances from the regulations of this Chapter shall be granted by the Board of Zoning Appeals only in accordance with the foregoing standards and may be granted only in the following instances:
 - (1) To permit any yard or setback to be less than the minimum size of the yard or setback required by the regulations of the applicable district;

- (2) To permit the use of a lot for a use otherwise prohibited solely because of the insufficient area or width of the lot, unless the area or width of the lot is less than the requirements for substandard lots, or unless the insufficient area or width of the lot was caused by action of the owner or applicant;
 - (3) To permit the same off-street parking facility to qualify as required facilities for two or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week;
 - (4) To reduce the applicable off-street parking or loading facilities required by not more than one parking space or loading space, or twenty percent (20%) of the applicable regulations, whichever number is greater;
 - (5) To increase by not more than twenty-five percent (25%) the maximum distance that required parking spaces are permitted to be located from the use served; and
 - (6) To increase by not more than ten percent (10%) the maximum gross floor area of any use so limited by the applicable regulations.
- (f) **Review Agreement.** At any time following the filing of a Request for Variance pursuant to this Section, the Board may require the applicant to enter into a review agreement in a form approved by the Village Attorney as provided for in Section 13.31(d) of this Chapter.

SECTION 13.88 Definitions.

- (a) For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for in another section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word “shall” is mandatory and not permissive.
- (1) **Abutting.** Have a common property line or district line.
 - (2) **Accessory Use or Structure.** A use or detached structure subordinate to the principal use of a structure, parcel of land or water and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure.
 - (3) **Acre, Net.** The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within 43,560 square feet.
 - (4) **Alley.** A public way not more than twenty-one (21) feet wide which affords only a secondary means of access to an abutting property.
 - (5) **Apartment.** A suite of rooms or a room in a dwelling unit, which suite or room is arranged, intended or designed to be occupied as a residence of a single family, individual or group of individuals, with separate facilities and utilities which are used or intended to be used for living, sleeping, cooking and eating.
 - (6) **Arterial Street.** A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall

include freeways and expressways as well as arterial streets, highways and parkways.

- (7) **Basement.** That portion of any structure located partly below the average adjoining lot grade which is not designed or used primarily for year-around living accommodations.
- (8) **Bed and Breakfast Establishment.** A building that provides six (6) or fewer sleeping rooms for temporary occupancy for compensation by transient guests who are traveling for business or pleasure and is the owner's personal residence and occupied by the owner at the time of rental.
- (9) **Block.** A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.
- (10) **Boarding House.** A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for three or more persons not members of a family, but not exceeding ten (10) persons and not open to transient customers.
- (11) **Buildable Lot Area.** The portion of a lot remaining after required yards have been provided.
- (12) **Building.** Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.
- (13) **Building, Detached.** A building surrounded by open space on the same lot.
- (14) **Building, Heights Of.** The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of an umbral, hip or pitch roof.
- (15) **Building, Principal or Main.** The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.
- (16) **Building Setback Line.** A line parallel to the lot line at a distance parallel to it, regulated by the yard requirements set up in this Code.
- (17) **Business.** An occupation, employment or enterprise, which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.
- (18) **Canopy.** A rigid structure attached to and extending outward from a building, designed to protect the building and/or people under the canopy from the sun, rain or snow.
- (19) **Carport.** An automobile shelter having one or more sides open.
- (20) **Cellar.** That portion of a building having more than half of the floor-to-ceiling height below the average grade of the adjoining ground. This portion is not a completed structure and serves as a substructure or foundation for a building.

- (21) **Channel.** Those flood lands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.
- (22) **Clinic, Medical or Dental.** A group of medical or dental offices organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of such offices, but not including bed-patient care.
- (23) **Club or Lodge.** A building or portion thereof or premises owned by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as business.
- (24) **Conditional Use.** The occupations, vocations, skills, arts, businesses, professions or uses specifically designated in each zoning district, which for their respective conduct, exercise or performance in such designated districts may require reasonable, but special, peculiar, unusual or extraordinary limitations, facilities, plans, structures, thoroughfares, condition modification, or regulations in such district for the promotion or preservation of the general public welfare, health, convenience or safety therein and in the Village and, therefore, may be permitted in such district only by a conditional use permit.
- (25) **Community Living Arrangement.** The following facilities licensed or operated or permitted under the authority of the Wisconsin State Statutes: Child welfare agencies under § 48.60, group foster homes for children under § 48.02(7m), and community-based residential facilities under § 50.01, but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons or jails. The establishment of a community living arrangement shall be in conformance with applicable Sections of the Wisconsin State Statutes, including §§ 46.03(22), 69.97(15), 62.23(7)(i) and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.
- (26) **Controlled Access Arterial Street.** The condition in which the right of owners or occupants of abutting land or other persons to access light, air or view in connection with an arterial street is fully or partially controlled by public authority.
- (27) **Conservation Standards.** Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide, prepared by the USDA Soil Conservation Service for Columbia County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation.
- (28) **Development.** Any man-made change to improved or unimproved real estate, including, but not limited to, construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining,

- dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.
- (29) **District, Basic.** A part or parts of the Village for which the regulations of this Chapter governing the use and location of land and building are uniform.
 - (30) **District, Overlay.** Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the stricter of the conflicting requirements shall apply.
 - (31) **Dwelling.** A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.
 - (32) **Dwelling Unit.** A group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one (1) family.
 - (33) **Dwelling, Efficiency.** A dwelling unit consisting of one principal room with no separate sleeping rooms.
 - (34) **Dwelling, Single-Family.** A detached building designed for or occupied by one (1) family.
 - (35) **Dwelling, Two-Family.** A detached building containing two separate dwelling (or living) units, designed for occupancy by not more than two (2) families.
 - (36) **Dwelling, Multiple-Family.** A residential building designed for or occupied by three or more families, with the number of families in residence not to exceed the number of dwelling units provided.
 - (37) **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 but are not limited to underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.
 - (38) **Family.** The body of persons who live together in one dwelling unit as a single housekeeping entity.
 - (39) **Farming - General.** General farming shall include floriculture, forest and game management, orchards, raising of grain, grass, mint and seed crops, raising of fruits, nuts and berries, sod farming and vegetable farming. General farming includes the operating of such an area for one or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.
 - (40) **Farmstead.** A single-family residential structure located on a parcel of land, which primary land use is associated with agriculture.

- (41) **Floor Area - Business and Manufacturing Buildings.** For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include elevators and stairways, accessory storage areas located within selling or working space occupied by counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. For the purposes of determining off-street parking spaces, floor area shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.
- (42) **Foster Family Home.** The primary domicile of a foster parent with four or fewer foster children and which is licensed under § 48.62, Wis. Stats., and amendments thereto.
- (43) **Frontage.** All the property butting on one side of a street between two intersecting streets or all of the property abutting on one side of a street between an intersecting street and the dead end of a street.
- (44) **Garage - Private.** A detached accessory building or portion of the principal building, designed, arranged, used or intended to be used for storage of automobiles of the occupant of the premises.
- (45) **Garage - Public.** Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.
- (46) **Grade.** When used as a reference point in measuring the height of a building, the "grade" shall be the average elevation of the finished ground at the exterior walls of the main building.
- (47) **Group Foster Home.** Any facility operated by a person required to be licensed by the State of Wisconsin under § 48.62 for the care and maintenance of five to eight foster children.
- (48) **Home Occupation.** An accessory use of a dwelling unit to accommodate a small family business relating to a type of use which is customarily incidental to the use of the premises as a family residence, such as canning, dressmaking, wood working, arts and crafts, but excludes uses such as stables, kennels, pet care or grooming, stores and restaurants.
- (49) **Hospital.** An institution intended primarily for the medical diagnosis, treatment and care of patients being given medical treatment. A hospital shall be distinguished from a clinic by virtue of providing for bed-patient care.
- (50) **Hotel.** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five sleeping rooms with no cooking facilities in any individual room or apartment.
- (51) **Institution.** A building occupied by a nonprofit corporation or a nonprofit establishment for public use.
- (52) **Junk.** Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage,

- baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood and lumber.
- (53) **Junkyard.** Any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or assorted, including, but not limited to, used or salvaged or new scrapped base metal or metals, their compounds or combinations, used for salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property, except animal matter; and used motor vehicles, machinery or equipment which are used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.
- (54) **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.
- (55) **Lodging House.** A building where lodging only is provided for compensation for not more than three persons not members of the family.
- (56) **Lot.** A parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this Code as pertaining to the district wherein located.
- (57) **Lot, Corner.** A lot situated at the intersection of two (2) streets.
- (58) **Lot, Interior.** A lot with frontage on only one street.
- (59) **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 line immediately to its rear.
- (60) **Lot, Through.** A lot other than a corner lot with frontage on two (2) streets.
- (61) **Lot Area.** The area of contiguous land bounded by lot lines, exclusive of land designated for public thoroughfares.
- (62) **Lot Depth.** The shortest horizontal distance between the front lot line and the rear lot line measured at a ninety (90) degree angle from the road right-of-way.
- (63) **Lot Line.** Legally established lines dividing one lot, plot of land or parcel of land from an adjoining lot, plot, or parcel of land.
- (64) **Lot Line, Front.** A line separating the lot from the street or approved private road.
- (65) **Lot Line, Rear.** A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular-shaped lot, a line ten (10) feet in the length within the lot, parallel to and at the maximum distance from the front lot line.
- (66) **Lot Line, Side.** Any lot boundary line not a front lot line or a rear lot line.
- (67) **Lot of Record.** A lot which has been recorded in the Office of the Register of Deeds prior to March 14, 2011.
- (68) **Lot Width.** The horizontal distance between the side lot lines at the building setback line.

- (69) **Minor Structures.** Any small, movable, accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, and walls and fences under four feet in height.
- (70) **Mobile Home.** A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof), built on a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.
- (71) **Mobile Home Lot.** A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- (72) **Mobile Home Park.** Any lot on which two (2) or more mobile homes are parked for the purpose of permanent habitation and including any associated service, storage, recreations and other community service facilities designed for the exclusive use of park occupants.
- (73) **Mobile Home Subdivision.** A land subdivision, as defined by Chapter 236 of the Wisconsin Statutes, with lots intended for the placement of individual mobile home units. Individual home sites are in separate ownership as opposed to the rental arrangements in mobile home parks.
- (74) **Modular Unit.** A prefabricated, detached single- or double-family dwelling unit designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems, which is or was designed to be transported and mounted on a permanent foundation.
- (75) **Nonconforming Lot.** A lot of record existing on March 14, 2011 which does not have the minimum width or contain the minimum area for the zone in which it is located.
- (76) **Nonconforming Uses.** Any structure, use of land, use of land and structure in combination or characteristic of use (such as yard requirement or lot size) which was existing on March 14, 2011 and which is not in conformance with this Code. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall not be considered a nonconforming use, but shall be considered nonconforming with respect to those characteristics.
- (77) **Nursing Home.** An establishment used as a dwelling place by the aged, infirm, chronically ill or incurably afflicted, in which not less than three persons live or are kept or provided for on the premises for compensation, excluding clinics and hospitals and similar institutions devoted to the diagnosis, treatment or the care of the sick or injured.
- (78) **Outdoor or Enclosed Smoking Shelters.** A structure built for the purpose of allowing patrons in an establishment a designated area for the purpose of smoking tobacco products that will not be prohibited by the provisions of Section 101.123 of the Wisconsin Statutes and any amendments thereto.

- (79) **Parking Lot.** A structure or premises containing five or more parking spaces open to the public.
- (80) **Parties in Interest.** Includes all abutting property owners, all property owners within 100 feet, and all property owners of opposite frontages.
- (81) **Professional Home Offices.** Residences of doctors of medicine, dentists, lawyers, or other recognized professions used to conduct their professions where the office does not exceed one-half ($\frac{1}{2}$) the area of only one (1) floor of the residence.
- (82) **Professional Office.** A building, which is primarily devoted to providing space for professional activities, such as offices for doctors, lawyers, dentists, and other, recognized professional occupations.
- (83) **Public Airport.** Any airport, which complies with the definition, contained in § 114.013(3), Wis. Stats., or any airport, which serves or offers to serve common carriers engaged in air transport.
- (84) **Rear Yard.** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot.
- (85) **Restaurant.** A business establishment consisting of a kitchen and dining room where the primary purpose is to prepare and serve food to be eaten by customers seated in the dining room.
- (86) **Restaurant, Drive-in.** A business establishment consisting of a kitchen, with or without a dining room, where food is prepared and packaged to be eaten either off the premises or within automobiles parked on the premises.
- (87) **Retail.** The sale of goods or merchandise in small quantities to the consumer.
- (88) **Review Agreement.** An agreement between the Village and the applicant of a conditional use permit, annexation, variance, rezoning or appeal in which the applicant among other things, is obligated to pay the Village's administrative costs and fees, including engineering and attorney fees, associated with considering the application.
- (89) **Setback.** The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building being closed. The overhang cornices shall not exceed twenty-four (24) inches. Any overhang of the cornice in excess of twenty-four (24) inches shall be compensated by increasing the setback by an amount equal to the excess of cornice over twenty-four (24) inches. Uncovered steps shall not be included in measuring the setback.
- (90) **Side Yard.** A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.
- (91) **Signs.** Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks

- by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.
- (92) **Story.** That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. A basement having one-half or more of its height above grade shall be deemed a story for purposes of height regulation.
- (93) **Story, Half.** That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than four and one-half (4 ½) feet above the finished floor of such story. In the case of one (1) family dwellings, two (2) family dwellings and multi-family dwellings less than three (3) stories in height, a half story in a sloping roof shall not be counted as a story for the purposes of this Code.
- (94) **Street.** Property other than an alley or private thoroughfare or travel way which is subject to public easement or right-of-way for use as a thorough-fare and which is twenty-one (21) feet or more in width.
- (95) **Street Yard.** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure excluding uncovered steps. Corner lots shall have two (2) street yards.
- (96) **Structure.** Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.
- (97) **Structural Alterations.** Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.
- (98) **Temporary Structure.** A movable structure not designed for human occupancy or for the protection of goods or chattels and not forming an enclosure.
- (99) **Traffic Visibility Triangle.** An unoccupied triangular space at the intersection of alleys, highways or streets with other highways or streets or at the intersection of highways or streets with railroads. The traffic visibility triangle is more particularly described in Section 13.44 of this Chapter.
- (100) **Use.** The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.
- (101) **Use, Accessory.** A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.
- (102) **Use, Principal.** The main use of land or building as distinguished from subordinate or accessory use.

- (103) **Utilities.** Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.
- (104) **Variance.** A relaxation of the terms of this Chapter by the Board of Zoning Appeals where the literal enforcement of this Chapter would deny the property owner a use of his property enjoyed as a right by other property owners within the same zoning district.
- (105) **Village Clerk.** The Village Administrator/Clerk-Treasurer, or any person appointed by the Board by resolution to administer and enforce the provisions of this chapter.
- (106) **Village Engineer.** The engineer appointed by the Village Board.
- (107) **Yard.** An open space on the same lot with a building, unobstructed by structures except as otherwise provided herein.
- (108) **Yard, Front.** A yard extending the full width of the lot between the front lot line and a line parallel through the nearest part of the principal structure excluding uncovered steps. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimensions.
- (109) **Yard, Rear.** A yard extending the full width of the lot between the rear lot line to the nearest part of the principal building.
- (110) **Yard, Side.** A yard on each side of the principal building extending from the building to the lot line and from the front yard line to the rear yard line.
- (111) **Zero Lot Line.** The concept whereby two respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.
- (112) **Zoning Permit.** A permit issued by the Building Inspector to certify that the use of lands, structures, air and water subject to this Chapter are or shall be used in accordance with the provisions of said Chapter.